

IOM HANDBOOK

ON PROTECTION AND ASSISTANCE
FOR MIGRANTS VULNERABLE TO
VIOLENCE, EXPLOITATION AND ABUSE



Funded by
the European Union



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ABBREVIATIONS AND ACRONYMS

BIA	Best interests assessment
BID	Best interests determination
HIV/AIDS	Human immunodeficiency virus/acquired immune deficiency syndrome
IASC	Inter-Agency Standing Committee
ICRC	International Committee of the Red Cross
ILO	International Labour Organization
IOM	International Organization for Migration
ISS	International Social Services
NGO	Non-governmental organization
OHCHR	Office of the High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
WHO	World Health Organization

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FOREWORD

Many migrants experience violence, exploitation and abuse during and after their migratory journey.

Addressing and reducing vulnerabilities in migration is one of the objectives of the newly adopted Global Compact for Safe, Orderly and Regular Migration. However, this can be a challenge for protection actors and service providers, as there is no internationally accepted definition of “vulnerable migrant,” no clear procedures for identifying them, nor operational guidelines for their protection and assistance.

To address this gap, IOM undertook development of the IOM Handbook on Protection and Assistance for Migrants Vulnerable to Violence, Exploitation and Abuse¹ within the auspices of the Global Action against Trafficking in Persons and Smuggling of Migrants (GLO.ACT). The Handbook is intended to support case managers, service providers, communities, humanitarian and development actors, States and other actors working to provide protection and assistance to migrants vulnerable to violence, exploitation and abuse.

IOM’s approach to migrant vulnerability is rooted in the belief that the human rights of all persons, including migrants, should be upheld and promoted and that migrants who are vulnerable, regardless of category or status, should be afforded the protection and assistance they require. IOM’s migrant vulnerability model was specifically developed to identify, protect and assist migrants who have experienced or are vulnerable to violence, exploitation and abuse – before, during or after migrating – and to guide the development and implementation of appropriate programmatic and structural interventions to reduce such vulnerabilities.

We recognize that migrants and their households and families, and the communities and groups to which they belong, are situated in a broader social environment, and that both resilience and vulnerability are determined by the presence, absence and interaction of risk and protection factors at the various levels – individual, household/family, community and structural. Each level also requires different approaches to address the risks of vulnerability, as outlined in each of the chapters in the Handbook. We provide various interventions that can be undertaken to address individual, household/family, community and structural vulnerability determining factors. In addition, the Handbook also highlights the key stakeholders at the various levels of intervention.

¹ For stylistic purposes the terminology “violence, exploitation and abuse” is used across this document. It should be understood as “violence, exploitation and/or abuse”.

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I believe that this Handbook will be useful to all those working with vulnerable migrants in understanding the various factors that can increase (or decrease) vulnerability, identifying vulnerable migrants, and advocating for and implementing meaningful action to ensure that migrants can live safe, dignified and productive lives.



António Vitorino
Director General
International Organization for Migration

THE DETERMINANTS OF MIGRANT VULNERABILITY

PART 1

INTRODUCTION

Part 1 of this Handbook introduces IOM's determinants of migrant vulnerability model, which is used to assess risk and protective factors at the individual, household/family, community and structural levels. It also introduces IOM's programmatic approach to protecting and assisting migrants vulnerable to violence, exploitation and abuse. It discusses the model's operationalization and its application at different stages of migration and in countries of origin, transit and destination.

The information presented in Part 1 is intended for case managers, service providers, local and national government officials, policymakers and decision makers, development partners, and members of the international community.

Scope and purpose

This Handbook is intended for case managers, service providers, communities, development entities and States working to provide protection and assistance to migrants vulnerable to violence, exploitation and abuse, or to mitigate and reduce factors contributing to migrant vulnerability. The guidelines, practices and standards it describes can be adapted and applied to a range of situations, including crisis, emergency, humanitarian, transition, developing and developed contexts.

For the purposes of the Handbook, the term "migrant vulnerable to violence, exploitation or abuse" means a migrant or group of migrants exposed to or with experience of violence, exploitation or abuse within a migration context and with limited capability to avoid, resist, cope or recover, as a result of the unique interaction of individual, household/family, community and structural characteristics and conditions.

The term "migrant" does not refer to refugees, asylum seekers or stateless persons, for whom specific protection regimes exist under international law, but it may refer to victims of trafficking in persons and smuggled migrants, who also benefit from specific protection regimes under international and national law. All these groups are addressed at specific places in the Handbook and are referred to as such.

The Handbook provides practical, voluntary guidance enabling States, private sector entities, international organizations and civil society to protect and assist migrants vulnerable to violence, exploitation and abuse and to take action to mitigate and reduce migrant vulnerability. Nothing it says is intended to diminish or affect in any way the legal protection afforded any of the above categories of persons in international or national law.

Many areas of international law are relevant to the protection of migrants, specifically international human rights, humanitarian, transnational criminal and labour law. Nothing in the Handbook should be construed as limiting or undermining any legal obligations by which a State may be bound or to which it is subject under international law. Similarly, nothing in the Handbook should be read as limiting, undermining or detracting from domestic legal obligations or other standards that apply to the efforts of States, international organizations, private sector entities or civil society organizations to better protect and assist migrants. This Handbook aims at giving guidance as to how duty bearers under international and national law can better assist and protect individual rights holders.

Background

IOM has been engaged in efforts to combat human trafficking and protect and assist victims of trafficking since 1994. At that time, there was no internationally recognized definition of human trafficking, although there was growing recognition that cross-border exploitation of migrants was a significant problem.

Since the adoption, in 2000, of the United Nations Convention against Transnational Organized Crime and two of its protocols, on trafficking in persons and migrant smuggling, IOM has used the definition of trafficking therein established¹ to guide its identification, assistance and protection policies, procedures and programmes.

IOM is the world's largest provider of direct assistance services to victims of trafficking. Since the 1990s, it has assisted over 10,000 victims from at least 138 countries. IOM's unique access to migrants and victims of trafficking

¹ See page 25 below for the definition of trafficking.

worldwide has allowed it to develop significant expertise in the identification, protection, assistance, referral and case management of trafficked persons, as demonstrated in the 2004 publication, *The IOM Handbook on Direct Assistance for Victims of Trafficking*, which has been translated into 12 languages² and is a key resource for governments and NGOs around the world.

Through its work with migrants, IOM came to realize that many non-trafficked migrants experience violence, exploitation and abuse. For example, some labour migrants were employed under exploitative conditions, but were not the subject of an act of trafficking. Some migrants consented to be smuggled, but during the course of the smuggling process faced significant risks to their lives and safety, and were subject to violence and abuse. Other migrants were vulnerable to ill-treatment or exploitation – in the form of demands for bribes, labour or sexual acts, or abduction for ransom – related to their status as migrants, particularly when they were migrating or had migrated through irregular channels. The migration process itself entails risks that may render migrants vulnerable, such as loss of documents, insufficient resources to continue the journey in safety and dignity, severe psychosocial health stressors, and exposure to criminal elements and gender-based violence. These risks are often compounded by limited access to services able to mitigate or address their impact.

Such situations posed operational challenges for IOM. It was clear that migrants in these and similar situations were in distress and required protection and assistance, but it was often unclear what services were most appropriate, how they should be delivered, and by whom. Eventually, IOM began asking its partners and donors to fund more flexible programmes to allow for delivery of assistance services not only to trafficked persons but also to those considered to be vulnerable to trafficking, and not only to women and girls, but also to boys and men. Over time, IOM and others began to use the terms “vulnerable migrants”, “migrants in vulnerable situations”, and “migrants vulnerable to violence, exploitation and abuse”. IOM also began to pursue policies and programmes applicable to all migrants with protection and assistance needs, not only victims of trafficking.

However, unlike for victims of trafficking, there are no internationally accepted definitions of the terms “vulnerable migrants”, “migrants in vulnerable situations”, and “migrants vulnerable to violence, exploitation and abuse”. Further, there are no clear, internationally agreed procedures for identifying vulnerable migrants, and no operational guidelines for their protection and assistance. In the absence of such operational processes, both governmental and non-governmental practitioners and service providers³ may face uncertainty as to which migrants are vulnerable and which services should be provided to them, resulting in potential and actual protection gaps and unmet needs.

The main objective of this Handbook is to provide conceptual clarity, operational definitions, and a framework for protection and assistance for use by IOM and others.

Conceptualizations of vulnerability

The concept of vulnerability can be understood to mean that some people are more susceptible to harm, relative to others, as a result of exposure to some form of risk. The type of harm to which they are more susceptible varies: it may be psychological, physical, environmental, etc. Risk factors depend on the type of harm being examined and may or may not overlap.

IOM uses the definition of vulnerable migrants set out in the Principles and Guidelines on the human rights protection of migrants in vulnerable situations:⁴ vulnerable migrants are migrants who are unable effectively to enjoy their human rights, are at increased risk of violations and abuse and who, accordingly, are entitled to call on a duty bearer’s heightened duty of care.

2 The Handbook is available at http://publications.iom.int/system/files/pdf/iom_handbook_assistance.pdf and has been translated into Albanian, Arabic, Chinese, Japanese, Macedonian, Mongolian, Polish, Portuguese, Russian, Turkish and Ukrainian.

3 For the purposes of this Handbook, the term “practitioner” refers to persons professionally engaged in migration-related functions, such as officials from government ministries, departments or agencies, or technical specialists from United Nations bodies, international organizations, the private sector and civil society organizations. The term “service provider” refers to persons who provide a service to migrants. This can include humanitarian services (e.g. distribution of food and hygiene items) and professional services (e.g. case management, health care) provided by government agents (e.g. government social workers), the private sector (e.g. doctors in private practice), community- or faith-based organizations (e.g. migrant associations and religious congregations) or NGOs.

4 OHCHR/Global Migration Group, *Principles and Guidelines, supported by practical guidance, on the human rights protection of vulnerable migrants* (Geneva, 2017). Available at www.ohchr.org/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf.

This Handbook is specifically concerned with a subset of vulnerable migrants: those vulnerable to violence, exploitation and abuse. Any use of the term “vulnerable migrants” for stylistic purposes should be understood to mean migrants vulnerable to violence, exploitation and abuse.

1.1 THE IOM DETERMINANTS OF MIGRANT VULNERABILITY MODEL

IOM’s approach to migrant vulnerability is rooted in the belief that the human rights of all persons, including migrants, should be upheld and promoted and that all migrants who are vulnerable, regardless of category or status, should be afforded the protection and assistance services that they require.

The determinants of migrant vulnerability model was specifically developed to identify, protect and assist migrants who have experienced or are vulnerable to violence, exploitation and abuse before, during or after migrating, and to guide the development and implementation of interventions to reduce such vulnerability.

For the purposes of the Handbook:

- Violence is defined as the intentional use of physical force or power, threatened or actual, that either results in, or has a high likelihood of resulting in, injury, death or psychological harm;⁵
- Abuse is defined as an improper act by a person in a position of relative power, causing harm to a person of lesser power (including physical abuse, sexual abuse, abuse of a position of vulnerability,⁶ psychological abuse, etc.);
- Exploitation is defined as the unfair treatment of a person for someone else’s benefit.

The model encompasses not only vulnerability but also resilience. It therefore considers both risk factors (which contribute to vulnerability) and protective factors (which improve capabilities to avoid, cope with or recover from harm), and the way that the two interact.

The model recognizes that migrants and the households/families, communities and groups to which they belong are all situated in a broader social environment. It considers both resilience and vulnerability to be determined by the presence, absence and interaction of risk and protective factors at different levels: individual, household/family, community and structural. Each factor, at each level, is considered to be either a risk or a protective factor, depending on the context.

Further, each factor may have a different impact on the type of harm (violence, exploitation or abuse) migrants may be vulnerable or resilient to. For example, being female and travelling along a migration route plagued by widespread acceptance of sexual assault is a risk factor for experiencing such violence. Being a male migrant in a context where male migrants are perceived as dangerous is a risk factor for arbitrary detention. In many contexts, belonging to a higher socioeconomic group is a protective factor against a range of ill-treatment, such as labour exploitation or exclusion from education and health services. Being in a context where rights are protected empowers individuals and is a protective factor against violence, exploitation and abuse.

This approach therefore considers the vulnerability or resilience of migrants to violence, exploitation and abuse before, during or after migration as the net impact of the interaction of these factors at different levels.

5 Adapted from the WHO definition (see www.who.int/violenceprevention/approach/definition/en/).

6 See UNODC, *The concept of “exploitation” in the Trafficking in Persons Protocol*, Issue Paper (Vienna, 2015). Available at www.unodc.org/documents/human-trafficking/2015/UNODC_IP_Exploitation_2015.pdf.



Figure 1.1

The determinants of migrant vulnerability (DoMV) model⁷

Individual factors

These are factors related to individuals: their status in society; their physical and biological characteristics; their histories and experiences; their beliefs and attitudes; their individual emotional, psychological and cognitive characteristics; and their physical and mental health and well-being. Individual characteristics are a central element of vulnerability and resilience, as they mediate how individuals respond to household/family, community and structural contexts. All individuals are rights holders, and the extent to which an individuals' rights are respected will affect how individual factors impact vulnerability or resilience.

Some examples of individual factors are age, sex, racial and/or ethnic identity, sexual orientation, gender identity, personal history, mental and emotional health, and access to resources such as money, goods or support.

For some individual factors, whether they are risk factors or protective factors is context specific. For example, being a member of a particular racialized group may be a protective factor in some contexts (if that group is dominant or privileged), but a risk factor in others (if that group is marginalized or oppressed). Other individual factors may be broadly considered to always be risk factors or protective factors. For example, literacy is almost always a protective factor, while illiteracy is almost always a risk factor.

⁷ This model is similar to the ecological model developed by Urie Bronfenbrenner in *The Ecology of Human Development* (Harvard University Press, 1979).

Household and family factors

Household and family factors are related to the family circumstances of individuals and their family members, the role and position of individuals within the family, and family histories and experiences. Families are important in determining vulnerabilities, as they are typically the first option for individuals who require support, particularly children and young people. All members of the household and family are rights holders, and the extent to which their rights are respected will affect how family and household factors impact vulnerability or resilience.

Examples of household and family factors include family size, household structure, socioeconomic status, migration histories, employment, livelihoods, education levels, gender discrimination and family dynamics.

Households and families can constitute both risk and protective factors against violence, exploitation and abuse. Risk factors can include interpersonal violence between family members, households headed by a child or a single parent, and a history of unsafe migration behaviour. Protective factors can include the presence of a supportive environment within the home, equitable distribution of resources and opportunities between boys and girls, and sufficient earnings to meet both basic needs and the main aspirations of all family members.

Community factors

Individuals and their families are situated within a broader physical and social community context. They are affected by their community's economic, cultural and social structures, and their positions within these structures. Communities with strong social networks and access to resources can provide support and protection to individuals and families, whereas communities without such networks and resources can create risk factors for individuals and families. Some community factors may affect groups within the community differently, making some groups more vulnerable and others less so. For example, social networks that provide support to some groups but exclude others work to protect some and increase risk for others. Some risk and protective factors can apply to all members in a community, making the community as a whole more or less vulnerable. All members of a community are rights holders, and the extent to which their rights are respected will affect how community factors impact vulnerability or resilience.

Examples of community factors include availability of quality educational opportunities, health care and social services; equal access to resources; livelihood and income-generating opportunities; the natural environment; and social norms and behaviours.

All communities will have a combination of risk and protective factors. Community risk factors include practices such as forced marriage, exclusion of some members of the community from the full benefit of community resources, or the presence of natural hazards such as landslides or flooding. Protective community factors include a good education system accessible to all, sufficient access to quality health care, a functioning social welfare system, and adequate preparedness measures to mitigate risks from natural hazards.

Structural factors

At the broadest level, structural factors are the political, economic, social and environmental conditions and institutions at national, regional and international levels that influence the overall environment in which individuals, families and communities are situated and which shape their beliefs, decisions and behaviours. Structural factors are typically relatively stable and have both immediate and longer-term impacts.

Examples of structural factors include histories of colonization and conflict, political systems, migration policies and governance, respect for human rights, and the rule of law.

At the structural level, risk factors include patterns of systemic marginalization and discrimination, conflict and instability, poor governance, the absence of accountability mechanisms, and weak rule of law. Protective factors include peace and security, good governance, respect for human rights, and equitable development.

Interaction of factors

In the IOM model, the overall vulnerability of individual migrants and the households, families, communities and groups to which they belong to violence, exploitation and abuse before, during or after a migration process, or their capability to avoid, resist, cope with or recover from such violations, is the result of the interaction of multiple risk and protective factors at different levels.

This means that no one factor will lead to a specific outcome. It also means that the presence of one or more risk factors does not necessarily result in a migrant being vulnerable, as the protective factors may mitigate the risk factors. It is an overall preponderance of risk factors, coupled with inadequate protective factors, that results in vulnerability. On the other hand, when protective factors are present in sufficient quantity to outweigh risk factors, migrants are better able to avoid, resist, cope with or recover from violence, exploitation and abuse – this can also be referred to as resilience.

Example 1

A middle-aged man having a high level of education, enjoying good health and belonging to a powerful segment of society would typically have a low level of vulnerability. However, he could find himself vulnerable to extortion and violence if he were to engage in unsafe migration practices, such as hiring migrant smugglers to help him gain access to a country through irregular means, particularly if he were to travel with the smugglers through countries with no mechanisms to protect smuggled migrants from violence.

Example 2

A family that experiences a crisis, such as the loss of employment owing to a health emergency for the primary wage earner, might make migration decisions that heighten the vulnerability of one or more family members to labour exploitation. However, it would be less likely to make such decisions if it could turn for support to extended family members, community members and/or social welfare programmes. The household/family risk factors would be mitigated by protective factors at the community level.

Example 3

People who regularly face discrimination, harassment and barriers in accessing services because of their status as migrants are more likely to be vulnerable to violence, exploitation and abuse. If they cannot turn to other members of the community for assistance, and if they cannot access the same services as others, they are likely to become isolated and vulnerable to being targeted by those who would abuse or exploit them.

Example 4

Members of a community displaced by a natural disaster may face increased risks of trafficking, as traffickers often target displaced populations. However, if local and national leaders act quickly to mitigate the trafficking risk by providing displaced persons with accurate and timely information and by taking effective law enforcement action against trafficking, then the community members are likely to be adequately protected from the risk.

Some of these factors are relevant at more than one level. For example, while sex is an individual characteristic, it influences individuals' experiences with their families and communities, and structural inequalities between boys and girls/men and women can both reflect and sustain inequalities in households, families and communities. The purpose of the determinants of migrant vulnerability model is not to define strict categories of factors, but rather to facilitate a structured and meaningful examination of how multiple factors intersect to influence vulnerability and resilience.

1.2 PROGRAMMATIC RESPONSES: THE FRAMEWORK FOR PROVIDING PROTECTION AND ASSISTANCE TO MIGRANTS VULNERABLE TO VIOLENCE, EXPLOITATION AND ABUSE

The purpose of the model is to provide practitioners and service providers with an operational methodology for gaining a thorough understanding of the risk factors that contribute to migrant vulnerability and the protective factors that enhance migrant resilience, so that responses can be designed and implemented at the appropriate levels. The model's application also provides a framework for assessing who should be involved in designing and implementing comprehensive responses.

An appropriate, comprehensive and sustainable programmatic response is one that addresses the risk factors that contribute to vulnerability and mobilizes protective factors that enhance resilience, at all levels and with the engagement of all relevant stakeholders.

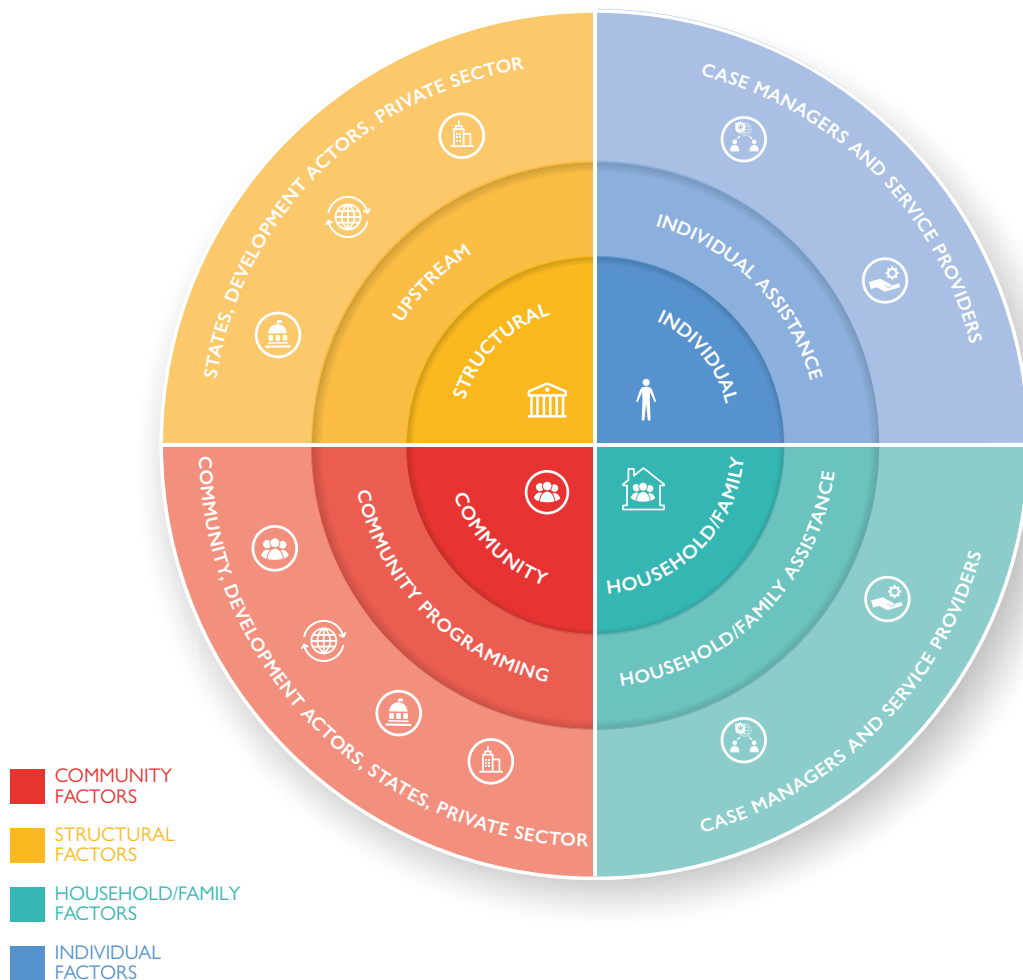


Figure 1.2

Programmatic responses and relevant players at each level

Who's involved in programmatic responses?

Depending on the level, responses will require the involvement of different protagonists, with expertise in different fields and various levels of capacity. Responses at individual and household/family level are typically delivered person to person, by case managers and service providers coming from different spheres: governmental, non-governmental or private sector. They may be, for example, government social workers, doctors in private practice, or lawyers working for a non-profit organization.

Responses at community level should involve the community itself, local government and other stakeholders, such as the private sector and development partners.

Responses at the structural level are typically the domain of local and national governments, regional or international institutions, and major development partners, such as United Nations Country Teams.

Individual responses

At the individual level, migrants who are vulnerable to or have experienced violence, exploitation or abuse require responses that directly address their immediate needs and the particular constellation of risk factors that contribute(d) to their vulnerability.

Examples of individual responses include safe shelter or accommodation; physical and mental health care; legal and consular assistance; education, skills development and training; livelihood and income-generating opportunities; opportunities for regularization of immigration status, family reunification, complementary protection, humanitarian and other legal statuses; challenges to immigration detention; return and reintegration services and support; and counselling on safe migration practices.

At this level, risk factors should be handled along a continuum, with some risk factors being more amenable to immediate solutions (e.g. a temporary lack of shelter), while others require more medium-term solutions (e.g. improving educational attainment) or longer-term or even lifetime efforts (e.g. treatment of some physical and mental health concerns).

Household and family responses

At the household/family level, a holistic response requires understanding the position of and relationships between the individuals within the household and addressing any household/family factors that contributed to their vulnerability.

Appropriate responses may include family tracing and assessment, best interests assessments and determination for child migrants, alternative care arrangements for unaccompanied child migrants, responses to domestic or gender-based violence within the family, family reunification services, family counselling, livelihood and income-generating opportunities, and education.

Household and family interventions may require shorter- or longer-term approaches, depending on the particular risk factors being addressed.

Community responses

Community programming tends to require medium- to longer-term approaches, as addressing community risk factors requires changes to broader social, economic, environmental and cultural factors. Appropriate responses can include efforts to change attitudes and beliefs so that community members view all people, regardless of age, sex, race, ability or any other personal characteristic, as full and equal participants in the cultural, social, economic and political life of the community; efforts to encourage full and equal participation of boys and girls in education; public information campaigns to inform communities about safe migration processes; capacity development programmes that improve community members' and leaders' skills, knowledge and resources for adapting to, mitigating and reducing the effect of climate change and environmental degradation; and community development programmes.

Structural responses

At the structural level, programming tends to be longer term and is typically the domain of local and national governments and regional or international institutions. Efforts to effect structural change may require more time to achieve, but are also likely to have wide-ranging impact.

Programming that aims to address structural factors can include improvements to national laws and policies to ensure that they recognize migrant rights and offer adequate protection for migrants; the development and implementation of policies for safe and regular migration, including labour mobility; the pursuit of pro-poor and equitable development policies; improvements to the rule of law and respect for human rights; and barriers to discrimination against specific groups.

The role of the State

As the primary duty bearer for upholding the rights of all persons, including migrants, the State has a particularly important role to play in upholding rights and reducing vulnerability to rights violations in all spheres and at all levels. The Principles and Guidelines on the human rights protection of vulnerable migrants⁸ list 20 principles, couched in international human rights law and related standards, to assist States (and other stakeholders) to develop, strengthen, implement and monitor measures to protect vulnerable migrants.

- Principle 1: Ensure that human rights are at the centre of efforts to address migration in all its phases, including responses to large and mixed movements.
- Principle 2: Counter all forms of discrimination against migrants.
- Principle 3: Ensure that migrants have access to justice.
- Principle 4: Protect the lives and safety of migrants and ensure that all migrants facing risks to life or safety are rescued and offered immediate assistance.
- Principle 5: Ensure that all border governance measures protect human rights.
- Principle 6: Ensure that all returns fully respect the human rights of migrants and comply with international law.
- Principle 7: Protect migrants from torture and all forms of violence and exploitation, whether inflicted by State or private actors.
- Principle 8: Uphold the right of migrants to liberty and protect them from all forms of arbitrary detention. Make targeted efforts to end unlawful or arbitrary immigration detention of migrants. Never detain children because of their migration status or that of their parents.
- Principle 9: Ensure the widest protection of the family unity of migrants; facilitate family reunification, prevent arbitrary or unlawful interference in the right of migrants to enjoy private and family life.
- Principle 10: Guarantee the human rights of all children in the context of migration, and ensure that migrant children are treated as children first and foremost.
- Principle 11: Protect the human rights of migrant women and girls.
- Principle 12: Ensure that all migrants enjoy the highest attainable standard of physical and mental health.
- Principle 13: Safeguard the right of migrants to an adequate standard of living.
- Principle 14: Guarantee the right of migrants to work in just and favourable conditions.
- Principle 15: Protect the right of migrants to education.
- Principle 16: Uphold migrants' right to information.
- Principle 17: Ensure that all responses to migration, including large or mixed movements, are monitored and accountable.

8 See OHCHR/Global Migration Group, op. cit., note 4.

Principle 18: Respect and support the activities of human rights defenders who promote and protect the human rights of migrants.

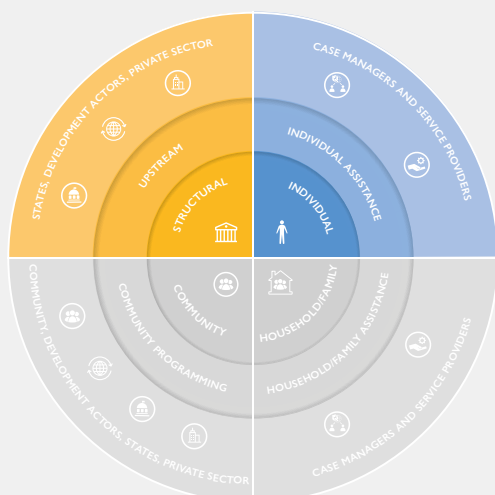
Principle 19: Improve the collection of disaggregated data on the human rights situation of migrants while protecting personal data and the right to privacy.

Principle 20: Ensure human rights-based and gender-responsive migration governance.

Examples of programmatic responses based on the determinants of migrant vulnerability model

Example 1

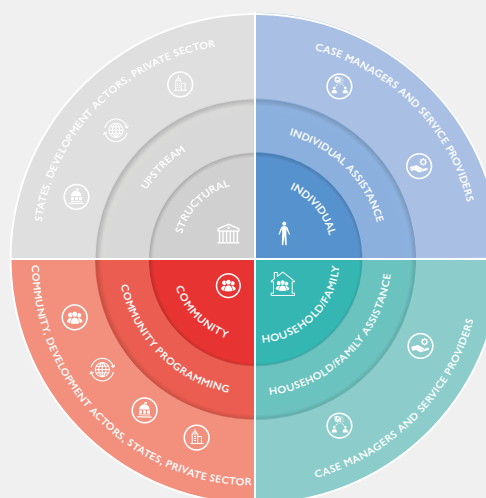
Vulnerability: A middle-aged man wants to move to a different county, but his visa application is denied. He decides to pay smugglers to get him there. He leaves with the smugglers by an overland route that requires travelling through several other countries. One of the countries is experiencing a political crisis and violence has broken out. The man does not speak the local language and does not feel safe on his own. His smugglers take advantage of the situation and lock him up, beat him, and threaten to turn him over to the authorities if he does not get his family and friends to send money. He is discovered by a cleaner who calls law enforcement. He is put in immigration detention. He is put in immigration detention.



Programmatic response: A comprehensive response would involve programming at individual and structural level. Individual programming could include legal assistance to help the man exit detention. Structural programming in his home country could include law enforcement action against migrant smuggling. It could also include efforts in the country in which he was detained to develop laws and policies to protect migrants subject to violence by smugglers.

Example 2

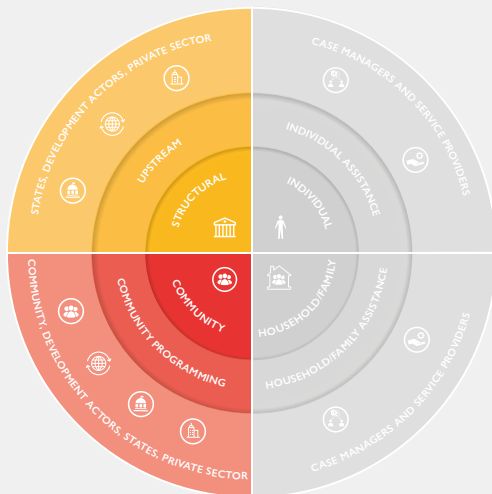
Vulnerability: An adult woman is sick with tuberculosis but there is no treatment available in her town. Eventually she becomes unable to work. Her partner is able to work, but there are limited employment opportunities in town. As the sick woman was the primary wage earner for her family, she is considering sending her eldest son, who is 16, abroad to work, even though neither she nor her partner want him to have to migrate for work – he is a talented student and they would rather he finish school. Also, the places where he could find work are known to mistreat migrant workers, and they want their family to stay intact.



Programmatic response: A comprehensive response would involve programming at the individual, household/family and community level. At the individual level, the woman requires medical treatment so that she can return to work. At the household/family level, income support or income-generating alternatives are needed, so that the son can stay at school rather than migrating alone. At the community level, programming to improve the availability of medical services and employment opportunities would improve this family's circumstances and resilience.

Example 3

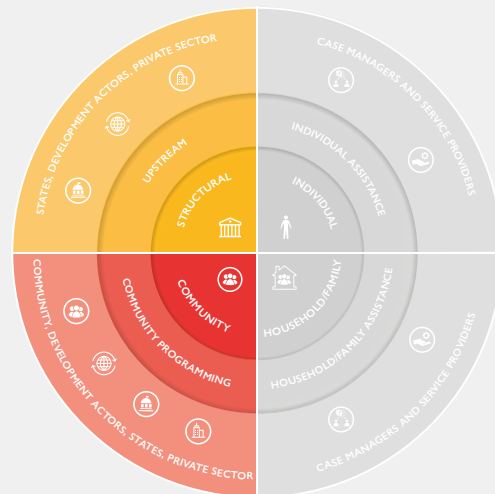
Vulnerability: A few thousand migrants have moved from their home country, which is convulsed by a long-running civil war, to a neighbouring country with better political and economic conditions, in which they have legal residence rights owing to a free movement of people agreement between the two countries. Most have settled in the same community. The host community was initially receptive but has grown resentful of the newcomers. Local business owners have started to refuse to serve the migrants, and health and education services regularly turn them away, despite the fact that they have the same rights to those services as nationals. Local law enforcement officials have started to harass the migrants and demand that they pay bribes to avoid arbitrary detention. A local factory employing many of the migrants takes advantage of the situation, knowing that the migrants are unlikely to report unsafe working conditions or wage theft. It stops providing them with appropriate safety gear and regularly underpays them.



Programmatic response: A comprehensive response would include community and structural components. At the community level, campaigns to make the host community aware of the rights of migrants and aimed at changing attitudes and behaviours could be implemented. Community leaders could be engaged to promote social cohesion and ensure that migrants have access to the services to which they are entitled. At the structural level, efforts are needed to address corruption and to uphold the rights of migrants. Structural interventions to improve political, economic and security conditions in the country of origin could prompt the migrants to spontaneously return to their country of origin.

Example 4

Vulnerability: Abnormally high levels of rainfall cause a major river to burst its banks; several towns are flooded and tens of thousands of people displaced. The area is near an international border, and the people concerned are displaced both across the border and within their own country. The neighbouring country has long-standing problems with criminality, and trafficking networks begin targeting the cross-border displaced with false offers of jobs in the capital. Both local and national governments in their country of origin have been monitoring the displacement situation closely and quickly hear of the trafficking threat. A multi-agency, cross-border anti-trafficking committee is immediately established, which engages community members, local authorities and the national governments of both countries. The committee deploys outreach teams to inform the displaced and host communities about the risks of trafficking, and law enforcement officials launch an investigation and quickly apprehend the traffickers.



Programmatic response: In this case, community and national authorities responded rapidly and effectively, countering the immediate threat of trafficking. Additional programming at the community and structural level should be undertaken to resolve the displacement crisis and mitigate the risk of future displacement caused by flooding, for example by setting up early warning systems and pre-positioning flood barriers. The national government of the neighbouring country should work to improve the rule of law and eradicate the trafficking networks.

1.3 KEY TERMS AND DEFINITIONS

The key terms and definitions used in this framework are:

- Vulnerability: Within the migration context, vulnerability is defined as a limited capability⁹ to avoid, resist, cope with or recover from violence, exploitation, and abuse;
- Resilience: The capability to avoid, resist, cope with, or recover from violence, exploitation and abuse.
- Risk factor: Factors at the individual, household/family, community or structural level that increase migrants' likelihood of experiencing violence, exploitation or abuse before, during or after migrating.
- Protective factor: Factors at the individual, household/family, community or structural level that decrease migrants' likelihood of experiencing violence, exploitation or abuse before, during or after migrating.
- Community: A number of persons who regularly interact with one another, within a specific geographical territory, and who tend to share common values, beliefs and attitudes.
- Group: A number of persons whose individual members are defined by their ethnic, cultural, religious or other status.
- Migrant(s) vulnerable to violence, exploitation or abuse: A migrant or group of migrants exposed to or with experience of violence, exploitation or abuse within a migration context and with limited capability to avoid, resist, cope or recover, as a result of the unique interaction of individual, household/family, community and structural characteristics and conditions.

1.4 OPERATIONALIZING THE DETERMINANTS OF MIGRANT VULNERABILITY MODEL

The determinants of migrant vulnerability model and the framework for protection and assistance for migrants vulnerable to violence, exploitation and abuse provide an overall approach to understanding migrant vulnerability and developing appropriate interventions. Parts 2, 3, 4 and 5 of this Handbook provides toolkits for assessing factors at the different levels. Each toolkit contains an overview of factors at each specific level, one or more questionnaires or assessment tools, and guidance for applying and adapting the questionnaires and tools. The forms can be used unchanged or adapted to suit the context.

These questionnaires and tools are meant to be used in a complementary fashion, with the information gathered from them contributing to a holistic understanding of the impact of interacting factors at various levels on the vulnerability and resilience of individuals, households and families, groups, and communities.

All personal information collected using the questionnaires should be subject to strict confidentiality and privacy principles. See, for example, IOM's data protection principles and guidelines as contained in the IOM Data Protection Manual, available for download from the IOM website (www.iom.int).

⁹ IOM's determinants of migrant vulnerability model is informed by the capabilities model developed by Amartya Sen, which focuses on a person's capability to function (i.e. what they can do or be) and reflects a person's freedom to choose between different ways of living. See Amartya Sen, *Commodities and Capabilities* (Amsterdam, North-Holland, 1985).

1.5 VULNERABILITY AT ORIGIN, TRANSIT AND DESTINATION

International migration is often described as a process involving a country of origin, one or more countries of transit, and a destination country. Internal migration typically follows a similar process, involving communities rather than countries of origin, transit and destination.

A number of vulnerabilities may arise as a result of factors, conditions or experiences at each specific stage of the migration process. They may arise from the reasons for leaving the country of origin. According to a report by the United Nations High Commissioner for Human Rights,¹⁰ these vulnerabilities “can include poverty, discrimination, lack of access to fundamental human rights, including education, health, food and water, and decent work, as well as xenophobia, violence, gender inequality, the wide-ranging consequences of natural disaster, climate change and environmental degradation, and separation from family”. They may apply to individual migrants or to groups of migrants.

Vulnerabilities may also arise owing to circumstances associated with being in transit. This can include threats to physical safety as a result of difficult transit conditions, such as unsafe means of transportation, and threats of exploitation posed by human traffickers, migrant smugglers or unscrupulous officials. Migrants in transit may be particularly vulnerable to rights violations and abuses, particularly when their status is irregular. According to the same report, “the inadequate and often harsh conditions in which they are received at borders can also violate rights and further exacerbate vulnerabilities. Responses, such as the arbitrary closure of borders, denial of access to asylum procedures, arbitrary push-backs, violence at borders committed by State authorities and other actors (including criminals and civilian militias), inhumane reception conditions, a lack of firewalls, and denial of humanitarian assistance, increase the risks to the health and safety of migrants, in violation of their human rights”.¹¹

Once at their destination, migrants may face new vulnerabilities, such as language barriers, difficulties integrating and xenophobia. They may be targeted by unscrupulous employers and landlords who take advantage of their limited knowledge of local conditions and reduced bargaining power. Irregular migrants in particular are unwilling to access social services for fear of detection, even if they are legally entitled to them. They may be subject to arrest, detention and deportation and are therefore vulnerable to manipulation and exploitation by those who threaten to report them.

10 See United Nations General Assembly, *Principles and practical guidance on the protection of the human rights of migrants in vulnerable situations*, Report of the United Nations High Commissioner for Human Rights (A/HRC/34/31), para. 13.

11 *Ibid.*, para. 14.

1.6 APPLYING THE MODEL BEFORE, DURING AND AFTER MIGRATION

The determinants of migrant vulnerability model can be applied before, during or after migration, for purposes that will likely differ depending on the situation.

If applied before migration, the model should be used to encourage safe and informed migration, and/or prevent violence, exploitation or abuse of migrants. Its application involves examining factors at the individual, household/family, community and structural levels with a view to identifying push factors for migration and risk factors that might exacerbate vulnerability during migration. It also involves assessing what protective factors might be mobilized in order to minimize risks.

If applied during migration, the model should be used to identify vulnerable migrants with a view to taking measures to prevent them from experiencing harm and/or to developing appropriate protection and assistance plans if harm has already been done.

If applied after migration, the model should be used to identify vulnerable migrants with a view to taking measures to prevent them from experiencing harm and/or to developing appropriate protection and assistance plans if harm has already been done. It should also be used to support the development of longer-term sustainable resolution of vulnerability. In the context of returns, it should be used to address vulnerabilities and promote sustainable reintegration.

PROTECTION AND
ASSISTANCE FOR MIGRANTS
VULNERABLE TO VIOLENCE,
EXPLOITATION AND ABUSE:
INDIVIDUAL CASE MANAGEMENT

PART 2

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INTRODUCTION

Part 2 of this Handbook focuses on the determinants of migrant vulnerability at the individual level, and on appropriate programmatic responses for mitigating and addressing vulnerability factors at this level. It discusses protection, types of protection, and the ways in which protection systems and referral networks can be mobilized to protect migrants vulnerable to violence, exploitation, and abuse. It outlines principles of assistance that should be followed in any effort to provide assistance to vulnerable migrants, and offers standards and guidelines on various forms of individual assistance for vulnerable migrants. Specific topics include: case management; shelter and accommodation; water, sanitation and hygiene; food and nutrition; personal safety and security; health and well-being; education and training; livelihoods, employment, and income generation; family tracing, assessment and reunification; access to justice; and case closure.

The guidance provided in Part 2 is intended mainly for individual case managers providing direct support and assistance to vulnerable migrants, including vulnerable migrant children. It may also be useful for those delivering services to vulnerable migrants, including health-care providers, law enforcement officers, and those working for service providers accessed by migrants.

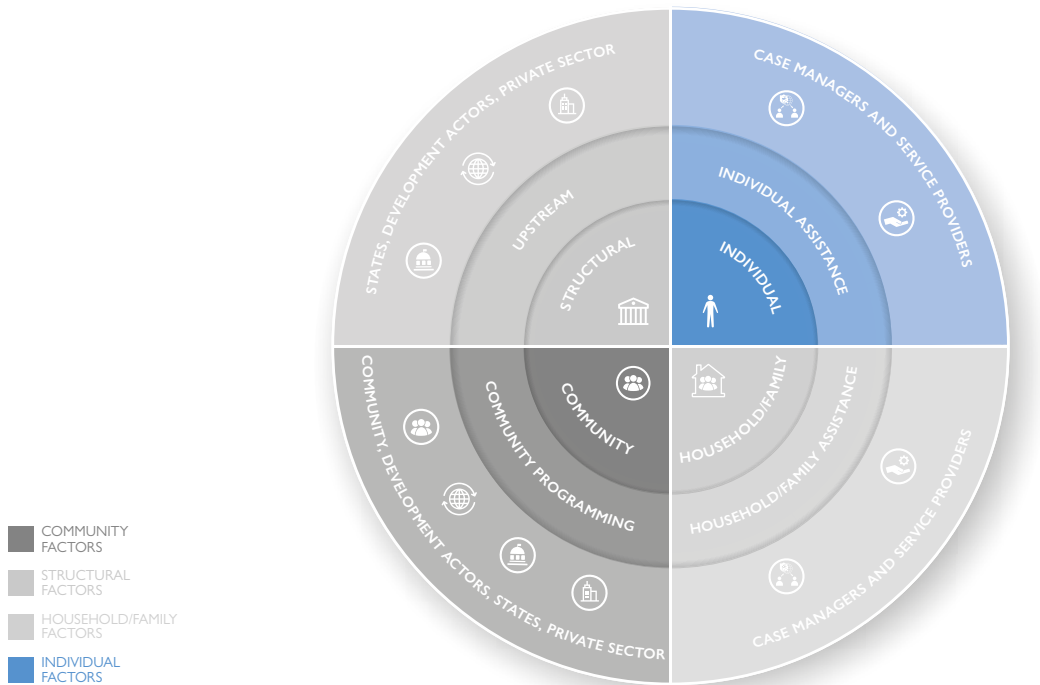


Figure 2.1

Programmatic responses and relevant actors at the individual level

2.1 PROTECTION AND PROTECTION SYSTEMS

Understanding protection

There is no universally accepted definition of “protection”, but the term is often used to describe all actions intended to maintain individual safety and well-being in accordance with the letter and spirit of relevant bodies of law.

Under international law, it is the State’s responsibility to protect people within their jurisdiction by respecting, protecting and fulfilling their rights and by establishing and allowing ways of implementing those rights meaningfully. States also have an obligation to provide protection to their citizens abroad. Where a State cannot or will not provide this protection, certain international organizations have been mandated to provide this protection.

The protection of people, including migrants, is codified in instruments of human rights, labour, humanitarian, maritime, transnational criminal, nationality and consular law, and in the law of the sea. Those instruments are often not accompanied, however, by the implementing mechanisms needed to protect and assist vulnerable migrants. Vulnerable migrants may therefore require support to enforce their rights and obtain protection from States or other mandated actors.

Types of protection

The types of protection relevant to migrants include human rights, legal, physical, social and humanitarian protection.

Human rights protection is the obligation of States to respect, protect and fulfil the rights of all individuals on their territory or under their jurisdiction, regardless of their nationality, statelessness or migration status and without discrimination, in order to preserve in particular their safety, physical integrity and dignity.

Human rights protection is based on international human rights law, notably the 1948 Universal Declaration of Human Rights, which states that human rights are inherent to all human beings regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status, including migration status.¹ International human rights law outlines the obligations of governments to act or to refrain from certain acts in order to promote and protect the human rights and fundamental freedoms of individuals or groups.

Human rights empower and protect individuals against actions that interfere with fundamental freedoms and human dignity by delimiting State power and obliging States to take positive measures to guarantee that these rights can be enjoyed by everyone on their territory. Human rights are legally guaranteed by international human rights law.

Although the enjoyment of individual human rights can be positively and negatively affected by various entities (for instance, organized criminal groups, businesses and corporations, armed groups, international organizations, NGOs), the States are the primary duty bearers, their legal obligations including the duty to respect, to protect and to fulfil.

Respect – States must refrain from interfering with the enjoyment of human rights. They must refrain, for example, from arbitrary detention, torture or collective expulsion of migrants.

Protect – States must prevent private individuals or entities and third parties from violating human rights. They must, for example, regulate recruitment agencies, sanction abusive employers and protect migrants from violence and abuse by smugglers.

Fulfil – States must take positive measures to ensure the realization of human rights. They must, for example, consult migrants when developing relevant public policy and introduce alternatives to immigration detention.

From Migration and human rights: Improving human rights-based governance of international migration (OHCHR)

International human rights law is based on inter-State consensus. Its main source is legally binding agreements between States. Three core human rights instruments form the International Bill of Human Rights:

- The Universal Declaration of Human Rights (1948) sets out the fundamental human rights to be universally protected in 30 articles that are now considered to be customary international law;
- The International Covenant on Civil and Political Rights (1966) articulates civil liberties and political freedoms, including freedom of expression, equal protection and due process;
- The International Covenant on Economic, Social and Cultural Rights (1966) articulates economic, social and cultural rights, including the right to work, health and education.

Importantly, these instruments stipulate no hierarchy of rights; all human rights are interrelated and indivisible because the improvement of one right facilitates advancement of others. Many multilateral human rights treaties promulgated under United Nations auspices have drawn from and elaborated on the International Bill of Human Rights to address particular issues and groups of concern, including the:

- International Convention on the Elimination of All Forms of Racial Discrimination (1965);
- Convention on the Elimination of All Forms of Discrimination against Women (1979);

¹ The full text of the Universal Declaration of Human Rights is available at www.un.org/en/universal-declaration-human-rights.

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (1984);
- Convention on the Rights of the Child (1989);
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention) (1990);
- International Convention on the Rights of Persons with Disabilities (2006);
- International Convention for the Protection of All Persons from Enforced Disappearance (2006).

Legal protection is provided through effective rule of law and the implementation of domestic and international legal instruments designed to protect individuals from violations of their human rights and reduce risks to their safety, security, health and well-being.

Specific groups of people may be given additional or specific legal protection in laws or regulations that recognize their elevated risks and status as vulnerable. Common examples are women, children, people living with disabilities, older persons, refugees and asylum seekers, trafficked persons, migrant workers, indigenous people, and marginalized or oppressed groups.

State authorities may grant additional legal protection in response to harm, neglect, exploitation or abuse, including by issuing restraining orders against the perpetrators of intimate partner or domestic violence, or communal violence, or removal orders for neglected, abused or exploited children.

Physical protection includes measures to maintain the safety and integrity of individuals and their assets and possessions and to prevent damage or harm. It can be provided by government agencies such as police forces, the military and border management agencies; non-State authorities; private security providers; United Nations or regional peace-support operations; informal organizations such as community watch groups or networks of family members; and individuals themselves. The physical environment, both natural and built, also provides physical protection through its design and use.

Social protection has numerous definitions, but common elements include support for individuals, households, families and communities to prevent, manage and overcome the hazards, risks and stresses threatening their well-being,² and contributions to reducing poverty, exclusion and inequality. Social protection programmes are designed to provide an income or livelihood to reduce the economic and social vulnerability of individuals or groups. Also called “social security”, it is a right articulated in the International Covenant on Economic, Social and Cultural Rights, which recognizes the role social security plays in securing human dignity.

Groups typically targeted by social protection programmes include single-parent households, female- or child-headed households, the unemployed, or those living with illness or disability.

Social protection systems can take various forms. Cash transfers are direct and predictable provisions of cash and can be unconditional or conditional. In the latter case, the beneficiary must fulfil certain obligations, such as sending his/her children to school or visiting a social service to receive the benefit. State pensions are a form of cash transfer targeting older persons or those who cannot work. Transfers of food or other goods are another form of social protection and can be arranged through school-based feeding programmes or to meet acute needs, for instance following a natural disaster.

Microfinance programmes, which provide financial services to people living on low incomes, can also have a social protection function when they alleviate poverty by supporting income generation, asset acquisition, savings plans and financial risk management. Typically, microfinance programmes offer small loans to community-based groups to be used for productive engagement in the local economy; the community-based groups have an accountability function that guarantees the repayment of the loans at lower interest rates than those offered by formal financial systems.

Public works programmes designed to provide employment through State-sponsored investment, often to develop infrastructure, are another form of social protection. They can provide livelihoods by giving cash or other needed goods, including food, for work.

Social insurance is another form of social protection. Examples are maternity leave and pay schemes, unemployment insurance, workers’ compensation programmes, or disaster insurance. In these instances, individuals make regular

2 Adapted from UNDP International Poverty Centre, “Social protection: the role of cash transfers”, *Poverty in Focus* (June 2006). Available at www.ipc-undp.org/pub/IPCPovertyInFocus8.pdf.

contributions through tax systems or to a bank, an employer or a community-based fund on which they can draw when a specific event (e.g. pregnancy, illness or injury, death, a weather event like drought or flood) impedes their ability to work and earn a living.

Other interventions have social protective functions, providing additional support to those deemed more vulnerable within a society, and are often linked with economic protection. State subsidies can provide social protection by removing or reducing taxes on basic necessities, using a proportion of gross national product to lower costs, or capping the market price of basic goods and services.

Humanitarian protection refers to the protection afforded to those affected by an armed conflict, natural disaster or other crisis. The IASC defines humanitarian protection as all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. international human rights law, international humanitarian law, international refugee law).³ Humanitarian protection encompasses the efforts of humanitarian actors to ensure that the rights of crisis-affected persons and the obligations of duty bearers under international law are understood, respected, protected and fulfilled without discrimination.

Under international humanitarian law, civilians affected by an armed conflict or other situation of violence, sick and wounded combatants and prisoners of war are protected groups in respect of whom State authorities and other armed entities have a legal obligation to preserve their safety, physical integrity and dignity. The 1949 Geneva Conventions for the protection of war victims and their Additional Protocols govern the rules of warfare and are intended to reduce the impact of armed conflict on civilians, medical and religious military personnel, the wounded, shipwrecked and sick combatants, and prisoners of war.⁴

The need for protection is not limited to situations of conflict; it also arises in humanitarian crises such as natural and human-induced disasters and disease outbreaks. In all such situations, protection should be afforded to all those affected and their rights respected in accordance with the law, without discrimination and throughout all phases of the crisis.

Humanitarian protection can be provided by States, United Nations agencies, international organizations, the ICRC and National Red Cross and Red Crescent Societies, NGOs and/or communities. The Global Protection Cluster provides coordination and leadership within the United Nations humanitarian system, furnishes global inter-agency policy advice and guidance on the conduct of humanitarian operations, supports protection responses in humanitarian operations not involving refugees, and spearheads standard- and policy-setting relating to protection in complex humanitarian emergencies.⁵

Protection for specific groups

There are also types of protection for specific groups.

Child protection refers to preventing and responding to violence against, and exploitation, abuse and neglect of, those under the age of 18. In practice, child protection often focuses on children considered to be the most vulnerable to rights violations, such as those living without parental care, children in contact with the law, children affected by armed conflict, and migrant children.

The 1989 Convention on the Rights of the Child and its Optional Protocols outline the fundamental rights of children, including the right to be protected from economic exploitation and harmful work, from all forms of sexual exploitation and abuse, and from physical or mental violence, and the right not to be separated from their family against their will unless such separation is in their best interests.

The Convention outlines the basic rights held by all children:

- the right to survival;
- the right to develop to the fullest;
- the right to protection from harmful influences, abuse and exploitation;
- the right to participate fully in family, cultural and social life.

³ See *Inter-Agency Standing Committee Policy on Protection in Humanitarian Action* (2016), p. 2. Available at https://interagencystandingcommittee.org/system/files/iasc_policy_on_protection_in_humanitarian_action_0.pdf.

⁴ *What is International Humanitarian Law?* (ICRC Advisory Service on International Humanitarian Law, 2004). Available at www.icrc.org/eng/assets/files/other/what_is_ihl.pdf.

⁵ *Who We Are* (Global Protection Cluster). Retrieved from www.globalprotectioncluster.org/en/about-us/who-we-are.html.

The Convention has four core principles:

- non-discrimination;
- devotion to the best interests of the child;
- the right to life, survival and development;
- respect for the views of the child.⁶

Other international legal instruments that afford children specific protection include the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), which calls for the prohibition and elimination of the worst forms of child labour, including the compulsory recruitment of children into armed forces.

Women's protection is the promotion and protection of women's rights. It entails recognition that women worldwide continue to suffer discrimination in the form of gender-based exclusion or restrictions. The 1979 Convention on the Elimination of all Forms of Discrimination against Women calls on States to work towards gender equality. Underlying this type of protection is recognition that violence against women and girls is pervasive and has immediate and long-term consequences that affect the physical health, psychological well-being and social lives of women and girls. Women's protection includes the prevention of and response to intimate partner violence, gender-based violence, and the social isolation and economic exclusion of women and girls.⁷

Protection of persons living with disabilities is framed in the 2006 Convention on the Rights of Persons with Disabilities and its Optional Protocol. The Convention is a human rights instrument with a social development dimension. It reaffirms that all persons with all types of disabilities are equally entitled to enjoy all human rights and fundamental freedoms. It identifies areas where adaptations have to be made for persons with disabilities to effectively exercise their rights, where their rights have been violated, and where protection of rights must be reinforced.⁸

The Convention comprises eight general principles:

- Respect for the inherent dignity, individual autonomy (including the freedom to make their own choices) and independence of persons with disabilities;
- Non-discrimination;
- Full and effective participation and inclusion in society;
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- Equality of opportunity;
- Accessibility;
- Equality between men and women;
- Respect for the evolving capacities of children with disabilities and for their right to preserve their identities.

The **protection of trafficked persons and smuggled migrants** is based on the nine core human rights treaties, with specific provisions for protection outlined in the United Nations Convention against Transnational Organized Crime (2000) and two of its Protocols, namely the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Trafficking in Persons Protocol), and the Protocol against the Smuggling of Migrants by Land, Sea and Air (the Smuggling of Migrants Protocol).⁹ Both Protocols have protection provisions.

The Trafficking in Persons Protocol defines "trafficking in persons" as follows:

- a. "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

6 What is the CRC? Retrieved from www.unicef.org/rightsite/237_202.htm.

7 For the full text of the Convention on the Elimination of all Forms of Discrimination against Women, go to www.un.org/womenwatch/daw/cedaw/.

8 For the full text of the Convention on the Rights of Persons with Disabilities, go to www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html.

9 For the full text of the Convention and the two Protocols (also known as the Palermo Protocols), go to www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf.

- b. The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- c. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;
- d. “Child” shall mean any person under eighteen years of age.

Article 6 of the Protocol outlines protection and assistance measures for victims of trafficking:

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.
2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
 - a. Information on relevant court and administrative proceedings;
 - b. Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.
3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:
 - a. Appropriate housing;
 - b. Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
 - c. Medical, psychological and material assistance; and
 - d. Employment, educational and training opportunities.
5. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
6. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.
7. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

The Smuggling of Migrants Protocol defines the smuggling of migrants as follows:

- a. “Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident;
- b. “Illegal entry” shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State;

Article 16 of the Protocol outlines protection and assistance measures:

1. In implementing this Protocol, each State Party shall take, consistent with its obligations under international law, all appropriate measures, including legislation if necessary, to preserve and protect the rights of persons who have been the object of conduct set forth in Article 6 of this Protocol as accorded under applicable international law, in particular the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.
2. Each State Party shall take appropriate measures to afford migrants appropriate protection against violence that may be inflicted upon them, whether by individuals or groups, by reason of being the object of conduct set forth in... this Protocol.
3. Each State Party shall afford appropriate assistance to migrants whose lives or safety are endangered by reason of being the object of conduct set forth in... this Protocol.
4. In applying the provisions of this article, States Parties shall take into account the special needs of women and children.

5. In the case of the detention of a person who has been the object of conduct set forth in Article 6 of this Protocol, each State Party shall comply with its obligations under the Vienna Convention on Consular Relations, where applicable, including that of informing the person concerned without delay about the provisions concerning notification to and communication with consular officers.

Additionally, the Smuggling of Migrants Protocol requires States not to criminalize migrants for having been the object of the crime of smuggling (Article 5).

Furthermore, Articles 24 and 25 of the United Nations Convention against Transnational Organized Crime, which applies to both of the above Protocols, require States to take appropriate measures to provide effective protection to victims and witnesses participating in criminal justice proceedings against traffickers or smugglers.

The specific **protection of migrant workers** is described in the 1990 Migrant Workers Convention.¹⁰ The Convention defines “migrant worker” as a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a State of which he or she is not a national. The Convention does not afford migrant workers additional rights, but rather reiterates their rights under existing human rights instruments.

The Convention recognizes the vulnerable situation that migrant workers may find themselves in outside their home State and affirms that their rights are to be protected without discrimination, including discrimination based on their status as migrants.

Other relevant treaties include four ILO conventions:

- the Forced Labour Convention, 1930 (No. 29) and its 2014 Protocol;
- the Abolition of Forced Labour Convention, 1957 (No. 105);
- the Domestic Workers Convention, 2011 (No. 189);
- the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).

Refugee protection refers to the unique protections required by those who flee their countries of origin and who cannot avail themselves of the protection of their own State due to conflict, violence, events seriously disturbing public order, or persecution, and who have a well-founded fear of persecution for reasons of race, religion, nationality, political opinion, or membership in a particular social group.

International refugee law consists of the 1951 Convention Related to the Status of Refugees (the 1951 Refugee Convention), its 1967 Protocol, and related regional refugee instruments, including the 1969 Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa,¹¹ the 1984 Cartagena Declaration on Refugees,¹² and the European Union Asylum Acquis.¹³ Together, these instruments constitute the global legal framework for international refugee protection.

The 1951 Refugee Convention provides the international definition of who is to be considered a refugee and who is excluded from obtaining refugee status; together with its Protocol, it also outlines specific rights and protections for refugees, including the right to seek and enjoy asylum, protection from non-refoulement, protection afforded without discrimination, and the right to freedom of movement.¹⁴ The 1950 Statute of the Office of the United Nations High Commissioner for Refugees provides UNHCR with the mandate to ensure refugee protection and seek permanent solutions for their plight, among other competencies.

Protection systems and referral pathways

It is the State’s responsibility to ensure that all people, including migrants, benefit from the protections outlined in international law. In so doing, the State can rely on various systems established to mitigate the risks faced by individuals and their families and/or respond if individuals experience harm, violence, neglect, exploitation, abuse

¹⁰ For the full text of the Convention, go to www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx.

¹¹ For the full text of the Convention, go to www.unhcr.org/uk/about-us/background/45dc1a682/oau-convention-governing-specific-aspects-refugee-problems-africa-adopted.html.

¹² For the full text of the Declaration, go to www.unhcr.org/uk/about-us/background/45dc19084/cartagena-declaration-refugees-adopted-colloquium-international-protection.html.

¹³ EU Asylum Acquis: Working towards a common system. Retrieved from www.unhcr.org/ceu/159-enresourceslegal-documentseu-asylum-acquis-html.html.

¹⁴ For the full text of the Refugee Convention and Protocol, go to www.unhcr.org/uk/1951-refugee-convention.html.

or other rights violations. These systems use combinations of laws, regulations, policies and programmes that can be delivered by the State, international organizations, non-governmental agents, the community, and/or individuals themselves. The aim of these systems, regardless of who carries out their practical implementation, is to ensure that rights guaranteed at the international level are being respected for the individuals concerned.

Protection systems include those designed for children, people who have experienced intimate partner violence, trafficked persons, asylum seekers and refugees. While these and other protection systems can be entry points enabling vulnerable migrants to access protection and assistance, in some cases vulnerable migrants who cannot access them may fall between the gaps even though they are rights holders and legal frameworks exist for their protection. Rarely are specific systems set up to meet the protection needs of vulnerable migrants.

Multiple and overlapping systems may exist in a single context, and a single entity may not be able to provide all the types of protection required by an individual or his/her family, which is why referral pathways between different systems are essential for ensuring that protection needs are met. Where an individual can have recourse to more than one referral mechanism, they should be helped to access the system that allows for the highest level of protection.

Referral pathways often include both protection and assistance services. Assistance can be considered a form of protection when it safeguards the life and well-being of individuals and groups by providing life-saving and essential services. Assistance should be offered alongside protection and can include shelter and accommodation, water, sanitation and hygiene, food and nutrition, safety and security, health care, education and training, and livelihoods, employment and income generation.

In operational contexts, a referral pathway serves to link individuals with the protection-related services and support they require and to identify and close gaps between existing protection systems. To that end, all types of protection available and their providers should be mapped, included in referral pathways and integrated into the case management approach for vulnerable migrants.

Referral pathways commonly exist in fields that provide protection and assistance to children and families in vulnerable situations, survivors of gender-based violence, refugees and asylum seekers, and trafficked persons. They are sometimes referred to as national referral mechanisms. Existing pathways should be used to access available protection and services when they are accessible and suitable for vulnerable migrants.

2.2 DETERMINANTS OF MIGRANT VULNERABILITY AT THE INDIVIDUAL LEVEL

At the individual level, factors related to individuals will influence their vulnerability and resilience. These include: their status in society; their physical and biological characteristics; their histories and experiences; their beliefs and attitudes; their emotional, psychological and cognitive characteristics; and their physical and mental health and well-being. These characteristics mediate how individuals respond to household/family, community and structural contexts. All individuals are rights holders, and the extent to which an individuals' rights are respected will affect how individual factors impact vulnerability or resilience.

Some examples of individual factors are age, sex, racial and/or ethnic identity, sexual orientation, gender identity, personal history, mental and emotional health, and access to resources such as money, goods or support.

For some individual factors, whether they are risk or protective factors is context specific. For example, being a member of a particular racialized group may be a protective factor in some contexts (if that group is dominant or privileged), but a risk factor in others (if that group is marginalized or oppressed). Other individual factors may be broadly considered to always be risk factors or protective factors. For example, literacy is almost always a protective factor, while illiteracy is almost always a risk factor.

Refer to the Individual Factors Assessment Toolkit for a more detailed discussion of individual factors.

2.3 INDIVIDUAL ASSISTANCE FOR MIGRANTS VULNERABLE TO VIOLENCE, EXPLOITATION AND ABUSE

Principles of assistance

All assistance provided to migrants vulnerable to violence, exploitation and abuse should follow the principles set out below.

Rights-based approach – Vulnerable migrants should be empowered to understand and claim their rights at the same time as steps are taken to increase the ability and accountability of duty bearers responsible for respecting, protecting and fulfilling rights. Protection and assistance should not be provided contingent on involvement with law enforcement. This approach serves as an underlying principle and guide for all other principles.

Do no harm – Organizations providing assistance should assess the potential for harm of any proposed action. Assistance should not be provided or it should be deferred if there is reason to believe that it might leave vulnerable migrants worse off than before. Support for migrants vulnerable to violence, exploitation and abuse should cause no harm to the wider community, including migrant communities and host communities.

Non-discrimination – Assistance should be provided to vulnerable migrants without discrimination or prejudice on the basis of nationality, gender, age, sexual orientation, gender identity, ability, race, ethnicity, religion, language, social status or any other status.

Self-determination and participation – Migrants vulnerable to violence, exploitation and abuse are entitled to make choices and participate in decision-making regarding their protection and assistance, and this right should be respected and supported. Services should be delivered in collaboration with vulnerable migrants, whose autonomy and agency should be reinforced and encouraged by the individuals and organizations providing protection and assistance.

Individualized assistance – Migrants vulnerable to violence, exploitation and abuse have unique experiences, vulnerabilities and needs, and the services they receive should be tailored accordingly, to the extent possible. This includes ensuring that services are age, gender and culture sensitive, provided in the migrants' preferred language, and appropriate in the circumstances and the context.

Accountability – Migrants vulnerable to violence, exploitation and abuse who are accessing services should play an active role in efforts to measure the quality of those services. Their views should be solicited and used to adapt and improve services. Effective complaints systems and procedures should be included in all service delivery programming and safeguards should be put in place to ensure that no harm is done to migrants through their use of services.

Continuum of assistance – A holistic approach to assistance includes ensuring comprehensive service delivery where all identified needs are met. This is contingent on a strong case management system where assistance services are mapped and service delivery is tracked and monitored throughout the time the vulnerable migrant is accessing services. It is particularly important if vulnerable migrants move to different locations, be it back to their countries of origin, to third countries, or elsewhere.

Informed consent – Before receiving assistance or accessing services, vulnerable migrants should freely give their permission with the knowledge of possible risks and benefits. Inherent in the right to give consent is also the right to refuse assistance. Consent is not static and should be evaluated throughout the time vulnerable migrants are accessing support. Consent can be given in full or in part and access to one service should not be contingent on consenting to others.

Consent is a process that includes providing information to migrants, giving them the opportunity to ask questions, ascertaining that the information is complete and understood, clarifying and restating information, and documenting consent. Consent forms are one way to record consent, but may not be appropriate for children, migrants with low levels of literacy, and/or those without the capacity to give consent. Consent can also be given verbally, but should be recorded in a secure and confidential manner.

Potential barriers to obtaining informed consent include language and communication barriers that hamper understanding of the services available; cultural, social and gender norms that limit the ability to ask questions or articulate misunderstandings; and the characteristics of the person requesting consent, i.e. his/her gender, age, profession, etc.

Case managers and all service providers should use clear and understandable language to inform vulnerable migrants of the nature and purpose of any services, the known risks of using them, the criteria for accessing them, limits to services and programmes, and alternatives to accessing services. Vulnerable migrants should also understand the time frame their consent covers and their right to refuse or withdraw consent at any time.

Capacity to give consent is affected by vulnerable migrants' age, physical and psychological state, cognitive ability, and the impact of their experiences and pathway to interacting with a service provider. For instance, arrest or detention can influence their willingness to consent to provide identifying information about themselves or others. Appropriate measures should be taken to determine whether a vulnerable migrant is able to give consent. If s/he is deemed incapable, appropriate guardianship authorities should be involved, but the migrant should remain involved in any decisions regarding assistance.

Barrier-free access – Services provided to vulnerable migrants should be available in sufficient quantity and quality, be culturally and socially relevant, be physically accessible, and should not present any safety and security concerns. Vulnerable migrants should be aware of what services are available to them and any barriers to access should be identified and rectified, including physical, financial, social and security barriers.

Confidentiality, privacy and data protection – Information should not be requested or required from vulnerable migrants unless it is essential to the provision of assistance. Information regarding a vulnerable migrant's location, health and well-being, and participation in any services should be considered confidential and not be shared without the vulnerable migrant's prior knowledge and informed consent. Where vulnerable migrants are accessing various services and their care and support would benefit from sharing of information, appropriate information-sharing protocols should be put in place and the vulnerable migrants informed of and consent to their information being shared. Any information obtained through direct or indirect disclosure in the course of providing services should be considered confidential.

Confidential information should be disclosed without consent only to prevent serious, foreseeable and imminent harm to a vulnerable migrant or another person. When this is necessary, the least amount of confidential information should be disclosed and only to the relevant persons, organizations or authorities. The vulnerable migrant should be informed before the information is shared.

Legal obligations to disclose information without consent may exist within the jurisdiction of operation and should be followed as long as they do not cause harm. Vulnerable migrants should be made aware of these requirements before accessing services.

Vulnerable migrants should be granted access, on request, to any information stored regarding their personal data and the delivery of protection and assistance services to them. They should have the opportunity to amend, add or correct their data.

The privacy of vulnerable migrants should be respected and identifying information and details regarding their location, health and well-being, and participation in any services should not be discussed in public spaces or shared electronically unless on secure data-sharing platforms. Such data should be stored in secure electronic and physical locations that are not left unattended. Identifying information should not be shared with the media, researchers, in training materials, or in communications to the public without prior informed consent.

Written and electronic records should be transferred or destroyed within an appropriate amount of time when no longer needed or as required by relevant laws and regulations. Confidentiality and privacy also apply in the event of the death of a vulnerable migrant.

Gender-sensitivity – The impact of gender on experiences, vulnerabilities and needs should be explicitly acknowledged and appropriately addressed throughout the delivery of assistance. This approach acknowledges gender-based discrimination and promotes gender equality through the provision of services. This may include having a case manager of the same gender, providing gender-specific services, or providing services that seek to address gender inequality and discrimination.

Child-centred assistance – In the case of children under the age of 18, the above principles should be considered in conjunction with other relevant procedures.

Services for migrant children should be age appropriate, follow best practices in child protection and be child friendly (the approach should be accessible and appropriate for children). Wherever possible, specialized agencies should provide protection and assistance to vulnerable child migrants using a child-centred approach in which the child’s or children’s needs and best interests are central to service delivery. Family unity should be maintained unless it is unsafe to do so or presents a risk to a child or children involved in the family unit.

Agencies providing protection or assistance to vulnerable migrants should have adequate child safeguarding or protection policies and procedures in place and those working directly with children should have staff with specialized training and qualifications.

For more detailed information on the provision of protection and assistance to vulnerable child migrants, see [Part 6](#).

Actors involved in individual assistance

Delivery of services at the individual level requires personal, face-to-face contact. It is therefore typically delivered by: (a) case managers, who have specific responsibilities for working with vulnerable migrants to assess their needs, identify goals, develop an assistance plan, organize delivery of the plan, and monitor and follow up on the effectiveness of the plan in meeting the identified goals; and (b) service providers, both public and private, who have a role to play in meeting the protection and assistance needs of vulnerable migrants.

State authorities play a role in upholding individual rights and meeting protection and assistance needs. Such functions can include provision of safety and security services by police officers, documentation assistance provided by consular officials and civil registry officials, and care and guardianship arrangements for vulnerable children provided by State child welfare agencies.

Actor	Examples	Sectors
Case managers	Government social workers, staff of international organizations, UN agencies, NGOs or civil society organizations who undertake case management functions	Overall case management
Service providers	Health-care workers, educators, school counsellors, lawyers, community health-care workers, lawyers, financial services providers, and employment counsellors	Health, education, nutrition, finance, livelihoods, poverty reduction, etc.
State authorities	Consular officials, police officers, immigration officers, labour officers, child welfare officers	Documentation, safety and security, child protection, workplace safety and compliance with labour laws

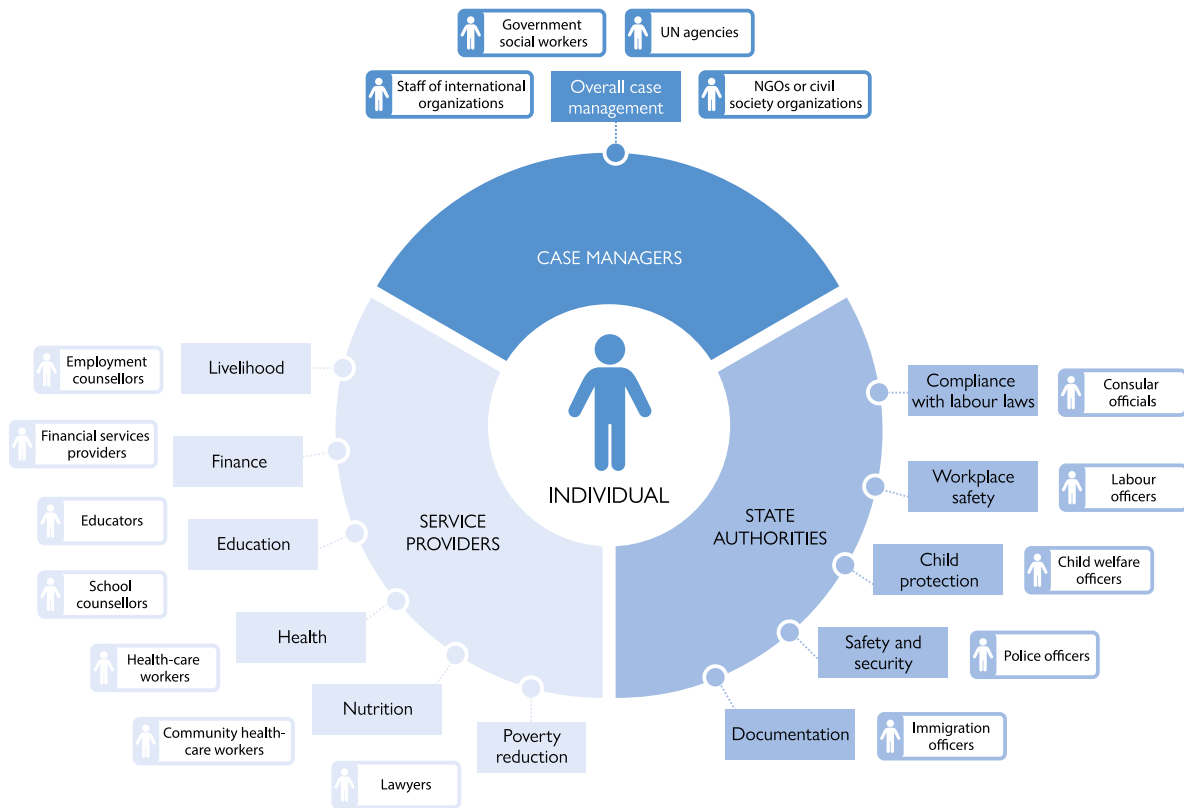


Figure 2.2

Relevant actors and sectors of intervention at the individual level

Case management approach

A case management approach is a model of providing assistance to individuals with complex and multiple needs who may access services from a range of agencies and organizations. It has its roots in social work practice. It is also called care management, case coordination, service coordination, client navigation, or patient navigation.

Case management allows for collaboration between multidisciplinary stakeholders and is useful for the assessment, planning, implementation, coordination and monitoring required to effectively meet an individual's multiple needs and to promote positive outcomes.

Inherent to this approach is an understanding of what services are available, what the criteria are for accessing them, who offers them, any risks associated with their access, and their quality and appropriateness.

Case management can fall to State authorities, international organizations, United Nations agencies, NGOs or civil society organizations. It may be regulated, and case managers may belong to professional associations of, for example, social workers or legal advocates, or be appointed by the State, for instance through judicial or immigration processes. Importantly, case managers do not provide all the services and support their clients need, but instead make appropriate referrals to other specialist providers of protection and assistance. It is essential for case managers to have a basic understanding of the types of assistance required to meet the needs of their clients.

In the *client-centred* or *migrant-centred* approach to case management, the case management model is centred on the client, in this case a vulnerable migrant (Figure 2.3). It ensures that vulnerable migrants are central to decision-making on protection and assistance. It also promotes their participation in decision-making and choices regarding accessing available services. As such, all services should be delivered in collaboration with vulnerable migrants, and their autonomy and agency should be reinforced and encouraged by the individuals and organizations providing protection and assistance.



Figure 2.3

Migrant-centred case management model for the protection and assistance of vulnerable migrants

Roles and responsibilities

Once a migrant has been identified as vulnerable, an assessment should be made to determine whether or not s/he requires or could benefit from support from a case manager. This can be done by establishing criteria for entry into a case management system. The criteria will vary depending on the organization or agency providing case management services, any existing system-wide protocols or procedures, the funding source, the programme parameters, and the availability of case managers to allocate to the vulnerable migrant.

Case managers should be matched to vulnerable migrants in collaboration with the vulnerable migrant wherever possible, and the case manager's characteristics, such as age, gender and ethnicity, should be considered and be acceptable to the vulnerable migrant.

The specific roles and responsibilities of case managers for migrants vulnerable to violence, exploitation and abuse will vary depending on the organization and the system they are working within, but can be expected to conform to the activities described below.

Engagement and communication with migrants vulnerable to violence, exploitation and abuse

Trust and rapport are built through respectful, professional and honest engagement and communication between the case manager and the vulnerable migrant. One of the case manager's essential roles is to be the main point of contact for the vulnerable migrant, to provide information regarding care, support, assistance and protection, and to solicit information from the vulnerable migrant, including information on satisfaction with the services and support received.

Case managers should communicate with vulnerable migrants through the channels with which the migrants are most comfortable, and in the language they prefer, wherever possible. They should ensure that vulnerable migrants are provided with accurate and reliable information about their rights and give vulnerable migrants opportunities to ask questions, provide feedback and share information.

The services of an interpreter – if possible, professional interpreters as opposed to family or community members or other lay interpreters – should be used if they would improve communication and understanding. Importantly, the choice of interpreter should be acceptable to the vulnerable migrant.

All communication between vulnerable migrants and case managers should be age appropriate, adapted to the migrant's level of understanding, education and literacy, and culturally appropriate.

Assessments of the needs of migrants vulnerable to violence, exploitation and abuse

Assessments should be done when vulnerable migrants first begin accessing support from a case manager and regularly thereafter. A thorough understanding of the relevant risk and protective factors will inform the services the migrants access. These factors may change over time and through the process of accessing information, support and care from service providers, so they should be regularly re-assessed.

Case managers should use client-centred interviewing skills and methods to engage with vulnerable migrants, identify their strengths and priorities, and discuss their concerns. Those skills and methods include the following:

- Creating a welcoming environment that is comfortable;
- Using the vulnerable migrant's name and an appropriate form of greeting;
- Beginning the assessment when the vulnerable migrant is ready and comfortable;
- Indicating how long the assessment is likely to take;
- Outlining the assessment process and format;
- Inquiring if the vulnerable migrant has any specific issues s/he would like to cover during the assessment;
- Using open-ended questions;
- Using simple language and avoiding terminology that is unfamiliar or unclear to the migrant;
- Sequencing questions in a way that builds trust and asking more sensitive questions later in the interview process;
- Using active listening and ensuring that the migrant has sufficient time to respond to questions and express her/himself;
- Using non-verbal cues to encourage the migrant to answer questions;
- Demonstrating empathy and compassion in the face of distressing experiences or events;
- Stopping or delaying questioning that is distressing;
- Asking clarifying questions when the information presented is unclear or requires more context;
- Summarizing the conclusions of the assessment and offering the vulnerable migrant the opportunity to correct or clarify information;
- Offering the vulnerable migrant an opportunity at the end of the interview to discuss anything not covered during the assessment;
- Sharing information on services, including if services are not available.

Interviewers should take into consideration the possibility that vulnerable migrants have experienced violence, exploitation or abuse, be prepared to respond appropriately to disclosures and avoid exacerbating any distress. Where necessary, urgent referrals should be made following disclosure of any incident or fact that is life-threatening or otherwise requires emergency attention.

Risk assessments

Case managers should conduct regular assessments to identify any risks to the security, safety and well-being of vulnerable migrants and the risks inherent to accessing and/or not accessing services. This should be done with the full participation and knowledge of the vulnerable migrant; where risks are identified, mitigating strategies should be put in place. Identified risks and mitigation strategies should be included in the development and implementation of assistance plans, which are outlined below.

Possible risks include retribution by human traffickers or migrant smugglers, detention or removal in the case of irregular migrants, emotional or psychological harm, self-neglect, self-harm or suicide, substance abuse or misuse, harm to others, and harm to family at home or in another location.

As risks can change, they should be monitored by the case manager in collaboration with the vulnerable migrant. It may be useful to develop a schedule for periodically reviewing risks and mitigation strategies.

Mapping of available services

Case managers should be knowledgeable about the types, quality and number of services available to meet vulnerable migrants' needs, and of the conditions for accessing them. To that end, they can either conduct a mapping exercise or use exercises carried out by others to identify all available services.

Where they exist, local, national and transnational referral mechanisms should be utilized. Common types of referral mechanisms are for child protection, intimate partner violence and/or sexual violence, or trafficking in persons.

Where such referral mechanisms do not exist, case managers can map available services. They should compile lists of available services, including types of support, contact details, eligibility requirements, intake processes and any associated fees. They should also identify and analyse any barriers or limitations to access. Such limitations can include eligibility or intake criteria that exclude migrants, the location and distance of service delivery, risks to safety and security for vulnerable migrants accessing services, and nationality or immigration status requirements. Case managers should explore opportunities to advocate for the widening of such criteria to include vulnerable migrants or the removal of barriers to improve equitable access for migrants.

When mapping services, case managers should be alert to any gaps in services for vulnerable migrants. Where gaps exist, they can lead or support wider advocacy efforts for the establishment of services, whether for specific groups or in specific locations.

Case managers should have this information to hand before meeting with migrants in order to allow for timely referrals and immediate response to critical needs. Any mapping that is used should be up to date and reflect current service availability.

Development and implementation of assistance plans

Case managers should work with vulnerable migrants to develop assistance plans outlining the migrants' goals, needs, priorities, strengths and challenges. The plans should incorporate the information gathered during the vulnerability assessment and provide an overview of the services the vulnerable migrants will access and relevant contact details for other service providers. They should include information on if, how and when the cases will be monitored, how feedback from the migrants will be incorporated, and how information will be shared with the migrants and between the case manager and service providers. If useful or necessary, a case management plan can include resource allocations and a budget for relevant costs.

Assistance plans should consider the length of time a vulnerable migrant will access services and incorporate, where possible, information on exit, transition and completion.

Once agreed between the case manager, appropriate supervisor or authority, and the vulnerable migrant, assistance plans should be implemented through referrals to other service providers and the vulnerable migrant helped to complete the procedures for accessing services, for instance completing administrative processes, attending

appointments, and any follow-up required. Assistance plans should be regularly reviewed with the migrant and adapted as necessary, and the migrant should always have an updated copy. Assistance plans should include an exit strategy that outlines when case management will end, and a timeline for a review of the migrant's planned exit from case management.

When developing assistance plans, case managers should be aware of any mismatches between the vulnerable migrant's goals and aspirations and the available pathways and services, and do their utmost to ensure the vulnerable migrant understands. The gap between goals and services may itself constitute a human rights violation, and case managers should be prepared to uphold vulnerable migrants' rights to access to remedies and make referrals to legal services, human rights institutions, or other protection entities as necessary.

Coordination with service providers and authorities

Assistance plans are likely to include multiple service providers, as a single service provider can rarely meet all needs. Coordination is therefore essential to ensure continuity of service and a holistic approach to addressing needs. Effective coordination reduces service duplication and fragmentation and can identify gaps in service delivery. The role of the case manager is to foster, maintain and strengthen collaborative partnerships between multiple parts of the service delivery system.

Referral mechanisms are one way of facilitating coordination. They may be established at various levels: municipal, subnational, national, regional or international. Referral mechanisms typically identify the population of concern to them and the participating service providers; they specify the services they provide, the protection and assistance principles, standards and/or processes they apply, and the methods of coordination and cooperation between service providers.

The case manager is typically the main point of contact and information for the vulnerable migrant; if it is more suitable for another service provider to take on case management tasks, this should be agreed by all parties. Inter-organizational agreements, such as memoranda of understanding, can be useful for handling large caseloads or individual cases. They should outline the roles and responsibilities of each organization involved, including the resources it will provide. They are frequently signed within the framework of a broader referral mechanism.

Coordination is particularly important when a vulnerable migrant is transitioning into or out of a service and additional support may be required from the case manager.

Monitoring of service delivery

Depending on the assistance plan, case managers should monitor the services vulnerable migrants are accessing and their satisfaction with them. The monitoring should be regular and involve measurement against quantitative or qualitative outcome indicators. If the monitoring indicates the need for changes to the assistance plan, such changes should be made through regular communication with the vulnerable migrant, information-sharing with the service providers and ongoing assessments.

While it is not the responsibility of the case manager to oversee the quality of services delivered, there may be opportunities for advocacy on behalf of the vulnerable migrant for service improvement or tailoring for better outcomes.

Independent or third-party monitoring systems may exist to support accountability, particularly if vulnerable migrants are accessing case management or other services provided by State agencies.

Record-keeping

Details on the support provided by the case manager should be documented in a timely, accurate and secure manner. The records should include the contact details of all those involved, information on assessments, the assistance plan, information on the plan's monitoring, outcomes of communications with the vulnerable migrant and service providers involved in the assistance plan, feedback from the vulnerable migrant, and any other pertinent information.

Protocols should be drawn up stipulating who has access to records, including the vulnerable migrant. Records are subject to the principles of confidentiality, privacy and data protection.

Evaluation of case management and reporting misconduct

Case managers and their organization should solicit feedback from migrants on the support they receive from the case manager in a manner that allows for honest and open feedback that can be used to improve the provision of case management services. Feedback can be solicited in questionnaires, comment boxes, online forms, focus group discussions, formal consultations, or conversations between the migrant and the case manager or supervisor.

Migrant feedback on case management should be incorporated into the support they receive and the case manager, communication frequency or type, or support provided changed accordingly and as feasible.

Vulnerable migrants should be aware of the principles of case management and any standards or codes of conduct for case managers. Case managers suspected of unprofessional conduct or of flouting the principles of assistance should be investigated and disciplinary action taken in accordance with local laws, licencing boards and the child protection policies of the organization concerned.

Systems must be in place for vulnerable migrants to report misconduct by case managers, including sexual exploitation and abuse, anonymously and confidentially, so as not to affect their care and support. Reports must be investigated and the findings communicated back to the vulnerable migrant, where possible.

Advocacy on behalf of vulnerable migrants

One of the key roles of case managers is to advocate on behalf of vulnerable migrants for fulfilment of their rights, consideration of their opinions, respect for their decisions, acknowledgement of their capabilities and satisfaction of their needs. Case managers will often advocate for vulnerable migrants to have access to resources, support and services. This can take many forms, but most often includes advocating for the following:

- Establishment or refinement of referral mechanisms for vulnerable migrants;
- Establishment of services specifically for vulnerable migrants;
- Integration of vulnerable migrants into existing services (also known as mainstreaming);
- Improved quality of available services;
- Adaptation of services to improve outcomes for vulnerable migrants.

Where vulnerable migrants' human rights have been or are being violated, in addition to advocacy, case managers should make appropriate referrals to institutions with a protection mandate, including national human rights institutions and ombudspersons, and to legal advice, representation and aid.

Case managers should also strive to improve the capacity of vulnerable migrants to advocate for themselves, including to articulate their needs, priorities, strengths and challenges.

Closure of case upon programme exit, transition or completion

Case management may be terminated because the support has ended, the migrants no longer meet the criteria for case management support, they choose to stop receiving support, or they leave the area.

Before closing a case, the assistance plan should be reviewed to determine if needs were met and to identify any unmet or emerging needs. This should be done, wherever possible, with the participation of the vulnerable migrant.

The case manager should prepare the vulnerable migrant, as best as possible, for any transition, and coordinate with other service providers to ensure all necessary steps are taken. Where possible, referrals should be made to other organizations if continued case manager support would be beneficial.

Training, skills and qualifications

Case managers should have training and qualifications in social work or a related field and be skilled at engaging and supporting vulnerable people. They should follow the principles of assistance outlined on page 29 and abide by applicable laws, regulations and standards. They should be licenced or belong to relevant professional associations, where they exist.

Case managers should have knowledge about human behaviour, growth and development, and about cognitive, physiological and psychological processes and well-being at various stages of life. Understanding of behavioural health is important, including coping patterns, emotional resilience, and physical and mental health and well-being.

Case managers should be self-aware and recognize their own cultural, religious and philosophical beliefs and biases. They should appreciate the systemic or institutional power differences between themselves and the vulnerable migrants accessing their support, and should maintain professional boundaries at all times. Case managers should discourage personal or dependent relationships from forming between themselves and vulnerable migrants receiving their support, and instead support healthy relationships between the migrants and their families and community.

Working with vulnerable migrants requires specialized knowledge and training, including, in some cases, language skills, cultural knowledge, or previous experience working with migrant populations. Case managers should be knowledgeable about global and local migration trends, forced migration, international and local human rights, refugee and asylum laws and processes, and the impact of migration on vulnerability.

Case managers working with children, older people, survivors of torture or gender-based violence, trafficked persons, persons with disabilities, or other groups that may have unique needs or be particularly vulnerable, should have specialized training and expertise.

Importantly, case managers should be trained to recognize signs of trauma, abuse, neglect and exploitation, and be familiar with any reporting or referrals required in those cases.

Trauma-informed care

Because vulnerable migrants may have experienced traumatic events or situations, all service providers should aim to provide trauma-informed care. Traumatic events, by clinical definition, often involve a sudden threat to life or physical integrity. Like other stressors, they affect people in different ways and what may be traumatic for one person may not be traumatic for another. Traumatic events can – but do not necessarily – result in distrust, anxiety, fear, reluctance to engage with services, and rejection of diagnoses, advice and treatment. They can influence the way that vulnerable migrants interact with service providers.

Case managers should be competent operating in situations of interdisciplinary collaboration, including, where appropriate, with law enforcement and immigration officials, and understand the interactive nature and interdependence of the system within which they work. They should always adopt the client- or migrant-centred approach and be able to adapt their style and approach to best meet their clients' needs.

Skills important to effective case management include the capacity to work with people of diverse backgrounds with complex needs, the ability to clearly communicate and adapt communication styles to various audiences, an aptitude for building trust with clients, critical thinking and problem-solving.

Sufficient resources, including additional professional training and access to available and emerging research and evidence, should be made available to case managers to allow them to carry out their role and responsibilities.

Case manager supervision

Case managers require supervision and safeguards to do their work, including to identify and address ethical dilemmas, ensure professional boundaries are maintained, and prevent compassion fatigue, burnout, vicarious trauma and professional grief. Effective supervision and oversight will also ensure continuity of care if the case manager changes.

Employers should ensure they fulfil their duty of care for the well-being of case managers and take all reasonable steps to protect their health, safety and well-being; recognize the risks they face as case managers for vulnerable migrants; and put in place mitigation strategies and adequate risk monitoring systems.

It is also important to supervise case managers so as to provide technical backstopping to safeguard vulnerable migrants, ensure that support is provided in line with the principles of assistance (see page 29) and make certain that there are no risks introduced or harm done by the case manager. Organizations should have policies setting

boundaries for safe and acceptable behaviour by case managers and the level of support they provide. Such policies should include appropriate safeguards to prevent abuse of power and authority, exploitation and violence, including policies and procedures regarding child safety, sexual exploitation and abuse.

The case manager's workload should be assessed by the supervisor. Ideally, the number of clients per case manager should reflect the complexity and resources required and be balanced, to prevent overwork and lower-quality support.

Case management delivery models

Case management delivery models should be fit for purpose and acceptable to the vulnerable migrant accessing support.

The model selected will be determined by the safety and security of vulnerable migrants and case managers, the preferences of vulnerable migrants, the size and scope of the organization providing case management, the available resources, and the possibilities for physical access and proximity to target populations.

Individual case managers can be assigned to vulnerable migrants and/or their families on a one-to-one basis. This model can be useful for building trust and rapport between a case manager and a vulnerable migrant and/or the family. It is also resource intensive, however, and can limit the vulnerable migrant's access to the case manager.

If it is more appropriate and would improve support, a team of case managers may share duties and responsibilities. This allows for continuity of care and more points of access for vulnerable migrants, but may require additional coordination and affect the relationship between case manager and vulnerable migrant.

Case managers can be based in vulnerable migrants' communities. This model is often referred to as community-based care; it allows for more direct access to the target population and enhanced knowledge of available services. Case managers can be permanently based in the community or be co-located with other available services and resources on a part-time basis. This can make it easier for vulnerable migrants to meet with case managers and remove barriers such as transportation and costs involved in accessing support.

Outreach models may be useful when populations might not wish to be identified and potentially stigmatized by going to a recognizable centre or office. With an outreach model, case managers can visit vulnerable migrants in their place of residence, temporary accommodation or detention facility, or in a convenient location in the vulnerable migrant's community.

A mobile service delivery model may be best when migrants vulnerable to violence, exploitation and abuse are in insecure or remote locations or where the case manager does not have an office or resource centre in the community. It may be useful when vulnerable migrants' locations are changing and dynamic or for informal or spontaneous settlements of migrants. Mobile models can comprise multiple services, such as health, nutrition and child protection, or a single service (for example, periodic and, ideally, regular visits by the case manager).

Case managers can be based in resource centres where information is shared about various services and where multiple organizations can be co-located for convenience and to remove barriers to access. This is usually best for semi-permanent settlements of migrants or along a known migratory pathway. Resource centres or similar centralized service delivery models may not be appropriate where there is fear and stigma attached to accessing resources or being identified as an irregular migrant.

Remote case management, where support and information is provided via telephone or Internet communications, may be useful where vulnerable migrants are on the move, crossing international borders, or cannot or do not want to access support face-to-face with a case manager.

Case management in transit situations, in which migrants temporarily access support, including temporary shelter, tends to be an abbreviated form of case management focusing on immediate and urgent needs. It should take account of the unique needs and wishes of migrants in transit situations, including those who do not wish to be identified or formally registered in assistance programmes.

Multiple models of case management may be combined to provide the best support and assistance possible in the context, based on the needs and wishes of the target population. Wherever possible, the model should be decided with input from and the agreement of the vulnerable migrant.

Case management when services are unavailable

In some situations, no services will be available, or those that are will not be appropriate or accessible for vulnerable migrants or will not meet all identified needs. In these cases, the case manager still has an important role to play.

As the main point of contact, case managers provide direct support to vulnerable migrants and, in some cases, psychological first aid (for more information on psychological first aid, [see page 64](#)). They can sometimes meet immediate and urgent needs. Involvement in any service, including case management, provides a degree of protection and assistance to vulnerable migrants.

When there is a gap in the services required, case managers can advocate for the establishment of suitable services or the inclusion of vulnerable migrants in what services there are, if this would be appropriate, not exacerbate the migrants' vulnerability and not introduce risks to or harm the wider population accessing the service. For example, it may be possible for a trafficked woman to access a shelter for women who have experienced intimate partner violence.

When there are no available services, case managers can facilitate a safety planning exercise with vulnerable migrants. This involves working together to identify the risks vulnerable migrants face; it also involves developing mitigation strategies to avoid or reduce risks, and coping strategies in the event that a risk materializes. Where there are emergency services, for instance law enforcement and emergency health care, and they do not pose a risk to the vulnerable migrant, information on how to access them should be provided.

Where needs cannot be met, or are urgent, other options for assistance should be considered, including relocation to other areas where services are available.

Case management in detention

Case managers are sometimes called on to provide support to vulnerable migrants who have been detained by local authorities in connection with their immigration status, criminal activity, or deportation or removal order. In such situations, case managers should strive to uphold the migrant-centred approach, but the fact that the migrant does not have freedom of movement will inevitably be a challenge.

Case managers should map the services available specifically for detained vulnerable migrants, advocate for protection of their rights while detained and for their release or alternatives to detention if appropriate, coordinate with others working in detention facilities, and help develop a release and (re)integration plan. Where detention monitoring programmes exist, the case manager should coordinate with them and support monitoring efforts as appropriate.

It is useful for case managers working with detained migrants to receive additional training, including on the applicable legal frameworks, the availability of protection and assistance for detainees, and the processes and procedures associated with the detention system. Case managers should understand the international human rights standards applicable in detention and when migrants return to their country of origin, including through repatriation or deportation, and how to refer detainees for professional legal advice, representation and aid, and to national human rights institutions or other protection entities specializing in migrant detention.

It is important for case managers working with detained vulnerable migrants to understand the impact that detention can have on an individual, families and communities, and to carry out regular assessments to determine if additional support or services are required.

Detention and alternatives to detention

In the course of managing migration and the use of detention, States should ensure respect for international standards and human rights law.

Immigration detention is the restriction of freedom of movement through confinement that is ordered by an administrative or judicial authority for reasons relating to a person's migration status. It can include detention in existing prisons or purpose-built immigration detention facilities such as closed reception or holding centres. Migrants can be detained at land and sea borders, in "international zones" at airports, on islands, on boats, in camp settings, within a residence, and even extraterritorially.

The grounds for detention vary considerably across countries. States often resort to deprivation of liberty in order to identify migrants and determine their nationalities, prevent individuals from gaining unauthorized entry into the country, expel an individual or enforce a deportation order. Some countries of transit detain migrants to prevent them from leaving the country irregularly.

Migrants should nevertheless only be detained as a measure of last resort, when necessary, and only when other, less restrictive alternatives are found to be inadequate to meet legitimate purposes. The necessity and proportionality of detention must be evaluated for each individual case, and detention must occur in accordance with applicable laws, following due process and without discrimination.

Immigration detention should not be discriminatory. It should not, for example, be used only in respect of migrants from a certain country or ethnic group. Detention must not be arbitrary, and the decision to detain a migrant should be based on an assessment of the migrant's individual circumstances. Indefinite detention is to be considered arbitrary and maximum limits of detention should be established in law. Immigration detention facilities must be humane, dignified and subject to independent monitoring and inspection. They must satisfy international standards and local regulations on the provision of food, water, sanitation, hygiene and safety.

Migrant children should not be held in detention under any circumstances. When a child's parents or adult family members are held in detention and a migrant child's best interests include keeping the family together, alternatives to detention must be found for the entire family. Migrant women who are pregnant or breastfeeding should not be detained.

States should identify and utilize less restrictive options where possible. Alternatives to detention are any law, policy or practice by which persons are not detained for reasons relating to their migration status and can include living arrangements with conditional liberty, such as regular reporting or bail, use of monitoring devices or monitoring officers, or registration with local authorities. Effective alternatives to detention use engagement and support mechanisms to ensure vulnerable migrants are able to resolve their migration situation without detention or conditions on their freedom and liberty.

Challenges to case management for vulnerable migrants

Providing case management for migrants vulnerable to violence, exploitation and abuse presents various challenges. Vulnerable migrants may be on the move and access protection or assistance at various stages of their journey; they may be in contact with a case manager for only a short period of time or intermittently. Case managers and other service providers may not have sufficient time to build relationships of trust and may find they provide more short-term or emergency support. Vulnerable migrants moving between jurisdictions will require handovers between case management systems, where they exist, and may need additional support to ensure continued service delivery or planning for onward journeys.

Migrants may be fearful for their safety and well-being, or that of their families, in their country or community of origin, which could mean they are less likely to access services through a case manager for fear of being identified, returned or detained, or that relatives or friends will suffer as a result.

Distressing events occurring before departure or on the journey may leave migrants less able to develop trusting relationships with case managers or with less interest in or ability to regularly access available services or benefit from case management. There may be stigma attached to utilizing the services of organizations providing case management services.

The concept of case management may be unfamiliar to vulnerable migrants, perhaps because they have not needed to access such support in the past or because a case management system was not available to them in their previous location(s). These and other cultural differences may affect the delivery of case management and, along with language differences, may make it more difficult to provide case management to vulnerable migrants.

Vulnerable irregular migrants may not wish to come into contact with authorities or certain service providers. Aspirations they may have for return, integration, relocation or support to continue their journey may not be possible or legal in certain contexts.

In jurisdictions where it is mandatory to report or register irregular migrants or those with specific characteristics, vulnerable migrants may not wish to avail themselves of case management or other services without assurances that suitable protections are in place. Case managers may face ethical dilemmas if they feel that the best interests of their client are at odds with mandatory reporting regimes.

Case management for migrants vulnerable to violence, exploitation or abuse, particularly when their immigration status is irregular or undetermined, may give rise to conflicts of interest or differing objectives between case management systems, including between State systems and non-governmental systems. It may not be possible to resolve these conflicts, but case managers should evaluate any competing interests and coordinate and collaborate to the degree possible to serve the vulnerable migrant's best interests.

Shelter and accommodation

The right to an adequate standard of living includes the right to housing and is articulated in Article 11 of the International Covenant on Economic, Social and Cultural Rights and in Article 25 of the Universal Declaration of Human Rights, which states: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care...".

A number of other international legal instruments also articulate the right to shelter and accommodation, including:

- Article 21 of the 1951 Refugee Convention;
- Article 5.2 of the ILO Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117);
- Article 6(e)(iii) of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination;
- Article 17 of the 1966 International Covenant on Civil and Political Rights;
- Articles 14(2) and 15(2) of the 1979 Convention on the Elimination of All Forms of Discrimination against Women;
- Articles 16(1) and 27(3) of the 1989 Convention on the Rights of the Child;
- Articles 14, 16 and 17 of the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169);
- Article 43(1)(d) of the 1990 Migrant Workers Convention;
- Articles 9 and 28 of the 2006 Convention on the Rights of Persons with Disabilities;
- Article 6(a) of the 2000 Trafficking in Persons Protocol, supplementing the United Nations Convention against Transnational Organized Crime, which refers to appropriate housing.

The Committee on Economic, Social and Cultural Rights has determined that the right to adequate housing should not be interpreted narrowly and should be seen as the right to live somewhere in security, peace and dignity.¹⁵

Needs for shelter and accommodation may be time-bound and emerge from a single incident, from unmet needs, including along a migration journey, or from prolonged exposure to violence, exploitation or abuse. They can be met in a variety of ways, depending on the situation and context within which the vulnerable migrant requires support and services.

Short-term or emergency shelter, or longer-term accommodation, can be provided by government agencies, United Nations agencies, international organizations, NGOs, family or community networks, or private companies or individuals through hosting or rental accommodation. The style and type of shelter or accommodation available will depend on the context, local building practices and preferences, available materials and labour, available housing stock, and administrative or social restrictions on where vulnerable migrants can live.

¹⁵ The characteristics of the right to adequate housing are set out in the Committee's General Comments No. 4 (1991), on the right to adequate housing, and No. 7 (1997), on forced evictions.

Vulnerable migrants’ needs and the shelter and accommodation options at hand should be assessed to determine the most appropriate type of shelter or accommodation. Consideration should be given to age, gender, sexual orientation, gender identity, family size, disabilities, safety and security, capacity and desire to live independently, and the sustainability of options.

Temporary settlements

Temporary settlements are often camp or camp-like settings of communal or concentrated populations, which may be planned or spring up spontaneously. They may be constructed with materials such as tarps, plastic sheeting or tents, or consist of specially constructed or pre-existing buildings. Temporary settlements can be formally recognized by relevant authorities or be informal and run by community groups, religious organizations or the migrants themselves.

Types of temporary settlement	
Planned camps	Planned camps can be situated in either urban or rural locations and are purpose-built sites where services such as water, food, education and health care can be provided to the population residing in the camp.
Self-settled camps	Groups of migrants may self-settle in urban or rural sites, in camps that often spring up on State-owned, private or communal land. This may occur with or without negotiations with the local population or private owners over use and access.
Collective centres	When there are significant numbers of migrants in a particular place, the migrants may find accommodation in pre-existing public buildings or community facilities, such as schools, factories, barracks, community centres, town halls, gymnasiums, hotels, warehouses or unfinished buildings. These are often located in urban settings.
Reception and transit centres	Reception and transit centres are often used by migrants on arrival in a new location, pending transfer to longer-term shelter or accommodation, or before departure from a location.
Emergency evacuation centres	Emergency evacuation centres may be established to provide appropriate temporary shelter for persons fleeing a specific and immediate threat, such as an armed conflict or a natural hazard. Pre-existing buildings, including government buildings, are often used for this purpose. Where possible, emergency evacuation centres should be prepared and planned for in advance of disasters.

Table 2.1: Types of temporary settlement¹⁶

Forms of camp-based shelter emerge when it is necessary to ensure that protection and life-saving assistance can be made available to migrants in a centralized manner, often when possibilities for land use and settlement are limited and migrants are subject to restricted freedom of movement. UNHCR and the Global Camp Coordination and Camp Management Cluster have found that camps have long-term negative consequences: they create dependencies while weakening the ability of refugees to manage their lives, plan their future and make autonomous decisions.¹⁷ Camps can also distort local economies and planning, have a negative environmental impact, and introduce protection risks, including rising risks of trafficking and gender-based violence.

However, where camps exist because they are needed or have been spontaneously settled, the standards set out for camp-based shelters in humanitarian contexts, such as those outlined in The Sphere Project’s Minimum Standards in Humanitarian Response, should be followed. Wherever possible, more sustainable, non-camp-based shelter solutions should be sought for vulnerable migrants and alternatives to camp-based settlements should be advocated for with relevant authorities. Camps should not become de facto detention facilities that deny the resident migrants freedom of movement.

¹⁶ Table adapted from the Camp Management Toolkit (Camp Coordination and Camp Management Cluster, 2015), see www.globalccmcluster.org/tools-and-guidance/publications/camp-management-toolkit-2015.

¹⁷ UNHCR Policy on Alternatives to Camps (UNHCR, 2014). Available at www.unhcr.org/protection/statelessness/5422b8f09/unhcr-policy-alternatives-camps.html.

Institutional shelters

Institutional shelters are those run by State agencies, United Nations agencies, international organizations or NGOs. They do not include detention facilities. They typically house multiple people and are used in situations where shelter is needed immediately or in an emergency. Institutional shelters should be considered as a last resort for vulnerable migrants, but may be the best or only option in certain circumstances.

Instances when institutional shelters may be the best available option include the following:

- Migrants vulnerable to violence, exploitation or abuse would feel more comfortable in a location with robust security systems;
- Vulnerable migrants' irregular immigration status makes them ineligible for rental accommodation or existing social housing programmes;
- Vulnerable migrants cannot afford the market price of rental accommodation or landlords intentionally raise rents or are known to extort money from migrants;
- Vulnerable migrants require immediate emergency shelter, because they have recently arrived or have fled or been rescued from dangerous living or transportation conditions;
- Shelter is expected to be required only temporarily.

All institutional shelter should be provided in accordance with local regulations and laws governing health and safety, together with any necessary registration or licencing for the provision of shelter or accommodation for vulnerable populations, including all newly constructed shelters or accommodation. All institutional shelters should be fitted with fire safety apparatus, including smoke detectors and fire extinguishers, all safety equipment should be regularly tested, and safety information, including evacuation routes and muster points, should be signposted in relevant languages.

In some cases, it may be necessary to advocate for the inclusion of undocumented or irregular migrants and their fair treatment, or for amendments to the intake criteria for shelter programmes. Existing shelters that may be accessible to vulnerable migrants can include those for the homeless, victims of intimate partner violence, unaccompanied children or trafficked persons; if these types of shelter are to be used by vulnerable migrants, their suitability, accessibility and security should be assessed.

Where institutional shelters will be used for vulnerable migrants, the following should be provided:

- Private sleeping quarters for residents, with their own beds, and with sufficient and secure space to store their belongings;
- Where private sleeping quarters are not possible – for instance in an emergency setting where shelter needs to be found quickly and existing spaces are adapted to house vulnerable migrants in a dorm-like setting – families should be grouped together, spaces provided for specific groups such as women or the elderly, and more suitable options pursued immediately (in shelters of this kind, it may be difficult to preserve the dignity of residents, protect their safety and prevent health problems; they should therefore be avoided except in circumstances when emergency shelter is required or used as transitional accommodation for short periods of time);
- Private, locking toilet facilities in sufficient numbers for the maximum number of residents, separated by sex;
- Private, locking washing and bathing facilities in sufficient numbers for the maximum number of residents, separated by sex;
- Common areas for social engagement and recreational activities;
- Regular meals and/or space and equipment for residents to prepare their own food;
- Access to communication equipment, such as telephones or Internet-enabled computers;
- Private space for meetings, phone calls and other communication between shelter staff or other service providers and shelter residents;
- Laundry facilities;
- Regular maintenance of shelter premises and equipment, including furniture, communications equipment and appliances;
- Regular waste collection and disposal systems;

- A system for shelter residents to provide feedback and request repairs and maintenance of the building, appliances, furniture and equipment;
- A system for shelter residents to submit complaints and report concerns relating to other residents and staff that are followed up by the shelter provider in a timely and responsive manner.

Institutional shelters should not be identifiable to the public. In order to enhance the safety and security of residents, they should not, for instance, be designated by external signs or listed as shelters in public directories. Shelters for those fleeing intimate partner violence or trafficked persons are often unidentifiable. Where security is a concern, all those working in the shelter, including any external contractors hired to carry out maintenance or repairs, and the residents themselves should protect the confidential nature of information about the shelter, including its physical location, and its residents.

Measures to protect the shelter or accommodation from intruders may include lighting, fences, cameras or guards, but they should be weighed against the risk that they may help identify the building's purpose or its residents, make it conspicuous or compromise the residents' privacy.

The safety and security of all those residing in the shelter is the responsibility of the shelter provider and should include measures to monitor and address any violence, exploitation or abuse by shelter residents against other residents or staff.

Vulnerable migrants residing in a shelter may participate in the shelter's maintenance and upkeep, so long as their duties and activities are appropriate for their ages and abilities, and are in line with local regulations and laws. It is the ultimate responsibility of shelter providers, however, to ensure all standards are met.

Any shelter provided should be safe and secure for both the vulnerable migrants and any staff members working there, and should be made as comfortable as possible. All shelters and accommodation should be maintained in good repair and comply with local health, safety, fire, electricity and building codes and standards.

All shelters and accommodation used for vulnerable migrants should be assessed from the point of view of safety and security, and mitigation strategies developed to address any risks. Security assessments should consider potential risks relating to the type of individual using the shelter; for instance, shelters for trafficked persons or those experiencing intimate partner violence may be targeted by traffickers or estranged partners and require specific protection and security measures.

Semi-independent and independent living

Where possible and considered safe, vulnerable migrants should be helped to secure semi-independent or independent accommodation, especially when they transition out of institutional or temporary shelter arrangements. Living in semi-independent or independent accommodation supports, facilitates, and maintains self-reliance, autonomy and dignity.

Semi-independent living can include living in shared or group accommodation, such as residential care with live-in support workers, and is typically in a home-like setting. Forms of semi-independent living include group homes or shared rental accommodation, where some support and/or supervision is provided in the living space.

Independent living can include private rental accommodation, hotels, guesthouses or hostels, living with family, friends or members of the community, or private housing funded by the State, United Nations agencies, international organizations, NGOs, or civil society or faith-based organizations. Vulnerable migrants may make their own independent living arrangements or may require support to do so. In some instances, they may have access to government-funded social housing programmes. These can be semi-independent or independent, and vulnerable migrants may require support to apply.

All semi-independent and independent accommodation should comply with relevant local regulations and laws, including tenancy laws, health and safety regulations, and building codes. All types of semi-independent or independent shelter and accommodation should be fitted with regularly tested fire safety equipment, including smoke detectors and fire extinguishers, and safety information, including evacuation routes and muster points, should be signposted.

Where vulnerable migrants are accessing private accommodation provided by a landlord, they may require support from a case manager to ensure that the rent they are charged is fair according to the market, that all regulations and standards are met with regard to the premises provided, and that the nature of the rental contract is non-discriminatory and not exploitative or extortionate. It may be beneficial for a case manager to advocate on behalf of the vulnerable migrant with potential landlords, to address any reluctance to rent to vulnerable migrants based on discrimination or prejudice, and to prevent any unlawful evictions and ensure appropriate redress if they do occur.

Shelter and accommodation considerations for children, families and vulnerable adults

With regard to children and families, every effort should be made to preserve family units, including sibling groups. Where this is not possible, children should be housed in accommodation appropriate for their age and maturity. Foster families or alternatives to institutional care should be pursued as a priority, but if institutional shelter is the only or best option, the shelter should have staff with specialist training and programming should be age appropriate and designed to meet the needs of migrant children.

Persons living with disabilities and older persons with limited mobility or cognition may require specially adapted shelter and accommodation. Wherever possible, shelter options should incorporate the concepts of universal design, which is the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design, to allow people of all abilities to live comfortably and safely.

Water, sanitation and hygiene

While the International Covenant on Economic, Social and Cultural Rights does not explicitly refer to the right to water, the Committee on Economic, Social and Cultural Rights, in its General Comment No. 15, on the right to water, defined the right of everyone “to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses” and deemed the right to water to be part of the right to an adequate standard of living, along with the rights to adequate food, housing and clothing.

In any type of shelter or accommodation, water should be made available in sufficient quantities for drinking, cooking, cleaning and personal hygiene. Water provided for drinking should be clean and may require testing by relevant authorities to ensure it is safe to drink. If this is not possible, other sources of drinking water should be procured, including trucked and stored or bottled water, or a filtration or other water-cleaning system installed.

Where vulnerable migrants are residing in a shelter, the shelter provider should ensure water is provided in line with local health regulations and international standards.

Any water points used by vulnerable migrants should not be prohibitively far to travel to and should be in a safe location. Any queues should be monitored so as not to create risks to vulnerable migrants’ health or safety.

The shelter provider should make available appropriate and sufficient toilet and washing facilities that are separated by sex if in a communal shelter or camp-based setting, provide privacy, respect and dignity, and are safe and secure for those using them. The facilities should be clean and waste managed in a safe and timely manner. Any communal toilet and bathing facilities used by vulnerable migrants should also be easily accessible, located in well-lit areas, and planned in consultation with those accessing them.

Vulnerable migrants should be able to choose from a selection of personal hygiene products and clothing that are age, gender, weather and culturally appropriate. Detergent should be provided as well. Personal hygiene items may include soap, razors, towels, toothpaste and toothbrushes; they should be provided in sufficient quantities and be appropriate to the type of shelter or accommodation. Menstruating women should be provided with appropriate and sufficient hygiene materials and suitable processes should be put in place to dispose of or launder such materials. Differing customs on how women and girls manage menstruation should be respected and female vulnerable migrants should be consulted on their preferences.

Where vulnerable migrants are living independently, the case manager should ensure that safe drinking water and sanitation are available and accessible and, if they are not, advocate on behalf of vulnerable migrants to ensure their water and sanitation needs are met and standards are respected.

Waste management systems should be in place at any premises where vulnerable migrants are staying, including appropriate methods for disposing of human waste in a safe and dignified manner.

Household waste should be collected and disposed of regularly and any hazardous waste separated and treated so as not to introduce health or environmental risks.

Food and nutrition

The right to live free of hunger is set out in Article 11(2) of the International Covenant on Economic, Social and Cultural Rights. In addition, in its General Comment No. 12, the Committee on Economic, Social and Cultural Rights declared that the right to food should not be interpreted in a narrow or restrictive sense and is realized when everyone has physical and economic access at all times to adequate food or means for its procurement.

Food can be furnished by the organization providing emergency or longer-term shelter, particularly in camp-based or institutional settings. The food should be appropriate, meet nutritional requirements, and respect any dietary restrictions based, for instance, on religion or health. Vulnerable migrants should be consulted on available food options and be able to choose the types and quantities of food they receive.

Some vulnerable migrants may have experienced malnourishment before migrating, during the journey or in their current location. Special attention should be paid to children, pregnant and breastfeeding women, and older persons, on whose health and well-being insufficient nutrition can have lasting and detrimental effects. The unique needs of vulnerable migrants experiencing malnutrition should be considered and trained health-care practitioners should be involved in designing a treatment plan to address deficiencies and malnutrition. If therapeutic interventions are required, they should be provided by specialists with the relevant expertise and following appropriate nutritional assessments.

Stress and trauma can have an impact on appetite and vulnerable migrants may find their appetites increase or decrease in the short or long term following a distressing event or experience. Eating disorders can occur or be exacerbated by trauma, and treatment should be offered by health-care practitioners with the requisite expertise. Individuals with pre-existing mental health problems may be more at risk of poor nutrition and require specialist care.

Where vulnerable migrants are responsible for procuring their own food, they may benefit from additional support to understand local markets and purchasing systems and/or how to prepare locally available food. Vulnerable migrants receiving cash or vouchers may need information on how to obtain food and cooking equipment. For more information on cash-based programming, [see page 135](#).

Personal safety and security

In many cases, vulnerable migrants face considerable risks to their safety and security. These risks are often linked to the situation that has contributed to their vulnerability, including involvement with unscrupulous migrant smugglers or traffickers, unsafe means of transportation or border crossings, or involvement in criminal cases against smugglers or traffickers. Risks can include threats and intimidation, harassment, discrimination, violence and abuse. They can be faced by vulnerable migrants or, in some cases, their families and community members.

The duty of care to those in receipt of assistance and staff involved in delivery thereof falls to the organization providing the service or support and, ultimately, to the State. Its discharge means identifying safety and security risks and, wherever possible, taking appropriate measures to ensure the risks are mitigated. Assistance is most effectively provided when risks are effectively managed.

Contextual security assessments

A contextual security assessment is a general overview of the risks and threats to personal safety and security in a specific location. During a contextual security assessment, the risks typically faced by vulnerable migrants should be identified and analysed, and the findings used to inform the design and delivery of protection and assistance. Contextual security assessments should also identify and analyse risks to the organization, its staff and others involved in providing assistance to vulnerable migrants.

A contextual security assessment can be conducted by any organization providing assistance to vulnerable migrants and is a useful means of ensuring that services are appropriate and effective. Security professionals or those with relevant expertise should be involved in security assessments.

Information on the following trends and patterns can be included in a contextual security assessment, which should be tailored in the light of local and current knowledge and expertise:

- Estimated numbers of migrants in the country or region;
- Routes used by migrants;
- Types of transportation used by migrants;
- Trends and patterns of trafficking in the country or region;
- Trends and patterns of smuggling in the country or region;
- Trends and patterns of crime and criminal activities;
- Involvement of organized criminal groups in migratory pathways or in facilitating movements of migrants;
- Prevalence of criminal activities such as kidnapping, ransom and extortion;
- Scope and scale of all types of gender-based violence;
- Presence of health risks, including communicable diseases;
- The legal framework in the country or region regarding refugees, migrants, trafficking, smuggling and irregular migration;
- Armed conflicts in the country or region of origin or transit of vulnerable migrants and in the current location;
- Risks of natural or human-induced hazards in the country or region of origin or transit of vulnerable migrants and in the current location;
- Law enforcement training, knowledge and practice in the country or region of origin or transit of vulnerable migrants and in the current location.

Service providers without the capacity or resources to conduct a thorough contextual security assessment may consider working with other organizations, including law enforcement agencies, United Nations agencies, international organizations, NGOs, embassies or consulates to develop a comprehensive security assessment.

Many of the factors analysed in a contextual security assessment are dynamic, and any risks identified must therefore be continuously reviewed. This should also be done after any event or change that would have an impact on the risks identified and security profile.

Examples of events or changes that warrant a review of a contextual security assessment include:

- A sudden influx of migrants;
- Seasonable changes in migration;
- Seasonable changes in weather-related hazards along a migratory route;
- A sudden-onset natural or human-induced disaster;
- An outbreak or flare-up of conflict along a migratory route;
- Changes in government policy affecting the status of vulnerable migrants in the country or region of origin or transit or in the current location;
- Law enforcement campaigns against human traffickers or migrant smugglers;
- Increased media coverage of migrants or migration;
- Health-related crises such as outbreaks of disease.

In some contexts, working with vulnerable migrants can pose risks to service provider staff, contractors and volunteers, owing to the nature of their work or the context in which they are operating. If that is the case, it is the service provider's responsibility to assess the risks and take effective security measures.

Likewise, those providing services to vulnerable irregular migrants may face risks above and beyond funding constraints. If that is the case, it may be useful for service providers to assess the risks and take mitigating action to ensure that they can continue to provide services to vulnerable migrants.

Individual security assessments

Case managers should periodically assess the risks to a vulnerable migrant's security, safety and well-being. In some cases, the case manager's assessment will suffice. Others require additional knowledge and expertise, and – if the vulnerable migrant consents – a specialist organization may be involved in the assessment and planning. Depending on the context and suitability, these specialist organizations can be law enforcement agencies or coordinating bodies, embassies or consulates, United Nations agencies, international organizations or NGOs.

If the individual security assessment identifies protection risks and relevant protection services are available, referrals should be made to specialist organizations for enhanced protection.

Information to assess risks to security can be collected through interviews and interaction with vulnerable migrants and service providers, by analysing available information related to safety and security (e.g. police data, crime statistics, or logs of security-related incidents kept by community members, NGOs or others), and from security providers.

Individual security assessments should include a holistic analysis of a vulnerable migrant's well-being, and risks to safety and security should be weighed alongside other factors that can augment or lower the migrant's resilience to vulnerability factors. For instance, an appropriate response to threats in the community may not be to avoid or prohibit leaving the shelter or accommodation, but to develop coping strategies such as using the safest transportation available, going out in small groups or at times of day where risks are lowest, or having a reliable method of communication accessible at all times.

The following list of risks that can be covered in an individual security assessment is not exhaustive and should be adapted to each situation.

- Immigration or other legal status
 - Do the vulnerable migrants have an irregular immigration or other legal status that would place them at risk of harassment, intimidation, detention or arrest?
- Shelter or accommodation¹⁸
 - Are the security systems and procedures at the shelter or accommodation sufficient and appropriate?
 - Are migrants discriminated against when accessing or using available shelter options?
 - Are there any physical hazards in or around the premises?
 - Does the shelter or accommodation provider abide by all local regulations and laws?
 - Is a specialized shelter or accommodation identifiable by signage, listed address or other features?
 - Do those known or thought to be connected to a migrant's vulnerability know where the shelter or accommodation is located?
- Communications
 - Are the devices used by the vulnerable migrant secure?
 - Are there language barriers that present risks to the vulnerable migrant?
 - Do translators and interpreters abide by the principles of assistance to vulnerable migrants (as outlined on page 29)?
 - Are translators or interpreters acceptable to the vulnerable migrant?
 - Does the vulnerable migrant have the possibility to communicate regularly with family and friends?
 - Are there private places for communication of a sensitive nature?
 - Is the vulnerable migrant in contact with those known or thought to be connected to his/her vulnerability?
- Finances and banking
 - Is the vulnerable migrant's money kept in a safe and secure place?
 - Does the vulnerable migrant have regular access to his/her money?
 - Does the vulnerable migrant have access to credit?
 - Does the vulnerable migrant have any outstanding debts?

¹⁸ For more information on shelter and accommodation, see page 42.

- Physical security
 - Does the vulnerable migrant have any identifiable characteristics that would make him/her a target for violence, harassment or discrimination?
 - Is the vulnerable migrant aware of local customs with regard to security?
 - Does the vulnerable migrant have any fears for his/her safety and security?
 - Has the vulnerable migrant been threatened or intimidated?
 - Do certain members of the vulnerable migrant's family or community pose a threat to his/her safety and security?
 - Do certain members of the vulnerable migrant's host community pose a threat to his/her safety and security?
 - Is the vulnerable migrant the victim of a crime and/or participating in judicial proceedings against an individual or group?
 - Is the vulnerable migrant's safety and security threatened by the possibility of retribution from a criminal organization or individual?
- Transportation
 - Is freedom of movement possible in the vulnerable migrant's current location?
 - Does the vulnerable migrant have access to safe transportation?
 - Does the vulnerable migrant have sufficient knowledge of safe local and international means of transportation?

Individual security planning

Once the safety and security risks have been identified, an individualized security plan should be developed for the vulnerable migrant. Again, this should be done with his/her participation.

At a minimum, the security plan should include all risks to the vulnerable migrant identified, the mitigating action to be taken and by whom, a timeline for review of the risks and actions, and emergency contact information.

The security plan should be drawn up in a format that is most appropriate for the vulnerable migrant. For instance, it should be translated into the migrant's preferred language or, if this is not possible, be couched in simple language. The security plan should be shared, with the migrant's consent, with all concerned, including those providing support to the vulnerable migrant.

When there are no or very few services available for vulnerable migrants, this should be reflected in the security plan. A security plan can be an important part of safety planning in the absence of services and can facilitate the development of mitigation strategies and coping mechanisms in such situations. (For more information on case management when appropriate services are not available, [see page 40](#).)

The findings of individual risk assessments and security planning can be presented in various tools. Two types, risk matrices and risk registers, are outlined below.

Risk matrices

Risk matrices ([see Figure 2.4](#)) rate risks based on the likelihood or probability of the risk occurring and its consequences or severity. They are sometimes referred to as "heat charts", as they often use colours to represent the highest (red) and lowest (green) risks, with gradients between.

Risk matrices can be useful when setting risk thresholds, communicating about risks to vulnerable migrants, and developing risk management plans.

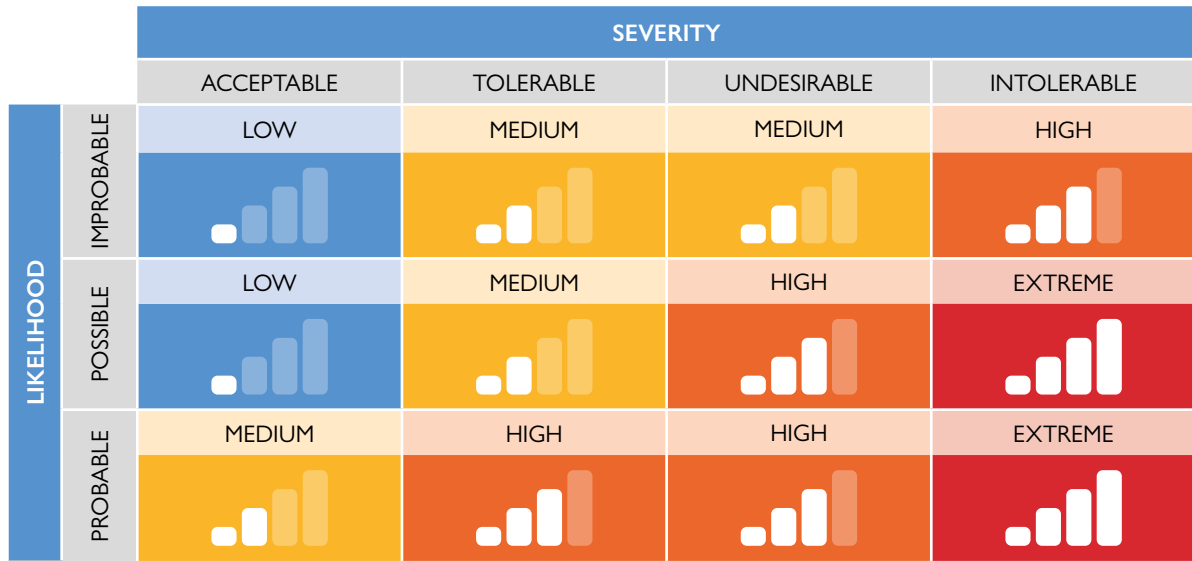


Figure 2.4

Example of a risk matrix

Risk registers

Risk registers (see Figure 2.5) list all identified risks along with information on the likelihood they will occur, their consequences and any mitigation measures to be taken. They are useful tools to monitor and manage risks and to communicate about risks to vulnerable migrants.

Risk number	Date identified	Risk description	Likelihood	Severity	Mitigating action	Progress on action	Status

Figure 2.5

Example of a risk register

Any documents produced as a result of security assessments or security planning are to be treated as confidential. Vulnerable migrants should have access to these documents at any time and be provided with copies of any assessments or plans related to their safety and security if they wish.

Health and well-being

This section contains practical, non-clinical guidance on the provision of physical and mental health care to vulnerable migrants for case managers and health-care practitioners.¹⁹

According to WHO, “health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity” and “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition”.²⁰

The Universal Declaration of Human Rights also refers to health as part of the right to an adequate standard of living, in Article 25. The right to health is also recognized as a human right in the International Covenant on Economic,

19 Health-care practitioners can include general practitioners and primary health-care providers, emergency response personnel, staff of health-care centres, clinicians, outreach health-care providers, mental health-care providers, and those working in both public and private health-care provision.

20 See WHO Constitution, available at www.who.int/governance/eb/who_constitution_en.pdf.

Social and Cultural Rights and is protected under the International Covenant on Civil and Political Rights, the Migrant Workers Convention, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities. Subsequent international human rights treaties have included the right to health or other relevant rights, including the right to medical care.²¹

Consequently, access to health care should not be discriminatory and health care should be made available to vulnerable migrants. Health-care systems and practices should strive to ensure access to health services regardless of immigration status and avoid disclosing the identities of vulnerable irregular migrants.

Health risks and potential consequences

Vulnerable migrants may have unique health-care needs arising from pre-existing conditions or from an injury or illness suffered during their journey or on arrival at a transit location or their destination. They may have experienced violence, exploitation or abuse that has health consequences, both physical and mental, and they may not have had access to adequate health care. Migrants in poor physical or mental health may be more vulnerable to violence, exploitation and abuse, which in turn may exacerbate or perpetuate poor health.

Table 2.2 summarizes the types of health risk and potential health-related consequences that vulnerable migrants may experience. It is not exhaustive.

Experiences of vulnerable migrants	Potential health-related consequences
Physical abuse, deprivation and neglect	Bruises, cuts, burns, broken bones, malnourishment, soft tissue injuries, dental problems, psychological distress and mental health problems
Threats, intimidation and psychological abuse	Depression, anxiety, hostility and aggression, isolation and withdrawal, psychological distress and mental health problems, sleep disturbances
Sexual violence and abuse	Sexually transmitted infections (including HIV), pregnancy, unsafe abortion, sexual dysfunction, vaginal or anal fistula, bruises, cuts, burns, broken bones, psychological distress and mental health problems
Substance abuse and misuse, including drugs and alcohol	Substance dependency, overdose, risk-taking behaviour, effects of withdrawal, psychological distress and mental health problems
Restricted social interaction and access to community and family networks	Inability to access health care, psychological distress and mental health problems
Economic exploitation	Malnourishment, dehydration, poor hygiene, risk-taking behaviour, insufficient funds to pay for health care, psychological distress and mental health problems
Legal insecurity	Restricted access or reluctance to access health care, unattended births, psychological distress and mental health problems
Dangerous transportation, living, or working conditions	Malnourishment, dehydration, poor hygiene, bruises, cuts, burns, broken bones, malnourishment, soft tissue injuries, skin conditions, infections, breathing difficulties, sleep deprivation, psychological distress and mental health problems
Social marginalization, discrimination, exclusion	Restricted access or reluctance to access health care, psychological distress and mental health problems

Table 2.2: Summary of the experiences of vulnerable migrants and potential health-related consequences²²

21 OHCHR and WHO, *The Right to Health*, Factsheet 31 (Geneva, 2008). Available at www.ohchr.org/Documents/Publications/Factsheet31.pdf.

22 Table adapted from IOM/London School of Hygiene & Tropical Medicine/United Nations Global Initiative to Fight Trafficking in Persons, *Caring for Trafficked Persons: Guidance for Health Providers* (Geneva, IOM, 2009). Available at http://publications.iom.int/system/files/pdf/ct_handbook.pdf.

Determinants of vulnerability and health

The determinants of migrant vulnerability model outlined in Part 1 is a useful tool for considering the health risks and associated needs of vulnerable migrants. Examples of the impact on health risks and consequences at each level of vulnerability factor are given below.

At the **individual** level, factors such as age and sex have an impact on the health needs of vulnerable migrants. For instance, children may require vaccinations according to an age-based schedule or older persons may suffer loss of vision or hearing. Other considerations at the individual level are pre-existing health conditions, such as diabetes or asthma, and mental disorders requiring diagnosis or treatment.

Household and family factors that influence health can include violence in the home. Intimate partner or domestic violence will have consequences on the physical and mental health of all involved, particularly those who are targets of or witnesses to the violence. The type of shelter and accommodation that a family is living in may also have health risks, including the use of open fires for cooking, which can cause breathing problems or burns.

Social norms, which are a **community** factor of vulnerability, affect attitudes and behaviours towards health and health care. For instance, medical professionals may be distrusted and traditional healers preferred. Similarly, a community's belief systems may make it reluctant to accept available treatments for mental illness. Sometimes the community factors differ within subcommunities of migrants or between a migrant's community of origin and the current community.

The availability of qualified health-care practitioners and properly equipped health-care facilities can be a **structural** vulnerability factor. Some vulnerable migrants may not have had access to a health-care system, or the system's capacity to provide care may have been limited by lack of funding and investment. The existing health-care system may not offer services that are appropriate for or accessible to migrants, or may not be able to address the unique health-care concerns that migrants may have.

As the determinants of migrant vulnerability model in Part 1 outlines, these factors do not operate in isolation and the interaction of all levels of factors should be considered, including when assessing the health concerns, needs and available service provider options for vulnerable migrants.

Trauma-informed health care

All health-care providers should aim to provide trauma-informed care ([see the text box on page 38](#)). A trauma-informed approach recognizes the impact that traumatic events can have on vulnerable migrants' beliefs, attitudes and behaviours, especially towards their bodies, health care and health-care providers. By incorporating trauma-informed care into routine practice, which includes an understanding of how traumatic experiences can affect vulnerable migrants' behaviour and perceptions, health-care practitioners can improve the care and support they give vulnerable migrants.

Inherent in trauma-informed care are the concepts of empowerment and holistic health care. These are central to patient-centred care, which follows the same principles as the migrant-centred approach outlined on [page 33](#).

Figure 2.6 summarizes the dos and don'ts of trauma-informed health care for vulnerable migrants.

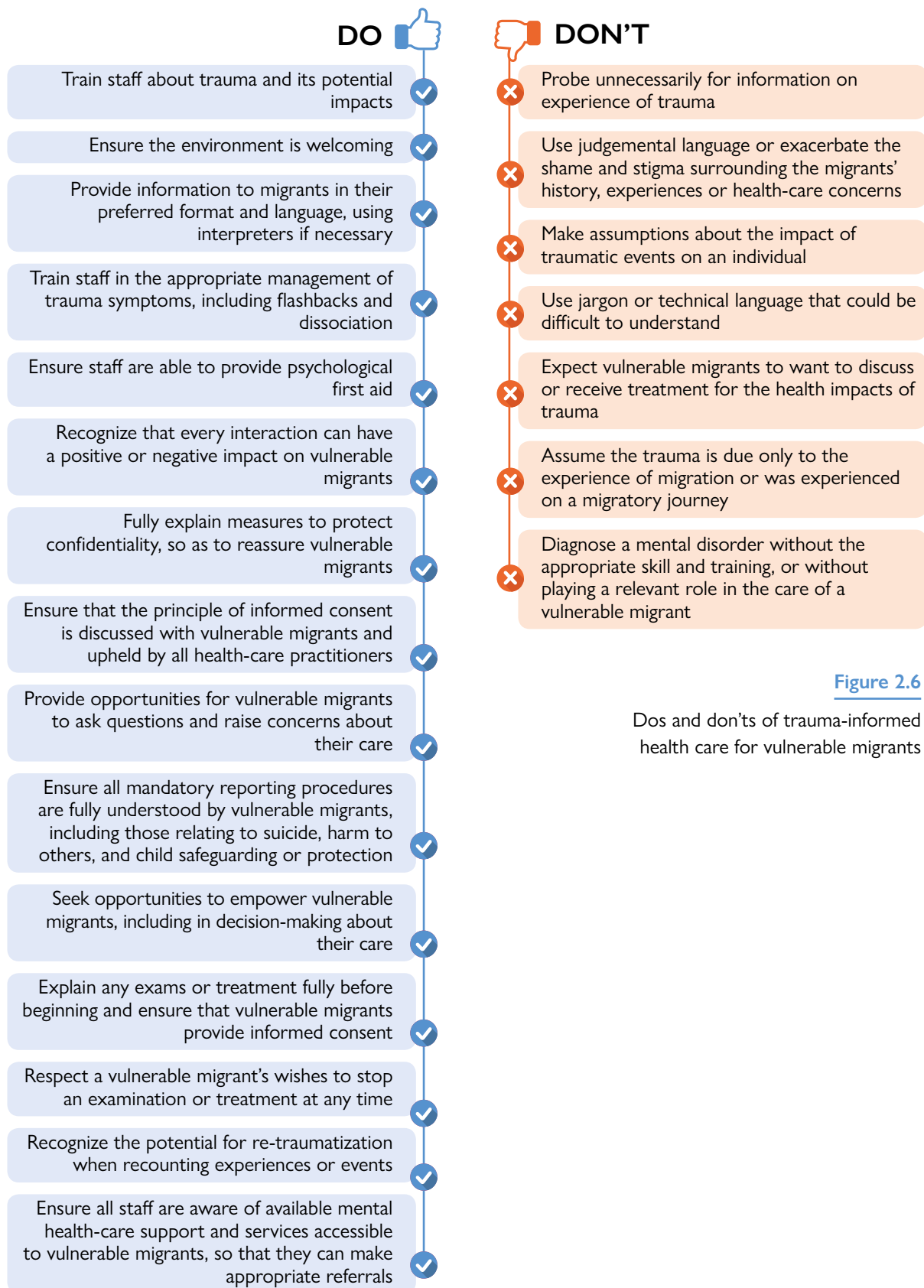


Figure 2.6

Dos and don'ts of trauma-informed health care for vulnerable migrants

Intercultural competence

Health-related beliefs, attitudes and behaviours vary between cultures and communities, including in terms of how individuals express illness or respond to treatment, and of the role of health-care practitioners in society. Health-care practitioners can garner intercultural competence by obtaining information about the cultural norms and practices of communities of migrants and acknowledging their own biases and assumptions.

Health-care practitioners should be aware of how their approach may be perceived by vulnerable migrants and be prepared to make adjustments as appropriate. This may involve using different methods of communication, such as interpreters, or incorporating elements of the vulnerable migrant's culture, religion or social customs into health care and treatment.

Explanatory model

It is important to explore the patient's understanding of illness, particularly when evaluating a range of symptoms. The explanatory model is a practical way to do this, and can help health-care providers avoid cultural stereotyping.

No single health-care provider can be familiar with all cultures and individuals, and because there is variation in communities from the same culture, it is useful to ask vulnerable migrants about their understanding of their own health and well-being and their expectations for care and treatment.

Possible questions include:

1. What is the problem? How would you describe it in your own words?
2. When and how did the problem start?
3. Why do you think the problem started when it did?
4. How does this problem affect you?
5. What worries you most about this problem?
6. What kind of care do you want from health-care providers?
7. Is there a particular treatment that you feel you should receive?

Cultures often have different approaches to mental health and illness; indeed, some communities do not consider mental illness as a health issue at all. This may affect the way that individuals react to offers and provision of mental health care. A method of addressing mental health concerns in one culture (e.g. individual counselling) may not be accepted by or appropriate for those from other cultures.

Whenever possible, health-care practitioners should be afforded training in cultural differences and suitable approaches, especially when large numbers of migrants from the same community or culture are accessing health care. They should avoid making assumptions about cultural, ethnic or religious groups and should not expect the members thereof always to react the same; every group has subcultures and individual differences, and migration transforms cultures and the sense of belonging.

Health-care practitioners should seek information on the beliefs and practices of a vulnerable migrant's culture and community and use this to inform their provision of care. They can do this by asking vulnerable migrants questions, speaking to other service providers, and using available resources and evidence. Where there are large numbers of migrants from a particular country, community, religion or other social group, specific guidance may be useful to capture best practices in a specific health-care facility.

Where appropriate and possible, elements of a vulnerable migrant's cultural approach to health and wellness can be incorporated into care and support, as they may improve uptake and overall health outcomes. This can include referencing traditional approaches and explanations for disease and poor health, collaborating with traditional healers and religious leaders, and incorporating traditional medicine, but should not be done if the elements are potentially harmful; some traditional approaches to healing, treatment and poor health can involve false information, abuse and punishment, prolonged fasting, cutting, physical restraints, unhygienic rituals or high financial costs. Attention to cultural differences must be balanced against evidence-based care and protection from potentially harmful practices.

In addition to differences in culture, vulnerable migrants' approach to health care and engagement with health-care practitioners can be influenced by their experience of migration and their immigration status. For instance, vulnerable irregular migrants may avoid authorities, including health-care practitioners, for fear of being detained or deported.

To provide culturally competent care, health-care practitioners should:

- Have a system to identify a vulnerable migrant's communication needs, provide access to interpreters if there are language barriers and be prepared to adapt the communication format and style;
- Be alert to the possible cultural, social or personal reasons for a vulnerable migrant's behaviour, beliefs or reactions;
- Explore the vulnerable migrant's understanding of the illness using the explanatory model (see text box on page 55);
- Ensure that a vulnerable migrant's preference for who examines him/her is respected;
- Recognize the importance of religious beliefs in a vulnerable migrant's symptoms, treatment and recovery.

Urgent health care

In some cases, vulnerable migrants may require immediate health care to save their lives or address life-changing injuries. The cause may be an accident, an untreated illness or disease, a physical or sexual assault, or a suicide attempt. The need for urgent health care may be identified by law enforcement or border management agencies, emergency service providers such as paramedics, fire departments, family or community members, or other vulnerable migrants.

Vulnerable migrants requiring urgent health care should be treated without discrimination and their immigration status or ability to pay related fees should not be a barrier to the provision of emergency care.

Additional points to consider when providing urgent health care for vulnerable migrants include:

- Dehydration
- Malnutrition
- Sepsis
- Wounds
- Head, neck and spinal injuries
- Broken bones
- Soft tissue injuries
- Temperature-related illnesses
- Exposure to toxins
- Exposure to communicable diseases
- Dental trauma or infection
- Post-exposure prophylaxis for possible HIV infection
- Untreated mental illness
- Untreated chronic disease
- Withdrawal from alcohol, drugs or prescription medication.

If law enforcement, border management agencies, other government or United Nations agencies, international organizations or NGOs are planning outreach activities during which they could potentially identify vulnerable migrants in need of urgent health care, those activities should be coordinated with health-care practitioners and response plans put in place. They should be designed in such a way that they do no harm and are underpinned by the concept of trauma-informed care.

Health assessment

Vulnerable migrants may have had poor health before migrating or developed health concerns as a result of migration. They may access health care during their journey, at destination or on return or relocation. Where possible and appropriate, their health should be assessed by health-care practitioners using the approaches of migrant-centred care, trauma-informed care and intercultural competence, and they should be referred to specialist health care where needed.

An initial health assessment includes the vulnerable migrant's history. The migrant should be examined in a safe space and in his/her preferred language or with the support of an interpreter.

Vulnerable migrants should be given the choice, whenever possible, to see a male or female health-care practitioner. If this is not possible, they should have the option of being accompanied by a chaperone of the preferred sex. This is particularly important for female migrants, who may not feel comfortable discussing their health and bodies with a man, and for those known to have experienced gender-based violence.

Health-care practitioners should be prepared to hear about violence, exploitation and abuse during a health assessment and to react and respond appropriately. They should be aware of the resources available for vulnerable migrants and be able to make referrals to specialized support and care, including non-health-related services and support. They should explain the referral procedures in detail, avoid discouraging the vulnerable migrant from talking about the event, so as not to heighten any feelings of shame, and take care not to ask unnecessary questions about the experience that could cause distress. The psychological and emotional significance of the event should be acknowledged and the vulnerable migrant reassured that the reaction is normal given what has happened. If specialized care is available, the migrant should be informed that there will be a further opportunity to discuss the experience and any reactions if s/he chooses to access specialized care.

Dual loyalty

“Dual loyalty” occurs when two ethical obligations stand in contradiction to each other and is commonly known as an ethical dilemma.

Examples of ethical dilemmas include when legal child safeguarding or protection reporting requirements may identify a family or group that has irregular immigration status and increase the risk of detention or deportation, or when a survivor of a sexual assault must undergo a mandatory forensic exam in order to report the crime to the police and receive health care.

In these instances, health-care practitioners have a responsibility to their patient, to professional bodies and to the wider community. They and others involved in case management must be guided by the “do-no-harm” principle; they should collectively search for solutions that preserve the vulnerable migrant’s confidentiality, privacy and right to give informed consent. Their decisions may be usefully informed with advice from senior management, organizations specializing in advocacy or victim’s rights, or professional bodies. Vulnerable migrants should be made aware of decisions and advice throughout the process.

Before the health assessment begins, health-care practitioners should understand any mandatory reporting requirements and explain them to the vulnerable migrant, including the implications of any reporting.

Vulnerable migrants should be told why the health assessment is being made, why they need to provide a history and be examined, how the examination will be conducted, and who will have access to the results. They should give informed consent to the examination (for more information on the process of obtaining informed consent, [see page 29](#)), and be told that they can withdraw consent at any time and the examination stopped. The implications of stopping an examination should be fully explained.

The medical history questionnaires used by health-care practitioners should be reviewed in the light of the unique circumstances of vulnerable migrants. For instance, it may be worthwhile to include questions on the types and lengths of journeys migrants have taken, information on the types of shelter or accommodation they have been using, any time spent in detention facilities or with restricted movement, or any pre-existing conditions, and information on how they were treated in their home or transit country.

The medical examination should be thorough and involve a systematic review of symptoms, a physical examination, and any necessary laboratory tests.

Vulnerable migrants may be at increased risk of exposure to disease owing to the means of transportation used or living conditions, or for want of regular access to health care. Types of diseases and infections that vulnerable migrants may be at risk of contracting can include, but are not limited to:

- Dermatological conditions
- Pulmonary infections
- Cardiovascular disease
- Blood infections
- Gastrointestinal conditions
- Sexually transmitted infections
- Neurological conditions

Health assessments should take account of disease epidemiology in the locations that vulnerable migrants are from and have travelled through. This could mean testing for diseases endemic to the area of origin, such as malaria, or outbreaks of which are known to have occurred along the migratory route, such as measles. The current living conditions of a vulnerable migrant should also be considered, as diseases and infections such as cholera may be present. Health assessments should also take account of vaccine schedules, coverage and compliance in the country of origin.

As physical and mental health is intrinsically linked, health assessments should also consider mental health, including any diagnosed mental illness, previous treatment and current state of mental well-being. All health-care practitioners should be able to screen migrants for basic mental health disorders, in order to identify any problems and make appropriate referrals for specialized support, if need be. The health-care provider and the vulnerable migrant may differ in their understanding of mental health and psychological well-being, and this should be considered when identifying problems, making referrals and communicating with the vulnerable migrant. Notably, what are considered symptoms of mental disorders in a normal situation may be typical reactions to stressors that vulnerable migrants may be facing, and it is important that health-care practitioners endeavour to understand the nature and context of the psychological reactions of vulnerable migrants before diagnosing a mental illness or disorder.

Psychological responses to distressing events include fearfulness, worry, sadness, guilt, shame, anger, grief, concentration problems and memory loss, hopelessness, reliving experiences including through flashbacks or nightmares, emotional numbing, feelings of isolation, and/or anxiety. These responses can be temporary, but if they are prolonged or severe, the migrant should be referred to specialized mental health care. The mental health and psychosocial support pyramid provided in Figure 2.4 is useful in determining what type of mental health-care support should be provided.

For mental illnesses that require psychiatric or clinical psychological care and customized medication, trained mental health-care practitioners should be involved in the care and support of vulnerable migrants. If a vulnerable migrant requires both physical and mental health care, a holistic approach should be adopted, whereby physical and mental health is considered together and treatment is coordinated between health-care providers.

Vulnerable migrants will deploy various coping techniques. In most cases, these are constructive and support adaptation to factors of vulnerability; in others, they can be maladaptive and have negative effects. One negative coping mechanism for the distress that vulnerable migrants can experience is the use and abuse/misuse of substances, including alcohol and other drugs, which can in turn lead to greater engagement in risk-taking activities such as unprotected sex and needle-sharing. Specialized treatment and recovery plans should be drafted with the full participation of the vulnerable migrant, so as to develop a holistic approach to the treatment of any dependencies and underlying mental disorders. For more on substance abuse/misuse and addiction, see the text box on page 63.

Forensic examinations

If a medical examination is to be used to report a crime or to lay charges, or as evidence in a court of law, this should be understood and consented to by the vulnerable migrant. Examples when forensic examinations can be important are in cases of sexual violence, intimate partner violence or trafficking.

In all cases, forensic evidence should be collected with the informed consent of the vulnerable migrant, never against the migrant's will. It should be collected by a health-care practitioner with specialized forensic training and knowledge of the legal system, the type of evidence required, and collection, storage and testing standards.

Forensic evidence should only be collected when it can be processed and used, and only by the relevant authority.

A careful written record should be kept by the health-care facility of the examination, any evidence collected, and other pertinent information about the vulnerable migrant's examination, as this can be useful in criminal proceedings.

Where a forensic examination is conducted in connection with criminal proceedings involving torture or other cruel, inhuman or degrading treatment, the guidance provided in the Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment should be followed.

Any health needs identified by the assessment should be treated according to appropriate guidance and available evidence. Treatment decisions should nonetheless take account of the possibilities to continue treatment if the vulnerable migrant returns to his/her country of origin, moves to another location, or is not able to continue accessing regular health care for any other reason. If a course of treatment would have harmful consequences if interrupted or could not be continued in a future location, it should not be started.

Sexual and reproductive health

The provision of health care to vulnerable migrants should include comprehensive sexual and reproductive health care. Vulnerable migrants should be provided with information about sexual and reproductive health that is age appropriate, tailored to the vulnerable migrant's level of education and understanding, and delivered with cultural sensitivity. This includes information on available contraception and family planning options, including emergency contraception, and on voluntary testing for, counselling on and treatment of sexually transmitted infections, including HIV/AIDS. In some instances, it may be necessary to incorporate awareness and education on sexuality and reproduction into the provision of health care, including for adolescents and those who have not previously had access to information of this nature.

Health care for vulnerable migrants should take into account their risk factors for HIV/AIDS, including prevalence rates in their home, transit or host countries and any previous experiences that may have increased the risk of exposure to HIV, including involvement in sex work, trafficking for the purposes of sexual exploitation, experience of gender-based violence, or use of injectable drugs. For vulnerable migrants who may have been exposed to HIV within the previous 72 hours, health-care facilities should provide post-exposure prophylaxis to prevent HIV transmission.

Pregnancy tests should be made available to all vulnerable migrant women and girls of reproductive age and be accompanied with information and referrals for antenatal care or for termination of pregnancy, where legal and available. Pregnant women and girls should be offered comprehensive antenatal care without discrimination based on their immigration status, marital status, nationality, age or any other reason. They should not be kept in detention facilities (for more information on detention, [see page 40](#)).

Vulnerable migrants who are lesbian, gay, bisexual, transgender or intersex should not be discriminated against and receive health care that respects their dignity, privacy and rights. They need a safe space in which to disclose their status and have their health-care needs identified and met, including but not limited to sexual and reproductive health-care needs.

The risk of sexual violence, exploitation and abuse for vulnerable migrants should be acknowledged by health-care practitioners and should inform the provision of health care. Vulnerable migrants may have been trafficked for purposes of sexual exploitation, been involved in sex work in their home country, along their migratory route or at their destination, or been forced to trade sex for safe passage, promises of protection, or other goods and services.

Gender-based violence

Gender-based violence is an umbrella term for any harmful act perpetrated against a person's will and based on socially ascribed gender differences that inflicts physical or mental harm or suffering, threats of such acts, coercion, and other deprivations of liberty. It can occur in public or in private and can, but does not have to, consist in acts of a sexual nature. It disproportionately affects women and girls because of underlying gender inequality.

The different forms of gender-based violence are outlined in the table* below.

Physical violence	Slapping, shoving, pushing, punching, beating, scratching, choking, biting, grabbing, shaking, spitting, burning, twisting of body parts, forced ingestion of unwanted substances
	Preventing access to medical treatment or other support
	Using objects as weapons to inflict injury
Sexual violence	Vaginal or anal rape
	Unwanted sexual touching
	Sexual harassment and demand for sexual acts in exchange for something
	Trafficking for the purposes of sexual exploitation
	Forced exposure to pornography
	Forced pregnancy, forced sterilization, forced abortion
	Forced marriage, early/child marriage
	Female genital mutilation/cutting
	Virginity testing
Incest	
Psychological/ emotional violence	Threats of violence or harm against friends or family through words or actions
	Workplace harassment
	Humiliation and insults
	Isolation and restrictions on communication or movement
	Use of children by a violent intimate partner as a means of control or coercion
Economic violence	Prohibiting engagement in work
	Exclusion from financial decision-making
	Withholding money or financial information
	Refusal to pay bills or provide resources for shared children
	Destruction of jointly owned assets

Vulnerable migrants disclosing incidents of sexual violence should be offered support, including a medical examination to identify and treat any physical and psychological health effects. Once informed consent has been given, a medical examination should include a thorough pelvic examination for women and a genital and anal examination for men, testing (and treatment) for sexually transmitted infections and HIV, and pregnancy tests and counselling for women and girls along with referrals for antenatal care or for termination of pregnancy, where legal and available.

All survivors of sexual assault should be offered post-exposure prophylaxis within 72 hours of an incident involving a risk of HIV transmission. Where legal and available, women and girls should be offered emergency contraception within 72 hours of a sexual assault if there is a risk of unwanted pregnancy.

Mental health support should be made available to all vulnerable migrants who have experienced gender-based violence and be provided by health-care practitioners with specialized training and expertise.

* Adapted from UNFPA and WAVE, Strengthening Health System Response to Gender-based Violence in Eastern and Central Asia: A Resource Pack, UNFPA Regional Office for Eastern Europe and Central Asia/ WAVE Network and European Info Centre Against Violence, Turkey/Austria, 2014.

Mental health and psychosocial support

Mental health and psychosocial support are closely related concepts that often overlap in practice but can also reflect different and complementary approaches. The term MHPSS refers to any type of support that aims to protect or promote psychosocial well-being and/or prevent or treat mental disorders.²³

The mental health and psychosocial well-being of vulnerable migrants should be assessed at the same time, or concurrently with, their physical health, by a health-care practitioner with specialized training. Where such an assessment reveals significant mental health problems, the migrant should be offered a referral to a mental health specialist. If at any time a vulnerable migrant expresses a desire or attempts to commit suicide or harm her/himself or others, he/she should be immediately referred to appropriate mental health specialists.

Mental health and psychosocial problems are interconnected, and their understanding and treatment culturally dependent. Some problems are predominantly psychological in nature, such as pre-existing mental health disorders, depression and anxiety, and post-traumatic stress disorder, whereas others are predominantly social in nature, such as family separation, disruption of social networks, and reduced access to resources.

While traumatic events experienced by vulnerable migrants can exacerbate existing mental health disorders or trigger negative psychological reactions, not all individuals who experience distressing events will develop psychological problems. It is important that reactions to traumatic or distressing experiences should not be unnecessarily pathologized.

Post-traumatic stress disorder (PTSD)

PTSD is a psychiatric disorder that can occur in people who have experienced or witnessed a traumatic event such as a natural disaster, a serious accident, acts of war or terrorism, rape or violent physical assault. It and the criteria for its diagnosis are defined in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.

People with PTSD continue to have intense, disturbing thoughts and feelings related to their experience long after the traumatic event. They may relive the event in flashbacks or nightmares, feel sad, fearful or angry, or detached from their friends, families and communities. They may avoid situations or people that remind them of the traumatic event and may have strong negative reactions to seemingly harmless events, such as a loud noise or a caress.

Not everyone who experiences a traumatic event will develop PTSD. Those who experience short-term symptoms following a traumatic event may have acute stress disorder rather than PTSD. Many people will experience distress after a traumatic event; for some, emotional support and care are all they need to recover. When the symptoms persist for more than a month, or when they are severe in nature, specialist assessment and treatment should be sought, as this may indicate PTSD.

Not all those suffering from PTSD will experience it in the same way or require specialized mental health care. PTSD is treated through psychotherapy, medication or a combination of the two.

For more information on PTSD, see the website of the American Psychiatric Association (www.psychiatry.org).

There are numerous factors affecting psychological reactions to traumatic events, including gender and age, previous experiences, type and number of traumatic events, biological and epigenetic factors, and disruptions to social and familial networks.

²³ Definition adapted from *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings* (Geneva, IASC, 2007).

Torture

The 1984 United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines torture as “an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person, has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

This definition contains three elements:

- a. the intentional infliction of severe mental or physical suffering,
- b. by a public official, directly or indirectly,
- c. for a specific purpose.

Common methods of torture include beating, rape and sexual assault, electric shocks, stretching, submersion in water, sleep deprivation, suffocation, burns, isolation, threats, humiliation, mock executions, and witnessing the torture of others.

Vulnerable migrants may have experienced torture before migrating while in their home country, along the migratory route, or in their current location. Health-care practitioners should be prepared to provide care and support to meet the health-care needs of vulnerable migrants who have experienced or witnessed torture and should make appropriate referrals to available services, including specialized agencies and organizations providing support to victims of torture.

The Istanbul Protocol* provides guidance on how to document torture that may be useful to health-care practitioners involved in the investigation and documentation of cases of torture.

* OHCHR, Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Geneva/New York, United Nations, 2004). Available at www.ohchr.org/Documents/Publications/training8rev1en.pdf.

All vulnerable migrants will have psychological reactions to their experiences. Some who may face greater risks of mental health and psychosocial problems include vulnerable irregular migrants, trafficked persons, migrants who have lost the financial means to provide for their families, pregnant women and new mothers, elderly people who have lost or been separated from their caregivers, children separated from their families or removed from school, victims of or witnesses to gender-based violence or torture, detained migrants, and those previously exposed to other traumatic events. Migrants with pre-existing or previously diagnosed psychological disorders will be at increased risk for poor mental health, especially if they have had to stop their regular treatment, including medication, and can no longer access their preferred method of support.

Responses to mental health and psychosocial problems should be multi-layered and complementary. Figure 2.7 depicts the pyramid for mental health and psychosocial support interventions.

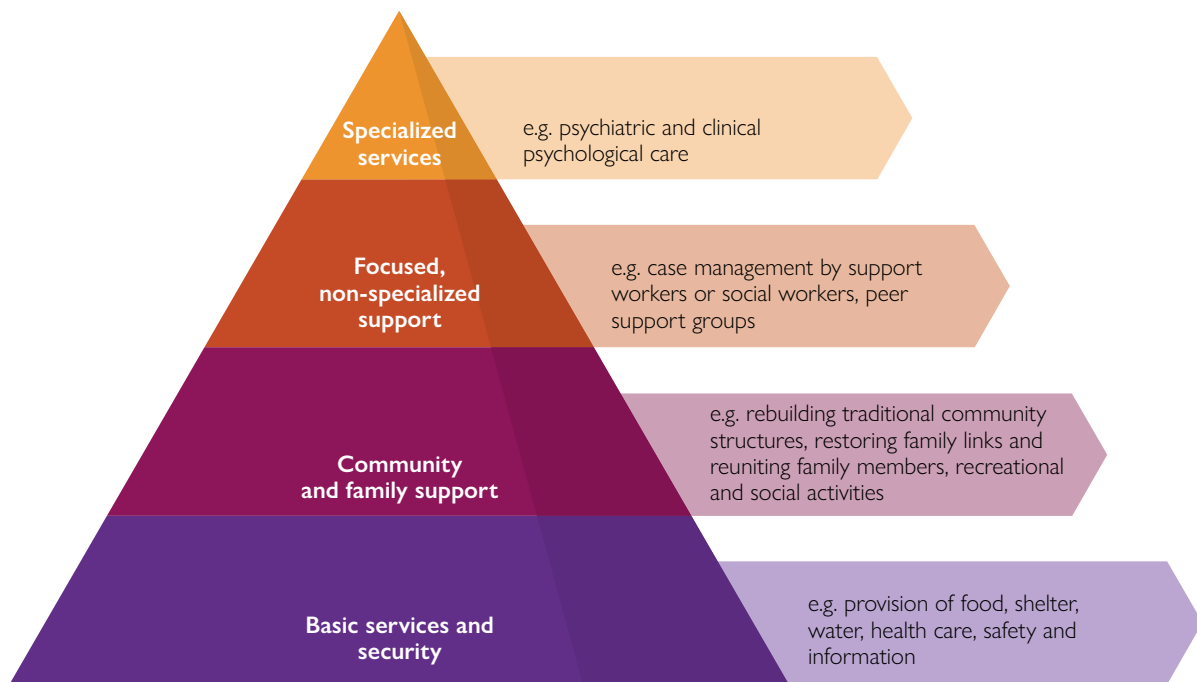


Figure 2.7

Intervention pyramid for mental health and psychosocial support²⁴

In the mental health and psychosocial support model, **specialized services** will be required by relatively few members of a community whose suffering is intolerable and who find it difficult to carry out basic daily functions. Those with mental disorders will likely require specialized services from psychiatrists or psychologists and may require medication and other forms of treatment. Those providing this type of mental health care should have specialized training and recognize that approaches to and understanding of mental health and mental health disorders vary between cultures and communities and that their usual or preferred treatments may not be appropriate for vulnerable migrants.

Mental disorders that should be treated by mental health specialists include, but are not limited to:

- Psychoses of all kinds;
- Disabling presentations of mood and anxiety disorders (including post-traumatic stress disorder);
- Abuse or misuse of alcohol or other substances;
- Behavioural and emotional disorders in children and young people;
- Neuropsychiatric disorders, including delirium and dementia, and mental disorders resulting from brain injuries or other underlying conditions;
- Any other severely disabling mental health problem that does not fit into established classification systems;
- Any risk behaviours commonly associated with mental health disorders, such as suicidal thoughts or action and other self-harm behaviour.

Substance abuse/misuse and addiction

The use of tobacco, alcohol and drugs, both prescription or illegal, can be a coping mechanism for vulnerable migrants or migrants may have had an existing dependency that contributed to their vulnerability. Dependence on substances can co-exist with mental health disorders and may be a response to undiagnosed and untreated mental health issues or may trigger or exacerbate mental illnesses.

People with substance addictions may be aware that their use of tobacco, alcohol or drugs has negative effects, but may be unable to stop even if they would like to. The use of substances can have an impact on not only the vulnerable migrant's health and well-being, but also that of his/her family and community.

Treatment for substance abuse, misuse and addiction can include a combination of medication to manage the physical and psychological symptoms of withdrawal, and individual or group psychotherapy. These may be delivered as inpatient or outpatient care, or in community-based programmes.

²⁴ Adapted from *IASC Guidelines*, op. cit., note 37.

Case managers can play an important role in providing **focused, non-specialized support** along with social workers or others providing protection or assistance to vulnerable migrants. This can also include the provision of psychological first aid (see text box below). Support provided according to the principles of assistance listed on page 29 will boost vulnerable migrants' mental health and psychological well-being.

Community and family support can include measures to trace separated family members and restore links, including reuniting families and establishing communication between separated family members (for more information on family tracing, assessments and reunification, see page 76). Restoring community structures and routines can promote the mental health and psychological well-being of vulnerable migrants and can include establishing educational opportunities for children and young people, restoring livelihoods through employment opportunities, and support for social networks such as children's clubs or women's groups. Families and communities that have experienced a death may benefit from traditional mourning and burial ceremonies.

The provision of basic services and security will have a positive impact on the mental health and psychological well-being of vulnerable migrants. This can include food, shelter and accommodation, water, hygiene and sanitation, health care, and personal safety and security when delivered in a manner that does no harm and according to the principles of assistance outlined on page 29.

Special considerations for health care for vulnerable child migrants

Vulnerable migrant children are likely to have a wide range of health-care needs. They may have experienced or witnessed distressing or traumatic events, not have been vaccinated against diseases, have undiagnosed or untreated symptoms, and/or be malnourished and stunted.

Vulnerable migrant children should be provided with age-appropriate health care by health-care practitioners with specialized training and experience in paediatrics. This should include consideration of their increased susceptibility to infectious diseases and different disease presentation based on their age.

Special care should be made available for pregnant women and girls who are HIV-positive and all steps taken to prevent mother-to-child transmission.

The mental health and psychological well-being of vulnerable migrant children should be an integral part of health care, given the negative impact that migration-related traumatic events and severe and prolonged stress can have on children's cognitive and emotional development. Early losses, such as the death of a parent or sibling, or witnessing violence or other distressing events can disrupt relationships and undermine health and long-term social and emotional development. With care and support, children can recover from such events, but unresolved psychological trauma can be a predictor of longer-term psychological distress and negative coping behaviours and techniques.

Emotional distress experienced by the parents or caregivers of vulnerable migrant children can also have an impact on a child's health and well-being, as it

Psychological first aid

A humane, supportive response to the suffering of other people who may need support is called psychological first aid. It does not necessarily involve a discussion or recounting of distress-causing events, but it can prevent additional harm from the experience of a distressing event.

Psychological first aid involves giving vulnerable migrants the opportunity to discuss their situation, but not making that discussion compulsory or necessary. It should be practiced by all health-care practitioners and any service providers furnishing protection and assistance to vulnerable migrants.

Psychological first aid involves:

- Listening patiently in an accepting and non-judgemental manner;
- Conveying genuine compassion and empathy;
- Identifying basic practical needs and striving to meet them;
- Asking vulnerable migrants about their concerns and trying to address them;
- Discouraging negative coping strategies, such as abuse or misuse of alcohol and other substances;
- Encouraging adherence to regular routines;
- Encouraging positive coping techniques, such as culturally appropriate relaxation methods or access to community-based and faith-based support;
- Encouraging, but not insisting on, socializing with family members and friends;
- Offering information on available specialized mental health and psychosocial support services.

affects the parents' and caregivers' ability to care for children and the coping mechanisms they adopt, which can be positive or negative as experienced by children.

Health promotion

Health promotion materials should be made available to vulnerable migrants in a format and language they can understand. They may include information on communicable and non-communicable diseases, nutrition, hygiene, sexual and reproductive health, mental health and the availability of health-care services.

Materials on available health services should also be distributed in communities of migrants, and health promotion campaigns should target communities of vulnerable migrants with information and messaging that reflects the common concerns and health-related needs of the population. This is particularly important in the known or suspected presence of infectious diseases in communities of vulnerable migrants or in a specific shelter or accommodation. Health communications should never stigmatize or identify vulnerable migrants who have been tested for or diagnosed with diseases or who have accessed health-care services.

Medical records and data management

The names of vulnerable migrants accessing health-care services are also to be considered confidential and should not be shared outside the health-care facility without the prior consent of the migrants.

All records pertaining to the physical and mental health of vulnerable migrants, whether digital or in hard copy, are to be considered confidential and must be kept in a data information system that can protect their confidentiality. They may contain contact details for vulnerable migrants and information on medical histories, tests and results, treatment prescribed and referrals.

All medical records should be kept securely, with access restricted to those involved in the care and support of the vulnerable migrants. Methods to maintain confidentiality should be developed within the health-care setting and can include coding systems to anonymize detailed records, physical systems such as locking file cabinets, and/or electronic systems that are protected against unauthorized access.

Medical records should never be left on unattended digital devices, desks or offices and should not be stored on the personal computers, phones or other electronic devices of the health-care provider's staff.

Complete medical records should be made available to vulnerable migrants on request. Vulnerable migrants should be informed of the risks of having copies of their records, so that they can make an informed decision to make or carry copies.

Health-care facilities should be designed to protect confidentiality and provide privacy. Reception desks, waiting rooms and treatment areas should be arranged to preclude the possibility of others overhearing conversations between vulnerable migrants and health-care practitioners, receptionists or others involved in their care.

Health-care providers should be aware of what information they share verbally and ensure that their conversations are not overheard or recorded. Details of the health care of vulnerable migrants should not be discussed with anyone, not even the migrants' family members or other members of their communities, without their prior consent.

Where medical records are requested by the authorities, such as law enforcement or border management agencies, see the text box on dual loyalty ([page 57](#)).

All records should be archived in accordance with local laws and regulation, and destroyed after a sufficient period of archiving. For more information on record-keeping and confidentiality, see the section on principles of assistance ([page 29](#)).

Education and training

Quality primary education for all is a fundamental human right articulated in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child. Quality education refers to education that is available, accessible, acceptable and adaptable.²⁵

Education acts as a protective mechanism, builds resilience in students and learners, and is a vehicle for personal and social development. However, vulnerable migrants often have restricted access to quality education, have left formal education to migrate, and face barriers to benefiting from available education and training opportunities. While primary education is important and a right of all children, education and training for adult vulnerable migrants is also important and also has protective and resilience effects.

Providing quality education is the responsibility of the State, often through ministries of education or local authorities. In some instances, United Nations agencies, international organizations, NGOs, civil society organizations or the private sector may also offer education and training opportunities.

All education and training should be delivered in accordance with local regulations and laws, including those governing education, health and safety, including any registration or licencing requirements for the provision of education with government agencies or professional associations.

If designed and managed appropriately, schools and other educational facilities can help protect against violence, exploitation, and abuse. Education can be used to convey information that builds resilience against such violations and provide a means for children and adults to report them.

Age-appropriate education should be available for vulnerable migrants and include both formal and informal education and training. Types of formal education for vulnerable migrants include early childhood development, primary, secondary and higher education, and religious education.

Educational assessments may be needed to determine at what level to insert vulnerable migrants into formal education programmes. Such assessments should consider the vulnerable migrants' age and maturity, and the social implications of re-enrolment in school or training. For instance, it may be more beneficial for vulnerable child migrants to attend school with members of their age group rather than with children with the same level of education who are considerably younger.

All instruction should be delivered in a manner that is learner-centred, participatory and inclusive, as the positive psychosocial impact of attending school or participating in a training programme can introduce a sense of routine and stability, and spawn hope and aspirations. Education and training can also open the door to culture and language proficiency for vulnerable migrants when they are outside their home country or away from their community.

Older children and adults who have not been in formal education for some time should be offered education and training with their peer group and in a manner that is tailored to their age and skill level. This could include adult-only literacy classes or an adapted primary school curriculum for older children. In some cases, it may not be appropriate, or vulnerable migrants may not wish, to re-enrol at the level of their previous formal education, for instance if they are older than their peers or would not be able to meet the academic requirements; instead, other training options should be made available.

Informal education and training also has a protective impact, including by building resilience through enhanced livelihood and psychosocial outcomes. Examples of informal education, training and related support that may be suitable for vulnerable migrants include:

- Vocational training;
- Apprenticeship schemes;
- On-the-job training;
- Professional mentorship programmes;

25 International Network for Education in Emergencies, *Minimum Standards for Education: Preparedness, Response, Recovery* (New York, 2010). Available at http://s3.amazonaws.com/inee-assets/resources/INEE_Minimum_Standards_Handbook_2010_English.pdf.

- Life skills courses;
- Youth or adult education programmes;
- Literacy or numeracy classes;
- Language training;
- Financial literacy and household financial management training;
- Small-business management training;
- Career planning and guidance.

Because there are strong links between meaningful vocational training and future livelihoods, vulnerable migrants should be afforded skills development and training opportunities that qualify them for suitable employment and/or provide them with skills to run their own business in their current location, their country of origin or another location. When education or training is intended to enhance vulnerable migrants' job prospects and increase professional opportunities, market analyses should be used to inform decision-making on suitable training programmes. Vulnerable migrants should be helped to choose a training path that meets their personal aspirations but also leads to a livelihood. For more information on livelihoods, employment and income generation, [see page 70](#).

Formal education and vocational training are not mutually exclusive, and vulnerable migrants may benefit from both. For instance, if education and training are not available in the language preferred by vulnerable migrants, they should be offered language training in addition to reintegration into school, and every effort should be made to offer them education and training in their preferred language.

Protective learning environments

Learning environments should be secure and safe, and provide protection from threats, harm, danger or loss. Schools and other educational facilities play an important role in promoting the psychosocial well-being of learners, teachers and others involved in education and training.

To create inclusive and protective learning environments for vulnerable migrants, teachers and educators²⁶ should use positive disciplinary and conflict-resolution techniques, and promote tolerance and understanding of others. They should not use corporal punishment or threats and intimidation, cause undue distress, or condone or promote discrimination.

All education and training programmes should acknowledge the increased risks that vulnerable migrants may face in the learning environment, including bullying, exclusion and challenges to learning caused by their experiences with education and educators, and recent distressing experiences and their effect on the capacity to concentrate, take in new information and engage socially in a learning environment.

In order to ensure that they are protective, education and training should include comprehensive and robust safeguards that protect children and vulnerable adults from violence, exploitation and abuse from teachers, administrators and all others affiliated with the delivery of education and training.

Routes and transportation methods should be affordable and accessible, secure and safe, and not exacerbate any risks of violence, exploitation and abuse. Journeys to schools and educational facilities should not be prohibitively long or arduous. Methods for reducing risks on the journey to and from schools and educational facilities include lit and dedicated walkways along roads, the use of reflective tape on clothing or bags, the provision of torches or other equipment, use of/avoidance of identifiable uniforms, and organized transportation, such as buses, walking as a group or use of adult escorts.

Assessing skills and level of education

Vulnerable migrants may benefit from assessments to determine their level of formal education, literacy, numeracy and language proficiency. Such assessments can be carried out by the relevant educational authority, schools and teachers, or others involved in providing assistance to vulnerable migrants. Educational assessments may include the use of the standardized testing methods applied in the current location or the vulnerable migrant's home country.

²⁶ Teachers and educators include classroom teachers, classroom assistants, head teachers and principals, vocational trainers, administrators in formal and non-formal educational settings, and volunteers in educational facilities.

The results of any assessments or tests should be combined with factors such as the vulnerable migrant's age and role within the family and community, to determine what types of education and training are most appropriate.

Participation and consultation

Vulnerable migrants, including migrant children, should be meaningfully consulted and their views obtained to inform and adapt available educational and training opportunities to their learning needs. As part of a learner-centred approach, each vulnerable migrant should be treated individually and his/her individual educational aspirations considered. Where a vulnerable migrant's aspirations do not align with available opportunities, alternatives should be sought and his/her learning objectives met in other ways.

If vulnerable migrants are themselves teachers or involved in the delivery of education in their home countries, they may have valuable insights and knowledge that can be useful for adapting available educational and training opportunities and making them more accessible to vulnerable migrants, including by changing curricula, pedagogical methodology, or scheduling of classes and training.

It is particularly important to consult vulnerable migrants when identifying and addressing barriers to education and training, as they are best placed to identify the barriers they face and may propose ways to remove them.

Identifying and addressing barriers to education

While educational opportunities should be non-discriminatory, there are often barriers to the meaningful participation of vulnerable migrants in education and training. Barriers can include:

- School and training facilities that require students and learners to have regular immigration status or documented birth registration;
- Learners not speaking the language of instruction;
- Prohibitive school fees or other associated costs;
- Vulnerable migrants not meeting admission requirements;
- Arriving in the middle of the academic year or after a training programme has commenced.

Action should be taken to remove such barriers. This may include certification or translation of vulnerable migrants' educational and training qualifications by relevant authorities. Vulnerable migrants whose certificates and diplomas have been lost or destroyed should be assessed to determine an appropriate entry level in the light of their capabilities and the psychosocial impact of enrolling with their peer group.

Additional teaching support or tutoring may be required for students and learners who arrive midway through a school year, could benefit from language learning, or need help to meet admission requirements.

Furthermore, it may be possible to adapt curricula and teaching methods to be more inclusive of different learning styles and academic levels. If tuition is prohibitively expensive, consideration should be given to deferred payment schemes, subsidized funding or waivers.

In some countries and cultures, women and girls face additional barriers to education and training, including social norms that prioritize the education of boys over girls, educational facilities that present risks of gender-based violence, inadequate facilities and equipment for managing menstruation in schools, and policies that prohibit pregnant or married women and girls from attending school.

Adults and children with disabilities also face barriers to quality education and training. These can include physically inaccessible buildings for people with mobility challenges, styles of teaching and testing that prevent persons with developmental disabilities from participating, and social norms and discrimination that prevent persons with disabilities from attending school or participating in training opportunities.

Advocacy strategies should be developed to target changes in policy, practice, attitudes and decision-making that reinforce barriers impeding vulnerable migrants from receiving education and training. Such strategies may need to target government ministries, local authorities, teachers and school administrators, or community members.

Discriminatory policies and practices that limit access to education and training for vulnerable migrants should be identified and remedied. Advocacy messaging should call for the provision of education without discrimination based on immigration status, nationality, ethnicity, age, gender, disability or any other factor.

Advocacy may also be required among families and communities of vulnerable migrants if cultural or social norms prevent some members of the family from attending formal or informal education, especially girls and persons with disabilities. Families may have legitimate concerns about the safety and well-being of their family members at schools or other training facilities and should be given the opportunity to express those concerns and help identify acceptable solutions.

Sustainable education and training

Vulnerable migrants who have obtained qualifications through education or training programmes should be provided with documents that they can carry with them if they return to their home countries or move to another location, including any assessments, grades, certificates, diplomas or degrees awarded.

In some circumstances, it may be beneficial to replicate education and training programmes from vulnerable migrants' home countries or communities. This can be done by engaging members of the migrant community who are teachers or educators, by arranging for remote support from teachers and educators in the vulnerable migrants' home country, or through online platforms or home-based learning models. In these cases, the relevant authorities should be involved to ensure the education and training is recognized in the home country, the current location, or both.

Vulnerable migrants due to return to their home countries or move on to another location should be helped to prepare for the transition and maintain and continue their education or training; to that end, they should be given the documents they will need for continued study, such as report cards, exam scores, letters from teachers and educators, and records of attendance.

Building the capacity of educators

Additional training and capacity-building may be required or desired for teachers and others involved in the administration of schools and other educational and training facilities, so that they can meet the unique educational needs of vulnerable migrants and participate in efforts to remove barriers to their education and learning.

Teachers and those involved in developing and delivering curricula can benefit from knowledge of the education system in vulnerable migrants' home countries, including the style of instruction and type of testing and assessments used, the structure of the learning environment and typical routines, and the relationship between teachers and students and their families.

Educators can benefit from training in how to teach vulnerable migrants and awareness of the challenges they may face and the techniques they can use to integrate vulnerable migrants into formal education and training programmes. They may be given professional development opportunities in the form of peer learning and sharing of best practices and case studies, or be allowed to consult vulnerable migrants and their families about curriculum design and delivery. Educators working with students from other cultures may benefit from additional training on cultural differences and suitable approaches, especially if large numbers of migrants from the same community or culture are accessing a learning environment.

Educators should seek information on the education-related beliefs and practices of the vulnerable migrants' culture and community, by asking the vulnerable migrants themselves, speaking to other service providers, and using available resources and evidence. Where there are large numbers of migrants from a particular country, community, religion or other social group, specific guidance may be useful to capture best practices in a specific educational facility.

Additional teaching assistants or subject matter specialists may be useful to help teachers and educators meet the needs of their students and learners, especially if class sizes have expanded with the inclusion of vulnerable migrants.

Teachers and educators should be given information on the services and support available for vulnerable migrants, as they are often well placed to provide referrals, especially if vulnerable migrants disclose experiences of violence, exploitation, or abuse.

Livelihoods, employment and income generation

The right to work is set down in the International Covenant on Economic, Social and Cultural Rights and includes the right to opportunities to earn a living by work that is freely chosen or accepted and the right of everyone to just and favourable conditions of work.²⁷ According to the Committee on Economic, Social and Cultural Rights, the term “work” should be understood to mean “decent work” (see text box on Decent work) that provides inter alia fair wages, a decent living for workers and their families, safe and healthy working conditions, equal opportunities within the working environment, rest and leisure, and reasonable working hours and holidays.

Decent work

In its General Comment No. 18, the Committee on Economic, Social and Cultural Rights defines decent work as “work that respects the fundamental rights of the human person as well as the rights of workers in terms of conditions of work safety and remuneration. It also provides an income allowing workers to support themselves and their families ... These fundamental rights also include respect for the physical and mental integrity of the worker in the exercise of his/her employment.”

In its Guiding principles on the access of refugees and other forcibly displaced persons to the labour market, the ILO stresses the importance of providing decent work opportunities for all, including nationals, refugees and other forcibly displaced persons, in countries of origin and in host and third countries.

For the ILO, decent work has four constituent elements:

- a. **Creating jobs** – an economy that generates opportunities for investment, entrepreneurship, skills development, job creation and sustainable livelihoods;
- b. **Guaranteeing rights at work** – to obtain recognition and respect for the rights of workers, all workers, and in particular disadvantaged or poor workers, need representation, participation and laws that work in their interests;
- c. **Extending social protection** – to promote both inclusion and productivity by ensuring that women and men enjoy working conditions that are safe, allow adequate free time and rest, take into account family and social values, provide for adequate compensation in case of lost or reduced income and permit access to adequate health care;
- d. **Promoting social dialogue** – involving strong and independent workers’ and employers’ organizations is central to increasing productivity, avoiding disputes at work and building cohesive societies.

For more information on the ILO Decent Work Agenda, see www.ilo.org/global/topics/decent-work/lang-en/index.htm

In addition, the Migrant Workers Convention states that all migrant workers are to be treated on an equal footing with nationals regarding remuneration, overtime, hours, weekly rest, holidays with pay, safety, health, termination of employment, and any other conditions of work which, according to national law and practice, are covered by the terms of the Convention.

The Committee on Economic, Social and Cultural Rights has made clear that the right to work does not imply an absolute and unconditional right to obtain employment, and the Committee on Migrant Workers similarly finds that State parties may refuse migrant workers who do not have work permits access to their labour markets.

However, this does not preclude the right all individuals have to freely choose to accept work, to not be forced into work or unfairly deprived of employment, and to have access to a system of protection guaranteeing access to employment. In addition, any migrant who enters into an employment relationship, regardless of immigration status, is entitled to equal conditions of work and terms of employment.

²⁷ The normative framework relevant to this section is adapted from OHCHR, *The economic, social and cultural rights of migrants in an irregular situation* (New York/Geneva, United Nations, 2014). Available at www.ohchr.org/Documents/Publications/HR-PUB-14-1_en.pdf.

Many migrants leave their home communities and countries in pursuit of employment opportunities, and livelihoods will likely be a self-identified need of vulnerable migrants. Vulnerable migrants may have accrued debts to family members, community members, recruitment agencies or criminal organizations, and this may increase the need to secure a suitable livelihood. Often, however, they are not afforded access to decent work through the regular job market or other livelihood opportunities that would result in an income or enable them to make a living.

Without access to jobs and means of earning wages, vulnerable migrants may have to resort to unsafe work, illegal or criminal work or work that does not offer humane conditions; they may receive comparatively low wages, work in the informal economy without employment protections, or run afoul of the law for working without a work permit. Migrants without the legal means to secure a livelihood are also at higher risk of exploitation through forced labour, debt bondage or servitude; they may be paid less than the statutory minimum wage, have excessive deductions made by unscrupulous employers, or be forced to pay extortionate fees to recruiters aware that they are less likely or unable to seek recourse. Vulnerable migrants may be prevented from changing jobs and be tied to one employer; in order to escape abusive or exploitative conditions of employment, they may be compelled to enter into an irregular migration situation.

Vulnerable migrants can also suffer from violence, abuse and exploitation in the workplace, including gender-based violence and unfair dismissal. They may experience restricted access to remedies for unfair treatment by employers and be prevented from securing redress for unfair and illegal treatment, including unfair dismissal.

Often the types of employment available to vulnerable migrants pose higher risks to health and safety and afford less protection against violence, exploitation and abuse – jobs in agriculture and fisheries, food processing, factories and manufacturing, construction, and domestic and care work come to mind.

Vulnerable migrants may not be able to demonstrate that they are employed if they do not have a contract or cannot prove how many hours they have worked; this can limit their ability to secure redress for wages withheld, unfair treatment, or compensation following workplace incidents, including accidents or injuries.

Vulnerable migrants may be prohibited from opening bank accounts, participating in available savings plans, or using services to send money to family in other locations. This can drive them to use informal money savings and loan or remittance arrangements affording less protection from theft, fraud or exploitation, make any livelihood they have been able to obtain less secure, and leave them without recourse against mistreatment.

Accessing other services, such as health, education and shelter, may have associated costs, such as fees for service provision, travel to and from service providers, or time taken away from income-generating activities. This is often the case when vulnerable migrants do not have access to State services and need to pay private service providers, or when services are not locally available and involve travel and associated costs. Vulnerable migrants may have debts, particularly associated with their journey, and may not have access to productive assets such as cash savings or credit lines.

The goal of livelihoods and employment programming is to secure a regular income in a decent work environment, which can enhance well-being, reduce vulnerability and improve food security. The absence of a livelihood can introduce or exacerbate vulnerability factors for migrants. Securing livelihoods or employment for vulnerable migrants can have multiple positive impacts beyond the financial, including psychosocial impacts such as improved emotional well-being, richer social networks, restored pride and dignity, and greater independence and self-reliance, for both the migrants and their families.

Assessing livelihoods assets

Vulnerable migrants' livelihood assets – their human, social, physical, natural and financial capital, the productive use of which results in a livelihood – should be analysed with a view to identifying any gaps that could be a barrier to securing a livelihood and to informing the development or selection of appropriate livelihood activities or programmes.

Such analyses include an assessment of the following:²⁸

- **Human capital:** Skills, knowledge, work experience, physical ability to work and education;
- **Financial capital:** Savings, credit, insurance, remittances, cash flow and stock levels;
- **Natural capital:** Environmental resources that contribute to livelihoods, such as arable land, livestock, grazing land and access to water;
- **Physical capital:** Infrastructure and the physical environment, such as shelter and accommodation, transportation, energy sources, and tools and equipment;
- **Social capital:** Social networks that increase trust and the desire to work together, either in formal or informal relationships.

Some things to consider when assessing the livelihood assets of vulnerable migrants include:

Human capital	<ul style="list-style-type: none"> • What is the vulnerable migrant's work history? • Does the vulnerable migrant have any academic, professional or technical qualifications and can they be translated/transferred or accredited in the current location? • Does the vulnerable migrant speak the local language? • Does the vulnerable migrant have the physical capacity to work? • Does the vulnerable migrant have caring responsibilities that would restrict the capacity to undertake work? • Would the vulnerable migrant benefit from training or education to improve livelihood opportunities?
Financial capital	<ul style="list-style-type: none"> • Does the vulnerable migrant have access to savings from home? • Can the vulnerable migrant access available savings, credit or insurance schemes at home or the current location? • Does the vulnerable migrant have a bank account in the current location or can s/he access a bank account in his/her home location? • Does the vulnerable migrant have debts? • Did the vulnerable migrant incur any debt in the migration journey? • Is the vulnerable migrant responsible for any remittances or in receipt of any remittances?
Natural capital	<ul style="list-style-type: none"> • Does the vulnerable migrant have livestock? • Can the vulnerable migrant's livestock be kept in the current location? • Does the vulnerable migrant have access to land in the current location? • Are there any restrictions on land access for migrants in the current location?
Physical capital	<ul style="list-style-type: none"> • Are there barriers to securing work because of the shelter and accommodation options for vulnerable migrants? • Is there safe, affordable transportation to working locations for vulnerable migrants? • Does the vulnerable migrant own tools or other productive assets? • Does the vulnerable migrant have access to communal productive assets?
Social capital	<ul style="list-style-type: none"> • Is the vulnerable migrant a member of a wider community in the current location? • Are the members of the wider community motivated to help vulnerable migrants access livelihood opportunities? • Is the vulnerable migrant still connected to members of the home community? • Is there discrimination against migrants in the labour market? • Are there laws that restrict the right to work for migrants?

²⁸ Adapted from *Livelihood Programming in UNHCR: Operational Guidelines* (Geneva, UNHCR, 2012) (Available at www.unhcr.org/4fbdf17c9.pdf) and *Sustainable Livelihood Guidance Sheets* (United Kingdom, Department for International Development, 1999) (Available at www.enonline.net/dfidsustainableliving).

Another important consideration when developing livelihood strategies with vulnerable migrants is the political, social and legal context. In many countries, irregular migrants will not be able to work under local laws or customs or because of discrimination against migrant workers. High levels of poverty or unemployment in the host country may affect livelihood options for vulnerable migrants and heighten feelings of distrust or acts of discrimination against migrants, amid perceived or actual scarcity of resources and livelihood opportunities paired with competition for resources.

It is important to understand the contextual barriers to livelihoods, as they may limit options and require advocacy and technical support to enable inclusion of vulnerable migrants.

The unique circumstances of vulnerable migrants should be taken into account as well. For instance, the type of livelihood should be in line with the amount of time the vulnerable migrants expect to remain in the location and with any future plans, including for onward migration. If the migrants are intending or will be forced to leave, a short-term cash-based or relevant skill-building intervention may be a better option than investing in starting a small business.

Vulnerable migrants returning to their homes or migrating to another location should be helped to maintain their livelihoods or prepared for the lack of a livelihood during the transition period. This can be done by developing a savings plan or budget and preparing documents such as letters of reference, qualifications and accreditation, and records of employment.

Mapping available livelihoods supports

Once the vulnerable migrants' livelihood assets have been assessed, livelihood options should be identified and mapped against their capacities and interests. The options include looking for a job, starting a small business or income-generating activity, or participating in a cash-based intervention in support of livelihoods.

Available livelihood supports should be mapped and assessed for accessibility and suitability for migrants. They may include:

- Government-sponsored programmes, such as training and education grants or employment support initiatives, that support the employment of those who are un- or underemployed;
- Livelihood programmes implemented by United Nations agencies, international organizations, NGOs, civil society organizations such as labour unions, or academic/educational institutions;
- Private sector entities that have employment schemes, are known to have inclusive human resource policies, or recruitment and employment services;
- Career counselling programmes that offer assistance with job placements, résumé drafting and employment counselling

If large numbers of vulnerable migrants require livelihood support, it may be useful to map available livelihood supports on a larger scale.

Securing employment

Job market surveys can identify opportunities for paid employment. They may be conducted by governments or local authorities, or less formally at community level by mapping major industries and employers, labour market gaps and demands, existing employment supports, and any existing livelihood programmes.

Vulnerable migrants may only have access to casual labour in informal arrangements where workers are not contractually employed and therefore not afforded protection under relevant labour laws. Casual labour is often employed in industries with a relatively higher risk to health and safety, such as agriculture and fisheries, food processing, factories and manufacturing, construction, and domestic and care work. In casual labour situations, workers may be employed in poor conditions without access to recourse. Wherever possible, vulnerable migrants should have access to the regular labour market, although this may require advocacy.

Vulnerable migrants who have secured employment should be offered support to ensure that any contracts they are asked to sign are fair and not exploitative, and their employment conditions, including wages and hours and conditions of work, should be reviewed to ensure that they comply with relevant labour laws. Any equipment, especially safety and personal protective equipment, should be provided by the employer, or the vulnerable migrant should be given a grant or loan to purchase it.

Vulnerable migrants should have access to labour-related grievance mechanisms and should be supported if they wish to join or form workers' organizations, including labour or trade unions.

The routes and transportation methods used to get to work should be secure and safe; they should not exacerbate any risks of violence, exploitation and abuse. Commutes should not be prohibitively long or arduous; they can be made safer and more secure by various methods, including lit and dedicated walkways along roads, the use of reflective tape on clothing or bags, the provision of torches or other equipment, use/avoidance of identifiable uniforms, or organized transportation such as buses provided by the employer or organized by the community.

Vulnerable migrants not previously registered with the local authorities, including tax authorities, should be helped to register and may benefit from support to navigate tax systems and processes, ensure that they make the appropriate contributions and access any social security programmes.

Income-generating activities

Where a formal job market does not exist or is not accessible or the best option for vulnerable migrants, other income-generating activities can be pursued. In some instances, small-scale income-generating activities are the only allowable livelihoods for migrants under local laws. Examples include cleaning, cooking, arts and crafts, and agricultural work, which can generate revenues if there is a sufficient market. Vulnerable migrants wishing to pursue self-employed income-generating activities should do so on the basis of market assessments that outline the potential for earnings or profit and map the value chain to identify growth potential, required inputs and expected outputs.

Self-employment offers flexibility and autonomy, but can also be a less reliable source of income.

Market assessments should analyse the market price of the goods or services concerned, current supply and demand, operating costs, including procurement of goods and supplies, and any market distortions, including those caused by the presence of significant migrant populations or influxes.

Where possible, vulnerable migrants should be encouraged to think beyond traditional or stereotypical roles and find a niche area in which they may have a competitive advantage.

Seasonal fluctuations in profitability should be considered and planned for, especially in agriculture and other cyclical industries such as tourism. The impact of inflation on the selected livelihood activity should also be assessed, and contingency plans put in place if the activity is no longer sustainable.

Vulnerable migrants should be provided with the necessary equipment and supplies or a grant or loan to cover the initial start-up costs for income-generating activities, the expansion of existing livelihoods, or additional training relevant to their livelihoods.

Cash-based interventions to support livelihoods

In some situations, cash-based livelihoods are the best or only option for supporting the livelihood needs of vulnerable migrants. These include situations where the local job market is inaccessible to migrants or does not offer them appropriate or suitable employment options, or where vulnerable migrants are not able to carry out regular work or are not expecting to be in the location long enough to establish a livelihood.

Vulnerable migrants may not be able to work or only be able to work part-time if they have caring responsibilities within their families or communities, are physically or mentally unwell, are living with a disability that prevents them from working, are pregnant women or breastfeeding mothers, or are older. In these cases, cash-based livelihoods can be used to supplement the livelihood needs of vulnerable migrants and their families. They can be provided by State institutions, United Nations agencies, international organizations, NGOs, civil society organizations or community support mechanisms.

The mechanisms that can be used to deliver cash-based interventions include existing infrastructure such as banks or post offices, preloaded bank or smart cards, mobile money platforms and/or direct cash transfers or distributions. Cash transfers can be made conditional on certain obligations, such as children attending school or visiting a social service. Voucher systems, whereby a voucher is exchanged for a specific household good or food, are another option.

Cash-based livelihood programmes should be designed taking into account the impact on vulnerability factors. Cash should not be distributed to vulnerable migrants if doing so exacerbates the factors making them vulnerable. Cases where cash distribution could worsen migrant vulnerability should be identified through regular monitoring and consultation with the vulnerable migrant. These could include instances where vulnerable migrants are staying in insecure shelters or accommodation, where carrying cash or preloaded bank or smart cards would put them at risk of theft, violence, exploitation or abuse, or where they risk seizure of their assets because of their irregular immigration status or discrimination.

One way to mitigate the risks of cash-based livelihood programmes is to ensure that vulnerable migrants participate in decision-making and are consulted on the risks and benefits.

Vulnerable migrants may need support to access the cash distribution system, especially if they have not previously participated in such a programme, are unfamiliar with or do not possess the technology needed, or do not know how to access local markets for goods and services.

Support to manage income

Vulnerable migrants may benefit from training and support to increase their financial literacy, develop and manage a household budget, open bank accounts or participate in available savings plans. This is particularly important for vulnerable migrants who have not previously been responsible for generating an income or managing the household or family income, for example when the household structure has changed or in female- or child-headed households. Vulnerable migrants wishing to send money to family or community members at home or at another location may need help to do so in the most cost-effective and safe way.

Advocacy for access to livelihoods

In many countries, irregular migrants are not able to work under local laws or customs or because of discrimination. There may be opportunities for collective advocacy for changes to the law, policy or practices that prevent vulnerable migrants from securing decent work and livelihoods through the labour market. There may also be opportunities for advocacy on specific cases for temporary or permanent changes to an individual's immigration status to include access to the labour market. This is particularly important for vulnerable migrants who have no immediate options for returning to their homes or relocating to a third country.

Specific groups of vulnerable migrants may require additional employment protection, for instance pregnant women or migrants with disabilities; in their case, advocacy vis-à-vis policymakers and employers should promote the participation of all in the labour market and the protection of all workers according to international and local labour laws and standards.

The ILO's Guiding principles on the access of refugees and other forcibly displaced persons to the labour market outline voluntary principles to help Member States ensure that refugees and other forcibly displaced persons have access to the labour market and to assist Member States affected by such situations.

The Guiding principles can be used as a tool for advocacy and are framed around the following areas:

- Governance frameworks on access to labour markets;
- Economic and employment policies for inclusive labour markets;
- Labour rights and equality of opportunity and treatment;
- Partnership, coordination and coherence;
- Voluntary repatriation and reintegration of returnees;
- Additional pathways for labour mobility.

Where there are existing social protection systems, there may be an opportunity to advocate for the inclusion of vulnerable migrants through changes to intake criteria and support for vulnerable migrants who wish to submit applications to existing social protection systems.

Those supporting vulnerable migrants may face resistance from vulnerable migrants and their families in terms of what types of work are considered suitable, especially for women. There may be opportunities to challenge stereotypes and social norms and encourage more choice in livelihoods and the economic empowerment of those typically denied access to the labour market, paid work or income generation. Similarly, there may be resistance to children attending school in favour of earning an income through a job or livelihood activity.

Family tracing, assessments and reunification

Migration has the potential to separate family members, particularly if it is forced, sudden, includes multiple, unsafe or irregular methods of transportation, border crossings or routes, or is due to a natural disaster and/or armed conflict. Children, the elderly, those who are physically or mentally unwell, persons living with disabilities and detained migrants are particularly vulnerable to being separated from their families. The definition of family differs between cultures and societies and may change in the circumstances, including the experience of migration.

Separation is a distressing experience that contributes to poor health and form, including feelings of anxiety, depression and loneliness; it can also have a negative impact on child development. Migrants, especially children, might be more vulnerable because they have been separated from their families.

Under international law, including the Universal Declaration of Human Rights, the 1949 Geneva Conventions for the protection of war victims and their Additional Protocols, and the Convention on the Rights of the Child, everyone has the right to know what happened to missing relatives, to communicate with members of their family, to stay united with their family members, and to be reunited if they are separated. Primary responsibility for ensuring respect for these rights lies with the State and, in situations of conflict, the organized armed group exercising control.

Family separation in migration can be unintentional or deliberate. Unintentional separation is not planned or anticipated. Deliberate separation occurs when families make a conscious decision to separate; it may start out being intentional, with the expectation that the family will be reunited in the future, but it can become longer than planned.²⁹

Families may be unintentionally separated when:

- Family members are accidentally split up during an unplanned or poorly planned migration;
- Family members are split up owing to confusion associated with spontaneous or irregular migration;
- Younger, older or less mobile family members are unable to keep up;
- Unsafe or unreliable transportation routes or methods are used (for instance, boats that capsize);
- Family members are in different locations (for instance, school and work) when an event causing spontaneous migration occurs, such as a natural disaster, and are unable to find one another;
- Family members are injured, killed, captured, kidnapped, trafficked, arrested or detained;
- Family members are abducted for ransom, recruitment into armed forces or groups, or forced labour;
- Family members are separated in transit sites, camps or settlements;
- Families that separated with every intention of reuniting face challenges or barriers to doing so;
- Service providers' policies or practices do not ensure families remain united (for instance, shelters that admit only women and their children or residents of a certain age or sex).

Deliberate separations may occur when:

- Families under stress, including as a result of poverty or the death, illness or disability of a parent, send their children away or entrust them to the care of others in an effort to increase the children's chances of survival, improve their well-being or alleviate stresses, including financial stress on the household;
- One or more family members migrate to areas where education, employment or services are available or presumed to be available;
- Families leave their children, older family members or those living with disabilities with relatives, community members or institutions when they migrate;

²⁹ The definitions and causes of accidental and deliberate family separations are adapted from *Field Handbook on Unaccompanied and Separated Children*, Inter-agency Working Group on Unaccompanied and Separated Children/Alliance for Child Protection in Humanitarian Action (2017). Available at www.iom.int/sites/default/files/HANDBOOK-WEB-2017-0322.pdf.

- Some family members are encouraged to migrate because the legal and policy framework is favourable for them but not all family members (for instance, if unaccompanied children are allowed through border crossings or there are migration pathways for men who receive temporary permits for employment in male-dominated industries);
- One or several family members travel the migratory route first to assess its safety and security;
- Families choose to migrate in smaller groups to heighten the chances of successful entry into a territory through irregular means;
- One or several family members migrate to another location to establish themselves by securing a livelihood, finding suitable shelter or accommodation, or regularizing their immigration status before being joined by the rest of the family.

Reuniting families can have positive psychosocial impact on all family members, improve overall health and well-being, enhance feelings of safety and security, and reduce vulnerability factors for separated family members.

Tracing family members

Individuals have the right to a family life, and family tracing programmes help uphold that right. They exist in many contexts and may be operated by States, including through embassies and consulates, IOM, the ICRC, a National Red Cross or Red Crescent Society, UNHCR, UNICEF, the ISS, the International Commission on Missing Persons or NGOs. Vulnerable migrants searching for family members should be referred to family tracing programmes, where they exist. Any family tracing efforts should be coordinated with the relevant local authorities and organizations in countries where separated family members are known or thought to be, as appropriate.

Methods of tracing family members include:

- Filing missing person reports with law enforcement agencies;
- Registering on family tracing websites;
- Notifying embassies or consulates about missing family members;
- Posting photos/names of family members on dedicated notice boards in public places;
- Broadcasting names of family members on radio or television;
- Distributing leaflets with photos/names of family members;
- Sending messages or messengers to the last known address of family members;
- Searching the records of hospitals, border crossings, police stations, detention facilities, schools and other institutions and service providers for the names or identifying information of family members;
- Using social media platforms to search for, or post messages soliciting information on, family members.

All these methods can be used in vulnerable migrants' places of origin, along the migratory path and at their current destination. It might also be necessary to trace family members in other locations, including their intended destination.

The risks of using any of the available methods must be assessed. For instance, if sharing information publically would identify family members to authorities or criminal elements that would do harm to any of them, including those who have been separated, other tracing methods should be sought. Vulnerable migrants should help determine the most appropriate and effective method of family tracing and should be asked for their views on the methods of contacting family members most likely to succeed.

The risks associated with tracing methods should be mitigated. For example, if photos are used, it might be safer not to include names, contact details or information on current location on notice boards, community messages or leaflets. Vulnerable migrants searching for family members must consent to the use of their personal information, including photos, and location.

Vulnerable migrants who do not wish to be registered with the local authorities, for fear of deportation or detention, should not be denied support to trace family members.

Migrant families will often undertake their own tracing efforts, including by the methods listed above or by accessing their community and social networks. Their efforts should be supported insofar as they do not pose a risk to the migrant, including by providing phones, phone credit or access to the Internet.

When the tracing process leads to the discovery that a family member has been detained, family members should be reconnected and the most effective communication channels identified and established. Support should be provided for family members wishing to visit detained relatives; this may require advocacy vis-à-vis the detaining authorities for visits and financial support to cover transportation costs.

Family tracing may uncover news of a family member's death. The vulnerable migrants concerned should be afforded the ability to mourn their loss in the way they feel most comfortable with. They should be given information on the whereabouts of the deceased's remains and any known information about the death. They may wish to travel to the place where the death occurred or share this information with their community, and should be helped to do so.

A family member's death may have financial implications, including costs of burial or cremation, funeral rights and/or repatriation of remains, and different cultural, religious and social approaches to mourning and handling of remains should be considered and respected. Any expenses should be monitored; if they become unaffordable, vulnerable migrants may require additional livelihood support or support to manage their household finances. Where available, consular assistance should be provided to surviving family members, including for repatriation of remains.

Vulnerable migrants should be provided with psychosocial support throughout the tracing process, which involves uncertainty and can therefore be distressing, igniting feelings of anxiety, hopelessness, helplessness and depression. This is particularly the case when a family cannot trace a missing member or discovers that a family member has been detained or died.

Where family members cannot be located, there should be collective advocacy in support of the establishment of mechanisms and processes to provide information on the fate of those who are unaccounted for or missing, or who cannot be located. If the vulnerable migrant is a child and no family members can be located, appropriate and sustainable alternative care arrangements must be found.

Reconnecting family members

When family members have been located, appropriate methods of communication should be identified and used to re-establish a connection between them. These may include phone calls, text messages, letters, emails, online audio/video platforms and/or social media. The principles of confidentiality, privacy and data protection apply to all steps in the family tracing and reunification process, including information shared between family members.

Where communication with family members involves risks – the communication platform is insecure or correspondence could be intercepted – vulnerable migrants should be informed and choose whether or not to communicate.

When separated family members include children, the principle of the best interests of the child should guide all actions, including those aimed at reconnecting and reuniting family members. This should include an assessment of the best interests of the child and may require an assessment of family relationships, especially for younger children. For more information on best interests assessments and determination for migrant children, see [Part 6](#).

The Interagency Guiding Principles on Unaccompanied and Separated Children* contain the following definitions:

Unaccompanied children: Children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

Separated children: Children separated from both parents or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may therefore include children accompanied by other adult family members.

Orphans: Children whose parents are known to be deceased. In some countries, a child that has lost one parent is also referred to as an orphan.

* Interagency Guiding Principles on Unaccompanied and Separated Children, (Geneva, ICRC, 2004).

Separated and unaccompanied children³⁰

Separated and unaccompanied migrant children are at increased risk of violence, exploitation, and abuse. The Convention on the Rights of the Child is the cornerstone of the international legal framework that guides policies, programmes and decisions regarding separated and unaccompanied children.

When separated and unaccompanied children are identified, every effort should be made to reunite them with family members, but only when this is in the best interests of the child.

The best interests of the child is determined in a best interests assessment (BIA) undertaken by child protection agencies and individuals with appropriate training, with the participation of the migrant child. BIAs are an essential component of any child protection system or programme, but are particularly important for separated and unaccompanied children.

BIAs should be conducted:

- Before efforts are made to trace the family;
- Before the child is placed in alternative care settings in the absence of family members;
- Before family reunification.

Best interests determination (BID) may also be required and must be conducted by a State agency or delegated authority. Those involved in the protection and assistance of migrant children may be requested or required to support a BID process.

More detailed information on separated and unaccompanied migrant children, including on family reunification, BIAs and BIDs, can be found in Part 6.

Reuniting family members

Family reunification between countries requires considerable coordination and communication between the relevant authorities and the vulnerable migrant, including authorities from all relevant countries. In some cases, international organizations may help States reunite families, typically IOM, the ICRC, National Red Cross and Red Crescent Societies, UNHCR and UNICEF.

When the person to be reunited is a separated or unaccompanied migrant child, the family relationship must be verified to protect the child and ensure there have been no errors in the tracing process. (For more information on reuniting separated or unaccompanied migrant children, see [Part 6](#).)

All family members should be prepared for reunification, and support, including psychosocial support, should be provided to individual members of the family and the family as a whole. A significant amount of time may have passed since the family members last lived together or saw one another, and they may not be aware of everything that has happened in each other's lives since their separation.

In preparation for family reunification, vulnerable migrants and their family members may require support to obtain travel documents, including passports and visas. Vulnerable migrants should be offered support to make travel arrangements and, especially in the case of children, provided with a suitable escort for their journey. Travel escorts should have specialized training and expertise in supporting vulnerable migrants and must abide by all the principles of assistance (see [page 29](#)). Vulnerable migrants and their family members should be consulted about and agree to the choice of the escort.

Any costs associated with family reunification, including to obtain appropriate documentation, transportation and accommodation, should not be prohibitive or prevent the reunification. Where possible, grants or loans should be provided to vulnerable migrants to cover such costs.

³⁰ This section refers only to family tracing and reunification of separated and unaccompanied children. For more information on separated and unaccompanied children, see [Part 6](#).

Post-reunification support

After vulnerable migrants and their families have been reunited, they may require additional support, including to register recently reunited family members with relevant authorities and service providers. The services available for reunited family members should be mapped, including health care, training and education, and livelihoods, employment and income-generating services. All reunited children should be enrolled in school. Ideally, State social services or other service providers in the country of reunification should be able to conduct follow-up assessments to verify that reunification continues to be in the child's best interests.

The addition to the household may be a source of financial stress. This should be monitored and, where possible, additional financial support provided to the family to cover additional costs.

Some or all members of the family may benefit from psychosocial support to adjust to the reunited family and deal with the circumstances of the family separation. Appropriate support should be made available to all family members for a sufficiently long time.

Maintaining family unity

Efforts should be made to maintain the unity of families of vulnerable migrants, to prevent separation and to ensure that families that have been reunified stay together. This can be done by registering all family members with the relevant authorities, registering all births, adoptions and deaths in the family, providing shelter and accommodation for entire families, ensuring livelihoods are sufficient for the family size, ensuring children have the opportunity to attend school, and ensuring all family members have access to health care in their communities.

A family of migrants wishing to continue its journey should be helped to do so as a unit. If it chooses to separate, for instance if one family member will travel to a new location before the others join him/her, it should find ways to stay in touch. This may require support for the purchase of mobile phones, SIM cards and airtime vouchers, or training in the use of available means of communication, including social media. Any available information about the migratory pathway, including risks, should be shared with family members so that they can make informed choices about who migrates and how. Information on what to do if a family member is unintentionally separated should be shared with and understood by all family members in the event that communication is interrupted or the separation continues longer than planned.

Access to justice

The Universal Declaration of Human Rights enshrines the principle of equality before the law and the presumption of innocence, the right to a fair and public hearing by an independent and impartial tribunal established by law, the right to all guarantees necessary for the defence of anyone charged with a penal offence and other minimum guarantees, and the right to be tried without undue delay.

The International Covenant on Civil and Political Rights states that all those charged with a criminal offence shall be entitled to be tried in their presence and to defend themselves in person or through legal assistance of their own choosing or assigned to them where the interests of justice so require, in a fair and public hearing by a competent, independent and impartial tribunal established by law.

The Convention on the Rights of the Child enshrines the principle of the best interests of the child, meaning that any action taken by either a public or private entity and affecting a child should be based on the appreciation of the child's best interests as a primary consideration. This applies to the justice system as well. The Convention establishes the additional and specific rights of children involved with the justice system, whether as victims, witnesses or alleged offenders, with a view to guaranteeing their fair access to justice.

The Third Optional Protocol to the Convention on the Rights of the Child establishes a complaints procedure whereby the Committee on the Rights of the Child may hear complaints from children, groups of children or their representatives about violations of children's rights. Children from States that have ratified the Protocol can use this mechanism to seek justice if the national legal system has not been able to provide a remedy. The Committee

is also empowered to launch investigations into grave or systematic violations of children's rights, and States are empowered to bring complaints against each other if they accept this procedure.

The United Nations Convention against Transnational Organized Crime and its Trafficking in Persons and Smuggling of Migrants Protocols outline the protections to be afforded to trafficked persons and smuggled migrants participating in the criminal justice system. They stipulate that States are not to criminalize migrants for having been trafficked or smuggled and should take appropriate measures to provide effective protection to victims and witnesses participating in criminal proceedings against traffickers or smugglers.

Effective remedy

Effective remedies include both procedural and substantive elements.

Procedural elements refer to the process ensuring that victims of rights violations or crimes are heard and their claims decided by the judicial system. They include the legal and other assistance needed to claim remedies.

Substantive elements refer to the outcome of the proceedings and the relief afforded to successful claimants. Possible reparations include restitution, rehabilitation, compensation and guarantees of non-repetition.

The right to a remedy, which is an attempt to correct an injustice, for the victims of human rights violations or crimes is codified in Articles 8 and 10 of the Universal Declaration of Human Rights, Article 2(3) of the International Covenant on Civil and Political Rights, Article 83 of the Migrant Workers Convention, Article 6 of the International Convention on the Elimination of all Forms of Racial Discrimination, and Article 13 of the Convention on the Rights of Persons with Disabilities.

The 2005 United Nations General Assembly resolution, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, outlines victims' rights to remedies, including restitution and compensation.

Assessing legal needs

Vulnerable migrants may be involved with the justice system for a variety of reasons, including their irregular immigration status, as the victims of crime, or because they have been accused or found guilty of committing a criminal act themselves.

Case managers involved in the provision of protection and assistance to vulnerable migrants should conduct an initial assessment of the migrants' legal needs, which may include support to determine and/or regularize their immigration status, to report a crime committed against them, legal aid and advice to engage with the justice system as a victim or witness, or legal representation if they have been accused, charged or convicted of a crime.

Legal aid and legal representation

Legal aid is the provision of assistance to people otherwise unable to afford or overcome barriers to legal advice and representation and therefore having limited access to the justice system. The provision of legal aid contributes to the right of equality before the law. Legal aid encompasses legal advice and assistance, legal education and information, and legal representation.

Legal aid can be provided to those in contact with the law, for instance those arrested, questioned or charged by law enforcement, to the victims of a crime, or to those involved in other ways, such as asylum seekers, detainees, witnesses to a crime or parties to civil proceedings.

Every country's legal system determines for which proceedings an individual is entitled to legal aid, and many systems limit mandatory legal aid to criminal justice proceedings.

Legal representation is a type of legal aid. Legal representation is the function typically, but not always, undertaken by trained and registered attorneys within the justice system. Legal representatives represent another party's interests within the justice system or in certain administrative procedures and can be attorneys, executors or court-appointed guardians for children or persons deemed incompetent under relevant laws.

Where initial assessments identify legal needs, referrals should be made to specialist organizations focused on the provision of legal aid or to law firms or lawyers offering services to migrants and able to provide more in-depth analyses of their legal needs and appropriate responses. Depending on the context and type of legal aid required, legal aid services can be provided by State institutions, United Nations agencies, international organizations, NGOs or civil society organizations. Vulnerable migrants charged with or convicted of a crime should be referred to an organization, law firm or lawyer able to offer legal representation and confidential advice.

Support to address immigration status

One of the most common legal needs of vulnerable migrants is support to determine and/or regularize their immigration status. Vulnerable migrants wishing to pursue channels to regularize their immigration status may benefit from specialist support for the relevant processes of application and decision.

Vulnerable migrants should be counselled on the procedures involved in applications for asylum, work permits, visas and so on, including required documentation and evidence, and on the timeline of the application and decision-making process. They should be given any known information about the likelihood that their application will be accepted and the means of recourse available to them if it is rejected. This may need to be done urgently if a vulnerable migrant is facing detention, deportation or immediate return because of his/her immigration status.

In some countries, victims of trafficking or other crimes may have access to temporary or permanent immigration pathways; if these apply and are a suitable option, vulnerable migrants should be helped to pursue them.

Vulnerable migrants may require support to access consular assistance from their country of origin for the replacement of passports or travel documents or the issuance of birth, adoption, death, marriage or other records to support an application related to their immigration status. Consular assistance should be provided for vulnerable migrants who have been victims of or witnessed a crime, have been accused, charged or convicted of a crime, or have been detained.

Consular assistance should also be provided to vulnerable migrants wishing to return to their place of origin and may include the provision of relevant travel documentation, grants or loans to pay for travel, assistance during the return process, and reintegration support upon return. For more information on returning to places of origin, see page 86.

Accessing justice

Access to justice is a basic principle of the rule of law. Without access to justice, people cannot exercise their rights and accountability is not possible. The Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels emphasizes the right of equal access to justice for all, including members of vulnerable groups, and reaffirms the commitment of States to take all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all.

Mediation

Mediation is a way of resolving legal disputes outside the courts of a criminal justice system. It involves an independent and neutral third party – the mediator – who guides the process with a view to having both parties reach agreement on a course of action.

Mediation is effective when the parties are willing to participate and the process remains confidential. It is often used to resolve disputes in communities and families, and between employers and employees.

Justice can be accessed via formal and informal systems. Formal justice systems extend to criminal and civil justice and often comprise law enforcement agencies (e.g. police forces and immigration agencies), the judiciary (e.g. courts and legal representation), correction systems (e.g. prisons and probation systems), human rights institutions (e.g. national human rights commissions, ombudspersons) and grievance mechanisms (e.g. labour grievance processes). Informal justice systems are those that are established and maintained by communities, including social norms and traditions derived from religious institutions and practices or indigenous governance systems.

If a vulnerable migrant wishes to report a crime, including a labour law violation, both the formal and informal justice systems available for doing so should be explored. Vulnerable migrants should be informed of the process for reporting a crime and any known benefits, such as the potential to obtain compensation or special protection, and risks, such as repercussions for disclosing irregular immigration status or having to be named publicly.

Vulnerable child migrants who are victims of or witnesses to a crime and who wish to access formal or informal justice mechanisms should be entitled to effective assistance, tailored to the personal circumstances of the child. Given that children are especially at risk of hardship when involved in the justice process, appropriate measures should be put in place to safeguard their right to participation and protection.

Vulnerable migrants should be informed of any judicial processes that are specifically relevant for them, such as procedures for seeking compensation from traffickers, or for the reporting of specific crimes, for instance specialized hotlines or reporting processes for gender-based violence or human trafficking that may be run by law enforcement agencies.

Vulnerable migrants should be helped when they wish to participate in mediation (see text box on page 82) or other non-criminal responses to disputes and conflicts, such as restorative justice (see text box above).

Civil remedies, which are designed to provide monetary compensation to a claimant for the harm suffered, may be accessible to vulnerable migrants. Vulnerable migrants wishing to pursue civil legal remedies through civil courts, tribunals or dispute resolution boards should be referred to appropriate legal representation for legal advice informed by the unique challenges that they face within the civil legal system. They should be helped to file appropriate summons or complaints individually or as part of a collective action, such as class action lawsuits, and to access available specialist services for support during the civil proceedings.

Legal frameworks for pursuing civil remedies may include laws against violence (including physical, sexual and emotional violence), abuse, exploitation and harassment, false imprisonment and unlawful detention, breach of contract, unfair recruitment and unlawful employment conditions. They may also include tenancy or residential laws.

Cooperation with the criminal justice system

Given that vulnerable migrants may be victims of crime, including of trafficking in persons, they and the agencies providing protection and assistance may be involved with law enforcement agencies. Where possible, such involvement should be guided by signed memoranda of understanding or formalized referral systems or protocols that set out the processes of cooperation, outline what cooperation entails, and ensure that protection of the vulnerable migrant and any others involved who could be at risk, including support workers and family members, is central to the cooperative relationship.

Victims of crime and the service providers supporting them may be required by national mandatory reporting laws to cooperate with the criminal justice system. If so, this should be done in a manner that considers the best interests of the vulnerable migrant. The mandatory reporting process and requirements should be fully explained to the vulnerable migrant, who should be informed before a mandatory report is filed. For more information on the dilemma that this may pose, see the text box on dual loyalty on page 57.

Involvement with law enforcement agencies may include pressing charges or filing a police report, providing information and intelligence to bolster cases against smugglers, traffickers or unlawful employers, providing information and intelligence that can be used to provide protection and assistance to other vulnerable migrants, participation as a witness in a criminal case, or compensation proceedings.

Restorative justice

Restorative justice is a model of justice that brings together those harmed by crime and those responsible for the crime to promote empowerment of the former and accountability of the latter.

The aim of restorative justice is to promote reconciliation by enabling everyone affected by a particular incident to work together to find a mutually agreed way forward in a controlled environment.

Vulnerable migrants choosing or required to participate in criminal cases as witnesses should be afforded all protection necessary to ensure their safety and security and to prevent any retribution. The protection should extend to their families and community members, including those in their home or other locations, as they may also be at risk of retribution. Risk assessments should be carried out and inform the support provided to vulnerable migrants as they decide whether and how to participate in investigations and court proceedings. Vulnerable migrants should be informed of the outcome of investigations and trials, in particular any convictions, for which they have provided information; they should also be told if or when the perpetrator is released following questioning or incarceration.

The identity and identifying information of vulnerable migrants choosing to participate in investigations or criminal proceedings against an individual or group should be kept confidential and not disclosed to those outside the criminal justice system, including the media or members of the public. Where permissible under law, efforts should be made to protect their identities in criminal proceedings, for example by enabling them to testify via video or with their faces obscured.

Vulnerable migrants should be able to obtain legal remedies, such as reparation payments, or other compensation, such as repayment of legal fees or unpaid wages. The compensation or special protection owed vulnerable migrants who are victims of a crime should not be contingent on the migrants' participation in criminal justice proceedings as witnesses or in any other role.

Vulnerable migrants wishing to rescind their consent and discontinue their participation in investigations or criminal proceedings against an individual or group should be permitted to do so without any negative effects, including changes to their immigration status, deductions or withdrawal of any compensation they are owed, or removal of special protection provided for their previous participation.

Involvement with the justice system

In some instances, vulnerable migrants will be implicated in, charged with or convicted of crimes. This could be linked to irregular entry into a country (including the use of smugglers to cross international borders), working without the appropriate permissions or permits, working in illegal industries, not having appropriate documentation, or other criminal behaviours.³¹ In the case of trafficking, this may include forced involvement in criminal activities, such as working without the appropriate permits or visas, or involvement in illegal trades, such as sex work or street begging.

In all instances, vulnerable migrants should be provided with legal aid without discrimination. Legal aid may consist of information and education on vulnerable migrants' rights and the relevant laws and institutions in their current location, and of legal representation in the judicial system, if required.

Practical arrangements should be made to ensure that vulnerable migrants are treated fairly and without discrimination and are able to exercise their rights to the presumption of innocence and to a fair trial. These may include the use of interpreters, provision of information in a form commensurate with their education and literacy level and in a format that is understandable, and advocacy with the justice system, including any legal representation, for consideration of the unique needs and circumstances of vulnerable migrants.

In the case of vulnerable migrants who have been charged with or convicted of a relatively minor crime or in connection with their irregular immigration status, it might be appropriate to advocate for alternatives to custodial sentencing, such as court diversion programmes, mediation, or the use of restorative justice models, but only if this is in their best interests and the best interests of their family members and community.

The Convention on the Rights of the Child states that children in conflict with the law have the right to treatment that promotes their sense of dignity and worth, takes into account their age, and aims at their reintegration into society.

31 For more on non-criminalization of migrants based on their irregular entry into a State, see Human Rights Council, *Report of the Working Group on Arbitrary Detention*, January 2008 (A/HRC/7/4), February 2009 (A/HRC/10/21) and June 2010 (A/HRC/13/30).

Case closure

An important part of providing protection and assistance to vulnerable migrants is planning and preparing for the time when that support will come to an end. Cases can be considered closed when a vulnerable migrant completes the available assistance programmes, transitions out of them to another form of support, or exits voluntarily or involuntarily.

Ideally, programme completion, transition or exit will be planned, desired and in the best interests of vulnerable migrants and their families. However, there may be instances where programmes are ended against the will of the vulnerable migrant and/or the service provider.

There are various reasons support will end. Some programmes may be time-bound (for example, education or training programmes that have a set curriculum and duration). Others may have age limits (for instance, programmes specifically targeting children or adolescents, or designed for temporary conditions, such as pregnancy).

Vulnerable migrants may transition to longer-term, sustainable support options. This could include moving from an institutional shelter or transit centre to independent living in the community. It might be suitable for transitions between or out of programming to be gradual or staggered, for instance, cash distributions can be reduced as other livelihood options become available.

Vulnerable migrants may voluntarily exit services for various reasons, including that they no longer wish to receive protection and assistance, the protection and assistance provided are no longer desirable or suitable, or receiving support leads to real or perceived negative repercussions from State authorities, the community or family members, such as stigma for accessing services or the desire to conceal their irregular immigration status.

Where vulnerable migrants have said that they wish to discontinue their involvement in protection and assistance services, it can be useful to explore the reasons why and determine if any changes can be made to make those services more accessible and appropriate.

What if a vulnerable migrant dies while accessing case management services

In the event that a vulnerable migrant dies while accessing case management support, either through illness, accident or injury, or through a violent or deliberate act, the case manager has an important role to play.

The case manager should notify the relevant authorities, including the embassies and consulates of the migrant's country of origin, where safe and appropriate. Surviving family members, including those in the migrant's country of origin, will have to be notified, and the case manager, if involved in the notification, may be called on to share relevant information, where doing so is safe and respects the dignity of the deceased migrant. Other service providers should also be notified.

If the death prompts an investigation, including a criminal investigation by law enforcement agencies, the case manager may be required to share known information on the deceased migrant and the support provided. This should be done pursuant to agreed memoranda of understanding and data- and information-sharing protocols between law enforcement and case management agencies.

All files and information on the provision of case management and related assistance to the deceased migrant should be archived appropriately. For more information on data protection and information-sharing, see the section on principles of assistance on [page 29](#).

The death of a vulnerable migrant is sure to distress those involved in his/her protection and assistance. Case managers and other service providers should be provided with support, including from supervisors and their employers, and encouraged to consider their own self-care.

If the reasons for exiting services are related to planned or sudden migration elsewhere, or returning to the home country, every effort should be made to support continued protection and assistance, which could include providing information on availability and accessibility of support and referrals to similar service providers at the intended destination, or offering remote support, if appropriate and possible.

In some instances, the termination of services will be involuntary or forced. This can happen if a vulnerable migrant is no longer eligible for services, a programme's intake criteria are changed, or the vulnerable migrant is detained or deported. Where service providers are dependent on external sources of funding, services may be terminated for want of budgetary support. Security or other contextual factors may also force services to close if the risks of providing protection and assistance to vulnerable migrants are deemed too high for the migrants, the wider community, or the staff or volunteers of service providers.

Other forms of involuntary or forced termination of programming occur when vulnerable migrants do not meet the requirements of protection and assistance programmes, which can include minimum levels of participation or standards of behaviour.

Vulnerable migrants may exit services because the factors that made them vulnerable are resolved and there is no longer a need for protection and assistance.

Wherever possible, planning for programme completion or exit should be done in advance, to ensure there is sufficient time to prepare for a smooth and non-disruptive transition. Ideally, vulnerable migrants should have an exit interview, which can help them successfully transition out of programming and give the service provider useful insights for improving future programming.

Before programme completion, transition or exit, future communication channels should be identified in case the vulnerable migrants wish to re-access services, and information should be provided on the resources accessible in an emergency. Any information on other relevant services or referrals to other programmes should be provided sufficiently early to prevent gaps in service delivery. This is particularly important when such gaps – for instance, in physical and mental health care, or children's education – could be detrimental to the health and well-being of a vulnerable migrant.

Return and reintegration, integration, third-country relocation or onward migration

Vulnerable migrants may transition or exit out of assistance programmes because they are returning to their country of origin (return and reintegration), are integrating into their current location, or are continuing to another location (third-country relocation or onward migration).

Under Article 13 of the Universal Declaration of Human Rights, Article 12 of the International Covenant on Civil and Political Rights, and Article 5(d)(ii) of the International Convention on the Elimination of All Forms of Racial Discrimination, all individuals have the right to reside in their country of origin. Under Article 18 of the Smuggling of Migrants Protocol and Article 8 of the Trafficking in Persons Protocol, States are obliged to accept returning nationals without undue or unreasonable delay.

All individuals have the right to leave any country, including their country of origin (or permanent residence for those who are stateless), the right to return to their country of origin (or permanent residence for those who are stateless), and the right to freedom of movement within a country in which they are lawfully located. These rights are set out in Article 12 of the International Covenant on Civil and Political Rights.

In addition, under Article 14 of the Universal Declaration of Human Rights all individuals have the right to seek and to enjoy asylum from persecution in other countries. The principle of non-refoulement, enshrined in Article 33(1) of the 1951 Refugee Convention, forbids returning asylum seekers or refugees to places where their lives or freedom are threatened on account of their race, religion, political opinion, nationality or membership of a particular social group. Furthermore, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states that no person may be returned to a country or territory where they are at risk of torture, or cruel, inhuman or degrading treatment or punishment.

All support provided to vulnerable migrants should begin with case closure in mind. Assistance plans should therefore include strategies comprising long-term plans for return and reintegration, integration, third-country relocation or onward migration. In the case of unaccompanied or separated migrant children, decisions and planning regarding case closure will be implicit in the BIA/BID process. For more information on these processes, see [Part 6](#).

Vulnerable migrants should be involved in the decision to pursue their preferred option. They should be given all available information on opportunities and limitations to return and reintegration, integration, third-country relocation and onward migration. As each option will likely involve administrative processes and decisions, information on the duration of such processes, the likelihood of a favourable decision, and any challenges inherent in each option should be shared in an unbiased, timely and transparent manner. While the vulnerable migrant's preferred option should be pursued where possible, case managers should plan for the other possible options in consultation with the migrant.

Continuity of care should be the aim of any case closure process. Migrants who will be integrating into their current location should be referred to appropriate service providers in a timely manner. Migrants who will be engaging in onward or return migration should be helped to identify the services that will be available along the way or at destination, and provided with information on how to access them. Any transfer of information to other service providers on behalf of the migrants should only be made with their explicit consent and through secure communication channels.

All case closure support should be aligned with the principles of assistance outlined on page 29.

Return and reintegration

Whenever possible, voluntary migrants should return to their country of origin on a voluntary basis. In some cases, returning to a country of origin may be the only available option, especially when the vulnerable migrants have no option of obtaining regular immigration status in their current location, do not have channels for regular migration to a third country, and/or have been issued a deportation order. Vulnerable migrants must always be returned to their countries of origin in accordance with international law and with due process guarantees. In some cases, it is the migrants themselves who decide to return home. They may be eligible to receive assistance to return, for example through voluntary return and reintegration programmes, or they may choose to return home without support.

Vulnerable migrants should not be returned to places where there are substantial grounds to believe that they would be at risk of torture or other cruel, inhuman or degrading treatment or punishment, or other serious human rights violations or irreparable harm, including enforced disappearance, threats to the liberty and security of the person, risks to life (including absence of necessary medical care), living conditions contrary to human dignity (where a person cannot meet basic needs), serious forms of discrimination, arbitrary interference (as a result of the expulsion) with the right to a family and private life, or onward refoulement.³² Where such fears exist, vulnerable migrants should be referred to the national asylum authority or UNHCR.

Return: The act of going from a country of presence to the country of previous transit or origin. There are numerous subcategories of return, which can describe the way in which it takes place or is supported.

Spontaneous return: Individuals or a group initiate and proceed with their return plans without any outside assistance.

Voluntary return: Return based on a decision taken by a migrant free from any pressure or coercive measures and informed by all available information about the risks and benefits of return.

Forced return: Forcible returns to the migrants' country of origin or suspected country of origin by State(s).

Assisted voluntary return and reintegration: Organizational and financial assistance for the return and reintegration of migrant to their country of origin.

Reintegration assistance: Support provided to migrants having returned to their country of origin, to help them re-establish themselves.

³² For more information on the human rights of returning migrants in a situation of vulnerability, see OHCHR/Global Migration Group, op. cit., note 4.

When a decision has been made to return a vulnerable migrant to his/her country or origin, the return must be preceded by safety and security assessments to determine what, if any, risks it entails, and if and how they can be mitigated. If the assessment identifies a significant risk to the vulnerable migrant or the family that cannot be mitigated, integration or third-country relocation should be pursued and advocated to the relevant authorities.

Consular assistance should be provided for vulnerable migrants returning to their country of origin, including replacement or issuance of identity, nationality and travel documents, support for the pre-departure process, and help with international referrals for continuity of care in the country of origin.

Vulnerable migrants should be referred to assisted voluntary return and reintegration programmes offered by States, IOM or other organizations, where they exist. Participation in such programmes allows for preparation and support throughout the return and reintegration process and can provide continuity of protection and assistance services.

Support for return and reintegration should include pre-departure assistance, such as medical assessment of fitness to travel and preparation of relevant documents, including passports and visas. Other documents, including any generated by participation in protection and assistance services, should be prepared and originals or copies provided to the vulnerable migrant. This could include birth, adoption, marriage or death certificates; medical records, such as information on health or fit-to-travel assessments; diagnoses, prescriptions and treatment records; professional and educational certificates; proof of employment; and banking and financial documents. If the documents need to be translated into other languages, this should be done prior to return, to ensure smooth reintegration.

Vulnerable migrants wishing to be reconnected with family members before returning to their country of origin should be helped to trace and communicate with them prior to departure.

Vulnerable migrants returning to their country of origin should be offered travel assistance, such as planning and booking of travel and accommodation, escort during travel where necessary or desired, and reception and short-term accommodation on arrival. All modes of return transportation must be safe and dignified.

Support for return and reintegration should include information on services available in the country and community of origin; where possible, referrals should be made before return so as to ensure continuity of protection and assistance. Any information available on the return context should be shared with the vulnerable migrants, including information on the political, economic and social situation in their home countries and communities. This is particularly important for vulnerable migrants who have been outside their country of origin for an extended period of time or have had limited communication with their families or communities in their home country, or if there have been significant changes since their departure.

Reintegration assistance, which can be provided by government agencies, United Nations agencies, international organizations, NGOs, civil society organizations, or communities and families, should be adapted to the unique needs of the vulnerable migrant. A reintegration plan should be developed in consultation with the vulnerable migrant. It should take into account the guidance provided on individual assistance, including on:

- Shelter and accommodation;
- Water and sanitation;
- Food and nutrition;
- Safety and security;
- Health and well-being;
- Education and training;
- Livelihoods, employment and income generation;
- Family tracing, assessments and reunification;
- Access to justice.

Vulnerable migrants who have been away from their country of origin for a long time and children who were born elsewhere may face specific challenges, and these should be identified and addressed appropriately. For instance, returnees may be stigmatized or discriminated against in their home communities or by family members, and may need support from a case manager or specialized service, if available, as a result.

Post-return, the reintegration process should be monitored regularly by a case manager and the reintegration plan adjusted accordingly.

Integration

Vulnerable migrants who have the option to remain in their current location and choose to do so may require help to regularize their immigration status, especially if they entered the country irregularly, have overstayed their visa or other permission to remain in the country, or wish to move out of a transit or specific migration area, such as a transit centre or border area. The help can comprise applying for visas, residency, citizenship, asylum, or other specialized temporary or permanent immigration status. Vulnerable migrants should be offered legal advice and representation throughout the process of applying for a change to their immigration status, including advice on cooperating with law enforcement and the justice system in exchange for temporary or permanent immigration status.

When making applications for temporary or permanent immigration status in their current location, vulnerable migrants may benefit from help to prepare applications and/or secure the appropriate documents, such as passports or other identity documents, birth, adoption, marriage or death certificates, banking or other financial statements, professional and educational certificates, proof of language proficiency, medical records such as proof of testing for specific diseases or other health conditions, and police reports or other legal documentation.

Vulnerable migrants who have been accessing support designed for short-term delivery or specifically for migrant populations should be referred to protection and assistance programmes that facilitate longer-term support and sustainable integration.

In some instances, specific programmes may exist to support the integration of vulnerable migrants into the local community. If they meet the intake criteria, vulnerable migrants should be referred to these programmes.

Longer-term assistance, which can be provided by government agencies, United Nations agencies, international organizations, NGOs or civil society organizations, should be adapted to the unique needs of the vulnerable migrant. An integration plan should be developed in consultation with the vulnerable migrant, taking into account the guidance provided on individual assistance, including on:

- Shelter and accommodation;
- Water and sanitation;
- Food and nutrition;
- Safety and security;
- Health and well-being;
- Education and training;
- Livelihoods, employment and income generation;
- Family tracing, assessments and reunification;
- Access to justice.

In some cases, vulnerable migrants will choose to remain at their current location without regularizing their immigration status; this may mean that they can no longer receive case management support. In such instances, case managers should provide information on the risks involved, on any mandatory reporting requirements, and on emergency contacts that the vulnerable migrant can access if the risks materialize.

Third-country relocation

Third-country relocation includes securing permission for temporary or permanent immigration from a State other than the one in which the vulnerable migrant is present and other than the country of origin. While there are established processes and channels for third-country resettlement of refugees, there is no collective international system for permanent relocation of vulnerable migrants.

Those wishing to pursue third-country relocation should be helped to explore avenues to do so. Forms of third-country relocation that may be available include refugee resettlement, international family reunification or family sponsorship, temporary or permanent work permits, student or study visas, temporary or permanent protection visas or residency, and humanitarian or compassionate immigration admissions.

For each form of third-country relocation, vulnerable migrants will be required to submit applications and supporting documentation and may require help to prepare them. The documents needed could include passports or other

identity documents, birth, adoption, marriage or death certificates, bank or other financial statements, professional and educational certificates, proof of language proficiency, medical records such as proof of testing for specific diseases or other health conditions and fit-to-travel assessments, or police reports or other legal documents. Any information available on the length of the application processes and the likelihood of a favourable outcome should be communicated to the vulnerable migrant. An interim plan for continued protection and assistance at the current location should be developed in consultation with the vulnerable migrant, as application decisions and processes can be lengthy. Plans should also be made for the event that the application is unsuccessful, including information on appeals processes and alternative options.

As with return and reintegration, vulnerable migrants may require pre-departure assistance before relocating, for example to prepare documents such as passports and visas. Other documents, including any generated by participation in protection and assistance services, should be prepared and originals or copies provided to the vulnerable migrant. These should include any medical records, such as information on health assessments, diagnoses, prescriptions and treatments; professional and educational certificates; proof of employment; and bank and financial statements. If the documents need to be translated into other languages, this should be done prior to relocation, if possible.

Vulnerable migrants wishing to be reconnected with family members in the country of relocation should be helped to trace and communicate with them prior to their departure.

Vulnerable migrants relocating to a third country should be offered travel assistance, such as planning and booking of travel and accommodation, escort during travel where necessary or desired, and reception and short-term accommodation upon arrival. All modes of transportation used should be safe and dignified.

Pre-departure orientation on the third country will be very useful and may be offered by formal systems, such as IOM's pre-departure orientation programmes, or take the form of information compiled by a case manager. It should include information on:

- The country and community in general;
- Languages spoken;
- Communication, housing, education, health, legal and law enforcement systems;
- The labour market and employment opportunities;
- Banking systems and money management;
- Strategies for adjustment and integration;
- Known challenges and opportunities of relocation;
- Services available for migrants relocating.

Support for third-country relocation should include information on services available in the destination country and community; where possible, referrals should be made prior to relocation so as to ensure continuity of protection and assistance. Vulnerable migrants meeting the intake criteria should be referred to any specialized support agencies in the country of relocation.

Relocation assistance should be adapted to the unique needs of the vulnerable migrant. A relocation plan should be developed in consultation with the vulnerable migrant, taking into account the guidance provided on individual assistance, including on:

- Shelter and accommodation;
- Water and sanitation;
- Food and nutrition;
- Safety and security;
- Health and well-being;
- Education and training;
- Livelihoods, employment and income generation;
- Family tracing, assessments and reunification;
- Access to justice.

Onward migration

Vulnerable migrants wishing to move on or return to another location on their migration pathway, whether through regular or irregular means, should be helped to do so safely before exiting assistance programmes. Reasons for onward migration may include a desire to reach an intended destination, reuniting with family members along the migration pathway, livelihood or employment opportunities, or improved protection.

Case managers can assist vulnerable migrants wishing to continue their migration journey by:

- Exploring the reasons for onward migration;
- Mapping the intended migration pathway;
- Providing evidence-based advice on the perceived benefits of onward migration;
- Providing information on the known risks of planned migration pathways;
- Mapping available services along the planned migration pathway, including known transit centres and refuge and assistance points;
- Providing referrals to service providers along the intended migration pathway;
- Engaging in safety and security planning to identify risks along the planned migration pathway and developing mitigation strategies;
- Establishing communication channels with remote service providers, where available, and community and family members;
- Providing emergency contact details for relevant embassies, consulates and local authorities along the planned migration pathway.

2.4 RESOURCES FOR PART 2

Resources for shelter and accommodation; water, sanitation and hygiene; food and nutrition

- Camp Coordination and Camp Management Cluster, *Camp Management Toolkit* (2015)
www.globalccccluster.org/tools-and-guidance/publications/camp-management-toolkit-2015
- Centre for Excellence in Universal Design
<http://universaldesign.ie/What-is-Universal-Design/>
- Forced Migration Review, *Shelter in Displacement* (June 2017)
www.fmreview.org/sites/fmr/files/FMRdownloads/en/shelter.pdf
- IASC, Gender-based violence, Guidelines on WASH and shelter programming
https://gbyguidelines.org/wp/wp-content/uploads/2015/09/2015-IASC-Gender-based-Violence-Guidelines_lo-res.pdf
- International Federation of Red Cross and Red Crescent Societies, *All Under One Roof: Disability-inclusive shelter and settlements in emergencies* (2015)
www.ifrc.org/Global/Documents/Secretariat/Shelter/All-under-one-roof_EN.pdf
- International Detention Coalition, *Captured Childhood: Introducing a New Model to Ensure the Rights and Liberty of Refugee, Asylum Seeker and Irregular Migrant Children Affected by Immigration Detention* (June 2012)
<https://idcoalition.org/wp-content/uploads/2012/03/Captured-Childhood-FINAL-June-2012.pdf>
- International Detention Coalition, *Online Training Toolkit*
<http://toolkit.idcoalition.org>
- International Rescue Committee, *A Toolkit for Integrating Menstrual Hygiene Management into Humanitarian Response*
<http://menstrualhygieneday.org/mhm-in-emergencies/>
- IOM Guidelines for Border Management and Detention Procedures Involving Migrants: A public health perspective (2010)
www.iom.int/jahia/webdav/shared/shared/mainsite/activities/health/Guidelines-Border-Management-and-Detention-Procedures-Public-Health-Perspective.pdf
- IOM, *World Migration Report 2015 – Migrants and Cities: New Partnerships to Manage Mobility*
https://publications.iom.int/system/files/wmr2015_en.pdf
- IOM, *The IOM Handbook on Direct Assistance for Victims of Trafficking*
http://publications.iom.int/system/files/pdf/iom_handbook_assistance.pdf
- Norwegian Capacity, *Dignified Reception Guidelines: Key essentials to dignified reception of refugees and asylum seekers in Europe* (2016)
www.nrc.no/globalassets/pdf/guidelines/dr-guidelines-2016.pdf
- OHCHR, *Recommended Principles and Guidelines on Human Rights at International Borders* (2014) www.ohchr.org/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf
- OHCHR and FAO (2010), *The Right to Adequate Food (Fact Sheet 34)* www.ohchr.org/Documents/Publications/FactSheet34en.pdf
- OHCHR/Global Migration Group, *Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations*
www.ohchr.org/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf
- OHCHR and UN-Habitat, *The Right to Adequate Housing (Fact Sheet 21 Rev1)* (2014)
www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf

OHCHR, UN-Habitat and WHO, The Right to Water (Fact Sheet 35) (2010)

www.ohchr.org/Documents/Publications/FactSheet35en.pdf

The Sphere Project, Minimum standards in water supply, sanitation and hygiene promotion

www.spherehandbook.org/en/how-to-use-this-chapter-1/

The Sphere Project, Minimum standards in food security and nutrition

www.spherehandbook.org/en/how-to-use-this-chapter-3/

The Sphere Project, Minimum standards in solid waste management

www.spherehandbook.org/en/solid-waste-management/

The Sphere Project, Minimum standards in shelter, settlement and non-food items

www.spherehandbook.org/en/how-to-use-this-chapter-2/

UNHCR, Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention

www.refworld.org/pdfid/503489533b8.pdf

UNHCR, Policy on Alternatives to Camps (2014)

www.refworld.org/docid/5423ded84.html

UNHCR, Policy on refugee protection and solutions in urban areas (September 2009)

www.refworld.org/docid/4ab8e7f72.html

UNICEF nutrition resource page

www.unicef.org/nutrition/index_resources.html

United Nations General Assembly, Guidelines on the Alternative Care of Children (resolution A/64/142 of 24 February 2010)

www.unicef.org/protection/alternative_care_Guidelines-English.pdf

WHO guidelines on nutrition

www.who.int/publications/guidelines/nutrition/en/

Resources for personal safety and security

Human Rights Council, Principles and practical guidance on the protection of the human rights of vulnerable migrants, Report of the United Nations High Commissioner for Human Rights (A/HRC/34/31, 26 January 2017)

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2.5 INDIVIDUAL FACTORS ASSESSMENT TOOLKIT

Introduction

Individual factors are those related to individuals that either increase or decrease their likelihood of experiencing violence, exploitation or abuse before, during or after migrating. This toolkit provides guidance on how to assess the ways in which individual-level factors influence an individual's vulnerability by using the questionnaires provided.

Use of the individual-level questionnaires can only provide a partial understanding of any individual's vulnerability: the information gathered through their use should be complemented by information gathered using the household/family, community and structural level tools. This will allow for a more complete understanding of the individual's vulnerability and how the factors at various levels are interacting and operating to shape their vulnerability. Refer to Parts 3, 4, and 5 for information on conducting assessments of the household/family, community and structural factors.

This toolkit contains: (a) a discussion of different individual-level factors and how they influence vulnerability; (b) a suite of questionnaires to be used to gather the information needed to assess the impact of individual-level factors on an individual's vulnerability; and (c) guidance on how to adapt and use the questionnaires.

Individual factors

The list of factors described in this section are based on existing literature on vulnerability to violence, exploitation and abuse, as well as research conducted using the IOM determinants of migrant vulnerability framework. Many of these factors are context-specific, meaning that they might be a risk factor in one context but a protective factor in another. The individual-level factors discussed in this section can be assessed through use of the questionnaires provided in this toolkit.

It is expected that over time, more knowledge will be gained on migrant vulnerability, which will necessitate revisions and updates to both the list of factors and the questionnaires.

Country of origin/citizenship

An individual's country of origin and citizenship could act as a protective factor or as a risk factor that would tend to expose him/her to violence, exploitation and abuse, depending on how people from a particular country or holding that citizenship are perceived/treated in that location.

Age

For individuals aged roughly between 20 and 50, age tends to be a protective factor, while younger and older people tend to be relatively more vulnerable and thus age is more of a risk factor. This is because younger and older people are often more dependent, less physically strong/mobile and can be less well informed, including about how best to advocate for themselves as compared to those between 20 and 50 years of age.

Communication abilities

The ability to speak, understand and read the local language(s) in particular locations can act as a protective factor for individuals, since it enables them to be relatively more informed about what is happening, to more easily advocate for themselves, and to be relatively less dependent on others. Conversely, lack of communication abilities in the local language(s) is associated with greater risk.

Migration status

An individual's migration status can be a risk factor – for example, irregular migrants may be vulnerable to manipulation and coercion based on their status – or a protective factor – for example, being a citizen who enjoys the same full legal rights as other citizens in the community.

History of migration

An individual with a history of having migrated previously, or who has friends or family members who have migrated, is more likely to migrate themselves or to migrate again as a result of having a concrete plan of how to undertake migration. This then can be associated with greater risk if the migration that the person undertakes is relatively dangerous or poorly thought through (as detailed in such factors as “clarity of migration plans”), or with greater protection to the extent that the person learns from the experiences of others or his/her own previous migratory experience(s).

Human trafficking

Someone who has been a victim of human trafficking, or who knows someone who has been a victim of human trafficking, may be relatively more conscious of the dangers of being trafficked and may therefore tend to be more careful to avoid traffickers. Individuals without experience or knowledge of human trafficking could be at higher risk.

Reasons for migrating

There are multiple reasons that can cause individuals to choose to migrate. These may include a lack of work opportunities at the point of origin; a desire to escape conflict, insecurity, persecution or a natural disaster; or an attempt to seek out health care. To the extent that individuals are able to improve their situation by migrating, “reasons for moving” constitutes a protective factor; yet when it causes people to undertake unsafe migration, it is associated with greater risk. When individuals are forced to move or deceived into moving, they are relatively more likely to be put into a situation of vulnerability by virtue of their lack of agency and the possibility of bad motives on the part of the person(s) forcing or deceiving them. In this case then, “reasons for moving” will tend to be a risk factor.

Clarity of migration plans

Individuals should have an informed and/or well-thought through plan for migrating, including the intended destination, the employment prospects there, and an informed conception of how they are likely to be treated during their journey and at destination (including safety as well as openness of the host community to migrants). Those with such a plan will tend to be less vulnerable than individuals who have not thought through or have no reliable information about these various elements of their migration.

Migration logistics

Who a migrant travels with is an important consideration when assessing vulnerability. Travelling with a friend can be associated with greater protection, while travelling with a smuggler or trafficker can be associated with greater risk. Similarly, some payment methods are more associated with protection, such as being able to pay from savings; while others, such as being unable to pay for one’s trip, are more associated with risk. Further, some travel methods, such as walking, are associated with more vulnerable individuals, while taking an airplane tends to be associated with less vulnerable individuals. Finally, having documentation while travelling tends to be associated with greater protection since the person has more liberty, including to leave a dangerous or abusive situation. On the other hand, having one’s documents held by someone else (for example a trafficker) is associated with greater risk and vulnerability. Overall then, “migration logistics” is a factor that highlights how vulnerable particular individuals are by virtue of the choices they are making or being forced into, and thus if they are more or less at risk in their migration journey.

Physical and psychosocial situation

There are a number of risk factors associated with an individual’s physical and psychosocial situation. Individuals who have experienced violence, coercion or abuse may be negatively impacted, both physically and mentally, by their experiences. Someone who has witnessed violence, coercion or abuse done to others may be similarly negatively impacted, as well as be at increased risk of being subjected to violence, exploitation or abuse themselves. Someone who has experienced a major negative life event, such as divorce or separation, death, or major illness or injury, may have diminished access to resources and may experience negative psychosocial impacts. An individual who is sick or injured or who has a disability may be relatively more vulnerable and less resilient.

Networks

Having strong networks of support is an important protective factor since it means that an individual is able to reach out to others, whether for material or other types of support. In turn, being isolated within one's community is a risk factor since the individual is not able to reach out in a similar manner.

Education

Having a higher level of education is a significant protective factor since it means that individuals are more likely to be able to critically engage with their circumstances and to plan. These individuals are better able to understand their rights and to advocate for those rights, including understanding channels within which to do so. They also tend to have more resources to draw upon when faced with challenging circumstances, and to be more likely to have decent work opportunities. By contrast, having a lower level of education is a strong risk factor. Young people who feel unsafe in school are also less likely to continue to attend, which in turn means that they are more likely to become vulnerable as a result of a lower education level.

Financial situation

Having a more stable income at a level that can support one's own needs and one's responsibilities to others is associated with greater resilience to violence, exploitation and abuse. Conversely, having a less stable or insufficient level of income – for example as a result of working in the agricultural sector in a community that tends to experience drought, or because of lacking the skill set to find work in a weak economy – is associated with greater vulnerability and greater risk-taking behaviour to earn income. Having debt is associated with vulnerability due to challenges in repaying money owed while simultaneously meeting one's own immediate financial needs, as well as due to a risk of external pressures such as demands to repay the debt.

Health, education and financial services

Having access to these services tends to be associated with greater resilience. It means that individuals will be more likely to be able to look after their health, get an education, and access financial services with reasonable ease, for example receiving payments and making/receiving money transfers, as well as setting aside money (savings).

Shelter

When individuals have no shelter or have a marginal shelter situation, they are more likely to be exposed to unhealthy, unsafe and exploitative housing circumstances. They are also more likely to make risky decisions, placing them at greater risk.

Race, ethnicity, religion

Members of certain races, ethnicities or religions may be targeted for violence, exploitation and abuse in some contexts, or they may be given preferential treatment in other contexts. This factor therefore focuses on the manner in which an individual's race, ethnicity and/or religion can increase risk or provide protection, depending on the context.

Biological sex, gender identity and sexual orientation

Some biological sexes (such as being female or intersex), gender identities (such as being a woman or non-binary) and sexual orientations other than heterosexual all tend to be associated with greater risk as a result of persecution, abuse and violence. Conversely, being male, a man and a heterosexual tend to be associated with greater protection.

Guidance for applying and adapting the individual factors questionnaires

Purpose

This questionnaire is intended to be used to assess the ways in which individual-level factors influence an individual's vulnerability. When combined with household/family-level data and interpreted in light of the larger contextual understanding about what factors lead to greater vulnerability or resilience captured in the community and structural level tools, it becomes possible to assess the vulnerability to violence, exploitation and abuse of that particular individual migrant. Further, if such data is gathered over time and linked to data from other geographic locations, it can inform understanding of larger trends regarding migrant vulnerabilities in a particular community, as well as regionally. As such, it can potentially inform programming by governments, as well as national and international organizations and service providers.

The questionnaire has been designed in four versions, and the choice of which version to be used should be based on the stage of migration the individual is in: pre-departure/at origin, in transit, at destination or following return. They are designed to be comprehensive and therefore to be used primarily as a research tool and to inform programming. However, if vulnerable individuals are identified during this process, they should be referred to appropriate protection actors. Protection actors may wish to use the IOM Screening Form for Migrants Vulnerable to Violence, Exploitation and Abuse to assist them in identifying an individual migrant's protection and assistance needs.

Using the questionnaires

The questionnaires can be used in either paper-based or in electronic format such as Kobotoolbox or Survey Monkey. Even if paper-based questionnaires are used, the data should be transcribed to an electronic platform in order to ensure the durability of the data collected and the ability to use it to understand changes over time. This is also good for comparison purposes with other contexts and locations and therefore to be able to develop an evidence base for national, regional or global analysis.

The vast majority of the questions are close-ended. Where relevant, space is provided to enter additional information or to enter responses to open-ended questions. It is recommended that enumerators/interviewers try to use consistent terminology in those boxes to ensure comparability. Hence, if a person reports the source of income as "working in a shop," the same terminology should be used for a response that indicates the same activity, such as "I work at the florist's." For questions where the expected response is a number, it is recommended to use digits rather than writing the number: that is to say, use "15" rather than "fifteen."

Each of the versions of the questionnaire has similar fields and questions, arranged in the following three sections: Section 1 records information about the interview itself; Section 2 records basic information about the respondent; Section 3 gathers information on vulnerability factors; and Section 4 gathers sociodemographic information. This guidance provides information on completing each of these sections using the language from the pre-departure/at origin questionnaire. However, the guidance applies to all of the versions of the questionnaire.

The estimated time for completion of the questionnaire is approximately 30 minutes for the questionnaire to be used at origin/pre-departure, and approximately 30 to 45 minutes for the questionnaire to be used for migrants in transit, at destination or following return.

Question order

The order of the questions has been designed to group topics together, but also to reflect good practice. For example, questions regarding sex, sexual orientation, ethnicity and other potentially sensitive identity-related characteristics are included in Section 4: Sociodemographic information, at the end of the questionnaire. That is because it is generally good practice to delay such questions until the respondent has been put at ease by answering less-sensitive questions first.

Some questions appear to be repetitive. This is because formulating some questions in more than one way serves to verify the initial question. For example, the questionnaire includes the following two questions: “Is it your own choice to travel/move (not someone else’s)?” and “Is someone else forcing you to travel/move?”. This allows for differentiation between people who feel they are migrating because their current circumstances do not provide other viable choices and have decided for themselves that migration is a practical solution, and on the other hand those who are migrating because someone is forcing them to.

Section 1: Interview information

This section includes identifying information for the questionnaire. It is intended to be completed by the enumerator.

- 1.1. Enumerator code:** It is important to develop and implement a system for tracking which questionnaires were completed by which enumerators. This is important as it allows for identification of any systematic errors that an enumerator may be making. For example, an enumerator might be completing certain sections incorrectly, or skipping sensitive questions.
- 1.2. Date:** The date should always be entered in the same format, such as [dd-mm-yyyy] where, for example, the 22nd of May 2019 would be entered as [22-5-2019].
- 1.3. Language in which interview is conducted:** The language in which the interview is conducted may or may not be the same as the language in which the questionnaire is written. This is important to note in case there are inconsistencies in translation between different enumerators.
- 1.4. Location of interview:** It is important to specify the location in which the interview was conducted, which will facilitate analysis and comparison between different communities. It is important to use a precise system for naming the locations to avoid misinterpretation of the data.
- 1.5. Country of interview:** This serves as a further identifier for the survey and can be helpful when analysing surveys from different countries and for comparison purposes across countries.

Section 2: Basic information

This section includes basic information about the respondent.

- 2.1. Respondent’s country of origin** and **2.2. Respondent’s citizenship** provide a basis for assessment of the person’s migration status. Being in a country of which one is not a citizen usually constitutes a vulnerability factor, as the person may not enjoy the same legal rights as citizens of the country.
- 2.3. Age** can serve to identify children who may be in need of additional specific protection, and also for whom parental or guardian permission may need to be obtained before continuing with the interview.
- 2.4. Language(s) spoken:** An ability to speak more than one language can be a protective factor when migrating to countries where the respondent’s language is not the official language or is not commonly used.

Section 3: Individual vulnerability factors

This section is divided in two parts: one pertaining to migration status, migration history and migration intentions, and awareness/preparedness, and one related to personal circumstances and household/family history. The questions in these two sections help to identify the presence of different factors affecting the migrant's vulnerability to violence, exploitation and abuse.

Section 3A: Migration: Status, history and intentions, awareness and preparedness

Questions in this section relate to the respondent's status and history of migration, as well as to the knowledge and awareness of the conditions under which he/she intends to migrate.

3.1. What is your current migration status in this country?

Commonly understood definition of key terms:

- Asylum seeker/refugee claimant: A person who seeks safety from persecution or serious harm in a country other than his/her own and awaits a decision on the application for refugee status under relevant international and national instruments.
- Asylum seeker (granted)/refugee: A person who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of his/her nationality and is unable or, owing to such fear, is unwilling to avail of the protection of that country.
- Asylum seeker/refugee claimant, failed: A person who has made an application for refugee status under relevant international and national instruments but whose application has been denied and there are no further pending claims.
- Citizen: A person who is recognized by custom or law as being a legal member of the country.
- Foreign resident: A person who has received authorization to live in the country (residence permit).
- Foreign student: A foreign national who has received authorization to be in the country for the purposes of study (student visa).
- Foreign worker (temporary): A foreign national who has received authorization to be in the country for the purposes of work (work permit).
- Irregular migrant, irregular entry: A person who entered the country without authorization.
- Irregular migrant, overstayed permit/visa: A person who entered the country with authorization but did not leave when he/she was supposed to.
- Regular (free movement): A person who has rights to be in a country under a free movement agreement.
- Stateless: A person who is not considered as a national or a citizen by any State under the operation of its law.

3.2. Have you ever moved to another country/another region of your country before?

This question is intended to understand whether the respondent has a history of past migration, which may be a protective factor (if he/she has knowledge/information about the process and route) or a risk factor (if he/she is determined to migrate in spite of having had negative experiences in the past, including having been subjected to violence, exploitation and/or abuse). The sub-questions serve to create a more detailed summary of a person's migration history.

3.3. Have you ever been detained in the past by government or police services for any reason?

Having been detained in the past would tend to increase vulnerability overall.

3.4. Do you know of anyone who has been the victim of human trafficking?

Knowledge of human trafficking victims can indicate a high prevalence of trafficking in the community and thus greater vulnerability for the individual migrant.

3.5. What country/region of your country is your intended destination?

This question can help identify the extent to which the respondent has clear plans for migration, as well as if he/she is choosing to migrate to locations of higher or lower risk and along migration routes with higher or lower risk.

3.6. Why do you intend to move/leave home?

This question aims to find out more about how and why a migrant intends to leave home. Many of the choices given here are associated with migrant vulnerability (such as leaving home due to a natural disaster) or trafficking (such as being promised a job). However, every context is different, and trends change over time – thus interpretation of the data based on that contextual understanding will indicate if the reason(s) for leaving home should be considered an indicator of migrant vulnerability.

3.7. Is it your own choice to travel/move (not someone else's)?

3.8. Is someone else forcing you to travel/move?

These two questions taken together aim to understand whether a person took the decision to travel of his/her own free will or not. The second question provides information about two possible scenarios: one where another person or group of people forced the person to move, for example by threat, use of force, violence, intimidation or indebtedness. The other is when the migrant felt he/she had no choice but to migrate, for example because of insecurity, poverty or climate change, but no other person or group of people was trying to intimidate, coerce, or otherwise force the individual to migrate.

3.9. Do you think you have been lied to, tricked, manipulated, indebted, given false promises or otherwise deceived in order to get you to travel/move?

An answer of “yes” to this question may be an indicator of trafficking.

3.10. Who will you travel with?

Most of the choices here are associated with potential migrant vulnerability (such as travelling alone) or trafficking (such as travelling with an agent or employer). However, every context is different, and trends change over time – thus interpretation of the data should be based on contextual understanding that will indicate if the persons they intend to travel with should be considered an indicator of trafficking and/or migrant vulnerability.

3.11. How will you get to your intended destination?

The means of transportation can indicate vulnerability (such as walking).

3.12. How do you intend to pay for your journey?

Not having the necessary funds to cover their journey can be an indicator of vulnerability, as they may be planning to borrow money or to work as they go – potentially under exploitative conditions.

3.13. Will you have travel documents with you or have access to them on your journey?

In general, not having, or not having access to, documents, is an indicator of migrant vulnerability, as the migrant may be more likely to be targeted for exploitative or other harmful practices including trafficking. Yet the particularities of the context are also important in understanding whether lack of documentation is likely to lead to greater vulnerability, underlining the importance of contextual interpretation of responses.

3.14. Do you understand the language(s) of your intended destination?

3.15. Do you speak the language(s) of your intended destination?

3.16. Do you read the language(s) of your intended destination?

The inability to understand, speak or read the language is an indicator of migrant vulnerability, as it reduces a migrant's ability to obtain or communicate information.

3.17. Do you understand the language(s) of the countries/regions you will transit through to reach your intended destination?

3.18. Do you speak the language(s) of the countries/regions you will transit through to reach your intended destination?

3.19. Do you read the language(s) of the countries/regions you will transit through to reach your intended destination?

The inability to understand, speak or read the language is an indicator of migrant vulnerability, as it reduces a migrant's ability to obtain or communicate information.

3.20. Do you think you have the skills or education necessary to get a job at your intended destination?

This question aims to understand the preparedness of the person for intended migration. Not knowing what skills or education or required is an indicator of migrant vulnerability, as is belief or knowledge that a migrant is unqualified.

3.21. How dangerous do you think the journey/process of migration will be?

This question also seeks to know how well-prepared the person is for the planned migration.

3.22. Do you anticipate being subjected to any violence, exploitation or abuse on your journey to the country/region you are moving to?

3.23. Do you anticipate witnessing violence, exploitation or abuse to others on your journey to the country/region you are moving to?

Like the previous question, these two questions seek to know how well-prepared the person is for the planned migration. These questions also ascertain how much risk the person is willing to take, and may be an indicator of vulnerability.

3.24. How friendly/unfriendly do you expect people will be towards migrants/foreigners in the country/region you intend to migrate/move to?

This question also seeks to know how well-prepared the person is for the planned migration and how much he/she knows about the intended destination.

3.25. Do you anticipate being discriminated against in your intended destination?

This question also seeks to know how well-prepared the person is for the planned migration, but also how much risk the person is willing to take, and may be an indicator of vulnerability.

Section 3B: Personal circumstances and household/family context

Questions in this section relate to the respondent's personal and household/family circumstances to the extent that the latter may have an impact on the individual's choices, resources and vulnerability

3.26. Are you experiencing any violence, exploitation or abuse?

A person who answers yes to this question may not only be in need of protection assistance, but may be more willing to undertake unsafe migration as a coping strategy to remove himself/herself from the current situation, and this can be an indicator of vulnerability.

3.27. Have you recently (within the last three years) been affected by any of the following situations?

The options provided are all situations of familial instability, which may be indicators of vulnerability.

3.28. Do you have a physical or mental disability?

A yes answer may constitute a risk factor.

3.29. Are you currently sick or injured, or do you have medical needs?

A yes answer may constitute a risk factor.

3.30. Do you feel discriminated against?

This may be on the basis of a group identity (such as gender, race, ethnicity, religion, language) or as a result of personal characteristics (such as disability, socioeconomic class). A response of yes to this question may constitute a risk factor, depending on context.

3.31. Do you feel that you are isolated from the rest of the community?

Lacking social connectedness and social networks may be an indicator of vulnerability.

3.32. If you are under 16, are you currently attending school?

Non-attendance for school-age children and adolescents may be an indicator of vulnerability. This is why it is important to understand the reasons for it. Also, schools may not always be safe places for children, so it is important to understand if they feel safe there. If not, they may be in need of protection assistance.

3.33. What is your highest level of education?

No education or less than a primary education is an indicator of migrant vulnerability. Note that the questionnaire offers the option of "partial" completion of each level to avoid imprecise responses.

3.34. Do you currently have a source of income?

3.35. What is your main source of income?

Lack of any source of income is an indicator of vulnerability, as is a source of income that is not stable and secure. Further, the specific sectors asked about – factory work; domestic work; prostitution or sex-related work; forestry, agriculture and fisheries; and mining and construction – are often high-risk sectors.

3.36. Do you have any debts?

Any personal debt is a risk factor. Indebtedness to an agent, smuggler, trafficker, recruiter, or employer is an indicator of vulnerability to trafficking. Being pressured or coerced, regardless of who the debt is owed to, is an indicator of vulnerability to abuse and exploitation.

3.37. Do you have access to health service?

3.38. Do you have access to education services?

3.39 Do you have access to financial services?

Responses of no to any of these questions may be indicators of vulnerability. The term “financial services” means access to banking services such as savings accounts or personal credit, whether or not these are provided by a bank, but not if they are provided by criminal elements.

3.40. Do you feel that you are well informed of your rights regarding work, housing, education, personal safety, legal status, dealing with the police/border authorities/military, identity documents, etc.?

Lack of knowledge and information regarding rights is a risk factor.

3.41. Are you currently homeless?

A yes response is an indicator of migrant vulnerability.

3.42. Who do you live with?

This question seeks information about the respondents’ household unit. Living in a shelter or rooming house may be an indicator of vulnerability.

3.43. How many people do you live with (not counting yourself)?

3.44. Is everyone who lives with you a member of your household/family?

Living in overcrowded accommodation may be an indicator of vulnerability. Similarly, being part of a large household comprised of many family members may indicate increased financial responsibilities. If the person does not know how many people he/she lives with, this may be an indicator of trafficking. NOTE: The term “household/family” may refer to slightly different arrangements depending on the local sociocultural context. It usually refers to a group of individuals who are related by family ties (whether by “blood”, through marriage or adoption) and who ordinarily live in the same dwelling. However, depending on the local customs, a household may include some individuals who are not related but who share close affective bonds (such as close family friends) and who may share in the decision-making for the group and/or in contributing to or accessing the group’s resources. Alternatively, a household may include people with close familial ties who do not ordinarily live in the same dwelling, but who share in the decision-making and/or in contributing to or accessing group resources. Use the meaning that is current in your context.

3.45. Are you the sole or primary/main provider for your household/family?

3.46. Are your income/resources enough to provide sufficient food and clean water as well as shelter for your household/family?

Being the sole or primary/main provider is not in itself an indicator of migrant vulnerability. However, if a person is responsible for a household and cannot fulfil his/her responsibilities, this is a risk factor.

3.47. Are you financially responsible for people outside of your household/family?

3.48. Are your income/resources enough to meet your obligations to those people outside your household/family? Being financially responsible for people outside of the household/family is not in itself an indicator of vulnerability. However, if a person is responsible for people and cannot fulfil his/her responsibilities, this is a risk factor.

Section 4: Sociodemographic information

The questions in this section are intended to identify personal and/or group characteristics related to identity that may be associated with increased vulnerability. The extent to which any of these characteristics is a protective or risk factor depends on the context. In the subsequent interpretation process of this data, draw upon contextual knowledge to assess whether these are indicators of vulnerability. Many of the questions may also be particularly sensitive depending on the context; please refer to the Section “Adapting the questionnaires to different sociocultural contexts” of this toolkit.

4.1. Race/ethnicity: Race/ethnicity may or may not be a socially relevant trait in the context, and respondents may or may not be familiar with those terms. The following are commonly understood definitions of the terms:

- **Race:** This refers most commonly to a person’s appearance based on skin colour, hair texture or shape of nose, but may refer to ancestry as well as to appearance. Examples of terms used in various contexts: white, black, Asian, African, Afro-descendant, Indigenous.
- **Ethnicity:** This term commonly refers to a group identity based on shared social and cultural characteristics, such as language, religion, social practices such as marriage customs. Some examples: Igbo, Zulu, Han, Kikuyu, Hmong, Mapuche, Zapotec and Basque.

Belonging to any race or ethnicity is not in itself an indicator of vulnerability. However, depending on the context, it may be a protective factor if that identity is privileged, or a risk factor if it is marginalized.

4.2. Religion: As with ethnicity, subscribing to any given religion may be a protective or risk factor depending on the context. Note that the list provided in the questionnaire cannot be exhaustive. If the person’s religion is not one of the options provided, please enter it in the “Other” space.

4.3. What is your biological sex?

4.4. What is your gender identity?

While for most people these two notions are interchangeable, being “born” male but identifying as a woman, or vice versa, is usually a strong indicator of vulnerability.

4.5. Do you identify as heterosexual?

If the response is no, then it is likely that the person identifies as lesbian, gay, bisexual, transgender, transsexual or queer (LGBTQ), which is an indicator of vulnerability.

Responsible data-gathering

Many of the questions being asked in this questionnaire focus upon topics that are very personal and/or very sensitive. There is thus an onus to ensure that the “do no harm” principle is respected through their participation, including by protecting respondent anonymity. Further, if a vulnerable person in need of assistance is identified during the interview, he/she should be referred to the appropriate protection actor. Enumerators should be appropriately trained as regards how to follow these guidelines.

Adapting the questionnaires to different sociocultural contexts

It may be tempting to avoid asking questions about socially taboo topics. For example, in contexts where homosexuality is illegal or where engaging in sexual activities before or outside of marriage is cause for ostracism, it may feel uncomfortable to ask respondents about their sexual orientation or whether they have children if they have indicated they are not married. In spite of this, these questions must be included. Indeed, failing to obtain this information would mean failure to collect data about the very factors that would place such a person at risk, and therefore failure to inform programming designed to protect the person. In addition, the exclusion of such questions would reduce the comparability of the data across regions and therefore curtail the possibility of developing suitable programming options at the global level.

In order to reduce the likelihood of offending the respondent, the most potentially sensitive questions have been placed towards the end of the questionnaire, so that a rapport will already have been established between the respondent and the interviewer. Nevertheless, since each particular sociocultural context is unique, it is possible that certain topics will be more or less delicate in different locations. In those cases, it will be important to use strategies to minimize the possibility of offending the respondent or of someone else hearing the answer. The following are some possible approaches:

- Begin all interviews by explaining to the respondent that his/her answers will be confidential, and that they can refuse to answer any questions or decide to terminate the interview at any point.
- When reaching a sensitive question, reassure the respondent again by saying something like: “We know that people who don’t conform to social expectations are usually more vulnerable to violence, exploitation and abuse, so I need to ask you some sensitive questions. Rest assured that your responses will be kept confidential, and I don’t mean to offend you in any way.”
- Preface potentially sensitive questions by saying something like: “I mean no offence in asking, but...”

Whenever feasible, the interview should take place in a private space.

In many cases, specific terms may be difficult to translate in the sense that there may not be a local term that is exactly equivalent to the concept, such as “household/family,” “gender identity” or “heterosexual.” Other expressions, like “risky sexual behaviour” or “informal economy,” will also need to be explained in a socially sensitive yet conceptually accurate way. In other words, while the terms may have exact equivalents linguistically, they may not be commonly used or understood. Wherever possible, we have provided guidance as to the meaning of such expressions within the questionnaire itself. However, it is possible that some terminology will be unfamiliar in particular contexts. In those cases, it will be important to seek a word or phrase that conveys the idea that the questionnaire seeks to address. It is essential, however, that the local terms used should be non-judgemental and non-pejorative.

Questionnaires

The questionnaires can be downloaded from IOM’s website (www.iom.int):

- Individual questionnaire: origin/pre-departure
- Individual questionnaire: in-transit
- Individual questionnaire: destination
- Individual questionnaire: returned

PROTECTION AND ASSISTANCE
FOR MIGRANTS VULNERABLE
TO VIOLENCE, EXPLOITATION
AND ABUSE: HOUSEHOLD/FAMILY
ASSISTANCE

PART 3

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INTRODUCTION

Part 3 of this Handbook focuses on the determinants of migrant vulnerability at the household and family level, and on appropriate programmatic responses for mitigating and addressing vulnerability factors at this level. It discusses the concepts of household and family, and the roles of households and families in contributing to vulnerability or resilience. It outlines programming principles that should be followed in any household or family level intervention, and describes various forms of programming for addressing household and family vulnerability. Specific topics include shelter and accommodation; water, sanitation and hygiene; food and nutrition; personal safety and security; health and well-being; education and training; livelihoods, employment and income generation; social protection; and social capital enhancement activities.

The guidance provided in Part 3 is intended mainly for case managers providing direct support and assistance to vulnerable migrants, as consideration of household and family factors is usually a key consideration in developing and implementing individual protection and assistance plans. It is also intended for case managers, service providers and development actors involved in household/family-centred care, such as educators, health-care workers, community development actors, religious institutions and local government.

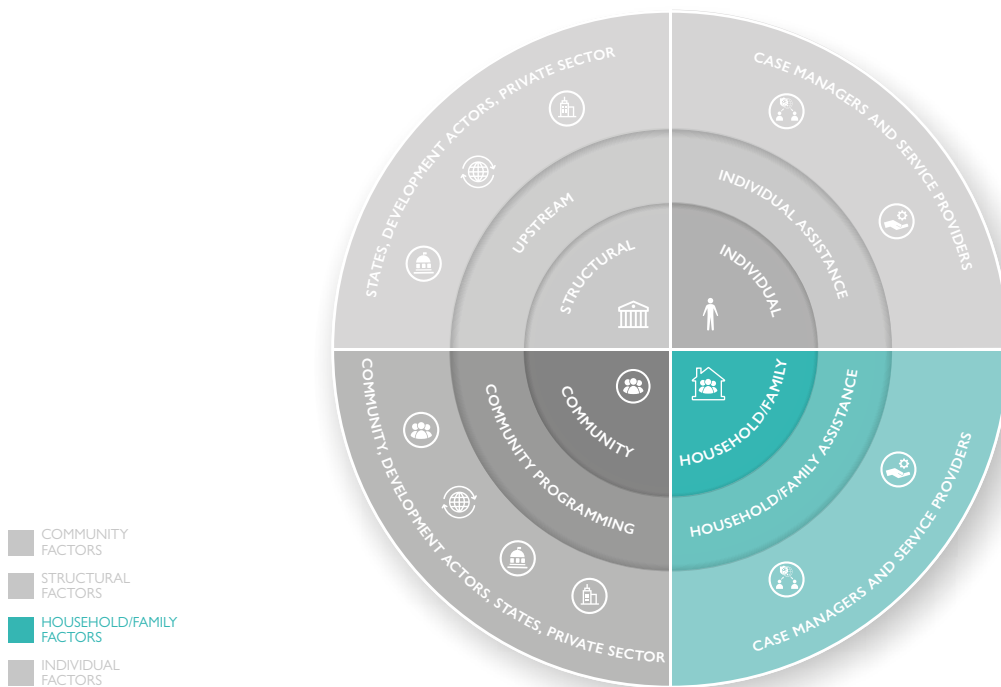


Figure 3.1

Programmatic responses and relevant actors at the household/family level

3.1 HOUSEHOLD AND FAMILY-LEVEL DETERMINANTS OF MIGRANT VULNERABILITY

Understanding concepts of household and family

The concept of “family” is closely intertwined with the concept of “household,” to the point where they are often seen as synonymous. They are seen as referring to a set of two adults linked by marriage or its equivalent, with or without children, all sharing the same shelter. The parents are commonly the primary decision makers and providers, are mutually responsible for each other’s well-being, and are jointly responsible for the well-being of the children if there are any. There is typically a hierarchical relationship between adults and their children, especially from the

latter's childhood but often well into their adulthood. However, in different cultural contexts, the notion of family or household may include other individuals with familial bonds living elsewhere, or unrelated people sharing the same shelter. For example, in many societies the boundaries of the household/family may extend to adult siblings and their children (whether adults or minors), elderly parents, and aunts and uncles, who may live in different dwellings or even different locations, but who share ties that include decision-making, sharing of resources and mutual responsibilities.

The terms family and household may take on new meaning in a migration context. Migrants living away from their place or origin may share accommodation with friends, rent part of an apartment shared with strangers, or live – either alone or with members of their family – in migrant or refugee shelters among strangers. Some, especially temporary migrant workers, often live in employer-provided accommodation that is shared with other migrants in the same situation. In all of these circumstances, the living conditions and relationships with other people living in the same accommodation may constitute either risk or protective factors in ways very similar to what we would expect in a traditional understanding of the household/family, even if the circumstances are somewhat different.

This Handbook uses the combined term “household/family” to accommodate local variations in understandings of either term and allow for as much inclusivity as possible.

Determinants of migrant vulnerability at the household and family level

Household and family factors are related to the household and family circumstances of individuals and their household and family members; the role and position of individuals within the household and family; and household and family histories and experiences. Families are especially important in determining vulnerability and resilience, as they are typically the first option for individuals who require support, particularly children and young people. All members of the household and family are rights holders, and the extent to which their rights are respected will affect how family and household factors impact vulnerability or resilience.

Examples of household and family factors include family size, household structure, socioeconomic status, migration histories, employment, livelihoods, education levels, gender or age discrimination and family dynamics, as well as level of participation in kinship and other social networks (social capital).

Households and families can constitute both risk and protective factors against violence, exploitation and abuse. Risk factors can include interpersonal violence between family members, households headed by a child or a single parent, and a history of unsafe migration behaviour. Protective factors can include the presence of a supportive environment within the home, equitable distribution of resources and opportunities between boys and girls, and sufficient earnings to meet both the basic needs and main aspirations of all family members.

Refer to the Household/Family Factors Assessment Toolkit for a more detailed discussion of household/family factors.

The interrelationship between individual, household/family, community and structural factors

It can be difficult to separate out risk and protective factors at the household and family level from those at the individual level. This is because all households and families are comprised of individuals; therefore, individual-level factors, like age and sex of household and family members, affect household and family dynamics. Likewise, family and household factors, such as household size and structure, impact the vulnerability or resilience of individual members to violence, exploitation and abuse. When assessing risk and protective factors for either individuals or household/families for the purposes of protection and assistance programming, a comprehensive assessment at both levels will provide a more complete picture and better inform the intervention. Both individuals and families are affected by their broader social environment; therefore, the intervention should also be informed by assessments at the community and structural levels.

3.2 HOUSEHOLD/FAMILY ASSISTANCE FOR MIGRANTS VULNERABLE TO VIOLENCE, EXPLOITATION AND ABUSE

Protection and assistance services at the household/family level are undertaken to address the vulnerability of a specific individual to violence, exploitation or abuse in a migration context, when there are indications that household/family factors are contributing to vulnerability and/or there are protective factors that can be mobilized to help the individual avoid, resist, cope with or recover from violence, exploitation or abuse. Protection and assistance services at the household/family level can also be undertaken to reduce vulnerability and increase resilience of families and households as a whole. Household and family interventions may require shorter- or longer-term approaches, depending on the particular risk factors being addressed.

Programming principles

As households/families are comprised of individuals, the principles of assistance discussed in Part 2 of this Handbook also apply to household/family level programming. However, it is important to note that the individuals within a household/family are likely to hold different statuses and have different capabilities. For example, it may be the case that the older persons within the household/family hold a position of power and are to be obeyed by younger members; the highest income-earners have greater ability to participate in decision-making; or female members of the household/family are excluded from certain types of activities or access to certain resources, such as participation in education, income generation and social activities. It is therefore necessary to understand the position of and relationships between individuals within the household/family and to ensure that the interests of all individuals are taken into account and given due consideration.

As households/families operate as a distinct social unit and have their own internal dynamics, there are additional principles that should be taken into account in household/family-level interventions. The household/family-level programming principles described below should be read together with the principles of assistance described on page 29 of Part 2.

Family-centred approach - A family-centred approach is one that focuses on the family unit, and is concerned with engaging and preserving the family wherever possible.¹ In this way, a family-centred approach upholds the right to family life, and the principle of preservation of family unity. Key components of a family-based approach include: (a) working with the family unit to ensure the safety and well-being of all family members; (b) strengthening the capacity of families to find and implement solutions; (c) engaging with family members and empowering them to participate in all decision-making; (d) building relationships on a foundation of trust, respect, honesty and open communication; (e) providing individualized, responsive, flexible and relevant services for each family; and (f) linking families with community-based networks of supports and services.²

Strengths-based approach – This is an approach that recognizes that all individuals and families have strengths, resources or assets to draw upon to overcome challenges. While this approach does not ignore problems, it differs from a deficit-focused approach, which focuses on problems and limitations. It is related to a self-directed approach, which supports individuals and families to make their own decisions and plan their own way forward, with the support of social protection actors and service providers. A strengths-based approach supports empowerment, participation and self-determination.

Age- and gender-sensitivity – Age and gender are important factors at both the individual and household/family levels. When interacting with households/families, it is important to recognize that societal attitudes and beliefs on the roles of children and the elderly, and of men and women, are often replicated and enforced within the household/family. It is therefore necessary to not only understand the specific needs and requirements of each group as individuals (for example, the specific health requirements of women and girls, or of children and the elderly), but also of how family and household dynamics influence and regulate access to these needs or resources (for example,

1 www.tandfonline.com/doi/pdf/10.1080/10522158.2017.1348105.

2 www.childwelfare.gov/topics/famcentered/philosophy/.

by encouraging the elderly to state their needs and allocating resources to meet them, or by prioritizing the needs of boys and men over those of girls and women). Age- and gender- sensitivity requires awareness of these dynamics, and efforts to address them and to encourage equality within households/families.

Actors involved in household/family programming

Delivery of services at the household/family level requires personal, face-to-face contact. It is therefore typically delivered by: (a) case managers, who have specific responsibilities for working with families and households to assess their needs, identify goals, develop an assistance plan, organize delivery of the plan, and monitor and follow up on the effectiveness of the plan in meeting the identified goals; or (b) programme staff, who deliver services that are intended to improve household/family well-being but who do not necessarily use a comprehensive case management approach. Case managers and programme staff may be State authorities, or work for international organizations, United Nations agencies, NGOs or civil society organizations.

Service providers, both public and private, have a role to play in meeting the protection and assistance needs of vulnerable families, such as health, education and nutrition. These providers can include public or private hospitals and clinics, community workers, teachers, school counsellors, and staff of nutrition, poverty alleviation or food distribution programmes.

State authorities play a key role in upholding individual and family rights, and meeting protection and assistance needs. Such functions can include provision of safety and security services by police officers, documentation assistance provided by consular officials and civil registry officials, and care and guardianship arrangements for vulnerable children provided by State child welfare agencies.

Actor	Examples	Sectors
Case managers	Government social workers, staff of international organizations, UN agencies, NGOs or civil society organizations who undertake case management functions	Overall case management
Service providers	Health-care workers, educators, school counsellors, lawyers, community health-care workers, lawyers, financial services providers, and employment counsellors	Health, education, nutrition, finance, livelihoods, poverty reduction, etc.
State authorities	Consular officials, police officers, immigration officers, labour officers, child welfare officers	Documentation, safety and security, child protection, workplace safety and compliance with labour laws

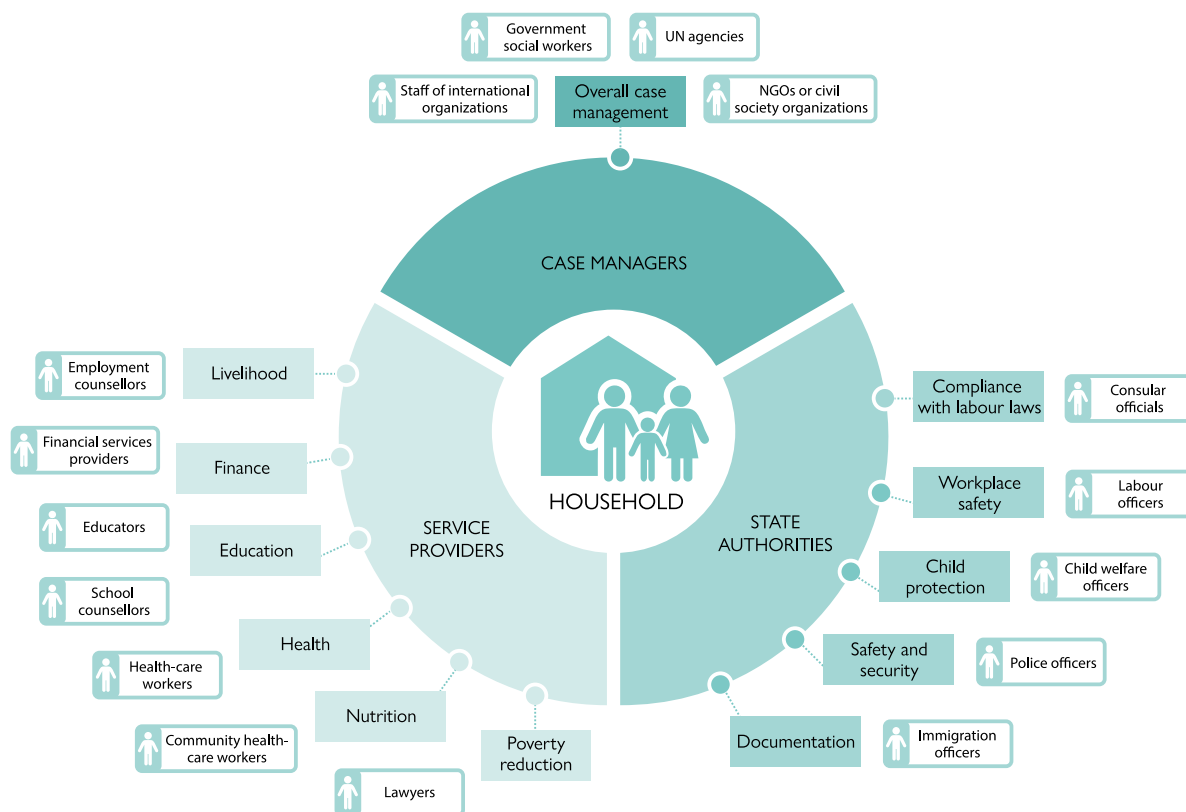


Figure 3.2

Relevant actors and sectors of intervention at the household/family level

Extension of individual assistance

While there is no definition of what constitutes a family under international human rights law, as understandings of the concept vary across cultural, political and social systems,³ there is recognition that families are comprised of individuals that operate as a distinct and fundamental social unit.⁴ Any intervention at this level must therefore not only take into account the fact that the recipients of protection and assistance services are individuals, but also that familial bonds will shape how these services are received, and services delivered to any one member of the family will likely impact other family members as well.

As individuals, members of families are entitled to the forms of protection and assistance described in Part 2 of this Handbook. Families themselves play an important role in protecting the human rights of their members and in providing them with an enabling environment for the enjoyment of those rights.⁵ Further, a number of human rights are directly related to the family, including:

- The right to marry and have a family;
- The right to privacy and family life;
- The right to equality within the family;
- The right not to be subject to violence or abuse within the family; and
- State obligations with regard to protection of the family.

3 Ibid., pages 5 and 6.

4 Recognition of the family as the fundamental unit of society can be found in the Convention on the Rights of the Child (fifth preambular paragraph), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Art. 44(1)) and the Convention on the Rights of Persons with Disabilities (Preamble, para. X). See also Protection of the family: Contribution of the family to the realization of the right to an adequate standard of living for its members, particularly through its role in poverty eradication and achieving sustainable development. Report of the United Nations High Commissioner for Human Rights (A/HRC/31/37), page 3.

5 Ibid., page 4.

Therefore, household/family interventions could include delivery of protection and assistance services that target the needs of one or more members of the family, or they could aim to meet the protection and assistance needs of the family as a whole. The sections below should be read together with Part 2.

The role of the families within communities is also noted, as per Human Rights Council Resolution 29/22, which notes that “the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.”⁶

Shelter and accommodation

Article 25 of the Universal Declaration of Human Rights states that: “Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care.” Efforts to uphold this right can include improvements to existing or construction of new shelter or accommodation, or assistance in finding appropriate accommodations, for example in the rental market or in social housing.

As described in the section on shelter and accommodation in Part 2, shelter can take many forms, including temporary settlements, institutional shelters, and semi-independent and independent living. When addressing shelter needs for households/families, it is important to make every effort to preserve family units, including sibling groups. Ideally, and where necessary and appropriate, households/families should be assisted to access independent housing in a manner that reflects their preferences and social and cultural practices: for example, a house or apartment for parents and children; or a group of huts on a shared piece of land that accommodates different family units in an extended family.

Household/family living spaces should have adequate space for all members and should take into account the requirements of any members with disabilities. They should also take into account any age-specific requirements, including safe sleep spaces for infants and children and adapted bathing facilities for older persons with limited mobility. Adequate provisions should be made to respect the privacy of individual household/family members, in line with the household/family’s social and cultural practices. These could include separate sleeping areas for couples and children, or for different sex or age groups. Household/family living spaces should include adequate space for sleeping, dressing, bathing and cooking, and contain necessary equipment for safe and healthy storage, handling and preparation of food.

Housing should be of safe construction, built with safe materials and suitable for the local climate. Measures should be taken to ensure that permanent housing is durable and capable of withstanding weather events that occur in the region, for example by storm-proofing windows in regions that experience hurricanes or typhoons. To the extent possible, construction and repair of housing should minimize adverse environmental impact.

The role of housing in ensuring personal safety must also be considered, with security provisions such as adequate lighting and internal and external locks considered and provided as necessary.

The location of household/family living spaces should also be considered. This should include: (a) consideration of proximity to any natural hazards (for example, do not situate shelter right on the banks of a river prone to flooding); (b) proximity to basic social services such as education and medical facilities; (c) connections to transportation networks (roads, rivers, buses, trains, etc.); and (d) proximity to livelihoods. For example, working members of a household/family whose primary source of income is formal employment should be able to report to work without excessive time or money being spent on transportation, while a household/family whose primary livelihood is agriculture should be housed in a location that gives them easy enough access to land.

The equality of household/family members should be upheld and reflected in living spaces by ensuring that individual members are not marginalized. For example, elderly persons or persons with disabilities should not be excluded from primary living spaces (for instance, by putting them in small external buildings) or other practices, implying a marginalized and excluded position within the family.

6 Human Rights Council Resolution 29/22 Protection of the family: Contribution of the family to the realization of the right to an adequate standard of living for its members, particularly through its role in poverty eradication and achieving sustainable development (A/HRC/RES/29/22), page 2.

Water, sanitation and hygiene

While the International Covenant on Economic, Social and Cultural Rights does not explicitly refer to the right to water, the Committee on Economic, Social and Cultural Rights, in its General Comment No.15 on the right to water, defined the right of everyone “to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses” and deemed the right to water part of the right to an adequate standard of living.

In order to ensure that household/family-level interventions on water, sanitation and hygiene meet these conditions, it is important to consider the individual members, as each may have different water, sanitation and hygiene needs and/or differing levels of access to water. For example, menstruating women and girls have specific hygiene requirements, as do persons with specific medical conditions. While a well in the centre of town may be safe and physically acceptable to most persons in the community, it may not be to persons with disabilities. It may be safe for adults to access communal hygiene facilities day or night, but not so for children. Efforts should be made to ensure that each person in the family has independent access to water, sanitation and hygiene, in a manner that suits their age and capacities and meets their own specific needs.

Further, the impact or work associated with fetching or otherwise maintaining access to water should be considered. In cases where fetching water places an undue burden on one or more family members (for example, if it takes several hours and interferes with schooling) or exposes them to harm (for example, by exposure to wild animals), efforts should be made to share the burden equitably among able family members and to reduce the exposure of all family members to harm.

Food and nutrition

The right to food is a human right recognized by international human rights law, and the right to food for families is specifically noted. The Universal Declaration of Human Rights recognizes, in the context of an adequate standard of living, that: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food” (Art. 25). The International Covenant on Economic, Social and Cultural Rights, which is part of the International Bill of Human Rights, recognizes the right to adequate food as an essential part of the right to an adequate standard of living (Art. 11 (1)). It also explicitly recognizes “the fundamental right of everyone to be free from hunger” (Art. 11 (2)).⁷

When providing food and nutrition support to households/families, either through direct provision of food, cash or vouchers to purchase food, or agricultural inputs to improve the ability to grow and produce food for consumption, the aim is to assist that household/family to achieve food security. Households/families can be considered to be food-secure when they have year-round access to the amount and variety of safe foods that members need to lead active and healthy lives. At the household/family level, food security means the ability of the household to obtain, either through their own production or by purchase, enough food to meet the dietary needs of all members of the household.⁸ The ability of a household/family to achieve food security is closely related to its economic status and therefore the livelihoods, employment and income-generating activities that support the family. Refer to the section on livelihoods, employment and income generation below.

If food aid will be provided to the family, the food must be of sufficient variety, quality and safety and must take into account the individual needs of each member of the family. For example, pregnant and lactating women have specific nutritional requirements, while persons engaged in strenuous work may need to consume more calories than others in order to stay healthy. Where necessary, family members should be provided with information on food and nutrition, safe food handling and storage, and the specific nutritional requirements of all members of the household.

Personal safety and security

If one or more members of the household/family face personal security risks (refer to Part 2 for information on risk assessments and security planning), it is necessary to consider the potential impact of such risks on other members of the household/family. At times, traffickers, smugglers or others may specifically threaten a vulnerable migrant’s family members, meaning that each member of that family faces heightened personal security risks. The procedures described in the section on personal safety and security in Part 2 should be followed in all such instances.

⁷ www.ohchr.org/Documents/Publications/FactSheet34en.pdf.

⁸ www.fao.org/ag/agn/nutrition/household_en.stm.

In responding to safety and security risks, the impact on the household/family as a whole should be considered; to the full extent possible, special accommodations for the household/family as a whole should be made. This could mean, for example, finding safe, secure and suitable accommodation for a high-risk vulnerable migrant's entire household/family, rather than separating the migrant from the family and putting him or her in secure accommodation.

In some cases, individuals within the household/family face security threats from other members of the family, for example in cases of family involvement in trafficking, intimate partner or domestic violence, or child abuse. It is important to identify these risks and work with the affected individuals to ensure they are protected from these risks. When there are children involved, any action to protect them from these risks must reflect the best interests of the child principle (see Part 6) and may require involvement of the appropriate authorities.

Health and well-being

At times, health-care professionals may engage with a patient's family using a "family-oriented" or "family-centred" approach. This approach may be undertaken: (a) to mobilize the family to support a member with a health condition; (b) to address the impact of the patient's health problems on other members of the family; and/or (c) when an intervention aims at addressing health-related behaviours in the family as a whole.⁹ Family factors impact health, which in turn influences vulnerability to violence exploitation and abuse:

Multiple family characteristics have been related to good and poor health outcomes. Family closeness, caregiver coping skills, mutually supportive relationships, clear family organization, flexibility and adaptability, and direct communication about the illness and its management have been linked to better clinical outcomes and have been identified as family protective factors. Correspondingly, negative family characteristics, such as intra-family conflict, criticism, blaming, lack of an extra-family support system, rigidity, and patient and family member's pre-illness psychopathology are associated with poorer clinical outcomes and therefore, are identified as family risk factors.¹⁰

Health considerations and access to appropriate health services are often prioritized by households/families. In households/families where resources are limited, choices about how and when to access health care, and which members of the household/family have access to health care, may have to be made. Practitioners can work with households/families to encourage decision-making that is fair and equitable and based on the individual needs of all members of the household/family. They can also provide support to households/families in finding low- or no-cost services of adequate quality. Further, practitioners can assess family members' knowledge and beliefs on health and healthy practices, such as safe household sanitation practices and vaccinations, and, if necessary, provide information or refer family members to community health workers or others for more information. The continued ability of a household/family to ensure the health and well-being of its members is closely related to its economic status and therefore the livelihoods, employment and income-generating activities that support the family.

Education and training

Quality primary education for all is a fundamental human right articulated in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child. Quality education means education that is available, accessible, acceptable and adaptable.¹¹ Further, education is considered fundamental for individual development,¹² a key determinant of personal well-being and a major catalyst for development.¹³

Household/family-level interventions on education and training can be undertaken both for child and adult learning. Interventions may include:

9 www.jstor.org/stable/583766?seq=1#page_scan_tab_contents.

10 <https://clinmedjournals.org/articles/jfmdp/journal-of-family-medicine-and-disease-prevention-jfmdp-1-009.pdf>.

11 International Network for Education in Emergencies, Minimum standards for education: preparedness, response, recovery (New York, 2010).

12 [13 <https://en.unesco.org/themes/education-health-and-well-being>.](https://unesdoc.unesco.org/in/documentViewer.xhtml?v=2.1.196&id=p::usmarcdef_0000366556&file=/in/rest/annotationSVC/DownloadWatermarkedAttachment/attach_import_137c596c-6ac9-4ee6-81ca-94dd196c855e%3F_%3D366556eng.pdf&locale=en&multi=true&ark=ark:/48223/pf0000366556/PDF/366556eng.pdf#2138_18_ED_EN_Handbook%20on%20the%20right%20to%20education_int_ok.indd%3A.48860%3A469, page 31.</p></div><div data-bbox=)

- Promotion of enrolment and attendance of all school-aged children in the household: In many contexts and circumstances, girls do not have the same level of access to education as do boys. This can include girls being kept out of school while boys are in school, or girls being sent to schools of lesser quality than schools to which boys are sent. Such practices can reflect attitudes and beliefs about the roles of women and girls in society. Despite having sufficient resources to send girls to school, some parents do not, due to the belief that it is improper to educate girls or that it is better for girls to engage in domestic work and other activities. In other circumstances, parents may want to send both boys and girls to school, but face challenges in paying for the education of all their children. Hence, parents may prioritize access to education for boys rather than girls, on the belief that this may provide a better return on investment and/or that it is more appropriate to prioritize boys' education. Practitioners can seek to understand household/family decision-making processes related to participation in education, and advocate for fair and equitable access to education within the household/family. Where necessary, practitioners can assist households/families to identify low- or no-cost education services of sufficient quality, and/or refer them to social welfare programmes aimed at supporting families to send their children to school.
- Access to adult education and training activities: Parental education levels have significant impact on family well-being. Higher educational attainment is associated with improved socioeconomic status, which in turn has a positive impact on a broad range of indicators of well-being.¹⁴ Ongoing education and training can help adult family members maintain or improve employment, which can increase their own sense of well-being and help ensure that there are adequate resources to meet the education and other needs of all members of the household. It can also help provide them with the skills and abilities to access safe migration information, evaluate the reliability of migration information received and navigate safe migration pathways .
- Efforts to encourage parental involvement in children's education: Parental involvement in children's education is an important contributor to children's educational achievement and attainment.¹⁵ Interventions can assist parents to become fully engaged in their children's education from birth through to adulthood. For example, during children's infancy (ages 0 to 2), parents start the learning process by interacting with them and attending to their needs, continuously expressing affection, and engaging in two-way talk by listening and responding positively to encourage vocabulary expansion and develop language skills. From ages 3 to 5, children can be exposed to numeracy and literacy, in order to ready them for school. Between ages 6 and 11, primary school children may need help with homework; parents may also volunteer and engage more with their child's school. From ages 12 to 18, children in secondary school may need support in the form of parental encouragement, supervision and motivation within a stable home environment.¹⁶

Birth registration

Birth registration is the act of a government officially recording a child's birth. It establishes the existence of the child under the law and provides the foundation for safeguarding many of the child's civil, political, economic, social and cultural rights. Article 7 of the Convention on the Rights of the Child specifies that every child has the right to be registered at birth without any discrimination.¹⁷

A child whose birth is not registered may face difficulties in accessing social services, including education and health care. Families should be encouraged to register their children at birth. If children have not been registered, practitioners can help rectify this situation by assisting families in filling out birth registration forms, providing financial assistance to pay any associated fees, etc.

14 www.educationcounts.govt.nz/publications/series/ALL/Short-Article-Healthy-and-wise.

15 <https://education.gov.scot/improvement/research/Engaging%20with%20families>; <https://journals.sagepub.com/doi/pdf/10.2304/gsch.2014.4.1.21>.

16 <https://learningportal.iiep.unesco.org/en/issue-briefs/improve-learning/learners-and-support-structures/parental-and-community-involvement-in>.

17 www.unicef.org/protection/57929_58010.html.

Livelihoods, employment and income generation

The right to work is set down in the International Covenant on Economic, Social and Cultural Rights and includes the right to opportunities to earn a living through work that is freely chosen or accepted and the right of everyone to just and favourable conditions of work. According to the Committee on Economic, Social and Cultural Rights, the term “work” should be understood to mean “decent work” (see text box on decent work on page 70) that provides, inter alia, fair wages, a decent living for workers and their families, safe and healthy working conditions, equal opportunities within the working environment, rest and leisure, and reasonable working hours and holidays.

Livelihoods, employment and income-generation support is often approached as an individual-level intervention, as it is individuals who obtain employment. However, households/families are very often involved in household/family livelihoods such as farming, and in income-generating activities such as production of items for sale in markets. Further, adequate livelihoods, employment and income generation are critical for households/families, as they provide the resources necessary to pay for basic necessities such as shelter, clothing, food and water; purchase key services for human development such as education and health care; and pursue interests and hobbies.

Livelihoods, employment and income generation are therefore usually key elements of assistance services (refer to Part 2 for a description of individual-level livelihoods, employment and income-generation assistance). At the household/family level, key things to consider in any livelihoods, employment and income-generation intervention include livelihoods diversification, participation of household/family members in work, and management of income and resources.

Livelihoods diversification can be an effective strategy for ensuring that a household/family has a stable source of goods and income. It is a process whereby households/families undertake a range of different activities to generate income and produce resources. Such activities may include a combination of producing items such as blankets or baskets for sale or exchange in a market, farming to produce meat, eggs, milk and/or vegetables for sale and personal use, and formal employment. Diversified livelihoods are considered to be more sustainable, as disruption to one source of income – for example, in the event of a job loss or the temporary inability of a household/family member to work due to illness – can be offset by the income or resources gained through another.

When considering household/family livelihoods, employment and income generation, it is important to understand the role and capability of each individual household member to contribute, and to understand the age, gender and other dynamics that may underpin decision-making. For example, it is a widespread cultural belief that men should be the primary income-earners in a family. When men are unable to meet the needs of their family because of an insufficient supply of work in their community, this may create pressure on them to migrate in search of work. They may migrate even if it is risky or unlikely to lead to sufficient employment and may result in impoverishment or vulnerability of household/family members who remain in the place of origin. An alternative livelihood strategy could include training and enabling other adult members of the family to enter the workforce and contribute to the household, or to develop complementary income-generating activities, such as micro-businesses. Children’s participation in the family’s economic activities should be age-appropriate and should not interfere with their education or healthy development.

Child labour

Child labour is work that deprives children of their childhood, their potential and their dignity, and is harmful to their physical and mental development. This includes work that:

- is mentally, physically, socially or morally dangerous and harmful to children; and/or
- interferes with their schooling by: depriving them of the opportunity to attend school; obliging them to leave school prematurely; or requiring them to attempt to combine school attendance with excessively long and heavy work.

Whether or not particular forms of “work” can be called “child labour” depends on the child’s age, the type and hours of work performed, the conditions under which it is performed, and the objectives pursued by individual countries. The answer varies from country to country, as well as among sectors within countries.¹⁸

Child labour is incompatible with the aim of supporting households/families and all of their constituent members to flourish, and when it occurs, practitioners should work with families to withdraw the affected child or children from child labour, and to find alternative means of meeting the household/family’s needs.

Once a source of livelihoods and income has been established, it is also important that families understand how to manage these resources. This is known as financial literacy. It is necessary to have good financial literacy skills in order to use resources in a way that supports the family to meet its needs and goals, especially when the family has limited resources and needs to prioritize and make choices that support achievement of such priorities. Improved financial literacy is associated with an increased likelihood to save and plan for retirement, an improved ability to manage money, better debt management, and better economic and financial stability.¹⁹ Practitioners working with families should encourage efforts to build the financial literacy of household/family members, and provide age-appropriate financial literacy materials to household/family members and/or refer them for training, as appropriate. See the text box below for a list of useful financial literacy skills.

Basic banking and budgeting ²⁰	Credit and debt
<ul style="list-style-type: none"> • Using financial institutions • Opening accounts • Reading statements from financial institutions • Managing a checking account • Using electronic banking services • Recognizing the range of saving options • Calculating interest and understanding compound interest • Understanding the importance of budgeting to achieve personal and financial goals 	<ul style="list-style-type: none"> • Establishing and using credit • Improving poor credit • Ordering and reading a credit report • Securing loans • Identifying expenses • Identifying and assessing assets and debts • Avoiding high-cost financial services • Developing strategies to reduce expenses and increase income • Determining ways to reduce debts and/or save money

18 www.ilo.org/ipecc/facts/lang--en/index.htm.

19 www.oecd.org/finance/financial-education/PISA2012FrameworkLiteracy.pdf.

20 Adapted from www.nationalservice.gov/resources/economic-opportunity/identifying-topics-financial-literacy-training.

Income planning, risk management and taxes	Money flow and asset creation
<ul style="list-style-type: none"> • Financial planning for different stages of the family life cycle or for life events, such as moving in together or getting married, separation or divorce, having children, personal or family illness or disability, buying a home, retirement, educating children, losing a job, death of a partner or family member • Reading a pay cheque • Understanding and identifying various types of insurance, the protections they provide, and the risks associated with remaining uninsured • Understanding taxation, tax obligations and filing taxes • Learning how to avoid tax penalties, underpayment or overpayment • Decision-making and problem-solving • Identifying values • Managing risk 	<ul style="list-style-type: none"> • Understanding economic and financial terminology • Understanding basic investment principles • Recognizing the interconnectedness of the economy • Accessing resources – community, financial assistance, credit counselling, financial planning and online resources • Applying economic concepts to personal financial management • Communicating about financial matters with family or household members • Standing up for one's rights as a consumer • Recognizing accessible investment options

Homeownership preparation	Social enterprise
<ul style="list-style-type: none"> • Knowing what to look for when buying a home • Dealing with mortgage lenders • Identifying affordable homeownership programmes 	<ul style="list-style-type: none"> • Starting a business • Understanding the main components of a business plan • Creating a budget for a start-up business • Finding training programmes about how to start a small business

Family tracing, assessments and reunification²¹

Migration has the potential to separate family members, particularly if it is: (a) forced; (b) sudden; (c) includes multiple, unsafe or irregular methods of transportation, border crossings or routes; or (d) due to a natural disaster and/or armed conflict. Children, the elderly, those who are physically or mentally unwell, persons living with disabilities and detained migrants are particularly vulnerable to being separated from their families. The definition of family differs between cultures and societies and may change in the circumstances, including the experience of migration.

Separation is a distressing experience that contributes to poor health and form, including feelings of anxiety, depression and loneliness; it can also have a negative impact on child development. Migrants, especially children, might be more vulnerable because they have been separated from their families.

Under international law, including the Universal Declaration of Human Rights, the 1949 Geneva Conventions for the protection of war victims and their Additional Protocols, and the Convention on the Rights of the Child, everyone has the right to know what happened to missing relatives, to communicate with members of their family, to stay united with their family members, and to be reunited if they are separated. Primary responsibility for ensuring respect for these rights lies with the State and, in situations of conflict, the organized armed group exercising control.

Family separation in migration can be unintentional or deliberate. Unintentional separation is not planned or anticipated. Deliberate separation occurs when families make a conscious decision to separate. It may start out being intentional, with the expectation that the family will be reunited in the future, but it can become longer than planned.²²

21 As family tracing, assessments and reunification are relevant services at both the individual and household/family levels, this entire section is presented in both Parts 2 and 3 of the Handbook.

22 The definitions and causes of accidental and deliberate family separations are adapted from *Field Handbook on Unaccompanied and Separated Children*, Inter-Agency Working Group on Unaccompanied and Separated Children/Alliance for Child Protection in Humanitarian Action (2017). Available at www.iom.int/sites/default/files/HANDBOOK-WEB-2017-0322.pdf.

Families may be unintentionally separated when:

- Family members are accidentally split up during an unplanned or poorly planned migration;
- Family members are split up owing to confusion associated with spontaneous or irregular migration;
- Younger, older or less-mobile family members are unable to keep up;
- Unsafe or unreliable transportation routes or methods are used (for instance, boats that capsize);
- Family members are in different locations (for instance, school and work) when an event causing spontaneous migration occurs, such as a natural disaster, and are unable to find one another;
- Family members are injured, killed, captured, kidnapped, trafficked, arrested or detained;
- Family members are abducted for ransom, recruitment into armed forces or groups, or forced labour;
- Family members are separated in transit sites, camps or settlements;
- Families that separated with every intention of reuniting face challenges or barriers to doing so;
- Service providers' policies or practices do not ensure families remain united (for instance, shelters that admit only women and their children or residents of a certain age or sex).

Deliberate separations may occur when:

- Families under stress, including as a result of poverty or the death, illness or disability of a parent, send their children away or entrust them to the care of others in an effort to increase the children's chances of survival, improve their well-being or alleviate stresses, including financial stress on the household;
- One or more family members migrate to areas where education, employment or services are available or presumed to be available;
- Families leave their children, older family members or those living with disabilities with relatives, community members or institutions when they migrate;
- Some family members are encouraged to migrate because the legal and policy framework is favourable for them but not for all family members (for instance, if unaccompanied children are allowed through border crossings or there are migration pathways for men who receive temporary permits for employment in male-dominated industries);
- One or several family members travel the migratory route first to assess its safety and security;
- Families choose to migrate in smaller groups to heighten the chances of successful entry into a territory through irregular means;
- One or several family members migrate to another location to establish themselves by securing a livelihood, finding suitable shelter or accommodation, or regularizing their immigration status before the rest of the family joins them.

Reunification can have a positive psychosocial impact on all family members, improve overall health and well-being, enhance feelings of safety and security, and reduce vulnerability factors for separated family members.

Tracing family members

Individuals have the right to a family life, and family tracing programmes help uphold that right. They exist in many contexts and may be operated by States, including through embassies and consulates, IOM, the ICRC, a National Red Cross or Red Crescent Society, UNHCR, UNICEF, the ISS, the International Commission on Missing Persons or NGOs. Vulnerable migrants searching for family members should be referred to family tracing programmes, where they exist. Any family tracing efforts should be coordinated with the relevant local authorities and organizations in countries where separated family members are known or thought to be, as appropriate.

Methods of tracing family members include:

- Filing missing person reports with law enforcement agencies;
- Registering on family tracing websites;
- Notifying embassies or consulates about missing family members;
- Posting photos/names of family members on dedicated notice boards in public places;
- Broadcasting names of family members on radio or television;
- Distributing leaflets with photos/names of family members;

- Sending messages or messengers to the last known address of family members;
- Searching the records of hospitals, border crossings, police stations, detention facilities, schools and other institutions and service providers for the names or identifying information of family members;
- Using social media platforms to search for, or post messages soliciting information on, family members.

All these methods can be used in vulnerable migrants' places of origin, along the migratory path and at their current destination. It might also be necessary to trace family members in other locations, including their intended destination.

The risks of using any of the available methods must be assessed. For instance, if sharing information publicly would identify family members to authorities or criminal elements that would do harm to any of them, including those who have been separated, other tracing methods should be sought. Vulnerable migrants should help determine the most appropriate and effective method of family tracing and should be asked for their views on methods of contacting family members that are most likely to succeed.

The risks associated with tracing methods should be mitigated. For example, if photos are used, it might be safer not to include names, contact details or information on current location on notice boards, community messages or leaflets. Vulnerable migrants searching for family members must consent to the use of their personal information, including photos, and location.

Vulnerable migrants who do not wish to be registered with the local authorities, for fear of deportation or detention, should not be denied support to trace family members.

Migrant families will often undertake their own tracing efforts, including by the methods listed above or by accessing their community and social networks. Their efforts should be supported insofar as they do not pose a risk to the migrant, including by providing phones, phone credit or access to the Internet.

When the tracing process leads to the discovery that a family member has been detained, family members should be reconnected, and the most effective communication channels identified and established. Support should be provided for family members wishing to visit detained relatives; this may require advocacy vis-à-vis the detaining authorities for visits and financial support to cover transportation costs.

Family tracing may uncover news of a family member's death. The vulnerable migrants concerned should be afforded the ability to mourn their loss in the way they feel most comfortable with. They should be given information on the whereabouts of the deceased's remains and any known information about the death. They may wish to travel to the place where the death occurred or share this information with their community, and should be helped to do so.

A family member's death may have financial implications, including costs of burial or cremation, funeral rights and/or repatriation of remains, and different cultural, religious and social approaches to mourning and handling of remains should be considered and respected. Any expenses should be monitored; if they become unaffordable, vulnerable migrants may require additional livelihood support or support to manage their household finances. Where available, consular assistance should be provided to surviving family members, including for repatriation of remains.

Vulnerable migrants should be provided with psychosocial support throughout the tracing process, which involves uncertainty and can therefore be distressing, igniting feelings of anxiety, hopelessness, helplessness and depression. This is particularly the case when a family cannot trace a missing member or discovers that a family member has been detained or has died.

Where family members cannot be located, there should be collective advocacy in support of the establishment of mechanisms and processes to provide information on the fate of those who are unaccounted for or missing, or those who cannot be located. If the vulnerable migrant is a child and no family members can be located, appropriate and sustainable alternative care arrangements must be found.

Reconnecting family members

When family members have been located, appropriate methods of communication should be identified and used to re-establish a connection between them. These may include phone calls, text messages, letters, emails, online audio/video platforms and/or social media. The principles of confidentiality, privacy and data protection apply to all steps in the family tracing and reunification process, including information shared between family members.

Where communication with family members involves risks – the communication platform is insecure or correspondence could be intercepted – vulnerable migrants should be informed and choose whether or not to communicate.

When separated family members include children, the principle of the best interests of the child should guide all actions, including those aimed at reconnecting and reuniting family members. This should include an assessment of the best interests of the child and may require an assessment of family relationships, especially for younger children. For more information on best interests assessments and determination for migrant children, see [Part 6](#).

The Interagency Guiding Principles on Unaccompanied and Separated Children*

contain the following definitions:

Unaccompanied children: Children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

Separated children: Children separated from both parents or from their previous legal or customary primary caregiver, but not necessarily from other relatives. This category may therefore include children accompanied by other adult family members.

Orphans: Children whose parents are known to be deceased. In some countries, a child that has lost one parent is also referred to as an orphan.

* Interagency Guiding Principles on Unaccompanied and Separated Children (Geneva, ICRC, 2004).

Separated and unaccompanied children²³

Separated and unaccompanied migrant children are at increased risk of violence, exploitation and abuse. The Convention on the Rights of the Child is the cornerstone of the international legal framework that guides policies, programmes and decisions regarding separated and unaccompanied children.

When separated and unaccompanied children are identified, every effort should be made to reunite them with family members, but only when this is in the best interests of the child.

The best interests of the child are determined in a best interests assessment (BIA) undertaken by child protection agencies and individuals with appropriate training, with the participation of the migrant child. BIAs are an essential component of any child protection system or programme, but are particularly important for separated and unaccompanied children.

BIAs should be conducted:

- Before efforts are made to trace the family;
- Before the child is placed in alternative care settings in the absence of family members;
- Before family reunification.

Best interests determination (BID) may also be required and must be conducted by a State agency or delegated authority. Those involved in the protection and assistance of migrant children may be requested or required to support a BID process.

²³ This section refers only to family tracing and reunification of separated and unaccompanied children. For more information on separated and unaccompanied children, see [Part 6](#).

More detailed information on separated and unaccompanied migrant children, including on family reunification, BIAs and BIDs, can be found in Part 6.

Reuniting family members

Family reunification between countries requires considerable coordination and communication between the relevant authorities and the vulnerable migrant, including authorities from all relevant countries. In some cases, international organizations may help States reunite families, typically IOM, the ICRC, National Red Cross and Red Crescent Societies, UNHCR and UNICEF.

When the person to be reunited is a separated or unaccompanied migrant child, the family relationship must be verified to protect the child and ensure there have been no errors in the tracing process. (For more information on reuniting separated or unaccompanied migrant children, [see Part 6](#).)

All family members should be prepared for reunification, and support, including psychosocial support, should be provided to individual members of the family and the family as a whole. A significant amount of time may have passed since the family members last lived together or saw one another, and they may not be aware of everything that has happened in each other's lives since their separation.

In preparation for family reunification, vulnerable migrants and their family members may require support to obtain travel documents, including passports and visas. Vulnerable migrants should be offered support to make travel arrangements and, especially in the case of children, provided with a suitable escort for their journey. Travel escorts should have specialized training and expertise in supporting vulnerable migrants and must abide by all the principles of assistance ([see page 29](#)). Vulnerable migrants and their family members should be consulted about and agree to the choice of the escort.

Any costs associated with family reunification, including to obtain appropriate documentation, transportation and accommodation, should not be prohibitive or prevent reunification. Where possible, grants or loans should be provided to vulnerable migrants to cover such costs.

Post-reunification support

After vulnerable migrants and their families have been reunited, they may require additional support, including to register recently reunited family members with the relevant authorities and service providers. The services available for reunited family members should be mapped, including health care, training and education, and livelihoods, employment and income-generating services. All reunited children should be enrolled in school. Ideally, State social services or other service providers in the country of reunification should be able to conduct follow-up assessments to verify that reunification continues to be in the child's best interests.

The addition to the household may be a source of financial stress. This should be monitored and, where possible, additional financial support provided to the family to cover additional costs.

Some or all members of the family may benefit from psychosocial support to adjust to the reunited family and deal with the circumstances of the family separation. Appropriate support should be made available to all family members for a sufficiently long time.

Maintaining family unity

Efforts should be made to maintain the unity of families of vulnerable migrants, prevent separation and ensure that families that have been reunified stay together. This can be done by: (a) registering all family members with the relevant authorities; (b) registering all births, adoptions and deaths in the family; (c) providing shelter and accommodation for entire families; (d) ensuring livelihoods are sufficient for the family size; (e) ensuring children have the opportunity to attend school; and (f) ensuring all family members have access to health care in their communities.

A family of migrants wishing to continue its journey should be helped to do so as a unit. If a family chooses to separate – for instance if one member will travel to a new location before the others join him/her –, it should find ways to stay in touch. This may require support for the purchase of mobile phones, SIM cards and airtime vouchers, or training in the use of available means of communication, including social media. Any available information about

the migratory pathway, including risks, should be shared with family members so that they can make informed choices about who migrates and how. Information on what to do if a family member is unintentionally separated should be shared with and understood by all family members in the event that communication is interrupted, or the separation continues longer than planned.

Interaction with the legal and justice system

When a household/family member is involved with the legal or justice system, either as a victim of violence, exploitation or abuse or as a result of being charged with a crime or an immigration offence, it can have a significant impact on the well-being of other members.

Victims of violence, exploitation and abuse may experience a range of ill-effects from their experiences (see the “Health and well-being” section of Part 2). Witnessing these effects on loved ones may cause distress to household/family members, and may affect victims’ ability to perform their roles and responsibilities in the household/family in the way that they did prior to experiencing harm. Being charged with a crime or an immigration offence may have similar impacts, as both the person charged and the members of his or her household/family are likely to experience stress and concern about the future. These concerns may be about the future well-being of the individual charged, as well as the impact of any possible legal consequences, such as detention or incarceration of the individual, on the well-being of the remainder of the household/family.

When working with households/families impacted by interaction with the justice system, case managers and others should consider the effect of this interaction on the household/family and include measures to address the impact. These measures could include planning for alternative sources of income in light of the potential incarceration of the primary income-earner, counselling to help family members cope with stress, and advocating for alternatives to immigration detention (see page 41).

Families who have migrated, either in whole or in part, may also have interactions with family law systems. Family law refers to laws governing family relationships and property, such as marriage and divorce, child custody and child support, guardianship and division of marital property in case of divorce. There are a number of scenarios in which family law will be relevant in protection and assistance for migrants and members of their families, including:

- In situations where children are separated or unaccompanied and it is necessary to establish guardianship;
- In situations where consent from both parents for actions concerning children are required (for example, when both parents have custody rights, but one parent is attempting to travel across international borders with the child), but where only one parent is present;
- In situations where both parents have custody rights and are both present, but have disagreements on the next course of action (for example if one parent wishes to return with the child to the country of origin and the other parent wishes to stay in the current country or travel to another country with the child);
- In situations where one parent breaches custody arrangements or access rights; and
- In situations in which: (a) abuse, neglect, exploitation or abuse of a child, or violence, exploitation or abuse of another family member, is occurring within a family context or with involvement of a family member; and (b) action is required to protect the family member, including restraining orders against spouses or family members, temporary or permanent removal of the child from the family, and termination of parental rights.

The roles and responsibilities of different actors, such as parents, guardians, consular officials and family courts, vary from country to country. It is critical that practitioners are familiar and comply with all relevant local laws and regulations. However, in some contexts local laws and regulations may not specifically address concerns relevant to migrant families when family members reside in different countries. In such cases, practitioners must work closely with State authorities to determine the best way forward.

For more information on the protection, care and assistance of vulnerable migrant children, see Part 6.

Equality of men and women in marriage, family and property relations

International legal frameworks and policy guidance on marriage, family and property rights – such as the Convention on the Elimination of Discrimination against Women; the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights; the Convention on the Nationality of Married Women; and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages – call on countries to set standards of equality of treatment between men and women in marriage, family and property relations.²⁴

Social protection programming

Social protection systems help individuals and families, especially the poor and vulnerable, cope with crises and shocks, find jobs, improve productivity, invest in the health and education of their children, and protect the ageing population. There is an increasing consensus that social protection systems, also called “social security,” should be universal, reaching all poor and vulnerable groups with a variety of measures to ensure that no one lacks access to key forms of support when needed. Social security is a right articulated in the International Covenant on Economic, Social and Cultural rights, which recognizes the role social security plays in securing human dignity.

The Social Security (Minimum Standards) Convention, 1952 (No. 102) establishes minimum standards for nine branches of social security: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors’ benefit.²⁵ Such assistance can be provided by the State through universal schemes, social insurance, social assistance services, public works programmes, cash transfers, school feeding programmes and other schemes guaranteeing basic income security.

Social protection systems that are well-designed and implemented can be an important tool to enhance human capital and productivity, reduce inequalities, build resilience and end the intergenerational cycle of poverty. They not only help the poor and most vulnerable mitigate economic shocks, but also help ensure equality of opportunity by giving these groups a chance to climb out of poverty. When poor and vulnerable people are given an opportunity to improve their lives and that of their households/families, they are less likely to engage in unsafe or irregular migration.

Since jobs are critical in reducing poverty and promoting prosperity, social protection systems not only deliver social assistance and insurance to the poor and vulnerable, but also help link them to jobs, improve productivity, invest in the health and education of children, and protect the ageing population.

Social protection systems are typically the domain of States. Where they exist, practitioners can identify the social protection systems for which the households/families they are working with may be eligible and can assist them in enrolment. If State-run social protection systems do not exist, or have insufficient coverage, other actors, such as local development groups, United Nations agencies, international organizations, NGOs or civil society organizations may engage in such programming.

Since the 1990s, there has been a trend towards targeting social protection services for the most vulnerable, marginalized or poorest members of society through specific instruments such as social funds (that is to say, through funding institutions that are meant to provide social protection services) which are administered by State actors, international organizations, NGOs or poor communities themselves. The rationale for this approach, which is almost always focused on household/family interventions, is that these social safety nets would support the poorest and most vulnerable members of society and protect them from economic shocks in the short term and would also provide a basis for development by creating income-generating opportunities.

24 www.ohchr.org/Documents/Publications/PractitionerToolkit/WA2J_Module2.pdf.

25 www.ilo.org/secsoc/areas-of-work/legal-advice/WCMS_205340/lang--en/index.htm.

Cash-based programming

One of the main ways in which non-State actors can engage in social protection systems is through cash-based programming. Cash-based programming is a means of delivering assistance by directly providing programme participants with cash or vouchers for goods or services, with or without conditionalities. There are two main types of cash programming: cash transfers and cash for work.

Cash transfers

Cash transfers are direct payments of money or provision of vouchers for particular goods or services to a recipient. They can be paid directly by the implementing organization, or through a third-party intermediary, such as a bank. Transfers can be unconditional or conditional. For unconditional transfers, recipients receive the cash or vouchers simply by virtue of qualifying as a programme participant within the programme's scope. For conditional transfers, the recipient must do something in order to receive the cash or vouchers.

Unconditional cash transfers allow programme participants to choose for themselves how and where they will spend the cash received. The general assumption is that they will use the cash to cover basic needs. However, recipients sometimes use the money to repay debts or to invest in their livelihoods, for example by purchasing goods to resell or machinery or seed for agricultural production. In the case of unconditional voucher provision, there are some restrictions on the use of the resources provided, as they can only be used in particular stores or to receive specific services. However, these are still considered to be unconditional in the sense that the recipients are not required to fulfil specific duties or adopt specific behaviours.

The size and frequency of payments made may influence how the money is spent. One-time, large transfers might be used to rebuild or recover livelihoods, for example through the purchase of agricultural equipment, while more frequent, smaller transfers tend to be spent on basic household needs. When designing cash transfer programmes, practitioners should therefore take into account the potential impact of the size and frequency of payments on types of expenditures.

Conditional cash transfers²⁶

Conditional cash transfer (CCT) programmes give money to households on the condition that they comply with certain predefined requirements. In particular, conditionalities are often designed to encourage investment in the household/family and its members by accessing education and health services, for example regular health checks and growth monitoring, vaccinations, school enrolment and attendance. These forms of programmes frequently focus on children, and are often intended to help children acquire skills, knowledge and experiences – also referred to as human capital – that will help them break intergenerational transmission of poverty and vulnerability. When designing CCT programmes, practitioners should clearly understand and specify the types of behaviour they aim to encourage (and why) and clearly communicate this to programme participants.

Cash for work

Cash-for-work programming is a type of CCT, where the conditionality is the performance of specified work. This type of intervention pays participants for skilled or unskilled labour on projects that build or repair community assets or infrastructure. Typically, programme participation is for a given period of time, and payment can be made in cash or vouchers. It is not a jobs-creation or livelihoods programme, since its objective is to provide steady short-term earnings to a targeted group of vulnerable, usually crisis-affected households. This type of programming is also intended to address the psychological burden of boredom for people displaced after an emergency or crisis. Cash-for-work programming is typically used when the objectives include restoring community assets and infrastructure and/or keeping affected populations engaged in recovery.

In order not to exclude households that are unable to participate in the work component, these types of programmes are usually paired with unconditional cash transfers. In this way, households that are able to physically participate in work benefit from cash-for-work transfers, while those that are unable to do so receive unconditional cash transfers.

²⁶ IDB, *How Conditional Cash Transfers Work: Good Practices after 20 Years of Implementation* (2017).

Designing and implementing cash programming²⁷

When establishing cash programmes, key considerations include definition of the target population, beneficiary identification and enrolment, and establishment of conditionalities.

Definition of the target population

Definition of the target population is the process of specifying which households/families will be eligible for participation in a cash-based programme based on one or more specified criteria.

Typically, this will involve socioeconomic criteria. As cash-based programming is an intervention designed to assist low-income households to emerge from poverty, it is likely that programmes designed to reduce migrant vulnerability will include households/families where financial hardship has been identified as a risk factor contributing to their vulnerability. However, it may be necessary to further refine this criterion, for example by deciding that only households that fall below the relevant national poverty line will be eligible for the programme.

A second potential criterion is demographics. For example, a programme could allow for enrolment of any vulnerable household/family, or it may allow only for households/families with children.

Targeting methods

Once the target population has been specified, it is necessary to establish a method of selection. There are four commonly used methods that may be used on their own or in some combination:

- **Geographic targeting** selects all households/families within certain areas of a country, as long as they meet the established criteria of the programme (for example those where the incidence of extreme poverty exceeds a particular rate, or where migrant populations represent a given percentage of the population).
- **Categorical targeting** grants automatic eligibility to specific populations or persons in a particular category. For example, Colombia's Más Familias en Acción programme offers automatic eligibility to victims of displacement. Meanwhile, Brazil's Bolsa Familia programme gives priority to some self-identified historically marginalized racial groups, indigenous people, households/families relying on child labour and households/families with members freed from slave labour conditions, among other groups.
- **Means testing** is a process of assessing the assets and income of potential participants to see if they are eligible for the benefit. This can include a self-declaration, where potential candidates share information themselves, as well as information from local authorities; cross-checking with other databases; information on local poverty conditions; and local peer monitoring.
- **Community-based targeting**, generally used in combination with one or more of the other methods, places responsibility for selecting the beneficiaries in the hands of the community. It aims to use community knowledge about each household/family's standard of living to help inform selection of participants.

Beneficiary identification, enrolment, recertification and exit

After selecting the target population and targeting methods, the next operational steps include: (a) gathering programme applications that include information needed to determine eligibility; (b) entering data into an information management system; (c) reviewing applications and deciding on eligibility; (d) generating a list of eligible households/families; and (e) enrolling beneficiaries. This may require the development of application forms, establishment of specific thresholds or cut-off points, purchase of equipment for managing data, and development and implementation of data protection policies and procedures, as well as enrolment procedures.

Once beneficiaries are enrolled and begin receiving benefits, it is important to regularly conduct monitoring. Monitoring will allow practitioners to assess the impact of cash-based programming on the households/families participating in the programme, as well as to monitor any changes to the participants' circumstances that may affect the benefits received (for example, pregnancies, births, deaths and school participation) or impact their eligibility for continued assistance.

A recertification process should be established, where programme staff periodically review the eligibility of beneficiaries through an update to the household/family's level of welfare. This process helps to reduce the provision

²⁷ See IDB, *How Conditional Cash Transfers Work: Good Practices after 20 Years of Implementation* (2017).

of cash transfers to those who do not or no longer meet eligibility criteria, and to ensure that places in the programme continue to be made available to newly eligible households/families.

It is also important to have clear procedures and criteria relating to programme exit. Participants should be informed of criteria for continued participation in the programme, and procedures for termination of benefits should be clearly explained. Usually, households/families exit such programmes for one or more of the following reasons: (a) their socioeconomic status improves (either due to the programme, external factors such as economic growth and job creation, or a combination of both); (b) they do not meet the criteria for recertification; (c) they do not comply with conditionalities; (d) the household/family structure changes; (e) they do not collect their benefits for a long period of time; (f) they are found to have enrolled using false information; or (g) they choose to withdraw from the programme.

Establishment of conditionalities

If the cash programme is conditional, the conditionalities must also be determined and clearly communicated to the households/families that are applying to the programme. The aim of such programmes is typically to increase a household/family's human capital to empower it to break the cycle of poverty. Therefore, conditionalities are usually related to health and/or education behaviour, though they might also be in line with programme objectives, such as participation in psychosocial, intercommunal or other forms of activities. Any conditionalities established should be:

- Potentially achievable by all households/families in the programme. For example, the conditionality should not state that parents must enrol their children in private education if the cost would be out of reach for any programme participants.
- Clearly related to the programme's stated objectives. For example, a programme with the sole stated aim of improving children's school enrolment should only contain conditionalities related to school enrolment.
- Easy to monitor and measure through objective means.
- Responsive to identified limitations in the ability of households/families to accumulate social capital.

Social capital enhancement activities

Understanding social capital

Social capital is generally understood as the resources that an individual, a household/family or a community can access through social networks. For example, when an individual looking for a job gets friends or neighbours to "put in a good word" with their employers, that jobseeker has leveraged his or her social network to access the job market. Social capital requires mutual feelings of trust and a sense of shared values and understanding between people. The more social ties or social networks that a person or household has and the better the quality, the greater the likelihood that they can tap into those social networks to access information, resources or other things of value in order to meet their needs. Better social capital is broadly associated with better health and well-being.²⁸

Social capital is of particular concern for migrants as it can weaken when they migrate, and their absence can also weaken the social capital of the households/families that they left behind. For migrants, this is both because social relationships can be weakened by absence, and social relationships in the place of origin are less likely to be helpful in their new contexts (for example, while a neighbour at home may have good connections and information on the job market in the home community, it is less likely that the same neighbour would have good and reliable information on the job market in different communities and countries). When migrants are in new locations and find themselves in need of information or assistance, they may not be able to access it as quickly as they could back home, as they do not have the social networks to provide or guide them to those resources. One coping strategy often deployed by migrants in such situations is to tap into local migrant communities, which can be an extremely important new source of information and other resources. Household and family members who do not migrate but remain in their community of origin may also face reduced social capital following the migration of one or more family members, particularly if the household/family members who migrated were very important in managing and maintaining social ties. For example, in some contexts and cultures women are very involved in building and maintaining the family's

²⁸ Muhammad Majeed and Tahseen Ajaz (2018) Social capital as a determinant of population health outcomes: A global perspective. *Pakistan Journal of Commerce and Social Science*, 12:52–77.

social network through participation in school activities and religious events and the like. In such contexts, if adult female family members migrate for work, the household/family members left behind may find themselves more socially isolated and with less social capital.

Social capital is affected by migration, but a lack of social capital may also be a cause of migration. Often vulnerable individuals and groups are vulnerable, at least in part, due to their marginalization and exclusion. This marginalization and exclusion, which may be based on race, religion and other factors, can manifest in a lack of and/or lower quality social ties or networks, meaning that individuals and groups have fewer social resources to draw on in times of need. This in itself can prompt migration, including unsafe or risky migration, in an attempt to leave the marginalized status behind.

Mobilizing and supporting social capital development

Social capital can be an important protective factor as it can be mobilized specifically to address or mitigate risk factors. For example, if a migrant is facing violence in her home, she could seek assistance from her friends, neighbours and extended family members. These social contacts could assist by providing information on resources available, such as safe shelter, or by offering safe shelter themselves. They might provide cash or loans to enable the migrant to leave her situation, or emotional support while she reports the matter to the police. More broadly, the migrant's friends, neighbours and community could speak out on her behalf to demonstrate that domestic violence violates the community's social norms.

At times, vulnerable migrants may not recognize the full range of social capital available to them and would benefit from a closer examination of such. Practitioners working with vulnerable migrants can help them assess their social relationships in terms of how many social contacts they have, the strength of those relationships, the types of assistance they might be able to request from those contacts, and how these contacts and networks could be mobilized in problem-solving. For example, a person with few financial resources but a rich set of social networks might be able to organize a group-lending arrangement and therefore access credit that they might not have been able to access on their own.

Practitioners can also help vulnerable migrants to understand the importance of social capital and to work towards increasing their social capital as a longer-term way of improving well-being. This can include measures such as investing in social relationships by increasing the number of contacts, spending time with contacts, building trust and engaging in reciprocal supportive activities. Concrete activities can include forming or joining local associations; engaging in social, cultural and religious events; forming mutual aid societies; and volunteering.

3.3 RESOURCES FOR PART 3

Resources for shelter and accommodation; water, sanitation and hygiene; food and nutrition

OHCHR, Toolkit on the Right to Food

www.ohchr.org/En/Issues/ESCR/Pages/food.aspx

OHCHR and FAO, The Right to Adequate Food (Fact Sheet 24)

www.ohchr.org/Documents/Publications/FactSheet34en.pdf

OHCHR, The Right to Adequate Housing Toolkit

www.ohchr.org/EN/Issues/Housing/toolkit/Pages/RighttoAdequateHousingToolkit.aspx

OHCHR and UN-Habitat, The Right to Adequate Housing (Fact Sheet 21, Rev1)

www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf

OHCHR, The Right to Water and Sanitation Toolkit

www.ohchr.org/EN/Issues/ESCR/Pages/Water.aspx

OHCHR, UN-Habitat and WHO, The Right to Water (Fact Sheet 35)

www.ohchr.org/Documents/Publications/FactSheet35en.pdf

Sphere, Minimum standards in shelter, settlement and non-food items

<https://handbook.spherestandards.org/>

Sphere, Standards in water supply, sanitation and hygiene promotion

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Resources for health and well-being

OHCHR, Toolkit on the Right to Health

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www.livelihoodscentre.org

IFRC, Guidelines for Livelihoods Programming

www.livelihoodscentre.org/documents/20720/100145/IFRC+Livelihoods+Guidelines_EN.PDF/9d230644-9b02-4249-8252-0d37e79ad346

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www.refworld.org/docid/468e2f632.html

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3.4 HOUSEHOLD/FAMILY FACTORS ASSESSMENT TOOLKIT

Introduction

Household/family factors are those related to the household/family of an individual. These factors have an impact on the individual, either increasing or decreasing their likelihood of experiencing violence, exploitation or abuse before, during or after migrating. This toolkit provides guidance on how to assess the ways in which household/family factors influence an individual's vulnerability by using the questionnaires provided.

Use of the household/family-level questionnaires can only provide a partial understanding of any individual's vulnerability: the information gathered through their use should be complemented by information gathered using the individual, community and structural level tools. This will allow for a more complete understanding of the individual's vulnerability and how the factors at various levels are interacting and operating to shape their vulnerability. Refer to Parts 2, 4 and 5 for information on conducting assessments of the individual, community and structural factors.

This toolkit contains: (a) a discussion of different household/family-level factors and how they influence vulnerability; (b) a suite of questionnaires to be used to gather the information needed to assess the impact of household/family-level factors on an individual's vulnerability; and (c) guidance on how to adapt and use the questionnaires.

Household/family factors

The list of factors described in this section are based on existing literature on vulnerability to violence, exploitation and abuse, as well as research conducted using the IOM determinants of migrant vulnerability framework. Many of these factors are context-specific, meaning that they might be a risk factor in one context but a protective factor in another. The household/family-level factors discussed in this section can be assessed through use of the questionnaires provided in this toolkit.

It is expected that over time, more knowledge will be gained on migrant vulnerability, which will necessitate revisions and updates to both the list of factors and the questionnaires.

Country of origin/citizenship

An individual's country of origin and citizenship could act as a protective factor or as a risk factor that would tend to expose the individual to violence, exploitation and abuse, depending on how people from the particular country/holding that citizenship are perceived/treated in that location.

Age

For individuals aged roughly between 20 and 50, age tends to be a protective factor. Younger and older people tend to be relatively more vulnerable and thus age is more of a risk factor. This is because younger and older people are often more dependent, less physically strong/mobile and can be less well informed, including about how to best advocate for themselves as compared to those roughly between 20 and 50 years of age.

Shelter

When an individual has no shelter or has a marginal shelter situation, he/she is more likely to be exposed to unhealthy, unsafe and exploitative housing circumstances and to make decisions that place him/her at greater risk. It is also important to understand who they live with, as there is typically greater interdependence between cohabitating family members and relatives than there is between unrelated cohabitants and, as such, the impact of a particular factor may vary for the different household members.

Education

Having a higher level of education is a significant protective factor since it means that a household/family member is more likely to be able to critically engage with their circumstances. It also allows household/family members to plan; to understand their rights and have the ability to advocate for those rights, including understanding channels within which to do so; to have more resources to draw upon when faced with challenging circumstances; and to be more likely to have decent work opportunities. This means that they will be relatively more independent and able to contribute to the household/family unit. By contrast, having a lower level of education is a strong risk factor and will

tend to reduce their independence and ability to contribute to the household/family, impacting negatively on all other household/family members. Further, having young household/family members who feel unsafe at school or who are working outside the home means that they are less likely to continue to attend school, which in turn means that they are more likely to become vulnerable as a result of a lower education level. Again, this could impact negatively on other household/family members.

Financial situation

Having a more stable income at a level that can support one's own needs and one's external responsibilities to others is associated with greater resilience to violence, exploitation and abuse. Conversely, having a less stable or insufficient level of income, for example as a result of working in the agricultural sector in a community that tends to have drought or because of lacking the skill sets to find work in a weak economy, is associated with greater vulnerability and greater risk-taking behaviour to earn income. This in turn can increase the burden upon other household/family members, placing more demands on them and thus contributing to possibly risky coping strategies. Similarly, having debts is associated with vulnerability due to the challenge of repaying debts while simultaneously meeting one's own immediate financial needs, as well as due to a risk of external pressures such as demands to repay debts. Having household/family members with debts risks increasing the burden on other household/family members, as well as exposing them to risk if there are threats being made to encourage repayment.

History of migration

An individual who has household/family members who have migrated is more likely to migrate themselves as a result of a demonstration effect and as a result of having a concrete plan of how to undertake migration. This then can be associated with greater risk if the migration that they undertake is relatively dangerous or poorly thought through, or with greater protection to the extent that they learn from the experiences of others or their own previous migratory experience(s).

Physical and psychosocial situation

A household/family member who has experienced a major negative life event such as divorce, separation, death, or major illness or injury is less likely to be able to fully contribute to the household/family unit and is more likely to require some degree of support from other household/family members, thereby increasing the burden upon and thus the vulnerability of those other members.

Risky behaviours and experiences

Experiencing violence, coercion, threats, exploitation, abuse, addiction, and engaging in risky sexual behaviours are risk factors, and therefore any household/family member experiencing such situations are relatively more vulnerable. Similarly, household/family members who are or have been involved in risky behaviours such as armed conflict, gang activities, the drug trade or the sex trade are relatively more vulnerable. In turn, all of these behaviours and experiences risk impacting upon other members of the household/family and placing them at greater risk, for example by exposing them to violence or threats.

Decision-making

Not being able to participate in or to feel heard during household/family decision-making is a risk factor, since it means that the individual is relatively disempowered and thus has relatively less agency as well as a greater possibility of being coerced or controlled. This factor can also be an indicator of gender and/or age inequality within the household/family.

Networks

Having strong networks of support is an important protective factor since it means that a household/family and its members are more able to reach out to others, whether for material or other types of support. In turn, being isolated within the community is a risk factor since the household/family is not able to reach out in a similar manner, thereby increasing the risk for individual members.

Community safety

Having unsafe elements in the the community, such as the presence of human trafficking, gang activity or organized crime, is a risk factor for all household/family members. These risk factors may impact household/family members in different ways. For example, if women and children are subject to violence in the community, they themselves will be

directly affected. Other household/family members may also be affected, in that they may need to provide support to the household/family members directly affected, or they may themselves face risk as they attempt to protect their household/family members.

Race, ethnicity, religion

Members of certain races, ethnicities or religions may be targeted for violence, exploitation and abuse in some contexts, or they may be given preferential treatment in other contexts. This factor therefore focuses on the manner in which race, ethnicity and religion can increase risk or provide protection, depending on the context.

Biological sex, gender identity and sexual orientation

Some biological sexes, such as being female or intersex, as well as some gender identities, such as being a woman or non-binary, and sexual orientations other than being heterosexual all tend to be associated with greater risk as a result of persecution, abuse and violence. Conversely, being male, a man and heterosexual tend to be associated with greater protection.

Guidance for applying and adapting the household/family factors questionnaire

Purpose

This questionnaire is intended to be used to assess the ways in which household/family factors influence an individual's vulnerability. When combined with individual-level data and interpreted in light of the larger contextual understanding about what factors lead to greater vulnerability or resilience captured in the community and structural level tools, it becomes possible to assess the vulnerability to violence, exploitation and abuse of that particular individual migrant. Further, if such data is gathered over time and linked to data from other geographic locations, it can inform understanding of larger trends regarding migrant vulnerabilities in a particular community, as well as regionally. As such, it can potentially inform programming by governments, as well as national and international organizations and service providers.

The questionnaire has been designed in four versions, and the choice of which version to use should be based on the stage of migration the individual is in: pre-departure/at origin, in transit, at destination or following return. They are designed to be comprehensive and therefore to be used primarily as a research tool and to inform programming. However, if vulnerable individuals are identified during this process, they should be referred to appropriate protection actors. Protection actors may wish to use the IOM Screening Form for Migrants Vulnerable to Violence, Exploitation and Abuse to assist them in identifying an individual migrant's protection and assistance needs.

Using the questionnaires

The questionnaires can be used in either paper-based or electronic format such as Kobotoolbox or Survey Monkey. Even if paper-based questionnaires are used, the data should be transcribed to an electronic platform in order to ensure the durability of the data collected and the ability to use it to understand changes over time. This is also good for comparison purposes with other contexts and locations and therefore to be able to develop an evidence base for national, regional or global analysis.

Ideally, the household/family forms would be used in combination with the individual forms, in order to have a complete portrait of the respondent's situation. There is some overlap between the individual and household/family-level questionnaires, particularly in Section 1: Interview Information, Section 2: Basic Information and Section 4: Sociodemographic information. It is not necessary to repeat questions to the same respondent.

The vast majority of the questions are close-ended. Where relevant, space is provided to enter additional information or to enter responses to open-ended questions. It is recommended that enumerators/interviewers try to use consistent terminology in those boxes to ensure comparability. Hence, if a person reports the source of income as "working in a shop," the same terminology should be used for a response that indicates the same activity, such as "I work at the florist's." For questions where the expected response is a number, it is recommended to use digits rather than writing the number: that is to say, use "15" rather than "fifteen."

Each of the versions of the questionnaire has similar fields and questions, arranged in the following four sections: Section 1 records information about the interview itself; Section 2 records basic information about the respondent;

Section 3 gathers information on vulnerability factors; and Section 4 gathers sociodemographic information. This guidance provides information on completing each of these sections using the language from the pre-departure/at origin questionnaire. However, the guidance applies to all of the versions of the questionnaire.

The estimated time for migrants to complete the questionnaire at origin/pre-departure is approximately 30 minutes. During transit, at destination and following return, migrants could take approximately 30 to 45 minutes to complete the questionnaire.

Question order

The order of the questions has been designed not only to group topics together, but also to reflect good practice. For example, questions regarding sex, sexual orientation, ethnicity and other potentially sensitive identity-related characteristics are included in Section 4: Sociodemographic Information, at the end of the questionnaire. That is because it is generally good practice to delay such questions until the respondent has been put at ease by answering less-sensitive questions first.

Some questions appear to be repetitive. This is because formulating some questions in more than one way serves to verify the initial question. For example, the questionnaire includes the following two questions: “Is it your own choice to travel/move (not someone else’s)?” and “Is someone else forcing you to travel/move?”. This allows for differentiation between people who feel they are migrating because their current circumstances do not provide other viable choices and have decided for themselves that migration is a practical solution, and those who are migrating because someone is forcing them to.

Section 1: General information

This section includes identifying information for the questionnaire. It is intended to be completed by the enumerator.

- 1.1. Enumerator code:** It is important to develop and implement a system for tracking which questionnaires were completed by which enumerators. This is important as it allows for identification of any systematic errors that an enumerator may be making. For example, an enumerator might be completing certain sections incorrectly, or skipping sensitive questions.
- 1.2. Date:** The date should always be entered in the same format, such as [dd-mm-yyyy] where, for example, the 22nd of May 2019 would be entered as [22-5-2019].
- 1.3. Language in which interview is conducted:** The language in which the interview is conducted may or may not be the same as the language in which the questionnaire is written. This is important to note in case there are inconsistencies in translation between different enumerators.
- 1.4. Location of interview:** It is important to specify the location in which the interview was conducted, which will facilitate analysis and comparison between different communities. It is important to use a precise system for naming the locations to avoid misinterpretation of the data.
- 1.5. Country of interview:** This serves as a further identifier for the survey and can be helpful when analysing surveys from different countries and for comparison purposes across countries.

Section 2: Basic information

This section includes basic information about the respondent.

- 2.1. Respondent’s country of origin** and **2.2. Respondent’s citizenship** provide a basis for assessment of the person’s migration status. Being in a country of which one is not a citizen usually constitutes a vulnerability factor, as the person may not enjoy the same legal rights as citizens of the country.
- 2.3. Age** can serve to identify children who may be in need of additional specific protection, and also for whom parental or guardian permission may need to be obtained before continuing with the interview.
- 2.4. Language(s) spoken:** An ability to speak more than one language can be a protective factor when migrating to countries where the respondent’s language is not the official language or is not commonly used.

Section 3: Household/family vulnerability factors

This section is divided in three parts. Section 3A focuses on household/family composition and migration history, Section 3B focuses on the household/family situation and dynamics, and section 3C focuses on community participation and safety. The questions in these three sections help to identify the presence of different factors affecting the migrant's vulnerability to violence, exploitation and abuse.

Section 3A: Household/family composition and migration history

Questions in this section relate to the composition of the respondent's household/family, as well as to the household/family's history of migration.

3.1. Are you currently homeless?

A yes response is an indicator of migrant vulnerability.

3.2. Who do you live with?

Living arrangements can have an impact on an individual's vulnerability; living alone can be an indicator of vulnerability or of independence and self-reliance, depending on the context. Sharing a dwelling with family/friends or with strangers can be an indicator of vulnerability if it creates additional responsibilities for the individual, but can also provide a support network, again depending on context.

3.3. How many people do you live with (not counting yourself)?

This question seeks information about the respondents' household unit. Household/family size may be a risk factor in some contexts.

3.4. How many of the people that you live with (not including yourself) are children under the age of 16?

Children are, in general, more vulnerable. Having a large number of children in a household may be a risk factor in some situations and contexts.

3.4.1 Are the children that you live with, not including yourself, if you are under 16, currently attending school?

Non-attendance for school-age children and adolescents may be an indicator of vulnerability. This is why it is important to understand the reasons for it.

3.4.1.1 What makes them feel unsafe?

Schools may not always be safe places for children, so it is important to understand if they feel safe there. If not, they may be in need of protection assistance.

3.4.1.2 Why are they not attending school?

Most reasons for not attending school, such as insecurity, lack of funds to support education or the need to work to contribute to the family, are risk factors.

3.4.2 Do any of the children that you live with, not including yourself, if you are under 16, work outside the home to earn money?

Depending on the context, school-age children who also work for money can be an indicator of migrant vulnerability.

3.5. Is everyone who lives with you a member of your household/family?

Living in overcrowded accommodation may be an indicator of vulnerability. Similarly, being part of a large household comprised of family members may indicate increased financial responsibilities. If a person does not know how many people he/she lives with, this may be an indicator of trafficking.

3.6. What is the highest level of education of the members of your household/family?

No education or less than a primary education is an indicator of migrant vulnerability. Further, the level of education of the parents/guardians/heads of household tends to correlate positively with higher educational attainment of children. Note that the questionnaire offers the option of "partial" completion of each level to avoid imprecise responses.

3.7. What is the main source of income of the members of your household/family?

Lack of any source of income for individuals but also for households/families as a whole is a risk factor, as is a source of income that is not stable and secure. Further, the specific sectors asked about – factory work; domestic work; prostitution or sex-related work; forestry, agriculture and fisheries; and mining and construction – are often high-risk sectors.

3.8. Have any members of your household/family ever migrated/moved to another country/region of your country in the past?

3.9. Have any of your friends ever migrated/moved to another country/region of your country in the past?

These two questions are intended to understand whether the household/family and close acquaintances of the respondent have a history of past migration, which depending on the context may be a protective factor (if they have knowledge/information about the process and route) or a risk factor (if they are determined to migrate in spite of having had negative experiences in the past, potentially including having been subjected to violence, exploitation and/or abuse). The sub-questions serve to create a more detailed summary of the migration history of the person's household/family and friends.

Section 3B: Household/family situation and dynamics

Questions in this section seek to understand the current situation of the household/family and the relationships among its members.

3.10. Has your household/family recently (within the last three years) been affected by any of the following situations?

The response options all indicate disruptive situations that may be risk factors for all members of the household/family.

3.11. Have any members of your household/family experienced, or are currently experiencing, any of the following?

The response options are all risk factors.

3.12. Have any members of your household/family been involved or are currently involved in or been affected by any of the following?

The response options are all indicative of risky behaviours that are indicators of vulnerability.

3.13. Does anyone in your household/family (not including yourself) have any debts?

3.13.1 Do you feel they are being pressured or coerced into repaying these debts?

Any personal debt is a risk factor. Indebtedness to an agent, smuggler, trafficker, recruiter or employer is an indicator of vulnerability to trafficking. Being pressured or coerced, regardless of who the debt is owed to, is an indicator of vulnerability to abuse and/or exploitation. Debts owed by any members of the household/family can affect all members.

3.14. Are you able to participate/are you heard when decisions are made for the household/family as a whole?

3.14.1 Why not?

These questions aim to understand the individual's position within the household/family. Not being able to participate in or to feel heard during household/family decision-making is a risk factor. It can also indicate increased vulnerability due to gender or age roles and inequality within the household/family.

Section 3C: Community participation and safety

The questions in this section aim to understand respondents' perception of the community and their and their household/family's place within it. Lack of safety and security, as well as lack of social ties within the community, are indicators of vulnerability.

3.15. Do you feel your household/family is isolated from the rest of the community?

An individual's access to social networks is usually based on the household/family's access to such networks. Lack of social ties and networks is a risk factor.

3.16. How safe is this community, as it relates to you and your household/family living here?

A perception of insecurity is a risk factor.

3.17. How likely do you think women are to encounter violence, exploitation and abuse in this community?**3.18. How likely do you think men are to encounter violence, exploitation and abuse in this community?****3.19. How likely do you think children are to encounter violence, exploitation and abuse in this community?**

These three questions aim to understand whether there is widespread gender- and age-based vulnerability in the community, and the extent to which it can affect the respondent and their household/family. A higher likelihood of violence toward these groups is a risk factor.

3.20. How likely is it that someone in this community will become a victim of human trafficking?

This question aims to assess both the prevalence of human trafficking and the respondent's awareness of its presence. A high likelihood is a risk factor.

3.21. Are you aware of the presence of any gangs or organized crime elements in this community?

This question relates to the perception of safety and security. If gangs or organized crime elements are present, and if the respondent feels they are a threat to him/her and the household/family personally, this is a risk factor.

Section 4: Sociodemographic information

The questions in this section are intended to identify personal and/or group characteristics related to identity that may be associated with increased vulnerability. The extent to which any of these characteristics is a protective or risk factor depends on the context. In the subsequent interpretation process of this data, draw upon contextual knowledge to assess whether these are indicators of vulnerability. Many of the questions may also be particularly sensitive depending on the context; please refer to the section "Adapting the questionnaires to different sociocultural contexts" of this toolkit.

4.1. Race/ethnicity: Race/ethnicity may or may not be a socially relevant trait in the context, and respondents may or may not be familiar with those terms. The following are commonly understood definitions of the terms:

- **Race:** This refers most commonly to a person's appearance based on skin colour, hair texture or shape of nose, but may refer to ancestry as well as to appearance. Examples of terms used in various contexts: white, black, Asian, African, Afro-descendant, Indigenous.
- **Ethnicity:** This term commonly refers to a group identity based on shared social and cultural characteristics, such as language, religion and social practices such as marriage customs. Some examples: Igbo, Zulu, Han, Kikuyu, Hmong, Mapuche, Zapotec and Basque.

Belonging to any race or ethnicity is not in itself an indicator of vulnerability. However, depending on the context, it may be a protective factor if that identity is privileged, or a risk factor if it is marginalized.

4.2. Religion: As with ethnicity, subscribing to any given religion may be a protective or risk factor depending on the context. Note that the list provided in the questionnaire cannot be exhaustive. If the person's religion is not one of the options provided, please enter it in the "Other" space.

4.3. What is your biological sex?**4.4. What is your gender identity?**

While for most people these two notions are interchangeable, being "born" male but identifying as a woman, or vice versa, is usually a strong indicator of vulnerability.

4.5. Do you identify as heterosexual?

If the response is no, then it is likely that the person identifies as lesbian, gay, bisexual, transgender, transsexual or queer (LGBTQ), which is an indicator of vulnerability.

Responsible data-gathering

Many of the questions being asked in this questionnaire focus upon topics that are very personal and/or very sensitive. There is thus an onus to ensure that the “do no harm” principle is respected through their participation, including by protecting respondent anonymity. Further, if a vulnerable person in need of assistance is identified during the interview, he/she should be referred to the appropriate protection actor. Enumerators should be appropriately trained as regards how to follow these guidelines.

Adapting the forms to different sociocultural contexts

It may be tempting to avoid asking questions about socially taboo topics. For example, in contexts where homosexuality is illegal or where engaging in sexual activities before or outside of marriage is cause for ostracism, it may feel uncomfortable to ask respondents about their sexual orientation or whether they have children if they have indicated they are not married. In spite of this, these questions must be included. Indeed, failing to obtain this information would mean failure to collect data about the very factors that would place such a person at risk, and therefore failure to inform programming designed to protect the person. In addition, the exclusion of such questions would reduce the comparability of the data across regions and therefore curtail the possibility of developing suitable programming options at the global level.

In order to reduce the likelihood of offending the respondent, the most potentially sensitive questions have been placed towards the end of the questionnaire, so that a rapport will already have been established between the respondent and the interviewer. Nevertheless, since each particular sociocultural context is unique, it is possible that certain topics will be more or less delicate in different locations. In those cases, it will be important to use strategies to minimize the possibility of offending the respondent or of someone else hearing the answer. The following are some possible approaches:

- Begin all interviews by explaining to the respondent that answers will be confidential, and that he/she can refuse to answer any questions or decide to terminate the interview at any point.
- When reaching a sensitive question, reassure the respondent again by saying something like: “We know that people who don’t conform to social expectations are usually more vulnerable to violence, exploitation and abuse, so I need to ask you some sensitive questions. Rest assured that your responses will be kept confidential, and I do not mean to offend you in any way.”
- Preface potentially sensitive questions by saying something like: “I mean no offence in asking, but...”

Whenever feasible, the interview should take place in a private space.

In many cases, specific terms may be difficult to translate in the sense that there may not be a local term that is exactly equivalent to the concept, such as “household/family,” “gender identity” or “heterosexual.” Other expressions, like “risky sexual behaviour” or “informal economy,” will also need to be explained in a socially sensitive yet conceptually accurate way. In other words, while the terms may have exact equivalents linguistically, they may not be commonly used or understood. Wherever possible, we have provided guidance as to the meaning of such expressions within the questionnaire itself. However, it is possible that some terminology will be unfamiliar in particular contexts. In those cases, it will be important to seek a word or phrase that conveys the idea that the questionnaire seeks to address. It is essential, however, that the local terms used should be non-judgemental and non-pejorative.

Questionnaires

The questionnaires can be downloaded from IOM’s website (www.iom.int):

- Household/family questionnaire: origin/pre-departure
- Household/family questionnaire: in-transit
- Household/family questionnaire: destination
- Household/family questionnaire: returned

PROTECTION AND ASSISTANCE
FOR MIGRANTS VULNERABLE
TO VIOLENCE, EXPLOITATION
AND ABUSE: COMMUNITY
PROGRAMMING

PART 4

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INTRODUCTION

Part 4 of this Handbook focuses on the determinants of migrant vulnerability at the community level and on appropriate programmatic responses for mitigating and addressing vulnerability factors at this level. It provides a general introduction to the concept of community, and to the role of communities in contributing to vulnerability or resilience. It outlines programming principles that should guide the development and implementation of community programmes, and describes various forms of programming for addressing community-level vulnerability factors. Specific topics include: building local governance capacities; community development; addressing community-level instability and fragility; addressing attitudes, norms and beliefs; and addressing harmful practices.

The guidance provided in Part 4 is intended mainly for local and national governments, community leaders and development actors.

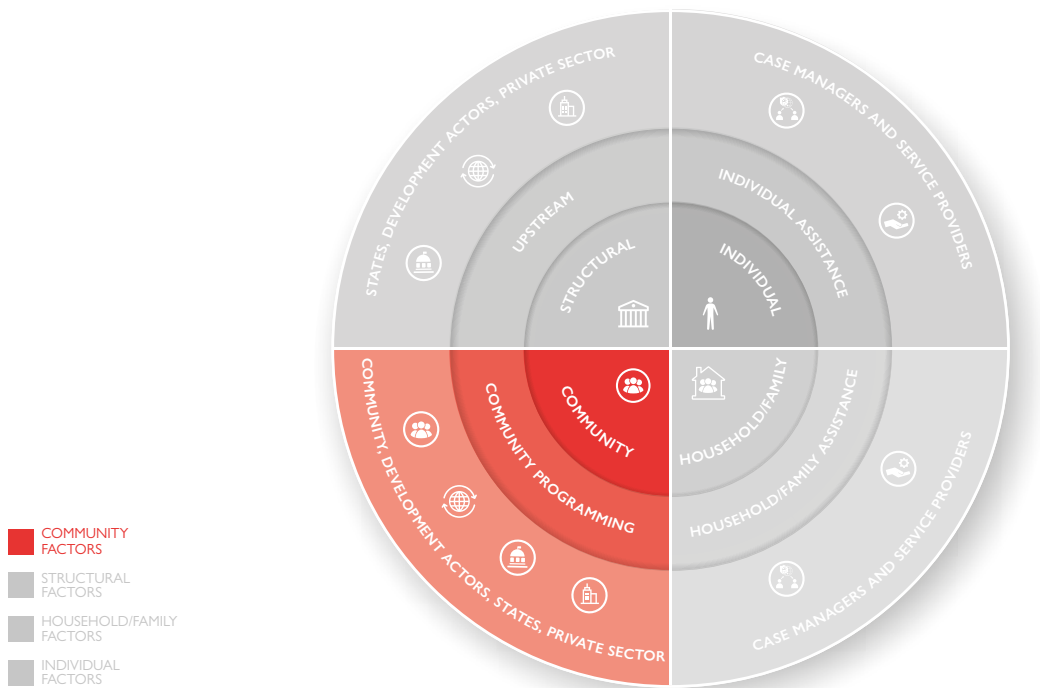


Figure 4.1

Programmatic responses and relevant actors at the community level

4.1 COMMUNITY-LEVEL DETERMINANTS OF MIGRANT VULNERABILITY

Understanding the concept of community

There are two main approaches to the concept of community: one which focuses on the shared interests or identity of individuals, regardless of physical proximity, and a second which focuses on geographic locations, usually with an element of social interaction and/or common ties.¹ This Handbook follows the second approach, and defines community as “a number of persons within a specific geographical territory who regularly interact with one another, access common resources and institutions, and who tend to share common experiences, culture, values, beliefs and attitudes.”

¹ http://motu-www.motu.org.nz/wpapers/05_09.pdf.

Within this conceptualization then, communities share one or more of the following, in addition to sharing a common location:²

- **Common experiences:** Shared experiences, such as experiencing a natural disaster, can lead to the creation of bonds between people.
- **Beliefs, values and attitudes:** Different groups of people hold different views on what comprises community. For example, some groups may place more importance on family and “blood ties,” while others may be more concerned with shared religious, cultural or civic beliefs.
- **Access to common resources and institutions:** People who share resources and institutions, such as community centres, markets and schools, will have regular and repeated interactions with each other.
- **Bonds and common ties:** These refer to the actions and beliefs that help create a “we” identity, such as shared experiences, growing up together, going to school together and participating in community life.
- **Interdependence:** This refers to the idea that community members are part of a network, where the actions taken by one member can influence others (for example, reckless driving) and where members can rely on the support of others when necessary (for example, responding to a fire).

Different communities reflect different combinations – and varying degrees of intensity – of these characteristics. For example, in some communities there may be only one school and one market, and all members may practice the same religion. In such a situation, interactions between individual members of the community are likely to be more intense, and values and beliefs are perhaps more likely to be similar. Communities with shared experiences, such as regular flooding, and high levels of engagement in community projects, such as construction of dams and levees, may feel strongly bonded and have a strong sense of “being in it together,” even if some of them believe the floods are a consequence of climate change and environmental degradation and others do not.

Inherent in the concept of community is the issue of boundaries; that is, who falls inside or outside of a community. There is no universal method of delimiting geographic communities, and the way in which boundaries are established may depend on the reason for establishing them. For example, an effort to improve lake management may require the involvement of all people who live around and use this natural resource. These people would have a shared interest in the lake’s management. While people living around a lake all share a common location, they could be grouped into different towns. Each of those towns could be considered its own community, perhaps with its own unique interests in the lake: for example, as a source of employment in fisheries, as a source of recreation, or as a source of income through tourism. Communities are often delimited for administrative purposes, such as electoral districts, school districts, and/or for political administration.

In a migration context, community of origin refers to a migrant’s place of habitual residence. Transit community refers to a geographical location through which migrants pass en route to their intended destination. The term host community refers to the non-migrant population of a geographic location where migrants are present, regardless of whether the migrant population is in transit (such as along a migration route), is there temporarily (such as in the case of a temporary labour migration scheme) or intends to settle there longer-term (such as in the case of immigration).

Determinants of migrant vulnerability at the community level

Individuals and their households/families are situated within a broader physical and social community context. They are affected by their community’s economic, cultural and social structures, and their positions within these structures. Communities with strong social networks and access to resources can provide support and protection to individuals and families, whereas communities without such networks and resources can create risk factors for individuals and families. Some community factors may affect groups within the community differently, making some groups more vulnerable and others less so. For example, social networks that provide support to some groups but exclude others work to protect some and increase risk for others. Some risk and protective factors can apply to all members of a community, making the community as a whole more or less vulnerable. All members of a community are rights holders, and the extent to which their rights are respected will affect how community factors impact vulnerability or resilience.

² This section is based on http://motu-www.motu.org.nz/wpapers/05_09.pdf.

Examples of community factors include availability of quality educational opportunities, health care and social services; equitable access to resources; livelihood and income-generating opportunities; the natural environment; and social norms and behaviours.

All communities will have a combination of risk and protective factors. Community risk factors include practices such as forced marriage, exclusion of some members of the community from the full benefit of community resources, or the presence of natural hazards such as landslides or flooding. Protective community factors include a good education system accessible to all, sufficient access to quality health care, a functioning social welfare system, and adequate preparedness measures to mitigate risks from natural hazards.

Refer to the Community Factors Assessment Toolkit for a more detailed discussion of community factors.

The interrelationship between individual, household/family, community and structural factors

There is often a close relationship between risk and protective factors at the community level and those at the structural level. Structural factors – such as laws and policies – may be implemented at the community level. Some factors, such as climate change and environmental degradation, are linked to local, regional and international practices, but their effects are most acutely felt at the community level. Overall, structural factors shape the community environment, and the community mediates, to a greater or lesser extent, how those factors are experienced locally. Comprehensive assessments of both community-level and structural-level risk and protective factors will provide a more complete picture and better inform protection and assistance programming, as both sets of factors will affect the individuals and households/families to which protection and assistance services are provided.

4.2 COMMUNITY-BASED PROGRAMMING TO ADDRESS VULNERABILITY TO VIOLENCE, EXPLOITATION AND ABUSE

Unlike the provision of protection and assistance services at the individual and household/family level, community programming is usually not undertaken to address the vulnerability of specific individuals to violence, exploitation or abuse within a migration context, even if community-level factors do impact their vulnerability. This is because community programming aims to promote longer-term and broad-based change; involves a broad range of stakeholders; and typically requires significantly more financial and technical resources and investment. It is usually not practical or feasible to design and implement community programmes for the benefit of one person or only a few people. Instead, community programming is undertaken to reduce vulnerability and enhance resilience of entire communities or, when only some segments of a community are impacted by community-level risk factors, to reduce the vulnerability of that specific segment of the community.

As such, community programming to address vulnerability to violence, exploitation and abuse in a migration context should be undertaken when: (a) there is indication that community-level factors are contributing to the vulnerability of segments of communities, or entire communities; and/or (b) when there are indications that community-level protective factors could be mobilized to help them avoid, cope with or recover from violence, exploitation or abuse. Community-level programming tends to require medium- to long-term approaches, as addressing community risk factors requires changes to broader social, economic, environmental and cultural factors.

Community programming can be undertaken in communities of origin, transit, destination and return, and as a preventive or responsive measure.

Programming principles

All community programming aimed at addressing migrant vulnerability to violence, exploitation and abuse should be based on the principles described below.

Contextualized and flexible - Different communities will experience conditions differently and may prioritize different responses. Community-level programming therefore requires tailored responses, based on thorough analyses both of local conditions and of the community's responses to those conditions. Programming needs to be sensitive to the fact that contexts change over time, both as a result of the programming and as a consequence of external factors at the local, national, regional and/or global levels. Therefore, flexibility should be built into the design of the intervention, in order for the programme activities to continue to be responsive to the specific community's varying needs and capabilities.

Community-owned and driven and participatory - A key component of successful community programming is the active participation of the community in the design, implementation and monitoring of interventions. As such, this type of programming needs to be community-owned and driven, mobilizing the available capabilities of the community.

Inclusive - A participatory approach does not automatically guarantee that all members of the community are equally included, whether individually or as groups. Participatory processes often fail to include marginalized groups, either because of: (a) the costs of participation; (b) the group's refusal to participate as a form of resistance; or (c) the group's inability to take part in social engagement.³ In addition, the location, language, form, procedures and customs of public forums frequently discourage and intimidate marginalized individuals from participating, even if they have the right to do so.⁴ Therefore, special efforts must be made to ensure that the most marginalized are included in the process.

Supportive of local government to fulfil its role - Based on the principle that States are the primary duty bearers, often supported by civil society actors (such as NGOs or civil society organizations), appropriate central or local authorities, and civil society actors should be a central part of the process. Where they are not able to provide services or public infrastructure on their own, community-level programming should endeavour to (re)establish and/or strengthen the capacity of these actors to fulfil their roles as duty bearers. The basic principle is that an intervention should serve to develop capacity, not to replace it.

Conflict-sensitive - All actors engaged in community-level programming should understand the context in which they operate, the interaction between the intervention and the context, and take action to avoid the negative impacts and maximize the positive impacts of the intervention. This involves conducting a conflict analysis and updating it regularly; linking the conflict analysis with the intervention; and continually monitoring, evaluating and revising the intervention as necessary in a conflict-sensitive manner.⁵

Multisectoral and integrated - The sources of community vulnerability are likely to be multisectoral in nature and interrelated. That is to say, the factors leading to the vulnerability of migrants to violence, exploitation and abuse may stem from a combination of, for example, gender norms and community attitudes, competition over scarce resources such as water, insufficient availability and/or accessibility of basic services, and ethnic tensions. It therefore follows that responses should be multisectoral and integrated.

3 M. Pelling (1988) Participation, social capital and vulnerability to urban flooding in Guyana. *Journal of International Development*, 10:469–486. E. Tompkins, E.N. Adger and K. Brown (2002) Institutional networks for inclusive coastal management in Trinidad and Tobago. *Environment and Planning A*, 34:1095–1111.

4 B. De Sousa Santos (1977). *The Law of the Oppressed: The construction and reproduction of legality in Pasagarda*. *Law & Society Review*, 12:5–126. J. Holler (2012) *Adaptation and Social Vulnerability on Mount Kilimanjara, Tanzania: Challenges and Possibilities for Sustainable Climate Change Adaptation*. Doctoral dissertation, Department of Geography, Faculty of the Graduate School of the University of Buffalo, State University of New York.

5 www.saferworld.org.uk/downloads/pubdocs/chapter_1__265.pdf.

Actors involved in community programming

Community-level programming can involve a broad range of actors, depending on the types of interventions delivered.

Community members – the people who live, work and study in a community – are themselves important agents of change at the community level. Community-level programming often aims at empowering community members not only to inform but also to drive initiatives. Community members may take action for their own self-interest, for the interest of others in the community, and/or for the interests of the community as a whole. As community members are important participants in all community-level initiatives, they are relevant in all types of intervention.

All communities will contain groups within them. People can be grouped together for any number of reasons or characteristics, such as students, workers, migrants, members of a sports club or faith community. What is important is that these groups often share perspectives and interests, and may work together towards shared objectives. All sectors of community intervention will touch upon the interests of community groups.

Community leaders are individual community members with a heightened capacity to influence opinion and affect change. This may be on the basis of: (a) privileged socioeconomic status; (b) personal characteristics (such as charisma and a capacity to convince); (c) the ability to make decisions that affect others (as teachers and employers, for example); or (d) a role in social or cultural institutions (as youth leaders and religious leaders, for instance). Community leaders are those whose voices are heard by others in the community and whose opinions are sought and respected.

Service providers, both public and private, have a role to play in mitigating migrant vulnerability to violence, exploitation and abuse stemming from community-level factors, as well as in promoting resilience to the same. Service providers are often well placed to identify risk and protective factors and provide insight into appropriate responses. Further, maintaining access to services within the community is often a critical component of recovery.

The media is a critical actor in shaping public opinion. The media also impacts community beliefs, values, attitudes, behaviours, norms and practices. This can directly influence the extent to which a community accepts and participates in a community-level initiative, as well as the community dynamics that shape these interventions. The media can also be an important participant in advocacy efforts, making them relevant in all sectors of community programming.

Employers in private businesses are key actors in their role as providers of livelihoods and employment, which are critical for individual and community well-being. Decisions made by employers not only affect individuals (such as when an employer decides to hire or fire someone); they can also affect entire communities (such as when an employer decides to open or close a plant that employs a significant number of community members). Further, access to both public and private services is necessary for healthy and thriving communities. Choices made by private businesses will impact the range of goods and services available in local markets, such as food, recreation and legal services.

Humanitarian and development actors are people from inside or outside the community who take action to save lives, alleviate suffering, maintain human dignity and support development. These actors include: (a) community members themselves; (b) government officials with community development responsibilities; (c) members of local, national, regional or international organizations or institutions who provide technical and other forms of support for community development initiatives; and (d) donors – private, bilateral, or multilateral – that provide financial support. Given the range of interests and expertise, humanitarian and development actors may be involved in any of the sectors of community-level programming, depending on the context.

State authorities – in this case local officials – are primary duty bearers in ensuring that all people can live lives free of violence, exploitation and abuse. Their participation and, ideally, leadership is therefore relevant in all sectors of engagement.

Actor	Examples	Sectors
Community members	Residents, students, employers, homeowners and tenants	All
Community groups	Members of social institutions, students, migrants and parents	All
Community leaders	Wealthy community members, landowners, religious leaders, educators, employers and youth leaders	All
Service providers	Health-care workers, educators, school counsellors, lawyers, community health-care workers, financial services providers and employment counsellors	Health, education, nutrition, finance, livelihoods, and poverty reduction
Media	Editors, journalists, news anchors and television presenters, social media actors	All
Private sector	Businesses, employers and business associations	Livelihoods and employment
Humanitarian and development actors	Community members, government officials, civil society organizations, NGOs, militaries, United Nations agencies, international organizations and donors	All
State authorities	Community development officers, emergency response officials, police officers	All

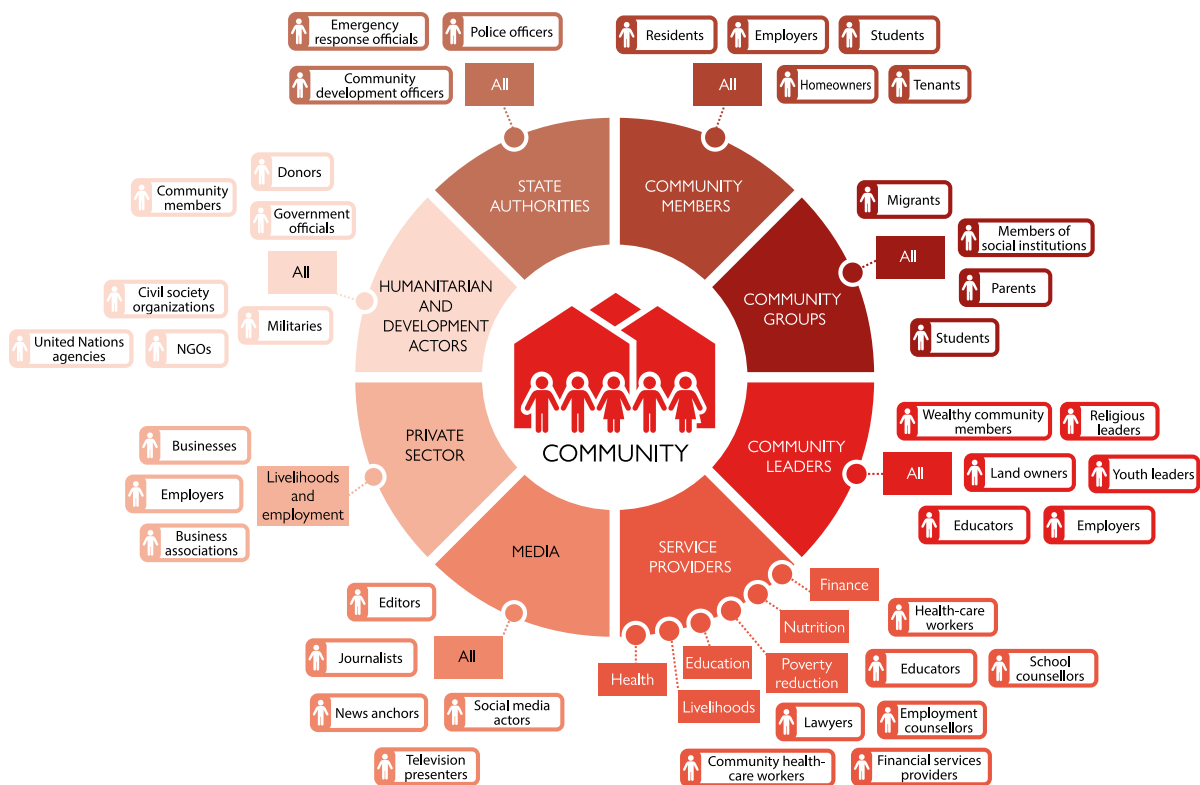


Figure 4.2

Relevant actors and sectors of intervention at the community level

Building local governance capacities

According to the World Bank, local governance is the formulation and execution of collective action at the local level. It is about framing interactions between local actors such as local governments and community organizations, collective decision-making and delivery of local public services.⁶

Community programming should aim to build and strengthen this collective action. Its goal is to build the capacities of local governments, communities, and other local actors such as civil society organizations to enable collective decision-making and local ownership of programme processes and outcomes. As such, these local actors should be considered the main stakeholders and the main agents of change.

Moreover, community programming is consistent with a rights-based approach, as States remain the main duty bearers. This approach is also better at delivering value for money, as well as contributing to more sustainable and effective programmes. By building the capacity of local organizations, community-based programming creates a support and decision-making infrastructure that outlasts the programme.

Under a community-based programming model, external partners do not decide what interventions to implement, nor do they carry out the implementation themselves. Instead, they empower local actors to determine what interventions would be most effective, for instance to address a given community's vulnerability to migrant violence, abuse and exploitation. External partners would also support local actors to implement and evaluate the interventions. To this end, community-based interventions should also strive to strengthen local coordination and planning capacities.

Local government

Local government is commonly defined as the lowest tier of public administration within a given State. Different names are used for local government entities in different countries (e.g. county, prefecture, district, city, town, borough, parish, municipality and village). Local governments exist geographically both in urban and rural settings.⁷

Engaging local leaders

Local leaders are usually the best entry point for community programming, as they have in-depth knowledge of local conditions and community dynamics, vulnerabilities and strengths. They also have a great capacity for outreach and convening as they are respected by members of their community.

Local leaders can include local government officials, religious leaders, cultural leaders and leaders of migrant associations. Depending on the context, elders can also be considered local leaders, as they can hold sway over their communities. Youth leaders can also be key allies in certain contexts.

It is important to ensure that local leaders involved in community programming for migrants vulnerable to violence, abuse and exploitation understand the migration dynamics that affect their community. In addition, they should be representative of the community they are meant to speak for. The selection of leaders should not exclude marginalized socioeconomic, ethnic, religious or gender groups.

The following are some key questions to guide the engagement with community leaders:

- Are there recognized leaders around which community action can coalesce?
- How are these leaders' roles perceived by others within and outside the community?
- Who are the official community leaders?
- Who are the informal/traditional leaders?
- What is the protocol for meeting with these leaders?
- Which groups and leaders have the greatest support of the broader community?

⁶ <http://unpan1.un.org/intradoc/groups/public/documents/apcity/unpan030175.pdf>, page 1.

⁷ Human Rights Council, *The Role of Local Governments in the Promotion and Protection of Human Rights*. A/HRC/30/49, para. 8 and 9. Available at <https://digitallibrary.un.org/record/848739>.

Leaders can play an important role throughout the community-based programming cycle. Initially, they can act as an entry point and provide key information about the power and influence dynamics in a given community. They can also be the gateway to the larger community and ensure broader community participation in programme design and implementation. Engagement with local leaders at this initial stage is not just about understanding the context and determining emerging local needs. Crucially, it is also about facilitating community ownership from the outset.

During programme implementation, leaders can be instrumental in keeping up the momentum and ensuring active involvement of the community throughout. They can also lobby for government engagement and participate in programme monitoring, not least to further demonstrate their interest in the programme and underscore its relevance for the community.

Local leaders can continue to fulfil a significant role once a programme has been completed, especially in ensuring that the programme's outcomes and success factors are maintained. For example, as part of a water infrastructure development programme, they can ensure that water management committees remain active and continue to oversee the effective upkeep of water facilities. They can also collaborate with the programme evaluators to assess the impact of the intervention in their communities.

Improving knowledge, skills and resources

Community programming should aim to improve the knowledge base of the community in terms of its own vulnerabilities and strengths. Particularly at the design phase, community-based programmes can work with communities to develop joint needs assessments, maps, surveys, conflict analyses and stakeholder mappings, among other tools. Community-based programmes are a good opportunity for a community to collect context-specific data and conduct analyses on risk and protective factors underlying vulnerability and resilience in their communities.

Capacity-building components can also be included in the actual programme implementation phase. Community members can be trained on identified priority issues, for example prevention of diseases and small-scale farming. Local government officials and members of civil society can also receive training on project management, accounting, human resources and other relevant skills.

Moreover, community-based programmes should also seek to improve the capacity of community members, including local government officials, to strengthen their planning and their budgeting processes. Indeed, while community-based programming might bring additional resources into the community (from external funding sources such as bilateral donors or pooled funding), ideally communities need the skills to leverage their own sources of funding, including through local revenue mobilization, budgeting or management of central government funds. The development of this skillset might require training or the provision of technical experts to work alongside local government planners. In-country study visits to other communities with a track record of success, or study visits to communities in other countries through South–South cooperation schemes, might also be helpful.

Coordination and planning

All community programming and associated interventions should aim to build local capacity for coordination and planning. This requires strengthening the capacities of local government officials to lead these exercises, while other community actors should be trained to implement and monitor these plans.

Community development plans are a public and interactive form of planning in which stakeholders, and specifically community members, help formulate community development objectives and priorities, identify resources and implement activities. They constitute a “bottom-up” approach that promotes consensus and provides opportunities to focus on issues of concern at the community level. When used as advocacy and communication tools, they can inform higher-level government plans and budgets.

Migration issues should be reflected in community development plans when relevant. For example, if youth are migrating out of their communities at a high rate due to lack of economic opportunities, community development plans should seek to improve the local job market, and/or take steps to increase opportunities for safe and regular migration. If migrants are living in or transiting through a community, this can also be reflected in the relevant community development plan, which should include measures to ensure their protection and access to services.

Local budgets are an important component of planning for action at the community level. It is worth noting that interventions that target vulnerable migrants and their communities are often not factored into local budgets. Lessons could be drawn from gender-responsive budgeting and children's rights budgeting to develop local budgets that are migrant-sensitive (see resources below). Local budgets should include participatory methods. For example, community members could be invited to give their opinion on specific items within a local budget or the amounts that should be allocated to achieve a specific goal.

Local referral mechanisms are important to strengthen planning for and coordination of provision of protection and assistance services. Local referral mechanisms should be inclusive, meaning that all people in a community who need protection and assistance services should have access to those services. In communities where vulnerable migrants are present, local referral mechanisms should also be responsive to their needs. Inclusion of migrants in local referral mechanisms may require additional and/or specialized resources and skills, such as translators and training for migrant sensitivity, which should be considered during the planning stages.

Local referral mechanisms are often the first point of contact between vulnerable migrants and service providers. The provision of services at the local level should be encouraged, as local entities are usually more attuned to the needs of their members and usually possess knowledge of local conditions and needs. However, community service providers should consider the standards and guidelines set forth by protection authorities at the national level when developing local referral mechanisms. A referral pathway to national referral mechanisms should be developed, if the latter exist.

Community mobilization

Community programming can promote good governance and positive change. For this to be achieved, it is critical that community members feel a sense of ownership of the programme. They should also feel that the programme is responsive to their needs and priorities. Community members should be actively involved in: (a) identifying the problems and vulnerabilities faced in and by their community; (b) identifying any resources within the community that can be used to address these problems and vulnerabilities; (c) identifying possible solutions; and (d) implementing solutions.

However, community involvement does not happen spontaneously. Community mobilization is the process of involving community members in community programming at all stages. During the initial planning and design stages, community members should be informed about and consulted on the intended intervention, with the aim of building consensus around the programme goals and the intervention strategy. Local leaders can start this community mobilization process by holding meetings, discussing the programme on local media, holding door-to-door visits, etc.

After the community is well informed, it is good practice to identify a group of community leaders who can drive the intervention forward. This group can be referred to as the "core group" if the process is informal, or a steering committee if the process is more formal. Such a group can be established by asking community members who in their community is best suited to help lead the initiative and, where relevant, if they themselves would like to be involved.

Care should be taken to make sure that the core group or steering committee is comprised of members with the relevant skills. The group should include community members who have strong leadership skills and are trusted by community members to represent their interests, as well as community members with the relevant technical knowledge. For example, if the intervention is related to farming, there should be local farmers represented in the core group or steering committee. It is also important to ensure that the core group or steering committee is inclusive of the interests of all community members. It may be necessary to take proactive steps to ensure representation of the views and interests of boys, girls, men and women, and of any groups that may be marginalized in the community, for example racialized groups or the disabled.

This core group will then work closely with community members to identify the key priorities for the community. These priorities can be translated into a project or a community action plan. Moreover, this group should work closely with community members to select the approach and methodology for implementing the project or action plan to ensure community buy-in from the outset.

This core group can also play an important role in helping select other members of the community who will need to implement the activities. For example, for a labour-intensive public works intervention, the core group can decide how the participants can be selected.

Throughout the project implementation, support should be provided to ensure that different community members work together and that they have the capacity and resources to carry out the necessary tasks as described in the community development section below.

Community development programmes

Community development can be defined as “the planned evolution of all aspects of community well-being (economic, social, environmental and cultural). It is a process whereby community members come together to take collective action and generate solutions to common problems. The scope of community development can vary from small initiatives within a small group, to large initiatives that involve the whole community.”⁸

The main aim of community development is to improve the quality of life for community members. Within the context of migrant vulnerability to violence, exploitation and abuse, community development can be used to address the risk factors that contribute to such vulnerability. For example, if inadequate access to education in home communities is driving child migration, and children are being exposed to violence, exploitation and abuse while migrating, then improving education resources in their communities may be an effective approach to reducing vulnerability. In transit or destination communities, if the presence of migrants is putting strain on the natural environment and contributing to environmental degradation, this can contribute to negative attitudes and discrimination towards migrants, who may find themselves unable to access needed protection and assistance services due to discrimination. Community development initiatives to reduce the environmental impacts of migration and to improve equitable service delivery would address the needs of both host and migrant populations.

Each of the subsections below addresses potential community development responses to community-level risk factors.

Ensuring access to livelihoods and employment

An inadequate supply of decent work and livelihood opportunities in communities can increase vulnerability to violence, exploitation and abuse. It makes it difficult for individuals and households/families to meet their needs and responsibilities, which in turn may increase the likelihood that they will engage in risky behaviour in order to earn income.

As such, many community development initiatives focus on increasing the number of decent jobs or income-generating activities available in a community, and on improving equitable access to them. Such interventions typically focus on employment and entrepreneurship. Regardless of the type of intervention chosen, it should be guided by data on local markets.

Equitable access to decent work

It is important to determine if certain members of the community are excluded from access to decent work, and if so which ones and to what extent they are excluded. For example, irregular migrants tend to have a harder time getting decent work. As a result, they may also tend to accept employment in conditions that increase their vulnerability, for example due to low wages, insecurity of employment and lax enforcement of safety standards in the workplace.

8 https://ccednet-rcdec.ca/sites/ccednet-rcdec.ca/files/051-hrdc-cd_handbook.pdf.

Labour market and market information

Any attempt to improve work and livelihood opportunities in communities should be based on accurate information on local conditions.

Community-level or “local” labour market assessments are conducted in order to understand employment conditions, including what jobs are available or are likely to become available in the community and what skills are needed to perform those jobs, and how many people in the community are available and interested in taking up those jobs. Community labour market assessments are important as they help identify shortages or excesses in labour supply that the programme can address. For example, a labour market assessment may identify a shortage of qualified drivers in the transportation industry and an excess of hospitality workers. An employment programme that uses that information to train qualified drivers is more likely to have a positive, sustainable impact than a programme to train food-service workers, as the graduates of the driving programme will have access to currently available jobs following completion of the programme.

A comprehensive labour market assessment might include the following:⁹

- An analysis of the community’s economic context, including an analysis of the sectors that are currently hiring workers and those that are likely to hire workers in the future;
- An assessment of the types of skills needed to perform these jobs, both now and in the future;
- An assessment of the local workforce, including their education and skills levels and the types of training available to them;
- An analysis of the systems and stakeholders at play in the local labour market;
- A review of the policies that impact the local labour market and identification of any reforms needed; and
- An overall view of how all the issues above work together to shape how the local labour market functions and how it might be improved.

The results of labour market assessments provide practical information to community developers such as:¹⁰

- If and in what specific sectors and businesses there is a current demand for labour;
- If and in what specific sectors and businesses there is an anticipated demand for labour;
- What technical and transferable skills are in demand;
- If there are any high potential growth sectors;
- Any mismatches and gaps between jobseekers and employers, such as gaps in information and perceptions on the availability of jobs and skills;
- Any barriers or constraints in the job market, such as attitudes towards gender and appropriate work for different genders; and
- Support services or functions needed, such as a place to access labour market information, to help jobseekers find decent work.

See the resources section for more information on designing and implementing labour market assessments.

Employment is not the only income-generating activity to consider in community development programmes. Some local labour markets will not generate enough decent jobs to employ all jobseekers – this is particularly common in rural areas with large numbers of young people looking for jobs. Further, some people prefer to be self-employed.

Entrepreneurship is widely considered to be an important aspect of development, especially when it comes to addressing youth unemployment and supporting women’s empowerment.¹¹ Starting and running a successful business, however, can be difficult. Market assessments inform programmes by providing relevant and up-to-date information on: (a) what goods and services are being bought and sold in the community; (b) how satisfied customers are with the goods and services available to them; (c) what goods and services are in demand by local consumers but are not being provided by existing businesses; and (d) what goods and services already exist in sufficient quantity

9 Adapted from <https://static.globalinnovationexchange.org/s3fs-public/asset/document/Key%20Approaches%20to%20Labor%20Market%20Assessment.pdf?uOnvWRUbnCTIVackA1WKpZGS5NxbWaS5#page=1>.

10 Adapted from www.mercycorps.org/sites/default/files/Mercy%20Corps%20Why%20Conduct%20an%20LMA%20Tip%20Sheet%20June%202015.pdf.

11 https://unctad.org/meetings/en/SessionalDocuments/ciid29_en.pdf.

and quality.¹² This information is then used to identify entrepreneurship opportunities, determine the types of skills needed to capitalize on those opportunities, and design training and other entrepreneurship support activities.

Market assessments can make use of: (a) consumer demand surveys to determine the level of availability and satisfaction with goods and services currently in the market; (b) market opportunity surveys designed to understand the reasons behind shortfalls and dissatisfaction of consumers according to business owners and service providers; and (c) skills surveys to assess the current level of skills in the local and/or target population (which are often local youth), as well as their interest in and desire for entrepreneurship support.¹³ See the resources section for more information on market assessments.

Employment and entrepreneurship programmes

Employment programmes aim at increasing the number of jobs available within the community, preparing jobseekers for employment, and linking job candidates with potential employers. Examples of such programmes include:

- Community-based public works projects, which use community labour to build or improve public infrastructure. These programmes increase the number of jobs available in the community and can build the skills and experience of participants. They can also address the employment needs of marginalized or vulnerable segments of the community by specifically targeting them for participation or by setting a quota for their participation. Community-based public works projects can be linked with community stabilization efforts, and selection of participants can be on the basis of participatory selection processes aimed at identifying vulnerable populations
- Technical and vocation training (TVET) programmes, which aim at preparing the community's jobseekers for employment or for starting and managing their own businesses. When unemployment or underemployment or a lack of income-generating activities constitutes a risk factor, TVET can be an important component of reducing vulnerabilities.¹⁴ TVET services focused on entrepreneurship are often accompanied by provision of goods and/or capital to be used in the start-up and operation of a business or income-generating activity. Examples of goods include "start-up kits" or agricultural inputs, while capital might be provided through cash transfers or enrolment in loans or other financial schemes and services.
- Employment services, which aim at strengthening job matching, enhancing employability of community members, and addressing skill mismatches within the community. In essence, employment services work as intermediaries between workers, employers, and training and education service providers. Specific employment services can include help with job searches, job placement, referral to training programmes, announcing job vacancies, managing skills databases and jobs databases, etc. They can reduce the job search costs for both workers and employers by improving the information flow between the labour demand and supply sides concerning available jobs and skills needed. Employment services are often provided at offices (often called job centres) and/or online.
- Cooperative entrepreneurship (also known as joint enterprises), which aims at improving and restoring livelihoods while at the same time bringing community members together in order to improve social cohesion. They are often complemented by training, goods and/or capital.

Ensuring access to decent housing

Decent housing is an important foundation for leading a healthy and productive life. However, many communities face housing challenges. This can include loss of housing stock following conflict or a natural disaster, insufficient supply to meet demand, deterioration of housing, and unaffordable costs of home ownership and maintenance. Housing issues are intricately linked with many other issues, including climate change and environmental degradation, disasters, rural-to-urban migration and increasing rates of urbanization, "gentrification," income inequality, financial literacy, documentation and immigration status, and access to financial services.

An inability to find suitable and affordable housing can compel community members to migrate from their communities of origin. Inability to access such housing when in transit can expose migrants not only to the elements, but also to violence, exploitation and abuse, for example at the hands of those who force exploitative working conditions on migrants in exchange for shelter. In destination communities, landlords may take advantage of migrants'

12 www.mdgfund.org/sites/default/files/YEM_MANUAL_South%20Sudan_ConductingMarketAssessments.pdf.

13 Ibid.

14 www.academia.edu/10350609/Impact_of_Technical_and_Vocational_Education_and_Training_TVET_on_Youth_vulnerability_in_Malawi.

relative unfamiliarity with rental costs and conditions in order to charge exorbitant rents and/or provide substandard housing, or to engage in exploitative practices such as exchange of sex for housing.

Communities have a role to play in ensuring access to suitable housing. Actions to take can include the following:

- Conducting an assessment of community housing needs and assets, by determining: (a) where housing is needed; (b) where it needs to be improved; (c) what housing assets already exist that can be improved; (d) if there are any natural hazards or other drawbacks that need to be addressed; and (e) what the needs of the community members are, such as needs for housing suitable for disabled persons, families, single people, etc.
- Encouraging participation of affected people such as landowners, neighbours and potential residents, as well as local officials, local businesses, property developers and other stakeholders.
- Considering diversity, by thinking about the social, economic, cultural and other characteristics of current and future residents and neighbours, and what impact changes to the current situation might have.
- Considering equity, by ensuring that the needs of all people are considered, including differences in family types and compositions, ability and income levels, etc.
- Considering the environmental and other impacts of new housing, such as the impact on and availability of services like schools and clinics, recreational activities and markets, and any potential impact on the natural environment.
- Providing incentives for developers and ensuring that development is undertaken in line with the community's requirements. Incentives can include tax breaks, subsidies, grants, free or low-cost public land, infrastructure support, etc.
- Putting in place regulations to ensure that the community's housing needs are reflected in new property developments, including through zoning, taxation and regulations.¹⁵

These activities will require the participation of a broad range of community members and stakeholders, including:

- Current and potential homeowners and tenants who can share information on their needs, their specifications for suitable housing, what they consider affordable, etc.
- Neighbours and other community members, who can share their knowledge and experiences with housing in the community (for example, what sorts of construction materials have proven to be most appropriate for and resilient to local weather conditions and events), and can raise any concerns they may have in order for them to be addressed (for example, the potential impact of new developments on local traffic conditions or the availability of land for crops and grazing).
- Local workers, who may benefit from increased employment opportunities in construction and related industries such as water and sanitation.
- The business community, particularly (a) lenders, whose policies and practices will have an impact on who gets loans and at what rates; (b) property developers, who will build or renovate housing and who will therefore influence the price of housing; (c) landlords, who may also influence the price of housing and selection of tenants; and (d) utilities providers, who may need to invest in their infrastructure to meet new demand but are also likely to benefit from an expanded customer base.
- Local officials, who will have a role to play in developing and implementing regulations and incentives, usually in coordination with regional and/or national authorities.¹⁶

While maintaining access to suitable and affordable housing is an ongoing and ever-present need, it can be helpful to take a strategic approach and to make concerted efforts in the following circumstances:

- During community planning processes and community development initiatives;
- Following high-visibility events, such as fires or building collapses, which focus attention on the lack of decent housing;
- Following a crisis, such as loss of life of homeless people or a natural disaster; or

15 Adapted from University of Kansas, Centre for Community Health and Development, Community Toolbox, <https://ctb.ku.edu/en/table-of-contents/implement/physical-social-environment/housing-quality/main>.

16 Adapted from University of Kansas, Centre for Community Health and Development, Community Toolbox, <https://ctb.ku.edu/en/table-of-contents/implement/physical-social-environment/housing-quality/main>.

- When funding becomes available, either through governments or from external sources.¹⁷

Refer to the resources section for more information on community-level initiatives to ensure access to decent housing.

Ensuring access to services

Access to services is an important part of everyday life. In communities of origin, the lack of services such as health and education has been linked with vulnerability to violence, exploitation and abuse of migrants. Migrants are vulnerable to deception by traffickers who promise access to those services elsewhere.¹⁸ In transit, destination or return communities, insufficient quantity or quality of services can be a push factor for onward migration or re-migration. Competition for access to services can lead to tensions between host communities and migrants.

Often the focus on services zeroes in on basic services like primary health care, primary education, water and sanitation, and roads. These services are indeed necessary to live healthy and productive lives. However, other services are also important, such as financial, transportation, legal and specialized services (for example, services to assist families raising children with complex health or behavioural needs).

In order to design appropriate interventions aimed at ensuring access to services, community development actors should consider both the supply of and demand for various services, as well as the quantity and quality of the services available. In addition, they should ensure equitable access to such services. Further, community development actors should assess if the lack of adequate services is contributing to vulnerability to violence, exploitation and abuse, as it may be necessary to prioritize services directly linked with vulnerability.

A participatory analysis of the supply and demand of services will help programmers identify what services the community wants and needs, as well as any gaps or deficiencies in the availability of those services. This will allow for informed choices to be made about what services to prioritize and how to allocate funding. For example, a community with a large population of school-age children may need to have several schools in order to accommodate all of them. In addition to ensuring that services are available in sufficient quantity, quality is also an important consideration. A community may have enough spots for all school-age children, but families may choose to not send their children to school if the quality of education provided is poor. Alternatively, families may choose to send their children to a private school or a school in another community, either of which will impact the family's resources.

It is important to assess the extent to which all individuals and groups in the community have access to services, and to identify any barriers to access. Some barriers to access may be fairly obvious. For example, some community members may live farther away from services and may have difficulty travelling to the service provision points, for example agricultural workers who live in rural areas with few transportation options. Other barriers to access may be more difficult to identify. For example, marginalized groups may be able to apply for loans at their local bank, but may face a much higher rejection rate than other people in similar economic situations. These barriers can be difficult to identify, which is why it is important to ensure that the analysis is participatory and involves representatives of all groups in the community.

Initiatives aimed at improving service delivery in communities with a migrant population should ensure that both migrants and the host community can use the services. This will help promote social cohesion between host and migrant communities and ensure that host communities will see some of the benefits of hosting migrants.

¹⁷ Adapted from University of Kansas, Centre for Community Health and Development, Community Toolbox, <https://ctb.ku.edu/en/table-of-contents/implement/physical-social-environment/housing-quality/main>.

¹⁸ IOM and University of Bedfordshire, *Between Two Fires*, page 60.

Use of population data

Population data – such as those collected through a census or household surveys – can be used to estimate what and how many services are needed. However, there are often limitations on this type of data when it comes to migrants. For example, if a large number of community members have migrated, this may not be accounted for in the data. If those migrants were to return, their return may put a strain on service delivery. Further, if they were subject to violence, exploitation and abuse during migration, they may have a heightened need for services upon their return. However, services may not be sufficiently available because the returning migrants and their needs were not accounted for.

Once the service gaps that are contributing to vulnerability are identified and priorities have been established, activities designed to increase access to quality, barrier-free access to the service can be designed. Typically, these programmes focus on improving the infrastructure necessary for service delivery, improving the workforce involved in service delivery, and ensuring that the service providers are adequately resourced.

Infrastructure

Most services require some form of infrastructure. This can include a physical location where services are provided, such as a health clinic. It can also include support infrastructure, which is not used directly to deliver the services but makes the service delivery possible. For example, if health care is delivered from a mobile clinic, the mobile clinic will rely on roads in order to travel from one location to another. Services delivered online, such as online medical consultations, will rely on telecommunication infrastructure. Programmes aimed at improving service delivery may therefore include construction and/or rehabilitation of the infrastructure needed to deliver the service, as well as support infrastructure. These efforts can be linked with cash-for-work programmes, which will have the added benefit of supporting the livelihoods of community members.

Adherence to standards and regulations

Any initiative to improve infrastructure must adhere to standards and regulations set by the relevant authority. For example, ministries of health are likely to have established standards for health clinics and hospitals, such as space and equipment requirements for collecting and storing biological samples. Where such standards are not available, global standards can be consulted.

Workforce

Service delivery requires people with the knowledge and skills necessary to deliver the service, such as teachers, social workers, nurses, loan officers, sanitation workers and bus drivers. Workforce planning and development is therefore an important component of improving service delivery.

Workforce planning and management typically involves assessing the workforce and developing and implementing workforce improvement strategies.

The purpose of a workforce assessment is to understand how many people are needed to deliver the service under consideration. It should address the following questions:

- What types of people are needed to deliver the service?
- What qualifications should they have?
- What different functions will they fulfil?
- What functions need to be provided by professionals, and what can be provided by paraprofessionals, volunteers or community members?
- What accreditation, registration and licensing standards apply?
- How many are needed for each function?
- Are there any standards to aim for, such as a recommended teacher-to-student ratio?

Once it is clear what the workforce requirements are, the next step is to assess the extent to which those requirements are filled in order to identify any gaps. If gaps are revealed, it will be necessary to develop and implement workforce improvement strategies.

The types of strategies pursued will depend on the gaps identified. For example, if there is a gap in the skills of the service providers but not in the numbers, then a training strategy could be employed to address the skills gap. If there is a shortage of qualified personnel, then a workforce recruitment strategy may be necessary. Sometimes the challenge may be workforce retention. In such circumstances, it may be necessary to invest in improvements to working conditions, career progression opportunities and/or pay.

Workforce development can be linked with livelihoods and income-generation interventions. Involvement of community members in workforce planning and development – for example, through participatory approaches to assessment and offering volunteer or work opportunities to community members, including marginalized and vulnerable people – can enhance the suitability and sustainability of the intervention.

Resources

Another component of service provision is the necessary materials. For example, schools need teachers, and teachers need supplies. A lack of supplies necessary to do the job can cause frustration to the people doing the job, leading them to quit and pursue other career paths, or even to migrating abroad to work in better-resourced environments. Resource requirements should be mapped and plans for ensuring an adequate supply of necessary materials should be put in place. This can include through budgeting processes (see text box below), fundraising and requests for donations.

Alternatives

Given constraints, not all needed and desired services will be available within a given community. In such circumstances, alternatives to overcome limitations in infrastructure or workforce should be sought.

For example, when it is not possible to construct a health clinic in a community, a mobile clinic could be used to provide services to a range of communities in similar circumstances. Or, if a school is not able to provide instruction on all topics due to a shortage of teachers, distance education options, such as correspondence courses or online learning, could be explored.

IOM Guidelines on Response Planning for Migrants Vulnerable to Violence, Exploitation and Abuse

Many services, such as education and health care, are organized and provided by governments at either the local, regional or national level. Governments can refer to the IOM Guidelines on Response Planning for Migrants Vulnerable to Violence, Exploitation and Abuse for information on how to plan and budget for responses to migrant vulnerability to violence, exploitation and abuse.

Other interventions

Community health workers can be effective in the delivery of various preventive, promotive and curative health services, and can also contribute to reducing inequities in access to care. According to WHO, not only are community health workers effective, they also represent good value for money.

Community health workers are usually selected by other members of the community and provided training, as well as the necessary material to identify and train. In addition, to being trained to provide primary health care, they also mobilize community members to seek out health services.¹⁹

WHO has developed guidelines to facilitate the integration of community health workers in communities and health systems. These guidelines contain pragmatic recommendations on how to improve and strengthen their selection,

¹⁹ <http://health.go.ug/community-health-departments/vht-community-health-extension-workers>.

education, deployment, management, supervision, career advancement, community embeddedness and system support. Programmes that aim to embed or strengthen the use of community health workers in communities affected by migration might consider training these workers on the health risks faced by migrants who suffer from violence, exploitation and abuse.

Food security

According to the UN's World Food Programme (WFP), people are considered food-secure when "they have availability and adequate access at all times to sufficient, safe, nutritious food to maintain a healthy and active life."²⁰ Communities that are food-insecure tend to suffer from highly degraded ecosystems and shock-prone environments.²¹ Food insecurity can be a push factor for migration when people and households within a community do not see another option to manage hunger than to migrate.²² Moreover, the presence of migrants in locations that are prone to food insecurity could potentially exacerbate this vulnerability if migration is not well managed.

While interventions to combat food insecurity are often targeted to households, it is often whole communities that are food-insecure. Therefore, interventions will likely target multiple households within one geographic location/ community.

If food insecurity is suspected to be a community-level risk factor to violence exploitation and abuse in a migration context, using the determinants of migrant vulnerability model, more specialized assessments will be needed. For example, WFP's Vulnerability Analysis and Mapping (VAM) aims to determine who are food-insecure or vulnerable, why they are food-insecure, how many people are food-insecure, where they live, and what can be done to save lives and livelihoods. VAM can be adapted to various migration contexts through the use of "migration pulse," a methodology developed jointly with IOM to access highly mobile and hard-to-reach populations in multiple locations.²³ Food security assessments can also incorporate nutrition components. For example, WFP and UNICEF often work together to determine the food security and nutrition situation of children in certain communities that are prone to food insecurity.

Interventions to combat food insecurity can range from the short-to-long term. Food assistance (previously referred to as food aid) is a common intervention, particularly after a crisis or due to long-term stressors such as climate change. Contemporary models of food assistance consider the voice of individuals, households and communities, whereby beneficiaries have a say in how they receive food assistance. This has contributed, among other things, to cash-based food assistance.²⁴

Medium-to-long term interventions to combat food insecurity are intrinsically linked with resilience programming. This can include interventions such as early warning and preparedness systems, development of national capacities to manage disasters, improvements to agricultural practices, development of social protection programmes, and private sector investment and value chain creation. In addition, resilience programming to improve food security considers strengthening community assets such as roads and markets.

Determining the need for food security interventions and implementing these interventions is highly complex and requires multisectoral knowledge and expertise. It is therefore recommended that organizations involved in the food security sector be contacted to carry out assessments and develop interventions together with local government and local communities. Stakeholders involved in migration management and migrant protection at the community level can contribute to these interventions with knowledge of the vulnerability of communities, households and individuals to violence, exploitation and abuse in a migration context.

20 www.wfp.org/node/359289.

21 <https://documents.wfp.org/stellent/groups/public/documents/communications/wfp261744.pdf>.

22 www.fao.org/3/ca0922en/ca0922en.pdf.

23 <https://docs.wfp.org/api/documents/WFP-0000040024/download/>.

24 www1.wfp.org/food-assistance.

Addressing community-level fragility and crisis

In some contexts, communities may be in a state of fragility²⁵ or crisis²⁶ and may need to focus on addressing this state in order to lay the foundations for recovery and longer-term development. The cause(s) of the state of fragility or crisis can vary and can include things like natural disasters such as drought or tsunami, political or interpersonal violence, and criminality. Crisis and fragility are drivers of migration.²⁷ In such contexts, it may be more likely that outmigration from the community is unplanned and higher-risk, increasing the likelihood that community members will face violence, exploitation or abuse as they migrate. Further, many community members may migrate at the same time. This can make it more difficult for local governments and protection actors to identify and respond to risks of violence, exploitation and abuse, thereby compounding risks for migrants. In addition, opportunistic individuals and criminal networks may take advantage of the situation by preying on at-risk migrants for their personal benefit or for profits.

Fragility and crisis do not only affect communities of origin. Communities along transit routes and in destination areas can also be affected. The presence of migrants can destabilize the host community for a range of social, political, economic and environmental reasons. These may include competition between the migrants and the host community over scarce resources such as firewood and grazing land; disagreements over access to market spaces; and racism and xenophobia.

The type of programming needed to address a state of fragility and crisis will depend on the factors causing the fragility or crisis, and can include community stabilization, disaster risk reduction, and conflict prevention and response.

Community stabilization²⁸

Community stabilization seeks to provide assistance to governments, States and communities undergoing significant socioeconomic and political changes during and following a crisis. It aims to: (a) (re)establish stability and security; (b) prevent further forced migration; (c) restore trust among community members, vulnerable populations and local authorities; and (d) lay the foundations for durable solutions, lasting peace and sustainable development. Community stabilization programmes can be built around the following three pillars:

- **Essential services** - These include activities to restore socioeconomic infrastructure such as roads and markets, and essential services such as education, water and sanitation, and health. These activities can reduce drivers of outmigration from source communities, as well as burdens on host communities, thereby reducing the likelihood of conflict between host communities and migrants.
- **Economic recovery** - This includes activities aimed at promoting cooperation among community members to improve the community's economic situation, for example by working together in cash-for-work programmes, engaging in joint enterprises, and cooperating in community initiatives such as post-disaster cleanup and infrastructure. The aim of such activities is not only to facilitate economic recovery, but also to reduce competition and promote trust and reciprocity between all community members.
- **Local governance and social cohesion** - Activities in this pillar aim at improving community capacity to identify sources of friction within the community and to prevent or mitigate conflict. It aims at engaging with community members and providing them with support that enhances cooperation and creates space for public debate and civic engagement.

25 For the purposes of this section, fragility refers to a situation where a community faces a set of risks that it has insufficient capacity to manage, absorb or mitigate. See OECD, States of Fragility 2016, https://read.oecd-ilibrary.org/development/states-of-fragility-2016_9789264267213-en#page23.

26 For the purposes of this section, the term crisis means a situation where an event has occurred that exceeds the capacity of the community to cope, resulting in a direct threat to the lives, safety and security of the community members.

27 https://refugeesmigrants.un.org/sites/default/files/issue_brief_ts2_final.pdf.

28 This section is adapted from the IOM Emergency Manual, <https://emergencymanual.iom.int/entry/19566/community-stabilization#2,1560685978758>.

Climate change, environmental degradation, and disaster risk reduction and response

Environmental factors directly influence the vulnerability and resilience of individuals, households and communities to a range of risks.²⁹ It also shapes migration decisions. For example, in agricultural and agro-pastoralist communities, reductions in the amount of arable and/or grazing land due to climate change and environmental degradation can increase exposure to risks of crop failure and herd loss. It can also lead to competition and conflict over dwindling natural resources. In such circumstances, some communities may choose to migrate due to a loss of livelihood and/or to avoid conflicts.

Climate change and environmental degradation also contribute to natural disasters. Increasing global surface temperatures increase the likelihood of droughts and severe storms,³⁰ and degradation or loss of natural ecosystems such as wetlands, forests, mangroves and watersheds increase the severity of hazards such as flooding and landslides.³¹ Such disasters frequently result in population displacement and large-scale migration, which can increase exposure to risks of violence, exploitation and abuse and reduce access to essential services and livelihood options for both migrants and host communities.

The causes and consequences of climate change and environmental degradation are global in nature, and require response at national, regional and international levels. However, the significant economic, social, health, cultural and environmental impacts of natural disasters are felt most acutely at the local and community levels.³²

Community-level interventions to address climate change and environmental degradation are likely to be closely related to and intertwined with community development programming. The types of activities undertaken will depend on the ecosystem(s) in which the community is located, and on the types and severity of the natural hazards they face. For example, in an area prone to flooding, the focus could be on building or improving existing flood barriers and dams, thus increasing the protection level for homes and businesses near the flood zone.

Depending on the circumstances, community disaster risk reduction and response programming may entail any or a combination of the following:

- Disaster prevention, which includes the process of mapping natural hazards and their potential impact on a community's people, property, services, livelihoods and the natural environment, as well as efforts to reduce both the risks and the severity of their potential impacts;
- Disaster preparedness, which is the process of preparing for any disaster event that may occur despite prevention measures;
- Disaster response, in which emergency responses are provided to meet the needs of disaster-affected populations and any secondary risks resulting from disaster-induced displacement; and
- Disaster recovery, in which the aim is to use the recovery and reconstruction process to foster resilience of the community to any future event; known as "building back better."³³

29 https://refugeesmigrants.un.org/sites/default/files/issue_brief_ts2_final.pdf.

30 www.usgs.gov/faqs/how-can-climate-change-affect-natural-disasters-1?qt-news_science_products=0#qt-news_science_products.

31 www.preventionweb.net/english/hyogo/gar/report/documents/GAR_Chapter_1_2009_eng.pdf.

32 www.preventionweb.net/files/43291_sendaiframeworkfordrren.pdf, page 10.

33 IOM, Taking Sendai Forward: IOM Strategic Work Plan on Disaster Risk Reduction and Resilience 2017–2020.

The Sendai Framework for Action

The Sendai Framework for Disaster Risk Reduction 2015–2030 outlines global commitments to reduce risk and promote resilience. The Sendai Framework is the first global agreement on disaster risk reduction to incorporate clear references to migration. It recognizes the centrality of displacement management in the disaster risk reduction context, and acknowledges the role of migrants in strengthening prevention and preparedness, in supporting recovery and in promoting resilience to future disaster risk.³⁴

The Framework highlights four priorities for action and notes key steps that can be taken at the local and national levels and at the regional and global levels.

Priority 1: Understanding disaster risk

Local and national efforts can include data gathering and dissemination; regular assessments of disaster risk; capacity development; application of traditional, indigenous and local knowledge and practices; education and public awareness; and local-level collaboration.

Priority 2: Strengthening disaster risk governance to manage disaster risk

Implementation of disaster risk reduction strategies and plans; assigning clear roles and responsibilities to community representatives within disaster risk management institutions and processes; and empowerment of local authorities are all community-level initiatives that can strengthen disaster risk governance.

Priority 3: Investing in disaster risk reduction for resilience

Allocating resources for disaster risk reduction; risk-sharing; investments in critical facilities such as schools and hospitals; mainstreaming disaster risk reduction into land use policies; training community health workers; and efforts to improve resilience of affected populations and host communities are some of the actions that can be taken at the community level.

Priority 4: Enhancing disaster preparedness for effective response and to “build back better” in recovery, rehabilitation and reconstruction

At the community level, inclusive disaster preparedness planning; forecasting and early warning systems; establishment of community centres for awareness-raising and stockpiling; and efforts to link disaster recovery to longer-term development can all promote better recovery, rehabilitation and reconstruction.

Adapted from The Sendai Framework for Disaster Risk Reduction 2015–2030

Violence prevention and response

Violence within a community is associated with greater vulnerability in general for all community members, and greater vulnerability in particular for the individuals within the community who are specifically targeted (as well as for their household/family members who are potentially exposed to violence as well as called upon to offer support and protection).

There are different types of violence that can affect a community, each requiring a different type of response. WHO identifies three main types of violence:

- Self-directed violence, which is violence that a person inflicts upon herself or himself and which can be subdivided into suicidal behaviour and self-abuse;
- Interpersonal violence, which is violence inflicted by another individual or by a small group of individuals; and can be subdivided into:
 - Family and intimate-partner violence, which takes place largely between family members and intimate partners and largely within the home; and
 - Community violence, which occurs between individuals who are not related and who may or may not know each other, and which usually takes place outside the home.

34 Ibid.

- Collective violence, which is inflicted by larger groups such as States, organized political groups, militia groups and terrorist organizations, and which can be subdivided into:
 - Social violence, such as hate crimes committed by organized groups and mob violence;
 - Political violence, including war and related violent conflicts committed by States or larger groups; and
 - Economic violence, which is violence aimed at economic gain, for example through attacks to disrupt economic activity or to create economic division or fragmentation.³⁵

Community violence and collective violence are most relevant for community-based violence prevention and response – although it is important to note that there are interlinkages between different forms of violence and multilevel responses are required for all.

Community-level responses to community violence include efforts to change social beliefs, values, attitudes, behaviours, norms and practices, both in regard to others in their community – in situations where violence is driven by perceived differences or grievances between groups – as well as in regard to tolerance and acceptance of violence. Communities can also support the rule of law, for example by supporting community policing initiatives, as well as help address collective violence. For example, communities can conduct community-level conflict analysis to understand root causes of conflict and violence and to inform locally tailored responses. They can also participate in the design and implementation of social cohesion activities such as public debates, street theatre, cultural events and competitions, radio call-in programmes, peace dialogues, conflict mediation and reconciliation conferences. In addition, communities can help establish and/or strengthen civil society groups; provide technical and capacity support to local administrations to improve their accountability and effectiveness; establish feedback and complaint mechanisms; and assist in the construction and rehabilitation of public infrastructure and basic services, etc..

Addressing community beliefs, values, attitudes, behaviours, norms and practices

Community beliefs, values, attitudes and behaviours refer to the beliefs, values, attitudes and behaviours of people who make up the community. Beliefs refer to the ideas people hold about what is true and what is false (for example, the belief that hard work will lead to success). Values refer to the things that people think are good and important (for example, the idea that family is what is most important in life). Beliefs and values shape peoples' attitudes, which refer to the ways in which people evaluate something as being positive or negative.

Beliefs, attitudes and values all inform a person's behaviour, or the way a person acts. A person's behaviour is also informed by the expectations of others, in particular by social norms. Social norms are unwritten expectations about how a person should behave in a particular situation. For example, different social groups have different social norms about timekeeping and punctuality. Some social groups consider arriving exactly on time as very important, especially for certain types of engagements, such as doctor's appointments. Others place much less importance on arriving exactly on time, as can be seen in flexible start times for events such as training workshops. Still other social groups may consider punctuality as rude in certain contexts, such as showing up exactly on time for dinner or other social activity in a person's home. When a group of people regularly behave in a certain way, based on social norms, this can be referred to as a practice.

35 WHO, World Report on Violence and Health, page 6.

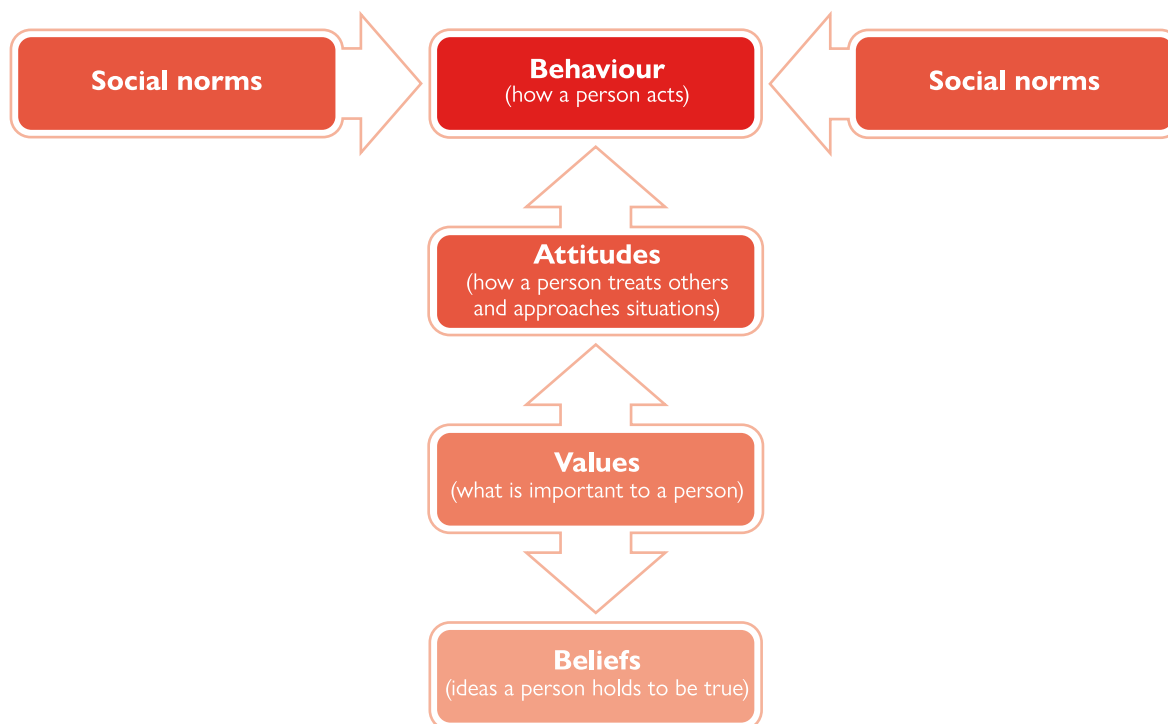


Figure 4.3

Beliefs, values, attitudes and behaviour

Community members often hold shared or similar beliefs, values and attitudes, which can influence their behaviour as a community. This does not mean that each individual member of a community will have exactly the same beliefs, values and attitudes as all other members of the community; that they will hold these things with the same level of intensity of others; or that they will all behave exactly the same way. It does mean that often a certain set of beliefs, values, attitudes and behaviours will be dominant, and that these attitudes and behaviours will shape the experiences of the families and individuals within the community.

These characteristics can act as risk or protective factors for community members. For example, the belief that young children are innocent and require special care and protection is very common around the world. This has a protective effect on children, as community members will look out for and take action to protect them, even when the children are not their own. Many cultures respect older people and value their views and opinions. This confers status on older people and gives them a place in the community – a sense of purpose, meaning and belonging. On the other hand, in some places the elderly are seen as a burden and of limited value to society. They are often disregarded, “invisible” and vulnerable to violence, exploitation and abuse, including from their own family members.

Community beliefs, attitudes and behaviours towards other people are often linked with the individual’s personal characteristics and identity. Community attitudes towards gender, sexual identity, caste, ethnicity and race can have a significant impact on a person’s status, position and experiences within a community. For example, community beliefs and attitudes about the appropriate roles and behaviours of individuals based on their gender can contribute to vulnerability in a gendered way. The belief that women and girls should be sexually available and subservient to men results in them being disproportionately affected by sexual violence, exploitation and abuse. When men and boys are expected to be the primary income-earners for their household/family, they may feel obligated to migrate in search of higher earnings, even in unsafe conditions. These factors can push individuals into risky migration behaviours and influence their experiences as migrants. They can also affect an individual’s well-being upon his/her return home. For example, women or girls who were sexually exploited or abused abroad can be further marginalized by communities who shun them or see them as “damaged goods,” preventing their successful recovery, reintegration and opportunity to lead a normal life upon return. Men or boys who are economically unsuccessful or whose migration was interrupted may be seen as failures and similarly shamed or shunned, with similar outcomes for their reintegration.

Similarly, community beliefs, attitudes and behaviours towards people on the basis of their caste, ethnicity and/or race shape their experiences, vulnerability and resilience. In some communities and societies, individuals are often seen as particularly suited to certain forms of labour based on their race; they are seen as more or less intelligent, or as “naturally” of a higher or lower social standing.

It is important to identify and challenge beliefs, attitudes and behaviours that harm others. Some of these harmful beliefs, values and attitudes are general and apply to all people in a particular group – such as the belief that children should be obedient to adults – whereas others may apply specifically to migrants – such as holding negative attitudes towards migrants who do not speak the language of the destination community, or who do so with an accent. The process of attempting to challenge and change these behaviours and practices, and the beliefs, values, attitudes and norms that underlie them, is known as behaviour change. When the community is the focus of behaviour change efforts, these efforts are known as social change.

It is also important to identify and support attitudes, behaviours and practices that protect and help others. For example, in Rwanda the practice of *ubudehe* is aimed at taking collective action and providing mutual support to solve problems within a community.³⁶

It is not only important to understand community beliefs, values and attitudes and how they influence people’s behaviour towards others in the community, but also to understand how they influence a person’s choices about their own lives. For example, people’s health-seeking behaviours, education choices and migration decisions are all influenced by their beliefs, values and attitudes, as well as by the beliefs, values and attitudes of those around them.

Behaviour change efforts aimed at individuals and social groups are known as social and behaviour change communication (SBCC). SBCC programmes use communication to change behaviours by influencing people’s knowledge, attitudes and social norms. SBCC programmes use coordinated messaging across different communication channels in order to reach multiple levels of society.³⁷ SBCC is a form of communication for development (C4D).

SBCC programming has a successful track record in a range of intervention areas, including improving health behaviours and reducing incidence of HIV/AIDS and malaria, and in preventing female genital mutilation. There is a significant body of literature evaluating the effectiveness of SBCC and C4D programming, and numerous handbooks and guidelines on using these techniques to address specific issues (see the resources section below). Regardless of the issue being addressed, most use a phased approach, which includes analysis and problem definition, strategy design, development and testing, implementation, and monitoring and evaluation.

Analysis and problem definition

In this phase, the following steps should be taken:

- Identification of the harmful behaviour or practice that the SBCC aims to change;
- Specification of the target group or groups, including the primary audience (the people whose behaviour the campaign aims to change), any secondary audiences (the people who influence the behaviour of the target group such as family, friends and co-workers), and any tertiary audiences (higher-status individuals whose behaviour and messages can reflect and sustain social norms, such as religious leaders and members of the media);
- Analysis of the beliefs, values and attitudes that shape the target groups’ behaviour and practices;
- Analysis of the communication tools that can be used to reach the target groups;
- Review of existing literature, evidence and data to learn from previous relevant SBCC efforts. This can include SBCC efforts on the same problem and with the same target group(s), on the same problem but with a different target group(s), and/or on a different problem but with the same target group(s).

36 www.rgb.rw/index.php?id=35.

37 <https://ccp.jhu.edu/social-behavior-change-communication/>.

Strategy design

The next phase uses the information gathered in the analysis and problem definition phase to begin designing the SBCC intervention. It includes:

- Setting clear objectives and measures to evaluate if the SBCC campaign is meeting those objectives.
- Determining key messages for the SBCC campaign, including determining if segmented messaging for each target group is needed.
- Analysis of what communication channel is most appropriate for each message and for each target group. This includes: (a) an analysis of the cost of different communication channels; (b) the number of people in the target group that the communication channel can reach; and (c) the types of messages the communication channel is most suitable for (for example, is it more suitable for communicating simple, easily understood messages or for more complex and nuanced messages). Attention should be paid to accessibility of information and reducing barriers to accessing information. For example, written materials are not accessible to non-literate members of the target group and should be complemented by audiovisual materials. Communication channels that use public spaces, such as community theatre, are not accessible to people confined to their homes. This can include women who are not allowed to leave home without supervision, and persons with disabilities that limit their mobility. Complementary communication channels that can penetrate the home environment, such as radio, should be considered in such circumstances.
- Assessing the resources available for implementing the campaign.
- Designing and documenting the implementation plan.

Choosing a communication channel

There are a wide variety of strategies and communication channels which can be used in an SBCC campaign. When choosing communication channels, it is important to consider who they can reach, how much they cost, and what kinds of messages they can deliver.

- *Mass information campaign strategies* are best suited for reaching a broader audience. Such campaigns can include communication channels such as leaflets, billboards, radio, television or press advertising, and information events in public spaces such as public squares or markets that are used by all segments of the population. They must transmit a clear and simple message, as general audiences will usually have a short attention span when not already predisposed towards the topic.
- *Community outreach strategies* target specific communities, and can use a range of communication channels such as community or street theatre, which is often highly interactive and can explore topics in more depth. Other community media channels include local newspapers and radio stations. Community outreach strategies often include interpersonal communication, which allows for back-and-forth communication and in-depth exploration of complex topics. Interpersonal communication is often important when engaging with community leaders and trusted authority figures such as religious leaders and teachers.
- *Peer-to-peer communication strategies* involve outreach conducted by people with similar backgrounds or experiences to the target group. These strategies facilitate trust between the communicator and the target group. They are thus often most useful with youths and marginalized groups.

Development and testing

In this phase, the communication materials are designed, tested and revised. This process includes:

- Development of materials, such as writing scripts for community theatre, producing television commercials, designing leaflets, etc. This will include decisions about the type of messaging reflected in the text, words, images and design. For example, some campaigns focus on grabbing people's attention through the use of bright colours and large, bold text. Others may use powerful or disturbing images to emphasize a risk. It is important to make such decisions based on a thorough understanding of the local context and on reflection of previous practices. In general, it is good practice to design messages that the target population can relate to, and that empowers them to take action to affect positive change.
- Once the draft materials are ready, they should be tested with members of the target population. The purpose of testing is to ensure that the messages are understood and accepted by the target group, and to assess if the target group might be willing to take any recommended actions on the basis of the information presented in the materials. Different methods can be used to test the materials, such as focus groups, where participants review the materials and share their reactions, thoughts and suggestions for improvement. Testing can also involve measuring knowledge and attitudes before and after exposure to the materials. Particular attention should be paid to ensuring that a full cross-section of the target population (for example, all relevant age groups) is involved in testing. This may involve testing materials with multiple groups and in multiple languages.
- On the basis of the results, materials should be revised until testing demonstrates that they are effectively communicating the message they intend to communicate to the target audience.

Implementation

During the implementation phase, the messages are disseminated through the selected communication channels. For certain communication channels this may involve one-way communication, for example through distributing printed materials and running commercials on television or radio. Other communication channels may use two-way communication, for example radio talk shows and discussions held on social media platforms. Some communication channels require social mobilization, meaning the active engagement of community members and target groups in the campaign. This can include, for example, encouraging communities to attend and participate in community theatre events and town hall discussions, encouraging religious leaders to share messages with their congregations, and encouraging members of the media to write stories about and discuss the issue in their newspapers and talk shows.

Monitoring and evaluation

During the implementation phase, data should be collected to assess how the SBCC campaign is progressing. This could include counting the number of likes or comments a post gets on social media, the number of people participating in community events, the number of callers to radio shows, etc. Monitoring during implementation is important because it allows for adjustments to be made during the course of the campaign to achieve maximum impact. For example, if monitoring shows that more people are engaging with radio talk shows than on social media, then resources can be reallocated to the radio talk shows and/or improvements to the social media component made. Monitoring can also help assess if all target groups are being reached and if barriers to access are being overcome.

Evaluation aims to measure the impact of the SBCC campaign on the actual behaviour of the target group, and to assess the extent to which the campaign was able to meet the objectives established in the strategy design phase. There are numerous methods for measuring this impact, including through observations of actual behaviour (see the resources section below for more information on monitoring and evaluation). Evaluation findings should be used for learning, with lessons learned and good practices identified used to improve future SBCC campaign efforts. Where possible, it is good practice to document and make publicly available evaluation findings. This not only helps others design good SBCC campaigns, but it is also an important demonstration of transparency and accountability towards the communities in which the campaigns were conducted.

These interventions work best when supported by structural interventions, such as policies and legislation addressing harmful practices.

4.3 RESOURCES FOR PART 4

Resources for building local governance capacities

Labor Market Learning and Development Unit, Human Resources Development Canada (HRDC), The Community Development Handbook (1999)

https://ccednet-rcdec.ca/sites/ccednet-rcdec.ca/files/051-hrdc-cd_handbook.pdf

Resources for ensuring access to livelihoods and employment

Co-Operative Entrepreneurship: Co-Operate for Growth (2012)

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2163491

Forcier Consulting, ILO, Rural skills training: A generic manual on training for rural economic empowerment (2009)

www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-islamabad/documents/publication/wcms_152250.pdf

UNCTAD, Promoting entrepreneurship for development (2015)

https://unctad.org/meetings/en/SessionalDocuments/ciid29_en.pdf

UNCTAD, UNHCR and IOM, Policy Guide on Entrepreneurship for Migrants and Refugees (2018)

https://unctad.org/en/PublicationsLibrary/diae2018d2_en.pdf

USAID and FHI360, Workforce Connections: Key Approaches to Labor Market Assessment (2018)

<https://static.globalinnovationexchange.org/s3fs-public/asset/document/Key%20Approaches%20to%20Labor%20Market%20Assessment.pdf?uOnvWRUbNCTIVackA1WKpZGS5NxbWaS5#page=1>

YouthPower, Key Approaches to Labor Market Assessment: An Interactive Guide

www.youthpower.org/labor-market-assessment-module-1-economic-context

Resources for ensuring access to services

IOM, Manual on community-based mental health and psychosocial in emergencies (2019)

<https://mental-health-and-psycho-social-support-manual.kcp.be/>

UNICEF, Guidelines to strengthen the social service workforce for child protection (February 2019) www.unicef.org/media/53851/file/Guidelines%20to%20strengthen%20social%20service%20for%20child%20protection%202019.pdf

www.unicef.org/media/53851/file/Guidelines%20to%20strengthen%20social%20service%20for%20child%20protection%202019.pdf

WHO, Global Experience of Community Health Workers for Delivery of Health Related Millennium Development Goals (2010)

www.who.int/workforcealliance/knowledge/resources/chwreport/en/

WHO guideline on health policy and system support to optimize community health worker programmes (2018)

<https://apps.who.int/iris/bitstream/handle/10665/275474/9789241550369-eng.pdf?ua=1>

WHO management of community health services

www.who.int/management/community/en/

WHO, Operations Manual for Staff at Primary Health Care Centres, Chapter 5.1: Infrastructure considerations for health infrastructure (2008) www.who.int/hiv/pub/imai/om_5_infrastructure.pdf

Resources for food security

FAO, IFAD, IOM and WFP, The Linkages between Migration, Agriculture, Food Security and Rural Development (2018)
www.fao.org/3/ca0922en/ca0922en.pdf

Feed the Future, Guidance and Tools for Global Food Security Programmes www.feedthefuture.gov/guidance-and-tools-for-global-food-security-programs/

Integrated Food Security Phase Classification
www.ipcinfo.org/

WFP, Building Resilience through Asset Creation (November 2013)
<https://documents.wfp.org/stellent/groups/public/documents/communications/wfp261744.pdf>

WFP, Vulnerability Analysis and Mapping (November 2018)
<https://docs.wfp.org/api/documents/WFP-0000040024/download/>

WFP and UNICEF, Technical Guidance for the Joint Approach to Nutrition and Food Security Assessment (JANFSA) (October 2016)
https://docs.wfp.org/api/documents/WFP-0000021096/download/?_ga=2.240348998.450748756.1560855426-135290927.1560855426

Resources for climate change, environmental degradation and disaster risk reduction and response

Addressing drivers of migration, including adverse effects of climate change, natural disasters and human-made crises, through protection and assistance, sustainable development, poverty eradication, conflict prevention and resolution
https://refugeesmigrants.un.org/sites/default/files/issue_brief_ts2_final.pdf

Climate Change Adaptation Tools at the Community Level: An Integrated Literature Review (2018)
<https://ideas.repec.org/a/gam/jsusta/v10y2018i3p796-d136072.html>

How small communities respond to environmental change: patterns from tropical to polar ecosystems (2017)
www.ecologyandsociety.org/vol22/iss3/art9/

Resources for addressing community beliefs, values, attitudes, behaviours, norms and practices

Attitudes and Behavior
www.simplypsychology.org/attitudes.html

Attitudes and Behavior in Psychology
www.verywellmind.com/attitudes-how-they-form-change-shape-behavior-2795897

Behaviour change towards female genital mutilation: Lessons learned from Africa and Europe (2019) www.researchgate.net/publication/237653076_Behaviour_change_towards_female_genital_mutilation_lessons_learned_from_Africa_and_Europe

Career Force, Learning Guide: Community values and attitudes (June 2015)
<https://library.careerforce.org.nz/Learning%20Assessment%20Resources/LG28523-1.0.pdf>

Gender and Development Network, Harmful Traditional Practices: Your Questions, Our Answers <https://static1.squarespace.com/static/536c4ee8e4b0b60bc6ca7c74/t/54b561ebe4b02a643c1c7ac6/1421173227982/GADN+Harmful+Traditional+Practices.pdf>

Immigration Advisers Authority, Personal beliefs, values, attitudes and behaviour
www.iaa.govt.nz/for-advisers/adviser-tools/ethics-toolkit/personal-beliefs-values-attitudes-and-behaviour/

JHU, Social and Behavior Change Communication

<https://ccp.jhu.edu/social-behavior-change-communication/>

Swiss Agency for Development and Cooperation (SDC), Communication for Development: A Practical Guide (July 2016) www.eda.admin.ch/dam/deza/en/documents/publikationen/Diverses/Communication-for-development-Manual_EN.pdf

UNFPA and UNICEF, Manual on Social Norms and Change www.unfpa.org/sites/default/files/pub-pdf/Social_Norms_Manual_-_English.pdf

World Bank, World Development Report 2015: Mind, Society, and Behavior www.worldbank.org/content/dam/Worldbank/Publications/WDR/WDR%202015/WDR-2015-Full-Report.pdf

4.4 COMMUNITY FACTORS ASSESSMENT TOOLKIT

Introduction

The community and structural context provides the context within which to understand and interpret the individual and household/family factors. Community factors refer to the immediate physical and social surroundings of individuals and households/families that either increase or decrease an individual's likelihood of experiencing violence, exploitation or abuse before, during or after migrating. This toolkit provides guidance on how to assess the ways in which community-level factors influence an individual's vulnerability by using the assessment tool provided.

Use of the community factors assessment tools will only provide part of the contextual information necessary to interpret the individual and household/family factors – the structural factors are also an important element of this contextual analysis. Refer to Parts 2, 3 and 5 for information on conducting assessments of the individual, household/family, and structural factors.

This toolkit contains: (a) a discussion of different community-level factors and how they influence vulnerability; (b) an assessment tool to be used to gather, structure and present the information needed to assess the impact of community-level factors on migrant vulnerability; and (c) guidance on how to apply and adapt the assessment tool.

Community factors

The list of factors described in this section are based on existing literature on vulnerability to violence, exploitation and abuse, as well as research conducted using the IOM determinants of migrant vulnerability framework. The community factors discussed in this section can be assessed through use of the assessment tool provided in this toolkit.

Individual status, identities, beliefs and orientations

There are a number of identities, statuses, beliefs and orientations that either increase or decrease vulnerability to violence, exploitation or abuse before, during or after migrating. These include: racial identities, ethnic identities, religious identities, linguistic identities, sex (male, female or intersex), gender and gender identities, sexual orientations, social class, socioeconomic status, jobs, marital status, education, familial or kinship linkages, being older/elderly, and being younger (a child or an adolescent).

Analysis of this factor requires: (a) understanding the impact of these characteristics on an individual's status within the community; (b) understanding how people are treated based on this status; and c) how this status and treatment impacts their vulnerability to violence, exploitation and abuse. For example, in some communities, individuals' whose sexual orientation is anything other than heterosexual (or is perceived to be anything other than heterosexual) are marginalized – through denial of access to shelter, services and employment – and this treatment may incentivize them to engage in risky behaviours or migration practices that expose them to risk. They may also be specifically targeted for violence, exploitation and abuse.

Community beliefs, practices and expectations in relation to particular groups

There are multiple community beliefs, practices and expectations about particular groups of people that increase vulnerability for individuals who are part of those groups. These include beliefs, practices and expectations towards people based on their age, for example a belief that the eldest child is responsible for earning money to contribute to the upbringing of their younger siblings, even if this entails risky migration. It also includes beliefs, practices and expectations based on sex, for example a belief that a daughter should marry young so as to reduce the financial burden on her family. Other examples include beliefs, practices and expectations based on health, such as the practice in some communities of hiding a person with a disability or forcing them to undertake unwaged domestic labour; and those based on race or caste, such as the belief in some communities that certain types of jobs should only be performed by members of certain castes.

Analysis of this factor requires: (a) elaborating what beliefs, practices and expectations in a particular community lead to greater vulnerability; (b) analysing their prevalence; and c) understanding how they impact an individual's vulnerability to violence, exploitation and abuse.

Livelihoods and employment opportunities

Adequate financial resources – and therefore access to livelihoods and employment opportunities – is a key protection factor as it allows individuals to meet their needs and responsibilities. Conversely, poor or no access to such opportunities makes it difficult for individuals to meet their needs and responsibilities, exposing them to various forms of insecurity and increasing their likelihood of engaging in risky behaviour to earn income.

Analysis of this factor requires: (a) an understanding of the availability of decent work in the community, in both the formal and informal sectors; and (b) an understanding of which groups within the community, if any, are excluded from access to decent work, and the extent of that exclusion. This analysis therefore captures potential generalized vulnerability arising from an overall lack of decent work in the community, as well as the vulnerability of particular groups whose situations might be worse than the overall one.

Environmental and climate factors

The natural environmental and climate of a community can shape access to food, shelter, and livelihoods and employment opportunities. Environmental degradation, climate change and natural disasters can increase the vulnerability of community members when they disrupt normal social interactions, destroy crops and livelihoods, and cause injury and illness. Natural disasters are also associated with displacement.

Analysis of this factor focuses on the extent to which the natural environment and climate introduces risk for communities, including the risk of displacement.

Existence and accessibility of services (education, health care, financial services, decent housing and other social services)

Access to education, health care, decent housing, as well as financial services (such as money transfer services and savings opportunities) and social services (such as police and fire services and job training) is in general associated with decreased vulnerability. This is because all of these services are linked to more positive living circumstances, including being better-informed and more empowered, as well as having better employment prospects, health and living conditions, and services that tend to be associated with a higher standard of living.

Analysis of this factor then focuses upon: (a) understanding if these important services are sufficiently and equally available to the various segments of the community; and (b) whether and to what extent the level of access impacts vulnerability.

Social networks and civic engagement opportunities

This factor focuses upon opportunities for social engagement, meaning opportunities for social interactions such as those in community centres, cafes or public spaces, and for civic engagement, meaning opportunities for organizing and coming together for political and non-political purposes to address community concerns and issues. A lack of such opportunities tends to be associated with greater vulnerability due to social isolation or an inability to engage collectively on civic issues.

Analysis of this factor seeks to ascertain: (a) whether there are numerous, diverse and equitable opportunities for social and civic engagement overall in the community; and (b) if and to what extent any particular groups are excluded from such opportunities and thereby rendered more isolated and vulnerable.

Prevalence of violence, including from criminality, organized crime and political conflict

Violence is associated with greater generalized vulnerability for the members of the community in which it occurs. It is also associated with particular vulnerability for individuals who are targeted, as well as for their household/family members by virtue of their being potentially exposed to violence as well as called upon to offer support and protection.

Analysis of this factor involves exploring: (a) what, if any, types of violence are present in the community; (b) the prevalence of violence; and (c) if and to what extent violence contributes to displacement or migration.

Guidance for applying and adapting the community factors assessment tool

Purpose

This assessment tool is intended to be used to assess the ways in which community-level factors influence migrant vulnerability to violence, exploitation and abuse. It should be used together with the structural factors assessment tool (see Part 5) to provide information on the context within which migrants are vulnerable or resilient to violence, exploitation and abuse, thereby complementing information gathered through the individual and household/family questionnaires (see Parts 2 and 3). Further, if such data is gathered over time and linked to data from other geographic locations, it can inform understanding of larger trends regarding migrant vulnerabilities in a particular community, as well as regionally. As such, it can potentially inform programming by governments as well as national and international organizations and service providers.

Using the assessment tool to gather data

The assessment tool is meant to guide and structure the data collection process and to present it in a standardized format. It can be used in either paper-based or electronic format. The data gathered should be transcribed into an electronic version in order to ensure the durability of the data collected and the ability to use it to understand changes over time, as well as for comparison purposes with other contexts and locations and therefore to be able to develop an evidence base for national, regional or global analysis.

Unlike the individual and household/family questionnaires, which focus on data collection from the individual migrant or potential migrant and his or her family themselves, this assessment tool can be used to gather and structure data from a variety of data sources and through a variety of data collection processes.

Group interviews

The assessment tool can be used to conduct group interviews with key informants who are knowledgeable about the target community and who can analyse the situation generally and assess trends, rather than focusing on anecdotal information.

Participants for the group interviews should be selected on the basis of their knowledge about sociological, economic, political and environmental concepts, as well as of the actual practices and belief systems in the specific community. Suitable interviewees could include a combination of: community leaders (both men and women); academic experts; and representatives of civil society organizations, NGOs (both national and international), international organizations and/or United Nations agencies, and local or national governments. The key criterion is that there should be a diverse group of interviewees.

Group interviews are preferred to individual interview in order to combine different perspectives and create a more complete and more nuanced portrait of the community, leading participants to come to a collective consensus on the responses to the questions. Each group interview should include three to five interviewees, as any fewer and there will not be enough diversity of perspectives, and any more and it will be extremely difficult to arrive at a consensus and to allow all interviewees to participate equally. At least two group interviews should be conducted, as this will serve as a triangulation mechanism to reduce the impact of potential bias when conducting the analysis.

Groups can be convened to discuss all of the seven topics covered in the assessment form, or they can be convened to focus only on topics on which the participants are especially knowledgeable. In either case, each topic should be discussed by at least two groups.

Each topic requires between 30 and 90 minutes for a full group discussion. If a group is convened to discuss all seven topics, this is a significant demand on their time. Discussion sessions should be scheduled to take this into account – for example, by holding a series of shorter sessions or two longer sessions. For groups that are convened to discuss only two or three topics, the discussion session should take between two and three hours.

Individual interviews

It is also possible to conduct a series of individual interviews, if group interviews are not feasible. However, this will require more time and more interviews, as each respondent will not be confronted with differing opinions or perspectives that could spark deeper reflection. The length of each individual interview will depend on if all topics or only a subset of topics are covered. In general, it is anticipated that each topic will take between 15 and 45 minutes to complete. As individual interviews should generally not last much more than 90 minutes, it may be necessary to schedule two interviews with a respondent. At least three respondents should be consulted for each of the topics.

Desk review

Information gathered through interviews should be complemented by a desk review of key documents and data related to the social, political, economic, environmental and other characteristics of the community. This again serves as a triangulation mechanism and can help to complement, validate or revise the information obtained through group and individual interviews. Examples of such data sources include research reports, newspaper and magazine articles, analytical papers, academic commentaries, human rights reports, United Nations reports and national statistics that are disaggregated to the community level.

Filling out the assessment tool

Most of the questions include both closed and open fields. Many of these require a description, while others require a description followed by a ranking. In the latter case, a discussion of the description should be undertaken first, and only then should the interviewees be asked for a ranking, which should be based on the previous discussion. For example, interviewees may be asked to describe the availability and accessibility of educational services. They may say that there are good educational services, but that these are only accessible to the wealthy, or that public (State-provided) schools are accessible to all socioeconomic groups but are of low quality. The response to the follow-up question (“to what extent does the level of access to educational services increase vulnerability”) should reflect this inequality of access.

Once data collection is complete, the information gathered should be synthesized, summarized and assessed in order to arrive at a combined set of responses that has been verified through the various sources. For each of the questions, the source of the data used to devise the combined response should be noted. If the data source is an interview respondent (either individual or group) indicate the names and positions of each of the interviewees. If the data source is a document, include a full citation for the document.

Adapting and explaining the assessment tool

Unlike the individual and household/family-level questionnaires, it is not expected that this assessment form will require sociocultural adaptation, as interviewees will be key informants with expert knowledge and should be open to discussing sensitive topics. However, they may or may not be familiar with all the terms. It is recommended that the interviewer provide some concrete examples of hypothetical situations to guide the discussions. For example, when discussing the accessibility of services, the interviewer could ask, as a clarification or if the discussion does not cover the issue, whether children with disabilities have equal access to schools, or access to specialized services, and whether these are affordable for all the population.

Community factors assessment tool

Topic 1: Individual status, identities, beliefs and orientations

1.1a What if any racial identities confer high or low status in this community?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

1.1b To what extent are people ascribed low-status racial identities more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.2a What if any ethnic identities confer high or low status in this community?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

1.2b To what extent are people ascribed low-status ethnic identities more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.3a What if any religious identities confer high or low status in this community?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

1.3b To what extent are people with low status religious identities more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.4a What if any linguistic identities confer high or low status in this community?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

1.4b To what extent are people with low-status linguistic identities more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.5a What if any sexes (male, female or intersex) confer high or low status in this community?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

1.5b To what extent are people of a low-status sex more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.6a What if any genders and gender identities confer high or low status in this community?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

1.6b To what extent are people of low-status genders or gender identities more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.7a What if any sexual orientations confer high or low status in this community?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

1.7b To what extent are people with low-status sexual orientations more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.8a Does being from a particular social class confer high or low status in this community?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

1.8b To what extent are people from low status social classes more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.9a Does socioeconomic status confer high or low status in this community?

Specify and briefly describe how this is applicable (if not relevant, say “not applicable”):

1.9b To what extent are people with a low socioeconomic status more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.10a What if any types of jobs confer high or low status in this community?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

1.10b To what extent are people occupying low-status jobs more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.11a What if any marital statuses confer high or low status in this community?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

1.11b To what extent are people whose marital status is considered low status more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.12a Does education level confer high or low status in this community?

Specify and briefly describe how this is applicable (if not relevant, say “not applicable”):

1.12b To what extent are people with a low status level of education more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.13a What if any familial or kinship linkages confer high or low status in this community?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

1.13b To what extent are people with low-status kinship or familial linkages more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.14a Does being older/elderly confer high or low status in this community?

Specify and briefly describe how this is applicable (if not relevant, say “not applicable”):

1.14b To what extent are older/elderly people more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.15a Does being young confer high or low status in this community?

Specify and briefly describe how this is applicable (if not relevant, say “not applicable”):

1.15b To what extent are younger people more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

1.16a Are there other key characteristics that de-mark status and particularly low status in this community?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

1.16b To what extent are those people ascribed or having these characteristics more likely than others to be subjected to violence, exploitation and/or abuse?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

Summary:

Sources of information:

Topic 2: Community beliefs, practices and expectations in relation to particular groups

Guidance

2.1a Are there any community beliefs, practices and expectations for people of a particular age (young or old) that lead to increased vulnerability?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

2.1b How prevalent are those beliefs, practices and expectations?

- 1- high prevalence
- 2- medium prevalence
- 3- medium/low prevalence
- 4- low prevalence
- 5- not applicable

2.2a Are there any community beliefs, practices and expectations for people of a particular sex that lead to increased vulnerability?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

2.2b How prevalent are those beliefs, practices and expectations?

- 1- high prevalence
- 2- medium prevalence
- 3- medium/low prevalence
- 4- low prevalence
- 5- not applicable

2.3a Are there any community beliefs, practices and expectations for people with health issues that lead to increased vulnerability?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

2.3b How prevalent are those beliefs, practices and expectations?

- 1- high prevalence
- 2- medium prevalence
- 3- medium/low prevalence
- 4- low prevalence
- 5- not applicable

2.4a Are there any other community beliefs, practices and expectations that target particular groups within society and that lead to increased vulnerability?

Specify and briefly describe those that are applicable (if none, say “not applicable”):

2.4b How prevalent are those beliefs, practices and expectations?

- 1- high prevalence
- 2- medium prevalence
- 3- medium/low prevalence
- 4- low prevalence
- 5- not applicable

Summary:

Sources of information:

Topic 3: Livelihoods and employment opportunities

3.1 Overall, is there good availability of decent work in the community?

Specify and briefly describe availability of decent work, including key factors contributing to this situation (such as lack of access to land for farming):

3.2a What groups if any are more excluded from decent work opportunities in the community?

Describe groups that are more excluded, if any:

3.2b To what extent are those groups excluded?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

Summary:

Sources of information:

Topic 4: Environmental and climate factors

4.1 What if any environmental and climate factors (including natural disasters) that are present in the community impact negatively upon access to food, shelter, livelihoods and employment opportunities as well as other basic needs?

Specify those that are applicable (if none, say "not applicable"):

4.2 To what extent do those environmental and climate factors (including natural disasters) impact negatively upon access to food, shelter, livelihoods and employment opportunities as well as other basic needs?

- 1- strong impact
- 2- medium impact
- 3- medium/low impact
- 4- low impact
- 5- not applicable

4.3 Do those environmental and climate factors (including natural disasters) cause members of the community to be displaced or to have to leave the area and if yes how frequently?

- 1- often
- 2- occasionally
- 3- rarely
- 4- never

Summary:

Sources of information:

Topic 5: Accessibility of services (education, health care, financial services, decent housing and other social services)

5.1a Are educational services sufficiently and equally accessible in the community?

Describe accessibility of educational services:

5.1b To what extent does the level of access to educational services increase vulnerability?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

5.2a Are health-care services sufficiently and equally accessible in the community?

Describe accessibility of health-care services:

5.2b To what extent does the level of access to health-care services increase vulnerability?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

5.3a Is decent housing sufficiently and equally accessible in the community?

Describe accessibility of decent housing:

5.3b To what extent does the level of access to decent housing increase vulnerability?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

5.4a Are financial services sufficiently and equally accessible in the community?

Describe accessibility of financial services:

5.4b To what extent does the level of access to financial services increase vulnerability?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

5.5a Are other social services sufficiently and equally accessible in the community?

Describe accessibility of social service:

5.5b To what extent does the level of access to other social services increase vulnerability?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

Summary:

Sources of information:

Topic 6: Social networks and civic engagement opportunities

6.1a Are there numerous, diverse and equitable opportunities for social engagement in the community?

Describe opportunities for social engagement, focusing on their number, diversity and accessibility to different groups in the community:

6.1b What groups, if any, are more excluded from such opportunities?

Describe groups that are more excluded, if any:

6.1c To what extent are those groups excluded?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

6.2a Are there numerous, diverse and equitable opportunities for civic engagement in the community?

Describe opportunities for civic engagement, focusing on their number, diversity and accessibility to different groups in the community:

6.2b What groups if any are more excluded from such opportunities?

Describe groups that are more excluded, if any:

6.2c To what extent are those groups excluded?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

Topic 7: Prevalence of violence, including from criminality, organized crime and political conflict

7.1 What types of violence are at medium or high levels?

Specify and briefly describe those that are applicable, being sure to specify groups that are particularly vulnerable:

7.2 Does the violence contribute to displacement or migration more generally?

Describe how violence contributes to displacement or migration (if not relevant, say "not applicable"):

7.3 To what extent if at all does violence contribute to displacement or migration more generally?

- 1- to a high extent
- 2- to a medium extent
- 3- to a medium/low extent
- 4- to a low extent
- 5- not applicable

Summary:

Sources of information:

PROTECTION AND ASSISTANCE
FOR MIGRANTS VULNERABLE
TO VIOLENCE, EXPLOITATION
AND ABUSE: STRUCTURAL
PROGRAMMING

PART 5

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INTRODUCTION

Part 5 of this Handbook focuses on the determinants of migrant vulnerability at the structural level, and on appropriate programmatic responses for mitigating and addressing vulnerability factors at this level. It discusses the concept of structure, and the role that structures play in contributing to vulnerability or resilience. It outlines programming principles that should guide the development and implementation of structural or “upstream” programming. Part 5 begins with a general description of the enabling environment necessary for addressing migrant vulnerability – namely the policy, legal, regulatory and institutional environments – as well as efforts that can be undertaken to improve this environment, with a focus on capacity-building, advocacy, and data and research. The policy and issues that, taken together, address migrant vulnerability and enhance resilience are then discussed. Finally, migrant integration and combating xenophobia and discrimination is tackled in the conclusion.

The guidance provided in Part 5 is intended mainly for government policy and decision makers at different levels of government, and the actors who support these policy and decision makers in achieving their policy goals.

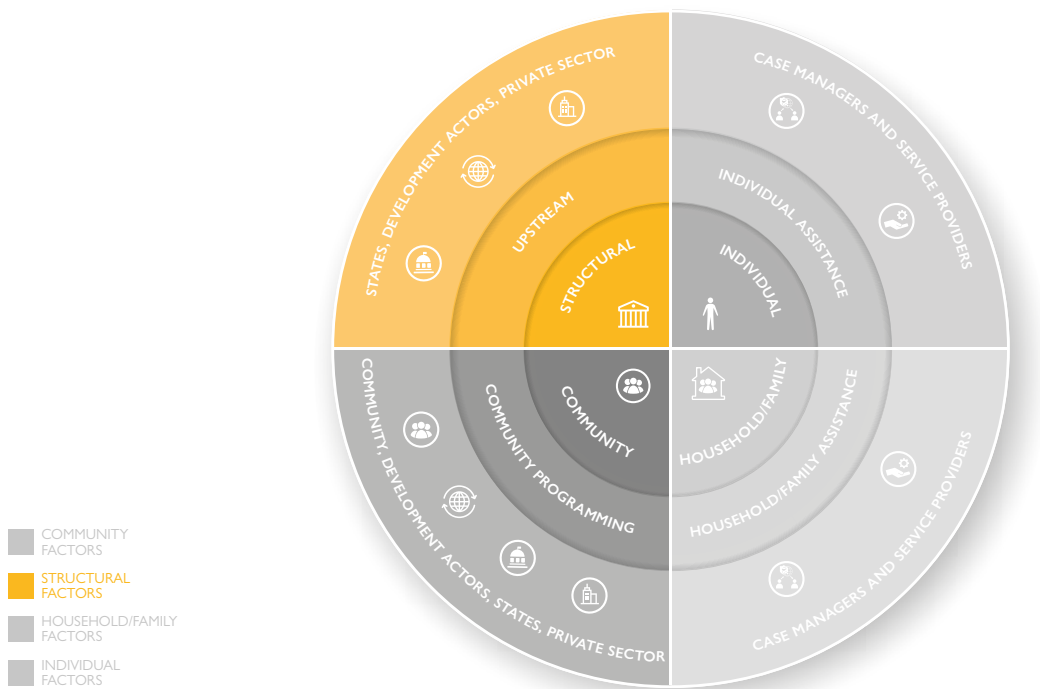


Figure 5.1

Programmatic responses and relevant actors at the structural level

5.1 STRUCTURAL-LEVEL DETERMINANTS OF MIGRANT VULNERABILITY

Understanding the concept of structure

Generally speaking, structures are the broader context and environment that shape the experiences of individuals, households or families, and communities. There are two main ways to think of structures: the first is to consider institutions and organizations; the second is more abstract and considers trends, dynamics and values.

From an institutional perspective, the term “structures” refers to the political, social and economic institutions that help to organize and frame societies and social interactions. They include:

- **The formal organizations of governments:** These include the presidency, the parliament and the courts; the central or national-level government institutions, such as ministries, departments and agencies; the regional- or provincial-level institutions of government; and the local- or municipal-level government institutions. What these all have in common is that they are the formal institutions and organizations that decide, implement and enforce laws.
- **The formal organizations through which people can represent their interests in relation to the formal organizations of government:** These include political parties and organized interest groups, such as labour unions, chambers of commerce, employers’ associations, merchants’ associations, and women’s rights groups. These are all organizations through which individuals and communities can join together to achieve common goals and try to influence decision makers within the formal organization of government to adopt laws and/or policies that favour their interests.
- **Regional and/or global institutions:** These include organizations that bring together different States and that seek to regulate interactions among States and their citizens in a regional or global context, such as the United Nations General Assembly. Some of these organizations have very broad mandates, like the European Union, the South Asian Association for Regional Cooperation or the African Union. Others are more specific in their mandate, such as the Organization of the Petroleum Exporting Countries (OPEC), Asia-Pacific Economic Cooperation, specialized United Nations agencies and the International Monetary Fund (IMF).

From a more abstract perspective, the structure includes not only these institutions, but also more difficult to define values or ideas, dynamics and interrelations and phenomena in the natural world that are not represented by particular individuals. These can include: global patterns and effects, such as globalization and climate change; patterns of interactions between States; the natural environment, such as weather patterns and geographic features; social systems such as shared belief systems and economic systems; and the impact of past events and historical interactions between social groups and between countries.

This Handbook uses the term “structural factors” to refer to those factors that relate primarily to the political and economic institutions at the national level, although it also takes into consideration regional and global institutions, as well as market forces, weather patterns and geographic features, history and shared belief systems.

Determinants of migrant vulnerability at the structural level

Structural factors are the historical, geographical, political, economic, social and cultural conditions and institutions at the national, regional and international levels that influence the overall environment in which individuals, families, households, communities and groups are situated and which shape their beliefs, decisions and behaviours.

Examples of structural factors include histories of colonization and conflict, political systems, migration policies and governance, respect for human rights, and rule of law.

At the structural level, risk factors include patterns of systemic marginalization and discrimination, conflict and instability, poor governance, the absence of accountability mechanisms, and weak rule of law. Protective factors include peace and security, good governance, respect for human rights, and equitable development.

Refer to the Structural Factors Assessment Toolkit for a more detailed discussion of structural factors.

5.2 STRUCTURAL-LEVEL PROGRAMMING TO ADDRESS VULNERABILITY TO VIOLENCE, EXPLOITATION AND ABUSE

Structural-level programming is similar to community-level programming in that it is not undertaken to address the protection and assistance needs of specific individuals, households or families, even though structural-level factors do impact their vulnerability. Instead, it is undertaken with the aim of effecting longer-term and broad-based change for all people and groups with which it is concerned.

Because structural-level programming is typically associated with States – or, at a minimum, involve States as primary actors – the people of concern are typically the citizens of, or all persons present on the territory of, a State. However, this is not the only population that can be considered. Structural factors and programming may impact populations larger than those found in States. For example, agreements on freedom of movement and labour mobility can affect workers within an entire region. Transnational social movements may focus on the well-being of certain sectors or the global population – such as international workers' rights movements – or on the global population as a whole – such as the global movement to address climate change.

Structural-level programming therefore takes interventions at the national-level as a primary entry point. However, it should also take into account relevant regional and international trends and concerns.

Programming principles

All structural programming aimed at addressing migrant vulnerability to violence, exploitation and abuse should be based on the principles described below. No one principle can be understood and upheld without reference to the others. For example, programming that aims to uphold the law must ensure that the laws being upheld are in line with a rights-based approach.

Nationally owned and driven – Programming aimed at reducing migrant vulnerability at the structural level requires the involvement of States and should recognize the national government's authority over development policies and activities, including those that are entirely or partially funded by external sources. For governments, this implies a requirement to articulate a national development agenda and to establish authoritative policies and strategies. For development partners, this means aligning programmes with government policies and building on government systems and processes, rather than creating parallel systems.¹

Rights-based – Efforts to prevent violence, exploitation and abuse of migrants specifically require efforts to uphold their rights. A rights-based approach is a conceptual framework and methodological tool for developing policies, programmes and practices that integrate the rights, norms and standards derived from international law. It involves identifying and analysing the rights issues at stake and ensuring that programming does not infringe on any person's rights and that all possible efforts to promote and uphold those rights are made. Programmes that employ a rights-based approach strive to empower rights-holders to enjoy and claim their rights, and to strengthen the capacity of duty bearers in their obligations to respect, protect and fulfil those rights. A rights-based approach to programming is also a process, which involves: (a) the identification of all rights-holders and their specific rights and the duty bearers who bear the obligation to respect, protect and fulfil those rights; (b) an assessment of whether – and the extent to which – rights are being respected, protected and fulfilled; and (c) the identification and implementation of actions to strengthen the capacity of rights-holders to enjoy and claim their rights and of duty bearers to meet their obligations.²

Based on, and supportive of, the rule of law – The rule of law – which is comprised of national and international legal frameworks, courts and law enforcement – is a critical element in the prevention of violence, exploitation and abuse, as well as in the provision of protection and assistance for those who have experienced the same, as it provides opportunities for redress. Structural programming should uphold national and international law and

1 <https://stats.oecd.org/glossary/detail.asp?ID=7238>.

2 IOM *Rights-based approach to programming* (2015). Available at https://publications.iom.int/system/files/pdf/rba_manual.pdf.

promote further development of fair, stable and predictable legal frameworks that promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all.

Evidence-based – Migration policies, programmes and practices can be subject to intense political debate. They should be based on available evidence and on rational analysis, rather than on populist sentiment. This requires effort to collect, analyse and use credible data and information in their formulation. Policies, programmes and practices that are based on such systematic evidence will produce better outcomes.³

Whole-of-government – The structural-level policies, programmes and practices that impact migrant vulnerability to violence, exploitation and abuse are diverse and multisectoral. They include, inter alia, migration, development, law enforcement, labour, foreign relations, justice, environmental and humanitarian considerations. As such, a whole-of-government approach is needed, which is “one in which public service agencies work across portfolio boundaries, formally and informally, to achieve a shared goal and an integrated government response to particular issues. It aims to achieve policy coherence in order to improve effectiveness and efficiency. This approach...focuses not only on policies but also on programme and project management.”⁴

Participatory – Structural programming impacts large groups of people, either directly or indirectly. It is therefore not possible to directly consult every person potentially involved in or impacted by a policy, programme or practice. Instead, a structured process of public consultation should be adopted. Public consultation “is a formal process through which citizens and stakeholders give their feedback and views on policies, plans, proposals, laws and other options presented by the government. It can take place at various stages of policy development, from exploring ideas set out in proposals or policy papers through to reviewing drafts of legislation or reports.”⁵ Essential conditions for effective consultations include appropriate design, proper resourcing, and a genuine desire to involve citizens and stakeholders and to take their views into account.⁶

Inclusive – Inclusivity specifically realizes that marginalized and disempowered segments of the population may not engage in participatory processes as often or as vocally as others. It involves efforts to specifically identify marginalized and disempowered groups and to take special measures to include them in consultations and dialogues. These may involve actions such as arranging special transportation or facilities for people with limited mobility, translation services for those who do not speak the dominant language(s), and use of peer outreach such as youth mobilizers.

Empowerment-focused – Empowerment builds on inclusivity by taking specific measures to tackle marginalization and empower marginalized individuals and groups to claim their rights and to participate in society on an equal basis. It includes analysing the potential and actual costs and benefits of a programme, and ensuring that those costs and benefits are equitably distributed. Pro-poor development strategies, which aim to ensure that the benefits of development are not solely enjoyed by privileged segments of society but also reach the poor, are an example of an empowerment-focused programming approach.

Environmental sustainability – All structural programming should take into account current and future needs and should ensure that no irreversible damage is done to the natural environment.

Actors involved in structural-level programming

At the structural level, programming tends to be longer-term and is typically the domain of local and national governments and regional or international institutions. As the primary duty bearer for upholding the rights of all persons, including migrants, the State has a particularly important role to play in reducing migrant vulnerability to violence, exploitation and abuse.

3 IOM Migration Governance Framework. Available at www.iom.int/sites/default/files/about-iom/migof_brochure_a4_en.pdf. Also, ODI Evidence-Based Policymaking: What is it? How does it work? What relevance for developing countries? Available at www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/3683.pdf.

4 WHA A68/17, footnote 2, page 3. Available at http://apps.who.int/gb/ebwha/pdf_files/WHA68/A68_17-en.pdf.

5 <https://sdgaccountability.org/working-with-formal-processes/promoting-inclusive-government-consultations/>.

6 Ibid.

However, other actors have important roles to play in structural-level programming. Some actors support the State in achieving national objectives – such as United Nations agencies, United Nations Country Teams (UNCTs),⁷ development partners and other regional or multilateral institutions – while others advocate for the rights of migrants, such as civil society organizations and members of the public.

Similarly, as migrant access to services is a critical component of migrant well-being and integration, service providers in the public and private spheres play a role in regulating this access.

The private sector does not only have a role to play in providing livelihood opportunities and services to migrants, it also helps influence social behaviours, norms and practices which are critical for migrant integration and combating xenophobia and discrimination.

Members of the public include the citizens and inhabitants of a State, but can also include global sectors of society who work together to advocate for change, such as transnational labour rights movements or environmental and climate change activists.

Actor	Examples	Sectors
State authorities	Policy and decision makers such as members of the executive branch, parliament and congress; as well as those who uphold and enforce policy and law, such as local government leaders, inspections officers and police officers	All
Regional and multilateral organizations	United Nations agencies and coordination entities; regional development banks, political unions, human rights bodies, and trade organizations	Capacity development, advocacy, data and research, policy and issues areas within their specific areas of competence, promoting migrant integration and combating xenophobia and discrimination
Civil society	Local, national and international organizations and movements aimed at achieving a common good	Capacity development, advocacy, data and research, policy and issue areas within their specific areas of interest, promoting migrant integration and combating xenophobia and discrimination
Private sector	Businesses, employers and business associations	Decent work and private-sector accountability, promoting migrant integration and combating xenophobia and discrimination
Service providers	Health-care workers, educators and employment counsellors	Promoting migrant integration and combating xenophobia and discrimination
Members of the public	Advocates, thought leaders and influencers, members of social movements	All

⁷ The UNCT encompasses all the entities of the United Nations system that carry out operational activities for development, emergency, recovery and transition in programme countries. The UNCT ensures inter-agency coordination and decision-making at the country level. The main purpose of the country team is for individual agencies to plan and work together, as part of the Resident Coordinator system, to ensure the delivery of tangible results in support of the development agenda of the government. Available at <https://undg.org/leadership/un-country-teams/>.

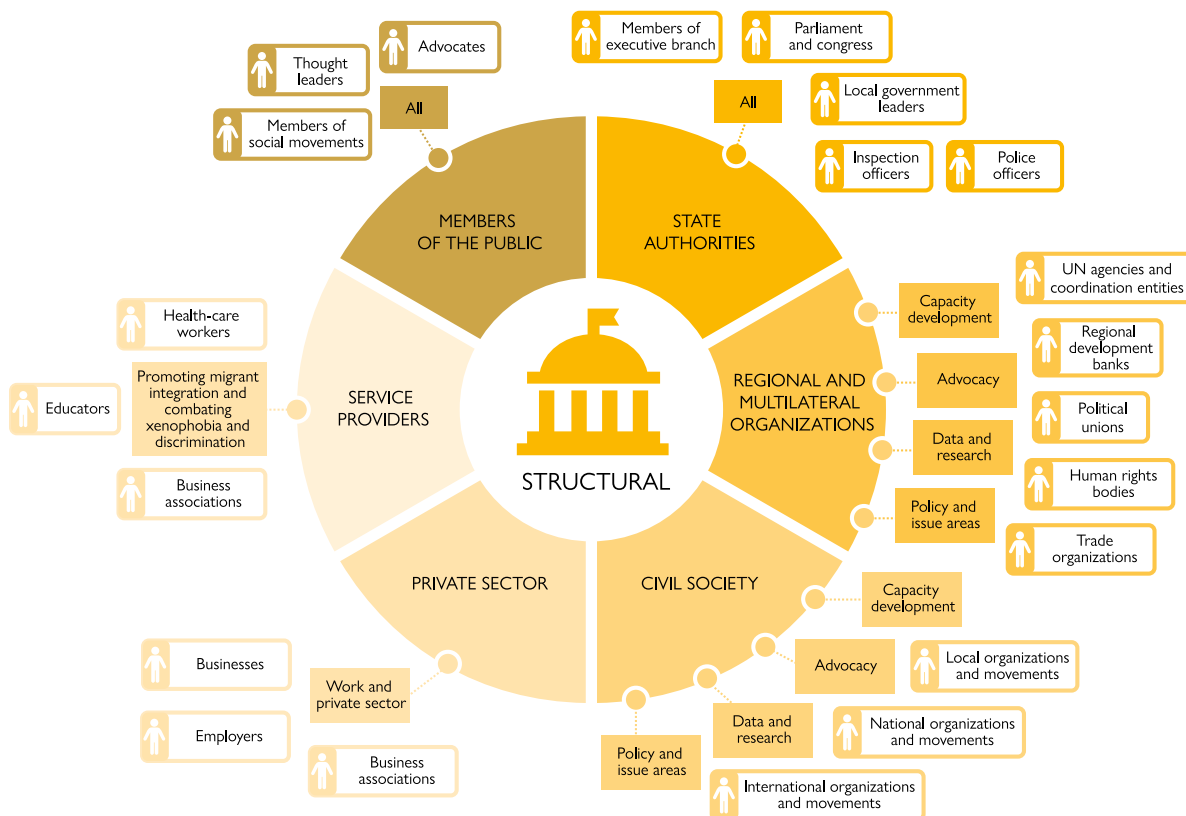


Figure 5.2

Relevant actors and sectors of intervention at the structural level

Creating an enabling environment

Improving policy, legal and regulatory frameworks

Policy, legal and regulatory frameworks are the set of rules that govern the rights and responsibilities of governments, companies and citizens. A core governmental role is to formulate policies, laws and regulations through which the government can define the activities of all stakeholder groups, including itself.

Policy, legal and regulatory frameworks are often referred to together, and indeed they do operate together as a whole to create a system for governance. However, they do have different but complementary – and perhaps somewhat overlapping – functions. It is important to understand the different instruments, their functions, and how they are created to ensure that all elements of the system are in place and that appropriate entry points for capacity-building, advocacy and data and research activities are identified.

Policy

A policy is a set of principles intended to specify goals and guide decisions.⁸ Policy expresses what the policymaker(s) intend(s) to achieve. Policies also establish the methods, or operating rules, that will be used to achieve the goals of the policy. Policies can be administrative, relating to *how* things will be done (for example, password policies, dress codes and opening hours), or substantive, relating to *what* will be done (for example, reduce poverty and provide health services).

Policies created by governments are usually referred to as public policies. A public policy seeks to achieve a goal that is considered to be in the best interest of all members of society, for example, clean air, clean water, good health, high employment, high educational attainment, decent and affordable housing, or minimal levels of poverty. While public

8 Summarized from S. Torjman, *What is Policy?* (Caledon Institute of Public Policy, 2005). Also, J. Vargas-Hernandez, M. Reza Noruzi and I. Farhad Nezhad Haj Ali, "What is Policy, Social Policy and Social Policy Changing?" *International Journal of Business and Social Science* (2011), 2(10):287–291. Available at <https://hal.archives-ouvertes.fr/hal-00817798>.

policies usually apply to all members of society, sometimes they target only a certain group in order to promote the public interest.

Public policies are developed through a decision-making process that helps address identified goals, problems or concerns. The process for policy formulation varies, depending on context, the way in which the policymaking body or bodies are organized, and who is and is not involved in the process. While the policy formulation process rarely follows a clear and consistent route, there are some basic steps that can be identified in what is usually known as the policy cycle:

1. Issue identification or agenda-setting, which involves identifying a subject or problem that requires attention. This is usually based on a political process which reflects the priorities of the policymaking body, but can also result from negotiation with other stakeholders or legal obligations under national or international law.
2. Policy analysis and formulation, where different possible interventions to achieve the policy goals are identified and the pros and cons of the different approaches are assessed.
3. Consultation, where relevant stakeholders and those potentially impacted by the policy are given an opportunity to provide their input. Consultation is often carried out at this stage to give legitimacy to the policy decisions taken, but it can also be conducted throughout the policy cycle.
4. Policy decisions, whereby the policymakers decide on the way forward. They may decide not to proceed with policy development on the issue, to keep an existing policy either as is or with revisions, or to proceed with adopting a new policy.
5. Policy implementation, which involves putting in place the procedures, systems, infrastructure, resources and regulations needed to implement the policy.
6. Policy evaluation, where, after a period of implementation, an assessment is undertaken to evaluate whether and how well the policy is achieving its desired objective. This can lead to a new cycle in order to improve, replace or abandon the policy.

Policy documents are not law but will often identify new laws that are needed in order to achieve the policy goals.

Laws

Laws are a set of formally established rules on what is to be done or not done, which also establish consequences for failure to follow the rules as specified in the law. Laws are interpreted and upheld through law enforcement bodies such as the police, immigration officials and courts.

National laws refer to all laws that have been enacted by a State law-making body, such as a legislature, parliament or congress. The process of making law varies from country to country, but usually involves drafting the text of the law, consulting with relevant decision makers and stakeholders, debating and revising the law, and finally adopting the law through an agreed-upon process. National laws are typically – and ideally – based off and geared towards implementation of an established policy. For example, a country's penal code is usually based on a national criminal justice policy.

International law refers to a body of rules established by custom or treaty and recognized by nations as binding. International law is developed by States through multilateral processes, such as via the United Nations General Assembly.

At the national level, laws govern the behaviour of individuals and entities, and at the international level they govern the behaviour of States. Laws specify which behaviours are prohibited, and the consequences of engaging in the prohibited behaviour. For individuals, these consequences usually involve fines, imprisonment or a combination of the two. For States, there is no overarching compulsory judicial system or coercive penal system to address breaches of the provisions set out in treaties or to settle disputes. There are, however, various bodies established to help States peacefully resolve disputes, such as the World Trade Organization, or to encourage States to abide by their obligations and undertake actions required for compliance, such as the Human Rights Committee.⁹

Laws usually contain specifics on which organs of government will be responsible for implementing different aspects of the law. At times, laws may create new government organs specifically for the implementation of the law.

⁹ https://treaties.un.org/doc/source/events/2011/Press_kit/fact_sheet_1_english.pdf.

Regulations

Regulations are the instruments used by organs of government to implement laws. In general, laws establish the rules and broad frameworks for how they are to be implemented, but the detailed specifics of how laws will be implemented are addressed in regulations. For example, a country's traffic legislation is usually based on road traffic safety policies. Regulations can have the effect of law: they are enforceable both on government agencies and on private persons, and sanctions can be applied if regulations are broken.

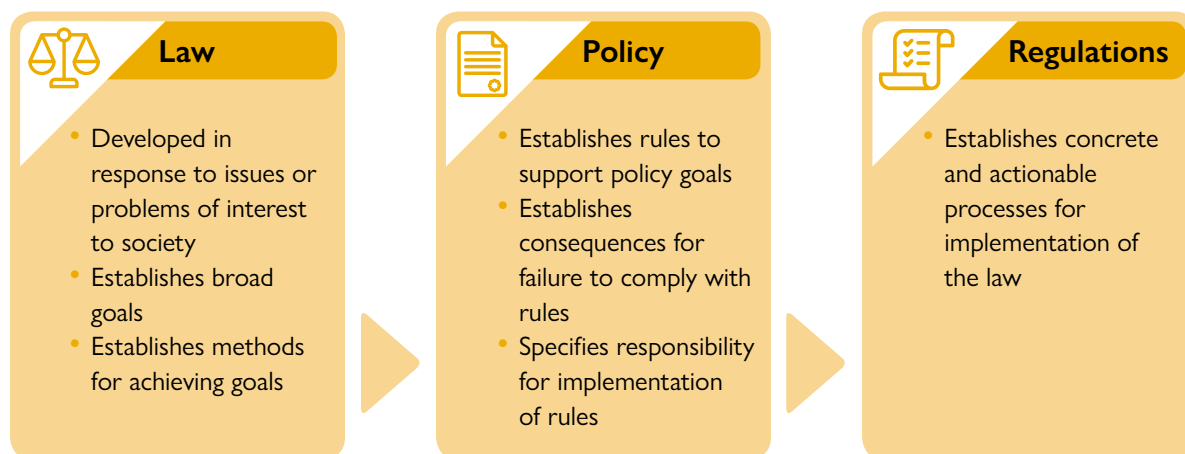


Figure 5.3

Policies, laws and regulations

Policy, legal and regulatory frameworks are fundamentally important to the realization of rights and the reduction of vulnerabilities. They establish entitlements in a clear and transparent way and allow people who are entitled to benefits to make claims and obtain redress in case of violations of their rights. Policy, legal and regulatory frameworks also protect people from arbitrary or discretionary decision-making.

At the State or national level, to reduce the vulnerability of migrants to violence, exploitation and abuse, laws and regulations must be supportive of the realization of rights, in general, and of the rights of migrants, in particular. While each country has its own set of terms, an appropriate policy, legal and regulatory framework should include the following areas:

- **Laws and regulations aimed at upholding and protecting human rights:** This set of laws typically includes a State's Constitution, but can also include a bill or charter of rights. In addition, this set of laws includes any international and/or regional laws, agreements, conventions or protocols relating to human rights that a country has signed and ratified. Together, these form the fundamental framework that all other laws in the country must respect. Furthermore, this set of laws can include specific laws, regulations and clauses relating to non-discrimination towards, or equal treatment of, women and girls, persons with disabilities, and religious or racial/ethnic groups. In addition, the framework for establishing rule of law and law enforcement practices constitute the framework for ensuring the respect of human rights at the point where the State interacts with individuals.
- **Laws and regulations aimed at upholding and protecting labour rights/promoting decent work:** These are the laws that regulate employment and work conditions, typically enshrined in a country's Labour Code, as well as in the specific regulations for particular occupations, and include regulations about health and safety standards at work. They also include any international and/or regional labour or employment treaties, agreements, conventions and protocols that the country has signed and ratified.
- **Laws and regulations aimed at protecting vulnerable persons, such as sexual offences laws and child protection laws:** Generally, these are sections of a country's criminal code and specific laws and regulations on the treatment of children and include descriptions of offences. They usually also include laws regarding juvenile offenders, the criminal protection of juveniles, penal institutions and the treatment of offenders. In most cases, laws regulating health-care provision, education and social protection services also include specific mention of measures that must be taken to ensure the protection of vulnerable persons when they interact with these

services and systems. They also include any international and/or regional treaties, agreements, conventions and protocols related to these topics that the country has signed and ratified.

- **Laws and regulations aimed at governing immigration and/or migration management:** Often called laws on foreigners, these are the laws and regulations that define the conditions under which people can immigrate or emigrate from a country, and which outline the rights and responsibilities of migrants in a country.
- **Laws and regulations aimed specifically at protecting migrants from violence, exploitation and abuse:** These are generally international and/or regional laws, agreements or protocols that a country has signed and ratified, along with the national laws and regulations enacted specifically to ensure their implementation. These include the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air. They also include the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Improving institutional arrangements and coordination

Policies, laws and regulations are implemented by governmental institutions, including ministries, departments, agencies and any other organ of government. Institutions provide the human and technical resources and capacities necessary for implementing activities and programmes for achieving the goals established in policies and laws.

Institutions need to be “fit for purpose” to achieve policy goals. This means they need the appropriate structures and the full set of human, technical and financial resources necessary to implement activities and programmes. Revisions to law may be required to ensure that institutional structures, as well as capacity development activities, are adequate. It will also require the allocation of sufficient budget for implementation.

Government institutions often develop specific strategies and plans to guide their implementation of policy and law. Strategies and plans can be thought of as detailed roadmaps towards achieving a specific objective or set of objectives. Typically, they provide detailed information on specific actions to be taken and objectives to be achieved, benchmarks for measuring progress, and roles and responsibilities. National action plans are a common example – see the section on national action plans below.

Usually, the implementation of policies, laws, regulations and strategies requires the involvement of more than one government agency. As such, coordination between the different bodies is required. Coordination may involve the establishment of specific bodies, such as task teams or secretariats, whose main purpose is to coordinate the activities of various actors. These actors include not only the various government entities involved in implementation of law or policy, but also partners in implementation – such as civil society organizations – and other stakeholders such as private-sector bodies and representatives of the people impacted by policies and laws. National referral mechanisms are an important example of how governments can coordinate the provision of protection and assistance services to vulnerable migrants see the section on national referral mechanisms below.

National Action Plans

National Action Plans (NAPs) are often used to support implementation of policies and laws and can be useful tools for implementing whole-of-government and whole-of-society approaches to addressing migrant vulnerability to violence, exploitation and abuse. NAPs stipulate programmatic and policy responses needed, and define who will carry them out, over what period of time and the cost associated with the response. They set achievable targets and promote coordinated action and sharing of responsibilities.

NAPs are operational and action-oriented in nature. Their objective is to outline how policy goals can be achieved and to present a strategy as to how to achieve them. NAPs should be developed for a specific period of time, such as three or five years.

Prior to developing a NAP, a lead government agency should be selected to spearhead the development process and to coordinate implementation. This coordinating agency should also oversee a consultations process to gather the inputs of all stakeholders, including, as relevant: government ministries, departments and agencies, civil society organizations, international organizations, community leaders, academics, migrant organizations, labour unions, and any other entity involved in assisting vulnerable migrants. A steering committee, comprised of key agencies and stakeholders with responsibilities for the main issues and challenges identified in the consultative process, should be established.

The steering committee should then come together to draft the NAP using the inputs from the consultation process. The NAP should contain: (a) goals or objectives; (b) a set of expected results; (c) benchmarks or indicators for assessing progress towards intended results; (d) specific activities to be implemented and a timeline for that implementation; and (e) clear specification of which entity is responsible for which activities and the resources needed for the implementation of each activity. Countries wishing to undertake a comprehensive approach to addressing migrant vulnerabilities can divide the NAP into the different levels of intervention (individual, household/family, community and structural). These components of the NAP can be included in a table format as follows:

Specific objectives	Outcome	Output	Activities	Lead agency and other stakeholders	Timeline	Financial resources	Indicators
Individual responses							
Household/Family responses							
Community responses							
Structural responses							

An introductory section with a background, situation analysis and guiding principles for implementation can also be helpful to give some substance to the NAP. Moreover, it is helpful to explain the actions taken to prepare the NAP, who has participated and who has a role to play, and how the NAP will be funded.

As part of the development phase, a baseline assessment should also be carried out which will help with monitoring and review of the NAP. Once the NAP is ready, it should be endorsed by the relevant government representative or body (for example, Minister and Parliament) and broadly disseminated.

Each responsible government entity or organization will be responsible for implementing the activities that have been outlined for them in the NAP. However, the coordinating agency will play an important role in terms of oversight, ensuring momentum and coordination and cohesion of implementation. Moreover, if there are funding gaps, the coordinating agency can also help with fundraising efforts.

For monitoring purposes, members of the steering committee should agree on a reporting format and frequency. All members should submit inputs to the coordinating agency that would produce reports. The reports should be made available to all members of the task force; it should also be made public and widely disseminated. A review at the end of the NAP period should be conducted to determine to what extent the goals were achieved and to inform the formulation of a new NAP.

National Referral Mechanisms¹⁰

Referral mechanisms are a means of promoting cooperation between multiple stakeholders to provide protection and assistance services to vulnerable migrants. The process includes the various components or steps for providing protection and assistance. These steps may vary in each country, but they generally include identification of vulnerable migrants, status or case-type determination, case management and the provision of protection and assistance services. Referral mechanisms can be developed and implemented at the local, national and transnational level, but it is typically the national referral mechanism that is developed first and is later linked with local and transnational mechanisms.

It is important to emphasize that a referral mechanism is not a one-off document, but rather the process of working together through various steps of the assistance process. A referral mechanism nevertheless requires certain key documents if it is to function appropriately, including a memorandum of understanding (MoU) and standard operating procedures.

National referral mechanisms are necessary because vulnerable migrants have a wide array of needs that cut across sectors and providers and it is unlikely that any one government entity or organization can meet them all. Multiple and overlapping protection systems might exist in a specific context, with multiple organizations, each with a different mandate, providing different services. Coordination is thus essential to ensure that migrants get the protection and assistance they need and to avoid fragmentation in service delivery. Referral mechanisms also promote effective use of resources (they help to avoid duplication of roles and responsibilities) and accountability (it is easier to hold stakeholders accountable for providing the protection and assistance needed by vulnerable migrants).

The ultimate aim of a national referral mechanism is to provide protection and assistance services to vulnerable migrants. It is important to note that most countries do not have a migrant-specific protection system, so other protection systems have to be used to create a protective environment. Case managers are responsible for helping migrants to navigate these various protection systems and identify the system that affords them the highest level of protection.

When considering developing a national referral mechanism for vulnerable migrants, a national government, with the support of other stakeholders, should set up a steering committee. A steering committee can provide overall guidance and coordination. If a country has a national coordination mechanism on migration, the steering committee can be a subset thereof, to avoid fragmentation and stakeholder fatigue. The steering committee should be multisectoral and include all the stakeholders expected to play a role in the referral mechanism's implementation. It should be chaired by a government entity and its members should ideally be senior technical staff.

The steering committee can then oversee the development of a country assessment. Indeed, when developing a national referral mechanism, it is helpful to have a general overview of migrant protection in the country concerned. The steering committee should spearhead the assessment.

To formalize the cooperation arrangements, an MoU should also be prepared. The MoU will be a document providing information on the various parts of the referral mechanism, its members and the services they offer. The MoU should include an introduction, background and purpose, the specific target group, a detailed description of each member's responsibilities, coordination methods, financing arrangements, duration of the MoU and any relevant annexes.

If necessary, standard operating procedures can also be prepared which describe specific procedures of the referral mechanism process, such as screening procedures, transportation of vulnerable migrants and sharing of information on vulnerable migrants in line with data protection principles. Flow diagrams, referral directories and forms (for example, screening forms and intake forms) might also be needed to operationalize the national referral mechanism.

Refer to *the IOM Guidance on Referral Mechanisms for the Protection and Assistance of Migrants Vulnerable to Violence, Exploitation and Abuse and of Victims of Trafficking* for more information.

¹⁰ Adapted from IOM Guidance on Referral Mechanisms for the Protection and Assistance of Migrants Vulnerable to Violence, Exploitation and Abuse and of Victims of Trafficking.

Capacity development

Appropriate capacity is a key requirement for implementing any policy or law. Supportive strategies, plans and procedures, well-functioning organizations, and educated and skilled people are all essential requirements for implementation.

Capacity development can be defined as the process through which individuals, organizations and societies obtain, strengthen and maintain the capabilities to set and achieve their own development objectives over time. Capacity development builds on existing capacities, enhancing and retaining them, while introducing any new capacities that may be lacking.

In order to be fully effective, capacity development needs to take place at three different levels, which interact with one another:

- **The enabling environment or societal level:** This is the broader system within which institutions and individuals function, and which can facilitate or hinder their work. It constitutes and frames the “rules of the game” and typically includes policies, legislation, power relations and social norms, and influences how institutions and individuals interact.
- **The organizational level:** This relates to the internal policies, procedures and frameworks that govern how an organization operates and brings together individual capacities. To be effective, these procedures and frameworks need to be well-resourced and well-aligned with the organization’s objectives.
- **The individual level:** This refers to the skills, experience and knowledge that individuals have or that are needed to perform their work.

Capacity development is not a one-off intervention, but rather an ongoing process cycle that involves five main steps:

1. Engaging stakeholders, which involves building political commitment among key stakeholders and embedding capacity development in broader national development priorities;
2. Assessing capacity assets and needs, by assessing existing capacity against desired capacity for the intended purpose;
3. Designing a capacity development response, based on the capacity assessment, by identifying a combination of quick-impact initiatives and short- to medium-term initiatives, defining indicators of progress, and determining costs;
4. Implementing the capacity development response, ideally as part of the implementation of a broader programme or project; and
5. Evaluating capacity development, by assessing changes in efficiency and effectiveness.

The amount of time that will be needed for this process varies depending on many factors, including: the scope of the programme, the complexity of the capacity assessment, and the scope of the capacity development response.

Capacity development activities can include training, but training is neither the only nor necessarily the best way to develop or build capacity. The specific capacity development activities chosen should reflect the types of capacities to be developed. For example:¹¹

- Organizational development support and/or advisory support for more effective processes and systems: This type of activity consists mainly of technical assistance to improve the processes and systems in place at the institutional and/or organizational levels. Examples of processes and systems include standard operating procedures, standard forms and templates, protocols and worksheets.
- Training of trainers: This type of activity focuses on improving the skills of a small group of individuals who should be embedded within an organization to have a multiplier effect, whereby they then support the development of the capacities of individuals within their organization.
- Creation of networks, twinning arrangements, South–South cooperation: This type of activity operates mostly at the organizational level, where two or more organizations exchange experiences and learn from one another. This can include mentorship, whereby an individual transfers knowledge to a newer or less-experienced person through ongoing and regular consultation and discussion.

¹¹ Adapted from FAO, How to Design Capacity Development Interventions and Ensure their Sustainability; available at www.fao.org/capacity-development/resources/practical-tools/design-capacity-development/en/. Also, FAO Capacity Development Learning Modules; available at www.fao.org/capacity-development/resources/fao-learning-material/learning-modules/en/.

- Exposure/study visits: This type of activity primarily develops the capacities of individuals and is often a subset of networks, twinning arrangements and cooperation (South–South or North–South), whereby direct exposure to processes, practices or skills contributes to the individual learning and understanding of the expected results.
- Formal (face-to-face or Web-based) training sessions: This is the most common activity in capacity development. It focuses on strengthening the capacities of individuals by providing skills, knowledge or understanding on a particular topic.
- Resourcing: Sometimes external actors, such as development partners, are not engaged in the direct delivery of capacity development services, but can improve the ability of institutions to fulfil their mandates by providing resources, such as budget support or in-kind support.

Advocacy

In situations in which the policy, legal and regulatory environment is insufficient to provide for protection and assistance of vulnerable migrants, it may be necessary to engage in advocacy efforts (in this context, referred to as policy advocacy). Policy advocacy refers to organized initiatives that seek to change or preserve official policy or laws, and/or the manner in which they are applied. Typically, the goal of policy advocacy efforts is to establish new policies or laws, improve existing policies or laws, or challenge the development of policies or laws that create difficulties or injustices for specific groups in society, particularly vulnerable groups. Because it aims to change policy or law, policy advocacy generally tries to influence decision makers: public officials, civil servants, elected officials and lawmakers.

Policy advocacy can therefore be defined as the process of negotiating and mediating a dialogue through which influential networks, opinion leaders and decision makers take ownership of the ideas, evidence and proposals put forward by the advocates and then act on them.¹² Policy advocacy can be done not only by “outsiders” (that is to say, actors outside of government), but also by “insiders” (that is to say, individuals and organizations within government who seek to influence either more senior decision makers within government, or other branches, ministries or agencies of government).

The advantage of policy advocacy is that laws and policies constitute the framework within which all members of society operate, including the State. Therefore, any positive changes in these areas are likely to be more impactful by addressing issues for the longer term and creating change for society as a whole.

To be effective, policy advocacy initiatives should be based on an understanding of the following principles:

- Policy advocacy involves a two-way process of negotiation and mediation, so that the target of the advocacy (policymakers and decision makers) gain ownership of the proposals.
- Policy advocacy takes time and persistence.
- The most likely result of policy advocacy is influence over the policymaking process, rather than direct impact. In other words, it is unlikely that a policy proposal will be adopted exactly as proposed by advocates.
- Policy advocacy involves convincing key experts, as well as building coalitions and negotiating with political actors.
- Policy advocacy needs to be tailored to the specific context.

Typically, policy advocacy is conducted on the basis of one or a combination of the following approaches:

- **Advising:** This is usually done as a response to a request from the policy or lawmaking body to provide information and guidance on a policy question or problem. It can involve provision of technical advice (for example, on what services vulnerable migrants require) and conducting research to provide the necessary evidence-base to guide them in making policy decisions (for example, on how many vulnerable migrants might require assistance). This involves advocacy to the extent that the advocate needs to convince the decision makers about the validity of the proposed solution or evidence.
- **Media campaigning:** Public campaigns can create public pressure on decision makers to prioritize an issue, develop policy goals and achieve results.
- **Lobbying:** Lobbying efforts typically involve face-to-face meetings with decision makers or people in a position of influence, and tend to be used by organizations representing particular groups. This approach requires having access to the relevant actors, especially at times when the organization’s interests can be affected by new policies or laws.





12 E. Young and L. Quinn, *Making Research Evidence Matter: A Guide to Policy Advocacy in Transition Countries* (International Centre for Policy Advocacy, 2012), page 26.

- **Activism:** This approach tends to be used by organizations that promote particular values or by those that represent groups of people who are not sufficiently included in government service provision. It generally involves formulating petitions, organizing demonstrations or handing out leaflets.

When deciding on a policy advocacy approach or strategy, it is useful to consider the following questions:

- What is the best approach to getting ideas into the target policy debate and who is the target audience? This is the entry point into the process.
- Who should lead or be the face of the campaign and what kind of support will be needed from others? In other words, who will be the messenger?
- What can be said to the target audiences that will engage or convince them, and how can that message be best communicated to them through activities and communication tools? Messages should be targeted, and activities focused on communicating the core messages.
- Is anything currently blocking the process from moving in the desired direction? If so, what can be done to remove or work around this block? Considering any potential blockages and solutions or work arounds, what is currently feasible?

These questions can guide the development of a policy advocacy plan. Any such plan should be based on a thorough understanding of the policy and decision-making processes, and a clear mapping of the actors involved. Once the audience is established, the appropriate communication tools should be used. The following table offers some guidance on the type of communication tools that are best suited to different audiences.

		Target audiences		
		Experts	Informed non-experts	General public
Types of communication tool ¹³	Written 	<ul style="list-style-type: none"> • Policy studies • Research papers • Working papers • Policy reports • Policy-oriented journals and articles 	<ul style="list-style-type: none"> • Policy briefs, memos and fact sheets • Newsletters • Policy reports 	<ul style="list-style-type: none"> • Op-ed articles in newspapers • Letters to newspapers • Ads, banners, posters, T-shirts, stickers
	Oral 	<ul style="list-style-type: none"> • Conference presentations • Less formal presentations at one-to-one meetings or lobbying • Presentations to working groups and public hearings 		<ul style="list-style-type: none"> • Radio and TV programmes • Public meetings and hearings • Speeches to the public
	Audiovisual 		<ul style="list-style-type: none"> • Documentary videos • Advocacy-based advertising 	
	Information and Communication Technology 	<ul style="list-style-type: none"> • Dedicated advocacy websites 	<ul style="list-style-type: none"> • Email campaigns • Dedicated advocacy websites or pages • Social networking sites • SMS/text campaigns 	

¹³ Ibid., page 135.

Data and research

Reliable data is essential to the development of effective policies and programmes on migration, including for protection and assistance geared towards vulnerable migrants. Solid data and analysis of this data can help to identify an issue, design and implement a policy or programme, and evaluate an intervention. Data is such an important component of effective migration management and protection that the Global Compact for Safe, Orderly and Regular Migration (see text box on page 215) has identified it as its first objective.

However, coming up with reliable data that is also timely and accessible is not always easy, given the fast-changing dynamics of international migration. Moreover, migrants in irregular situations – who are often the most vulnerable to violence, exploitation and abuse – are difficult to identify and often do not want to be counted by the authorities as they fear being apprehended.¹⁴

Various ways in which migration data can be collected are discussed below.

Population censuses

National censuses are essential to obtaining reliable data on international migration and the characteristics of migrants. Most countries include a question on country of birth and/or citizenship which can be used to determine the number of migrants in a country at any given time (migrant stock). Some countries also ask for the year of arrival, which can help determine migrant flows to a particular country. However, very few censuses include questions on why a person decided to migrate and under which circumstances. The United Nations strongly urges countries to include migration-relevant questions in accordance with international recommendations.¹⁵

The Global Compact for Migration specifically recommends countries to “improve national data collection by integrating migration-related topics into national censuses, as early as practicable, such as on country of birth, country of birth of parents, country of citizenship, country of residence five years prior to the census, most recent arrival date and reason for migrating, to ensure timely analysis and dissemination of results, disaggregated and tabulated in accordance with international standards, for statistical purposes”¹⁶(Objective 1(g)).

A country’s national body for statistics is usually responsible for developing and carrying out a census, which is an extremely complex and expensive exercise. International organizations and civil society, including academia, can support governments with technical assistance and capacity-building to ensure that migration is properly integrated into a national census.

Household surveys

Household surveys can help better understand the drivers and impacts of migration and to identify which migrants are in the most vulnerable situations. Common household surveys include labour force surveys, various health surveys or living standards measurement surveys. These surveys could include a question on the country of birth and country of citizenship to determine how a particular issue that is being analysed (health, for example) affects migrants in that country. Where relevant, a whole migration module can also be added.¹⁷

The Global Compact for Migration specifically recommends countries to “conduct household, labour force and other surveys to collect information on the social and economic integration of migrants or add standard migration modules to existing household surveys to improve national, regional and international comparability, and make collected data available through public use of statistical microdata files.”¹⁸

Operational case data

The main source of data on vulnerable migrants is from organizations (whether government, international organizations or NGOs) that provide protection and assistance services to them. This data is usually held by an organization and is not readily available due to data protection issues. However, this data can be compiled in

14 IOM, Data Bulletin Series, Informing the Implementation of the Global Compact for Migration (Geneva, 2018), page 7.

15 Ibid., page 14.

16 Global Compact for Migration, Objective 1(g).

17 IOM, Data Bulletin Series, Informing the Implementation of the Global Compact for Migration (Geneva, 2018), page 14.

18 Global Compact for Migration, Objective 1(h).

aggregate form by a central body for the purposes of a national reporting process. Operational case data only reflects information on migrants to whom assistance has been provided and therefore is unlikely to provide complete insight into broad trends related to migration or violence, exploitation and abuse of migrants. Nonetheless, it is critical for understanding the experiences faced by vulnerable migrants, their protection and assistance needs, and the effectiveness of interventions aimed at supporting their sustainable recovery.

Administrative sources

Various government departments collect data while carrying out their migration management tasks. For example, registration of foreign citizens upon arrival to a country, issuance of visas, work permits, asylum requests, detention and deportation. However, administrative data is often not collected in a format that can be easily shared, and is usually not widely disseminated. It is recommended that countries leverage the use of administrative records to produce migration-related statistics, and that this information be disseminated systematically.¹⁹

The Global Compact for Migration specifically recommends countries to “produce migration-related statistics, including by using administrative records for statistical purposes, such as border records, visas, resident permits, population registers and other relevant sources, while upholding the right to privacy and protecting personal data.”²⁰

Big data

Big data refers to the large amounts of data that are continuously generated by computers, mobile devices, electronic and financial transactions. Policymakers and practitioners can use big data to capture various aspects of migration, such as movements of displaced populations, remittance flows and integration processes. For example, data from social media have been used to understand perceptions of migrants and refugees in Europe²¹ and call detail records have been used to understand refugee integration in Turkey.²²

Certain types of big data sources can be particularly helpful for the study of migration, including mobile phone records; Internet activity (for example, Google searches, repeated logins to the same website and emails sent); online media content; and geo-referenced social media activity. While big data is mostly generated and owned by the private sector, national statistical offices and other stakeholders such as the United Nations and civil society need to work with the private sector to leverage data to improve migrant protection and migration management.²³

19 IOM, Data Bulletin Series, Informing the Implementation of the Global Compact for Migration (Geneva, 2018), page 14.

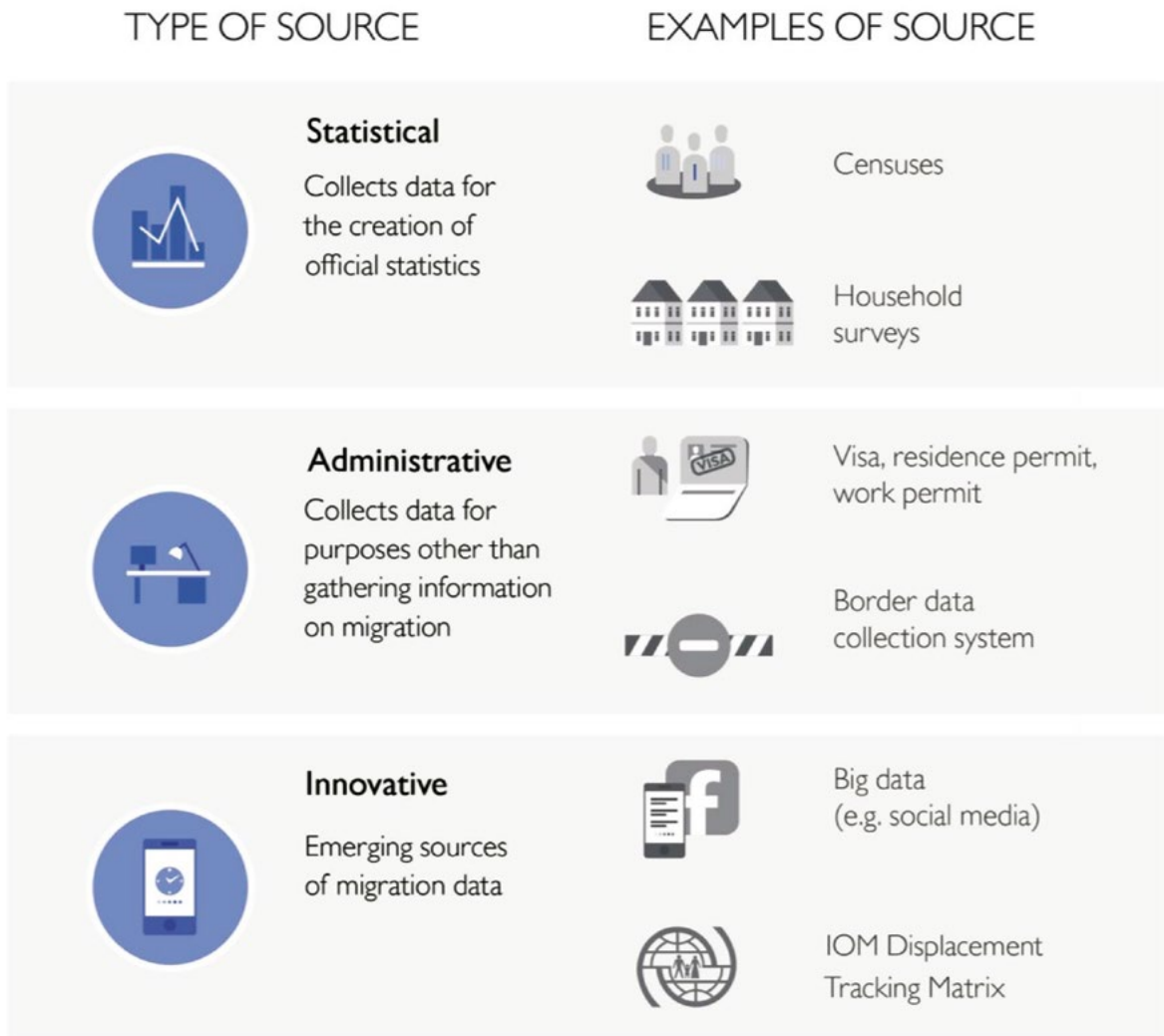
20 Global Compact for Migration, Objective 1(i).

21 www.unglobalpulse.org/projects/understanding-perceptions-migrants-and-refugees-social-media.

22 www.unglobalpulse.org/projects/using-call-detail-records-understand-refugee-integration-turkey.

23 IOM, Data Bulletin Series, Informing the Implementation of the Global Compact for Migration (Geneva, 2018), page 25.

The following graphic illustrates the different types of data sources:



Source: migrationdataportal.org²⁴

It is important to note that all data collected, including through censuses, household surveys and administrative sources, should always be disaggregated by age and sex. In addition, all data collection efforts should respect the right to privacy and confidentiality of migrants.

Research

Research can help guide and inform migration policy and practice and contribute to a better understanding of migration patterns and processes. Research can help shed light on the vulnerabilities of migrants, their households and their communities, as well as the enabling environment that leads to vulnerability.

The assessment tools that are part of this Handbook, for example, can serve as research tools to try to determine risk and protective factors at the different levels (refer to the [Structural factors assessment toolkit p. 235](#)).

Migration profiles can also serve as a framework to analyse migrant vulnerabilities. Originally conceived as a publication that would provide a snapshot of migration in a particular country, the concept of migration profiles has evolved. Migration profiles are now seen as a process of cooperation among various stakeholders and of capacity-building to promote systematic data gathering, analysis and reporting. Migration profiles usually incorporate a section on trafficking in persons and smuggling of migrants. Countries can also consider incorporating a section on migrants vulnerable to violence, exploitation and abuse in their migration profiles.

24 Obtained from IOM, Data Bulletin Series, Informing the Implementation of the Global Compact for Migration (Geneva, 2018), page 15.

Policy and issue areas

There are a number of specific policy and issue areas of direct relevance to migrant vulnerability to violence, exploitation and abuse. Some of these areas are specifically concerned with migrants or migration, such as migration governance; others have a different focus but nonetheless directly impact migrant vulnerability or resilience. Work in these different policy and issue areas typically combine elements of creating an enabling environment with specific programmes and activities.

Migration governance

Migration governance refers to the ways in which governments oversee issues related to migration, mobility and nationality, including the capacity of the government to formulate and implement sound policy in these areas. IOM has established a set of principles and objectives to guide migration governance. These are collectively referred to as IOM's Migration Governance Framework (MiGOF). According to IOM, adherence to these principles and objectives would ensure that migration is humane, orderly, and to the benefit of migrants and society.

The three principles are:

- Adherence to international standards and the fulfilment of migrants' rights: Good migration governance requires compliance with international law, including the obligation to respect, protect and fulfil the rights of all individuals within a State's territory, regardless of nationality or migration status and without discrimination, in order to preserve their safety, physical integrity, dignity and well-being.
- Migration and related policies are best formulated using evidence and whole-of-government approaches: This requires the State to base its migration policy and laws on credible information and well-founded analysis of the benefits and risks posed by migration to the State. This involves collection and analysis of data and information on, among other things, demographics, cross-border movements, internal displacement, diasporas, labour markets, season trends, and education and health.
- Good migration governance relies on strong partnerships: Since migration and mobility implicate multiple actors (States and their neighbours, subnational and local authorities and communities, employers and labour unions, migrants and their families, NGOs, international and regional organizations), good migration governance therefore requires developing comprehensive and effective approaches in close partnership with all actors involved.

Similarly, the MiGOF outlines three objectives:

- Good migration governance and related policy should seek to advance the socioeconomic well-being of migrants and society: People who choose or are pushed to migrate do so for a variety of reasons, including poverty, instability, and lack of access to education or other basic services. Migration and related policy and law therefore need to be designed to foster strong socioeconomic outcomes for migrants and communities of origin, transit and destination.
- Good migration governance is based on effective responses to the mobility dimensions of crises: Millions of people are displaced by natural and man-made disasters. Crisis have significant long-term effects on migrants and society. Concerted effort is therefore required to: prevent and prepare for crisis; support migrants, displaced persons and communities affected by crisis in accordance with humanitarian principles; and promote durable solutions to end displacement.
- Migration should take place in a safe, orderly and dignified manner: Ensuring migration is safe and orderly requires mitigating risks associated with the movement of people. It also entails effective cross-border health measures, strengthening public health strategies, maintaining the integrity of migration and mobility schemes, detecting irregular migration, and combating trafficking in persons, smuggling of migrants and other transborder criminal activity.²⁵

25 IOM Migration Governance Framework. Available at www.iom.int/sites/default/files/about-iom/migof_brochure_a4_en.pdf.

Migration Governance Indicators

In 2016, the Economist Intelligence Unit and IOM worked together to develop a set of Migration Governance Indicators (MGI) to assess national frameworks and to help operationalize the MiGOF. The indicators assess government policies across five domains: institutional capacity, migrant rights, safe and orderly migration, labour migration management, and regional and international cooperation and other partnerships. Some of the indicators address issues related to migrant vulnerability, for example if the country has put in place measures to address human trafficking and smuggling. If a country has undergone an MGI assessment, the assessment report may provide valuable information about the country's migration governance frameworks as they relate to migrant vulnerability. Refer to the 2016 Migration Governance Index²⁶ for more information.

The Global Compact for Safe, Orderly and Regular Migration

The Global Compact for Safe, Orderly and Regularly Migration is the first-ever United Nations global agreement on a common approach to international migration in all its dimensions. The global compact is non-legally binding. It is grounded in values of State sovereignty, responsibility-sharing, non-discrimination and human rights. It also recognizes that a cooperative approach is needed to optimize the overall benefits of migration, while addressing its risks and challenges for individuals and communities in countries of origin, transit and destination.

The Global Compact for Migration comprises 23 objectives for better managing migration at the local, national, regional and global levels. The compact:

- Aims to mitigate the adverse drivers and structural factors that hinder people from building and maintaining sustainable livelihoods in their countries of origin;
- Intends to reduce the risks and vulnerabilities migrants face at different stages of migration by respecting, protecting and fulfilling their human rights and providing them with care and assistance;
- Seeks to address the legitimate concerns of States and communities, while recognizing that societies are undergoing demographic, economic, social and environmental changes at different scales that may have implications for and result from migration;
- Strives to create conducive conditions that enable all migrants to enrich our societies through their human, economic and social capacities, and thus facilitate their contributions to sustainable development at the local, national, regional and global levels.

The list of the 23 objectives can be found in paragraph 16 of the Global Compact for Migration.

Source: <https://refugeesmigrants.un.org/migration-compact>

Mainstreaming migration into national development policy

As noted in the MiGOF, comprehensive migration governance requires efforts to promote the socioeconomic advancement of migrants and society. It also involves addressing the interlinkages between migration, migration management and other policy sectors. One way to achieve this is through mainstreaming migration into national development policy.

Mainstreaming migration into development planning can be defined as the “process of assessing the implications of migration on any action (or goals) planned in a development and poverty reduction strategy.”²⁷ One of the main instruments of development planning are national development plans (NDPs) which contain a country's development objectives and priorities for a specific period of time. All government ministries, departments and agencies are meant to work in a coordinated manner towards achieving the goals captured in an NDP. In developing countries, NDPs also help development partners, such as bilateral donors, multilateral financing institutions and

²⁶ https://publications.iom.int/system/files/pdf/migration_governance_index_2016.pdf.

²⁷ GMG, Mainstreaming Migration into Development Planning: A Handbook for Policy Makers and Practitioners. Available at <https://publications.iom.int/es/books/mainstreaming-migration-development-planning-handbook-policy-makers-and-practitioners>.

other international organizations, channel their loans and technical assistance to the objectives that have been selected, with the assurance that there is deep political commitment to achieve these goals. The United Nations, for example, often uses NDPs to develop its own midterm planning documents at the country level – the United Nations Sustainable Development Cooperation Framework – which outlines how the United Nations will help a country deliver on its national objectives. NDPs are usually for a period of three to seven years, while some countries also have vision documents (20 years plus) which can guide the development of multiple NDPs and help drive a country to more longer-term objectives (for example, transitioning from an agricultural to manufacturing-based economy). The development, monitoring and evaluation of NDPs is usually led by a national planning authority.

National development policy and the SDGs

On 1 January 2016, the 17 Sustainable Development Goals (SDGs) of the 2030 Agenda for Sustainable Development — adopted by world leaders in September 2015 at a historic United Nations Summit — officially came into force. With these new Goals that universally apply to all, countries will mobilize efforts to end all forms of poverty, fight inequalities and tackle climate change, while ensuring that no one is left behind.

The SDGs build on the success of the Millennium Development Goals (MDGs) and aim to go further to end all forms of poverty. The new Goals are unique in that they call for action by all countries – poor, rich and middle-income – to promote prosperity while protecting the planet. They recognize that ending poverty must go hand-in-hand with strategies that build economic growth and addresses a range of social needs including education, health, social protection, and job opportunities, while tackling climate change and environmental protection.

Source: www.un.org/sustainabledevelopment/sustainable-development-goals/

During the process of developing an NDP, specific government sectors – such as education and health – play an important role in identifying priorities for their particular area of work to be captured in the NDP. Moreover, sectors often develop sector-specific development plans to specify how they will implement their responsibilities vis-à-vis a broader NDP.

Mainstreaming migration and the protection and assistance of vulnerable migrants into broader development strategies, such as NDPs, fosters a coherent approach rather than piecemeal, uncoordinated interventions. A key component of mainstreaming is determining how migration can contribute to achieving the goals of the NDP or sectoral plans. For example, labour migration can help ease unemployment, which can be an objective of an NDP. Another key component is determining how the development challenges targeted by an NDP can impact migration. For example, lack of social services can lead migrants to undertake risky migration journeys in search of these services, rendering them vulnerable to violence, exploitation and abuse. The ultimate aim of mainstreaming protection and assistance for vulnerable migrants into broad national planning instruments such as sectoral plans and NDPs should be to improve access and remove barriers to existing protection and services for vulnerable migrants and to promote a more coherent and coordinated approach to meeting the needs of these migrants.

Ideally, the process of mainstreaming migration and the needs of vulnerable migrants would take place when sectoral plans and NDPs are being developed. During this process, it is important to determine how to integrate core issues into meetings, consultations, decisions and documentation of the NDP and sectoral plans development.

Mainstreaming migration into sectoral plans and NDPs might not be appropriate for all national contexts. Before considering whether mainstreaming is a worthwhile exercise, the following points should be considered:

- Does the country have large stocks of migrants? Do those stocks comprise both men and women or are they dominated by one sex? These could include immigrants, transit migrants or emigrants currently living abroad. Is only a relatively small proportion of the population affected, directly and indirectly, by migration? What have recent patterns of migration been?
- Is migration common? Do migration patterns appear to be changing?

- What sorts of experiences are migrants having? Are they vulnerable to violence, exploitation and abuse? Are migrants' human rights being respected? Does the migration experience affect men and women in the same way?
- Are there sizeable financial transfers or remittances from migrants? Do these represent an important share of GDP?
- Are there any possible effects, positive or negative, of these migration trends, for example problems for sectors that use skilled labour (because of "brain drain"), social/community-level changes or tensions, changes in tax revenue or demands on public services?
- Is migration a prominent issue in public or political debates? Is there a sense that the country would benefit from addressing it more effectively?
- Is there political will/interest in harnessing migration for development?²⁸

The national government should have the final say on whether a mainstreaming exercise is required and, if so, should designate a national focal point to lead the process. The focal point should be a high-level government official with responsibility over certain aspects of migration policy development or implementation. A support team or task force can be designated. Its members could include other government officials in various sectors, other stakeholders such as United Nations staff and civil society, as well as academics and migrants themselves.

A country assessment should be prepared that outlines the migration situation in the country, including determining what are the risk and protective factors for migrants at the structural level. Templates developed for migration profiles (see resource section) can serve as a guide to carry out this assessment. Sectoral analysis can be conducted in parallel or as part of the country assessment to assess how migration is linked to specific sectors. The following table can help determine whether it is necessary to analyse a specific sector in more detail:

Sector	Issues to consider
Governance	<ul style="list-style-type: none"> • Can emigration be attributed to the absence of opportunities for participation in political decision-making processes? • Can forced migration and displacement be attributed to the absence of conflict resolution mechanisms? • Does corruption, lack of transparency and the absence of an efficient public administration encourage nationals to emigrate? Does it affect the State's capacity to manage migration? • Does the absence of adequate legal protection trigger emigration? • Are nationals emigrating and immigrants well informed of their rights and obligations as migrants? • Does the absence of legislation and a migration policy framework place migrants in a vulnerable situation during travel? Are there gender- or age-specific differences in vulnerability as a result of the migration policy framework or the lack of one? Does it affect migrants' working and family life once they have reached their destination? • Does the lack of recognition of property rights and taxation regimes impede the contributions of migrants and returnees to the economy?
Employment	<ul style="list-style-type: none"> • Do limited job opportunities in the formal economy foster emigration? • Are there emigration trends specifically related to limited employment opportunities for women and youth? • Do unfilled jobs create a demand for foreign labour? Is this influencing immigration? • Does the informal sector fill some of its needs by resorting to irregular migrants/ migrants trafficked for work purposes?

28 Ibid.

Social protection	<ul style="list-style-type: none"> • Does better access and quality of social protection available in other countries foster emigration? • Does a lack of access to social protection and safety nets lead parents and children to migrate? • Does access to social protection and safety nets – or lack thereof – in the country prevent parents and children who wish to migrate from doing so? • Does access to conditional cash transfers that increase household income and children's access to education and health services reduce migration to other countries? • Does the (un)availability of portability schemes for pensions and social security benefits encourage/deter return migration to the country?
Health	<ul style="list-style-type: none"> • Does better access to and the quality of health care available abroad lead to emigration? • Do the conditions of employment (working hours, infrastructure, career path) and wages in the health-care sector encourage the emigration of health workers?
Education	<ul style="list-style-type: none"> • Does better access to and quality of education available for children in other countries lead parents to emigrate (to immigrate)? • Do the conditions of employment (number of children per class, infrastructure, career opportunities) and wages encourage teachers to migrate?
Economic growth	<ul style="list-style-type: none"> • How do growth patterns in the country affect migration patterns? Does, for example, growth provide confidence to inhabitants and slow down emigration? Does growth make return more attractive for the diaspora? • How do growth rates in neighbouring and major destination and origin countries affect migration patterns?
Agriculture	<ul style="list-style-type: none"> • Does lack of agricultural development trigger migration? This may stem from all sorts of issues in rural areas, including lack of infrastructural development, or issues with land/property/heritage rights, for example? • Does the introduction of new devices reduce the need for labour leading to unemployment and poverty of rural populations? Does this act as a push factor for migration? • Does agricultural intensification require more labour and attract foreign migrants?
Infrastructure	<ul style="list-style-type: none"> • Does the quality of infrastructure in your country provide an incentive for people to emigrate/immigrate (for example, because large parts of the population cannot/can access infrastructure and quality services)? • Does better access to and quality of infrastructure in other countries provide an incentive for emigration from your country?

The sector-specific assessment would then have to specify what are the links between that specific sector and migration. The points, below, for example, are links between infrastructure sector and migration:

- Infrastructure can constitute a critical determinant of migration. Lack of or difficult access to public infrastructure (roads, electricity, schools, hospital, housing, agricultural infrastructure such as irrigation) in a given country may constitute a migration push factor. This may either be because migrants think they can gain access to this infrastructure in an urban centre or abroad, and/or because they hope to earn money and remit so their family can access education or better shelter, among others.
- Infrastructure can also be a pull factor if people migrate to take up opportunities to work in construction or maintenance work both in urban centres and abroad.
- Large inflows of migrants, especially in urban settings, can strain existing infrastructure and lead to the degradation of living conditions in poorly serviced areas, such as slum dwellings.
- Remittances sent home by migrants increase overall GDP, which in turn can be used to support projects for improving the public infrastructure of schools, hospitals, roads, electricity, water supply and sanitation. However, the nature of the impact of infrastructure on migration and the links between the two are very context-specific

and will depend, *inter alia*, on the tax system and whether a developing country can benefit from the earnings of its nationals overseas (or from new migrants who have come to the country for work).

- Diaspora groups may invest in public infrastructure projects in their home communities. In some cases, this has been supported by policy, with several countries providing incentives for migrants to pool and channel their remittances into infrastructure development projects in their communities of origin. This can be done, for example, by supporting partnerships with “hometown associations” – organizations of migrants in the country of destination that come together to help their communities of origin.²⁹

Once a national overview of the migration landscape has been prepared, strategic goals and objectives to be considered in sectoral plans or NDPs should be selected. For example, a national planning authority might have identified increased employment as an important goal of an NDP. However, if the country migration assessment determined that it is low wages, more than lack of employment, that is causing people to migrate in a situation of vulnerability, then an appropriate goal which mainstreams the needs of vulnerable migrants would be to promote well-paid employment.

The mainstreaming task force should then be active in all the steps leading up to the drafting of NDPs and sectoral plans, including preparative workshops, drafting of issue papers, providing inputs to drafts of sectoral plans or NDPs.

Addressing migration in times of crisis

Mainstreaming migration into crisis planning is about considering not only the humanitarian but also the migration management consequences of crises. Essentially, it helps manage migration during a crisis, because even when crises hit, borders have to be managed, people have to be protected from harm and services need to be delivered. However, crisis planning usually does not take migration dynamics into consideration in broader preparedness efforts. Mainstreaming migration into crisis planning helps address the needs of vulnerable mobile populations, as well as affected communities.

Migration management tools can supplement the humanitarian response. For example, humanitarian border management helps build robust immigration and border management systems to facilitate the movement of people which arises from a crisis. Counter-trafficking interventions in emergencies help provide protection and assistance to victims of trafficking, while preventing crisis-affected populations from becoming vulnerable to trafficking in persons. Diaspora mobilization – whereby the diaspora is mobilized to provide skills or other resources to support in rehabilitation, reconstruction and development in countries in crisis or transition – is another important migration management tool.³⁰

Mainstreaming migration into crisis planning should take place when the following types of crises can occur or have occurred:

1. Crises with complex patterns of internal mobility with long-term consequences on recovery;
2. Crises that lead to the cross-border movement of persons that are not *de jure* or *de facto* covered under international protection;
3. Crises placing stress on migration management systems (need for humanitarian border management, emergency consular assistance, robust referral mechanisms, or to combat trafficking in persons);
4. Crisis situations that leave countries of origin confronted with mass returns and its long-term consequences.

In addition, specific crisis planning has to take place when there are international migrants caught in a crisis situation, either in a country of destination or transit. Indeed, it is important to reduce the vulnerability of migrants in countries affected by crisis, whether conflict or natural disaster. Migrants can also contribute to the resilience of communities and societies, and their skills and knowledge can help design and implement disaster risk reduction activities. They have specific needs but have also demonstrated capacity to leverage resources and support to overcome crises. The Migrants in Countries in Crisis Initiative (MICIC) has developed a series of guidelines to help incorporate migrants into crisis preparedness, as follows:³¹

29 GMG, *Mainstreaming Migration into Development Planning: A Handbook for Policy Makers and Practitioners*. Available at <https://publications.iom.int/es/books/mainstreaming-migration-development-planning-handbook-policy-makers-and-practitioners>.

30 MIGOF MC/2355.

31 https://micicinitiative.iom.int/sites/default/files/document/micic_guidelines_english_web_13_09_2016.pdf#page=25.

- **Guideline 1: Track information on conflicts and natural disasters, and potential impact on migrants.** It is important to consider data on regional, national and local natural disaster risks and overlay this information with information on the location and characteristics of migrants to properly develop preparedness and response strategies.
- **Guideline 2: Collect and share information on migrants.** For example, registration systems for citizens abroad can enable countries of origin to contact their citizens in the event of a crisis and provide them information on assistance. All data collected must be subject to privacy, confidentiality, and the security and safety of migrants.
- **Guideline 3: Empower migrants to help themselves, their families and communities during and in the aftermath of crises.** If migrants' rights are protected before a crisis and there are no barriers to access information and basic services, then it is more likely that migrants will not be disproportionately affected during a crisis. Moreover, during a crisis it is important to separate immigration enforcement actions from those of provision of humanitarian assistance, to ensure irregular migrants have equal access to support and protection.
- **Guideline 4: Incorporate migrants in prevention, preparedness and emergency response systems.** Countries can develop platforms to facilitate the engagement of migrants in the design and implementation of prevention, preparedness and emergency response systems to ensure that migrants and their particular needs are not overlooked in responses.
- **Guideline 5: Contingency plans should take into account and integrate migrants' presence, potential needs and capacities.** Migrants and civil society should be involved in contingency plans such as emergency drills.
- **Guidelines 6: Communicate effectively with migrants.** Platforms of communication need to be established to help migrants understand the risks associated with a crisis and where and how to obtain assistance. Communication outreach can be done by civil society; including migrant networks, diaspora and faith-based actors can be particularly effective, particularly for irregular migrants.
- **Guideline 7: Establish coordination agreements in advance to leverage strengths and foster trust.** Agreements that involve multiple stakeholders, such as relocation and evacuation agreements that define roles and responsibilities of multiple partners, can prevent the duplication of efforts.
- **Guideline 8: Build capacity and learn lessons from emergency response and post-crisis action.** This could include training for first responders and consular personnel, peer-to-peer exchanges and dedicated funding streams.

Supporting safe and regular migration

The lack of safe and regular migration opportunities is widely considered to contribute to migrant vulnerability to violence, exploitation and abuse, as it often results in prospective migrants turning to unsafe and irregular means of migration. This is recognized in the Global Compact for Safe, Orderly and Regular Migration, which sets as objective enhancements to the availability and flexibility of pathways for regular migration (Objective 5).

There are four main pathways for regular migration: labour migration and recruitment; admission and stay for humanitarian, compassionate or other grounds; family reunification; and study.

Labour migration and recruitment

Migrant workers, particularly those in an irregular situation, are vulnerable to violence, exploitation and abuse. The recruitment of migrant workers is seen as a specific area of the labour migration process which presents major challenges in terms of protection and can lead to increased vulnerability. The international community has been pressing for more ethical recruitment procedures as part of labour migration, including in the Global Compact for Migration. Objective 6 of the Global Compact for Migration, for example, calls for the “facilitation of fair and ethical recruitment and safeguarding conditions that ensure decent work.” Through this objective, the international community has committed to “review existing recruitment mechanisms to guarantee that they are fair and ethical, and to protect all migrant workers against all forms of exploitation and abuse in order to guarantee decent work and maximize the socioeconomic contributions of migrants in both their countries of origin and destination.”³² The Global Compact for Migration builds on several initiatives of the United Nations meant to strengthen recruitment practices including ILO's General Principles and Operational Guidelines for Fair Recruitment, the United Nations Guiding Principles on Business and Human Rights, and the IOM International Recruitment Integrity System (IRIS).

32 Global Compact for Migration, Objective 6.

As stated in the Global Compact for Migration, an important way to achieve this is to develop and/or strengthen policies and laws that oversee recruitment. The following is a list of interventions mentioned in the Global Compact for Migration that are important to consider when developing upstream interventions to protect vulnerable migrants. These interventions can be applied to policy, legal and regulatory frameworks both at countries of origin and destination of migrant workers as applicable, as well as to bilateral labour agreements (see text box below).

1. **Prohibit recruiters and employers from charging or changing recruitment fees or any other related costs to migrant workers.** Excessive recruitment fees are considered a risk factor for trafficking in persons, debt bondage, exploitation and forced labour. Indebtedness associated with recruitment fees can drive workers to accept exploitative working conditions, making them vulnerable to the above-mentioned conditions. Moreover, recruiters and recruitment agencies can also be directly involved in criminal trafficking networks which benefit from exploiting migrant workers.³³ Principle 1 of the IRIS Standards states that all costs associated with recruitment should be absorbed by the employers and not the migrant workers.³⁴ Unfortunately, it is low-skilled workers that often have to absorb costs associated with employment abroad, while high-skilled workers are usually not responsible for paying for any costs associated with their employment overseas. For example, an engineer working for an international oil company will probably not have to pay for her travel, immigration documents or any other costs associated with her recruitment; yet a domestic worker may have to pay a private recruitment agency for her job placement, as well as for her travel, immigration documents, health checks and other costs.
2. **Ensure the provision of written contracts to migrant workers.** Without a written contract, migrant workers are extremely vulnerable to violence, exploitation and abuse. The working conditions that they agreed to upon recruitment could end up being quite different once the employment period begins. Without a written contract, there is no way to make reference to the conditions agreed to or to hold the recruiter or employer accountable. Written contracts should, at a minimum, be written in a language each worker understands and should detail the terms and conditions of employment, including the nature of work undertaken, rates of pay and pay arrangements, working hours, vacation and other leave, and all other lawful deductions from pay and benefits of employment in accordance with national law.³⁵
3. **National laws should also sanction any human rights and labour violations, with a special focus on forced and child labour.** Appropriate criminal and administrative sanctions should be imposed to deter others from carrying out such violations in the future.
4. **Allow migrant workers to change employers.** Forcing migrants to remain with an employer is a well-known risk factor to violence, abuse and exploitation. If migrants face harm they are unable to leave and renders them vulnerable to slave-like conditions.
5. **Prohibit the confiscation or non-consensual retention of work contracts and travel or identity documents from migrants.** Without travel and identity documents, a migrant worker is unable to leave a situation of exploitation, including the country where he is facing this harm. If workers cannot access their documents on-demand and feel they cannot leave their job, the situation can be considered forced labour.³⁶
6. **Provide migrant workers engaged with the same labour rights and protections extended to all workers in the respective sector.** Key aspects to consider are rights to: (a) just and favourable conditions of work; (b) equal pay for work of equal value; (c) freedom of peaceful assembly and association; and (d) the highest attainable standard of physical and mental health, including through wage protection mechanisms, social dialogue and membership of trade unions.

The capacity of the government to oversee the recruitment industry should also be considered a priority, as States bear the ultimate responsibility for the protection of their citizens and non-nationals in their territory. Labour inspectors play a particularly important role in both countries of origin and destination. In countries of origin, labour inspectors can monitor the actual recruitment of migrant workers and ensure that migrants are being provided

33 UNODC, The role of recruitment fees and abusive and fraudulent practices of recruitment agencies in trafficking in person (2015), page 1. Available at www.unodc.org/documents/human-trafficking/2015/15-05035_ebook_Recruitment_Fees.Agencies.pdf.

34 Principle 1: Prohibition of Recruitment Fees, IRIS Standard. Available at <https://iris.iom.int/iris-standard>.

35 Principle 3: Respect for Transparency of Terms and Conditions of Employment, IRIS Standard. Available at <https://iris.iom.int/iris-standard>.

36 Institute for Human Rights and Business, "Fees and IDs" Tackling recruitment fees and confiscation of workers' passports." Available at www.ihrb.org/pdf/2013-09-06_IHRB_Fees-and-IDs-Report.pdf.

with a written contract, and not being charged fees for recruitment. In addition, they can ensure that migrants are being informed about their rights and obligations vis-à-vis their employer and recruitment agent. In a country of destination, labour inspectors can monitor the actual conditions of employment, including safety conditions at the workplace, number of hours worked, and ensuring that migrant workers are getting paid.

Training for labour inspectors in both countries of origin and destination, therefore, is essential. Training should cover topics such as rights of migrant workers, national and international legal frameworks with regard to labour and human rights law, key challenges with accessing migrant populations, and how to refer to protection and assistance. Ministries of Foreign Affairs also play an important role in countries of destination and are often the first point of contact for migrants when they suffer violence, exploitation and abuse; consular officials should therefore also be trained on the aforementioned topics. In addition, technical assistance can be provided to government departments tasked with overseeing recruitment and employment conditions of migrant workers. This assistance may include support for developing standard operating procedures, databases and other mechanisms to facilitate oversight.

All measures aimed at ensuring ethical recruitment and the welfare of migrant workers should include strong cooperation components. For example, collaboration with the private sector, including employers, private recruitment agencies and subcontractors, is essential. Transnational cooperation between governments of countries of origin and destination should also be strengthened, including around bilateral labour agreements (see below). Regional cooperation, including through regional consultative processes on migration (RCPs), can also add value. These regional fora are a good opportunity to discuss good practices and common challenges.

Programmes should also be set up to empower migrant workers and their families by providing accurate information, skills training and/or preparation services prior to departure, during employment and upon return. For example, migrant workers should receive comprehensive and harmonized pre-departure orientation about their country of intended destination. This should include information on practices and customs in the country of destination, banking or other financial services available, procedures to follow in case of an emergency, and how to access services such as health and consular support. If necessary, training should also be provided to ensure that migrant workers have the necessary skills to secure employment and to carry out their jobs.

Bilateral labour agreements

Bilateral labour agreements (BLAs) are a specific type of bilateral cooperation on labour migration which can improve the recruitment landscape and the welfare of migrant workers. BLAs can be mutually beneficial for both sending and receiving countries. For sending countries, they are a means to secure the rights of their migrant workers. More specifically, sending countries can push for inclusion of clauses that aim to prevent violence, abuse and exploitation of migrant workers, and to address the effects if harm has already occurred. For example, the BLA could make specific reference to some of the key aspects of protection mentioned in the section above, such as migrant workers having the right to keep their passports or to have a written contract. BLAs are a way for countries to negotiate appropriate wages, living conditions and job security for their nationals abroad.

BLAs can help sending countries plan in order to ensure safer and regular flows of migrants. By having selected sectors and quotas, governments can work to ensure effective selection, training and deployment of migrant workers. Moreover, BLAs can also help combat brain drain as specific clauses on return of migrant workers can be included in the agreements. For receiving countries, they are a means to fill gaps in the labour market. Having defined procedures laid out in the BLA can also help prepare State institutions and civil society to respond to abuse, violence and exploitation, should this occur. For both sending and receiving countries, BLAs are a way to combat irregular migration by ensuring regular and organized means for people to migrate for the purposes of employment.

Countries should also be aware of some challenges that could arise with the development, negotiation, implementation and oversight of BLAs. For example, BLAs are often time-consuming and long-term endeavours that can take many years to negotiate. Moreover, such agreements require multiple stakeholders in both countries (e.g. Ministries of Labour, Foreign Affairs, Interior, Justice or Solicitor General and possibly labour unions and employer organizations). In addition, BLAs can be hard to monitor, particularly with regard to the protection of migrant workers abroad. For example, the living conditions of domestic workers can be particularly hard to monitor since these migrants often live with their employer and private homes are not inspected by labour inspectors. It is essential that employers in the country of destination be engaged in the implementation and oversight of BLAs and that mechanisms are put in place to hold them accountable for any wrongdoing.

The following is a list of components that should be included in BLAs:³⁷

Admission

1. Listing the competent government authority;
2. Mechanisms for exchange of information;
3. Migrants in an irregular situation;

Recruitment and departure

4. Notification of job opportunities;
5. Drawing up list of candidates;
6. Pre-selection of candidates;
7. Final selection of candidates;
8. Nomination of candidates by employers (possibility for the employer to directly provide the name of a person to be hired);
9. Medical examination;
10. Entry documents;
11. Residence and work permits;
12. Transportation to migrant workers' country of destination;

Employment contract and other provisions concerning the migrant's legal status in the destination country

13. Employment contract;
14. Employment conditions;
15. Conflict-resolution mechanisms;
16. The role of trade unions and collective bargaining;
17. Social security;
18. Remittances;
19. Provision of accommodation;
20. Family reunification;

Return to the country of origin

21. Return and reintegration;

Administration of the agreement and its implementation

22. Activities of social and religious organizations;
23. Establishment of a joint commission (to monitor the agreement's implementation);
24. Validity and renewal of the agreement;
25. Applicable jurisdiction.

If possible, BLAs should also include mechanisms to identify, refer and assist migrant workers who experience violence, exploitation and abuse.

37 OSCE, ILO and IOM, Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and Destination (Geneva and Austria, 2007). Available at www.osce.org/eea/19242?download=true. ILO, IOM and OSCE, Compendium of Good Practice Policy Elements in Bilateral Temporary Labour Arrangements (2008). Available at www.unhcr.org/50aa5cfc9.pdf. J. Rispoli, "Bilateral Labour Agreements," IOM training workshop on labour migration and labour market information systems, Kampala, Uganda, 16–18 July 2014.

Admission and stay on humanitarian, compassionate or other groups

At times, people are forced or compelled to migrate as a result of crises in their own countries, such as conflict, natural disasters, and climate change and environmental degradation. In such circumstances, States can provide for admission of migrants to their territory through humanitarian visas, private sponsorship, temporary work permits or other means. States in the same region can work together to develop reciprocal or mutual admission agreements, under which people from one country who face such circumstances are able to seek refuge in neighbouring countries, on a reciprocal basis.

These agreements facilitate regular movement, thereby limiting the need for migrants to seek the services of smugglers or others who might take advantage of their vulnerable situations.

Victims of trafficking and other migrants vulnerable to violence, exploitation and abuse should also have access to opportunities for admission and stay so that they can access protection and assistance services.

Family reunification

Many States operate family reunification programmes, whereby individuals legally residing in the State may arrange for family members in another country to join them. Family reunification programmes are an important avenue for protecting the rights of migrants, as they promote the realization of the right to family life and the best interests of the child. States typically set conditions on family reunification programmes, such as specifying which relatives are eligible and what forms and levels of resources, such as accommodation and income or financial resources, are required to support the incoming family member. In general, States should seek to establish such programmes, specify clear – and ideally minimal – requirements for participation, and to process applications fairly and promptly.

Study

Many people migrate in search of education opportunities, either for themselves or for their children. This search for education is often manipulated by human traffickers or others who would exploit the desire for good-quality education. Providing regular opportunities for international study, including through bilateral and multilateral agreements, not only promotes rights to education but also reduces incentives for unsafe and irregular migration.

Combating trafficking in persons and smuggling of migrants

Trafficking in persons and smuggling of migrants are major contributors to violence, exploitation and abuse of migrants. Trafficked persons are, by definition, subject to exploitation, while smuggled migrants are often subject to violence, exploitation and abuse during the process of being smuggled.

Counter-trafficking programmes are often structured around the “3P” paradigm: prevention, protection and prosecution. They aim to reflect the measures called for in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which supplements the United Nations Organized Crime Convention.

Prevention programmes aim to address both the supply and demand side of trafficking. On the supply side, public information and targeted awareness campaigns can be conducted to inform both the general public and those more at risk of trafficking about trafficking, how to take steps to protect themselves from trafficking, and how to report suspected cases of trafficking. On the demand side, campaigns focus on those who use the goods or services produced by trafficked persons, for example through ethical consumer campaigns and campaigns aimed at reducing demand for sexual services that trafficked persons may be forced to provide. The aim of demand-side campaigns is to reduce the number of people who buy or use such services, thereby reducing profits for traffickers and the number of people trafficked to produce the goods or services.

However, to date, there is limited evidence that such awareness programmes result in a reduction of trafficking.³⁸ Increasingly, efforts to prevent trafficking are focused on addressing the drivers of unsafe and irregular migration and the broader social, political and economic factors that drive both supply and demand for trafficked persons, and working with the private sector to ensure ethical recruitment and supply chains free from trafficking.

38 http://icat.network/sites/default/files/publications/documents/16-10273_ICAT_toolkit.pdf.

Protection programming aims to identify trafficked persons, protect their rights and facilitate their recovery. Protection programming typically focuses on the needs of the individual trafficked persons and their dependants using a case management approach. See Part 2 for a detailed discussion of the case management approach, which is suitable not only for trafficked persons but for all migrants subject to violence, exploitation and abuse.

Programming aimed at prosecution of trafficking directly addresses the perpetrators of trafficking offences using a criminal justice approach. It involves the development of legislative frameworks to address human trafficking, including through criminalization of the offence of trafficking and related offences; capacity-building of law enforcement officials and institutions, to enable them to enforce anti-trafficking laws and to protect victims and witnesses; and measures for international criminal justice cooperation.

See the references section for more information on trafficking in persons prevention, protection and prosecution programming.

To date, much anti-smuggling programming has focused on the prosecution of smugglers, despite the fact that the United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air specifies protection and assistance measures to be afforded to persons subject to migrant smuggling – including protection from violence. However, the significant loss of life associated with migrant smuggling in recent years³⁹ and the increase in smuggling of unaccompanied and separated migrant children⁴⁰ has demonstrated the need to incorporate a protection lens into anti-smuggling programming. Comprehensive anti-smuggling programming should therefore:

- Encourage ratification or accession to the smuggling protocol, and implementation of all of its measures, including those on protection and assistance;
- Support delivery of protection and assistance services specifically tailored to smuggled children, along with building the capacity of law enforcement and migration authorities to ensure the best interests of the child;
- Employ comprehensive approaches to counter-smuggling along smuggling routes, involving origin, transit and destination countries;
- Address both supply- and demand-side factors and the drivers of unsafe and irregular migration;
- Promote regular migration pathways as a means of reducing demand for smuggling services;
- Provide communities of origin with accurate information as a means of reducing demand for smuggling services;
- Consider supporting alternative livelihoods for those who are engaged or may become engaged in smuggling operations;
- Improve national criminal justice sector responses and regional and international cooperation;
- Address corruption; and
- Improve collection, analysis and use of data to inform effective responses.⁴¹

See the references section for more information on programming to counter the smuggling of migrants.

Social protection

Strong social protection systems, including social protection floors⁴² are critical to reducing vulnerabilities that can push people into exploitative situations (see Part 2 for more information on social protection and protection systems). In the absence of such systems, individuals and families may resort to risky alternatives including child labour, incur debt on usurious terms or accept jobs that carry high risks. Migrant workers, particularly irregular migrants and those in the informal sector, are generally excluded from social protection schemes, even when they may exist. It is therefore important that basic social security is extended to cover these categories of workers to reduce vulnerabilities to violence, exploitation and abuse. Instruments contributing to social protection floors

39 <https://missingmigrants.iom.int/>.

40 www.unodc.org/documents/data-and-analysis/glosom/GLOSOM_2018_web_small.pdf.

41 Ibid.

42 Social protection floors are nationally defined sets of basic social security guarantees that should ensure, as a minimum, that over the life cycle, all in need have access to essential health care and to basic income security, which together secure effective access to goods and services defined as necessary at the national level. See www.ilo.org/secsoc/%20areas-of-work/policy-development-and-applied-research/%20social-protection-floor/lang--ja/index.htm.%2046. The ILO Social Protection Floors Recommendation, 2012 (No. 202) provides a key framework for ensuring social protection for all.

typically include disability benefits; unemployment support; pension, child and family benefits; and access to health care.⁴³

Of particular concern to migrants is portability of social benefits. Often migrant workers face difficulties accessing social security benefits, as social security rights are usually related to periods of employment or residency in a particular country.⁴⁴ Migrants might lose their benefits when they leave their country of origin and yet be unable to access or contribute to certain benefit schemes in their country of destination.

The Global Compact for Migration has also identified the establishment of mechanisms for the portability of social security entitlements and earned benefits as one of the 23 objectives of the Global Compact for Migration. The Global Compact for Migration states that the international community “commit to assist migrant workers at all skills levels to have access to social protection in countries of destination and profit from the portability of applicable social security entitlements and earned benefits in their countries of origin or when they decide to take up work in another country.”⁴⁵

A useful tool to guarantee social benefits of migrant workers are bilateral security treaties, as well as regional or multilateral agreements. These agreements should include pensions, health care and other earned benefits. A well-known regional agreement on social security is that which is part of the European Union, whereby citizens of EU member countries have access to social protection entitlements in all other EU countries.⁴⁶ These provisions can also be integrated into other relevant agreements, such as BLAs. Unilateral measures can also be taken either by the host or sending country. For example, a host country can extend the social security benefit to migrant workers in its territory, and a sending country can extend benefits to its migrant workers even when they are living outside their country. Certain countries, such as India, Philippines and Sri Lanka, have set up overseas worker’s welfare funds extending social benefits to these workers and at times their families.⁴⁷

Promoting decent work and private-sector accountability

Inadequate supply and access to decent work and livelihood opportunities can increase vulnerability to violence, exploitation and abuse by making it difficult for individuals and households/families to meet their needs, which in turn can cause them to engage in risky behaviour to earn an income. This in combination with the fact that the use of forced and exploitative labour is often seen as a “viable management practice for many enterprises, despite being universally condemned as unethical and indeed criminalized in most jurisdictions and under international law.”⁴⁸ Various factors, such as maximizing profits and cost and time pressures for suppliers, can cause them to resort to exploiting their workers through low wages and even forced labour, unpaid overtime or unauthorized subcontracting – all of which increase vulnerabilities to violence, exploitation and abuse for individuals and households/families. Weaknesses in administrative and legal frameworks with limited enforcement capacities mean that such practices can often go undetected and unpunished. Migrants, in particular, can be more susceptible to such exploitative practices due to various factors, such as irregular status, language, culture, social discrimination and competition with locals.

Violence, exploitation and abuse of migrants in the context of decent work are rooted in the social and economic vulnerability of individuals, workers and their families. While public and private regulatory and enforcement measures are essential, these are not enough. Research shows that the following are important in mitigating vulnerabilities to violence, exploitation and abuse among migrants seeking decent work: structural-level changes, particularly in access to social protection systems, including social protection floors; rights to organize and collective bargaining; ethical recruitment; supporting responsible business conduct; and promotion of safe migration.⁴⁹

Initiatives can be structured around supporting governments to hold businesses accountable, working with companies to carry out due diligence, and educating consumers on ethical consumption.

43 See, for example, World report on child labour: Economic vulnerability, social protection and the fight against child labour (International Labour Organization, Geneva, 2013); and A.C. Dammert, J. de Hoop, E. Mvukiyeye and F.C. Rosati, The effects of public policy on child labor: current knowledge, gaps, and implications for program design. Working Paper Understanding Children’s Work Project (UCW, Rome, March 2017).

44 OSCE, ILO and IOM Handbook, page 6.

45 Global Compact for Migration, Objective 22.

46 OSCE, ILO and IOM Handbook, page 156.

47 IOM, Labour Migration Management Assessment: Uganda (Geneva, 2014). Available at <https://publications.iom.int/books/labour-migration-management-assessment-uganda>.

48 A. Crane, Modern Slavery as a Management Practice: Exploring the Conditions and Capabilities for Human Exploitation, *Academy of Management Review* (2013), 38(1):49.

49 Ending Child Labour, Forced Labour and Human Trafficking in Global Supply Chains.

Government initiatives to support and monitor responsible business conduct

States have a duty to protect – both from a legal and policy dimension. International law provides that States have a duty to protect against human rights abuses by non-State actors, including businesses affecting persons within their territory or jurisdiction.⁵⁰ They can do so by:

Legislation and regulations on human rights due diligence

Supply chain transparency legislation, requiring companies to publicly report on actions taken to address risks of adverse impacts across their supply chains, can be a good tool to hold companies to account and to minimize exploitative labour practices. These can be broad – covering all areas of responsible business conduct and applying to businesses across all sectors – or have sector-specific focus and/or specifically focused on child labour, forced labour and human trafficking.⁵¹

While regulation can represent a strong inducement for companies to carry out due diligence, a proliferation of expectations can also create challenges for businesses operating globally that may be subject to various expectations. Divergent understandings of what due diligence means in practice can also be a challenge, including among governments.⁵² Promoting consistency and clarity around obligations and expectations for businesses operating globally will be important for establishing a level playing field and easing burdens for business when it comes to promoting sustainable supply chains. Governments should therefore ensure that domestic initiatives align with recognized international tools and instruments, such as the United Nations Guiding Principles, the Organisation for Economic Co-operation and Development (OECD) Guidelines or the International Labour Organization (ILO) Tripartite Declaration and associated guidance.

Government guidance on the scope and implementation of the different tools that seek to incentivize companies to address the prevalence of forced labour and child labour across their operations is key to their effective implementation. Lastly, government enforcement and oversight of compliance with domestic initiatives is also essential to ensure that they become more than simply a box-ticking exercise for companies.

Given that governments are some of the largest consumers through their acquisition of goods and services, socially responsible public procurement policies and legislation can incentivize companies to address exploitative labour across their supply chains and business relationships. Additionally, governments can ensure that trade and investment agreements set out standards for businesses to act responsibly, including imposing restrictions and sanctions on goods manufactured using exploitative labour practices.

Strengthening labour inspection

In the labour sector, enforcement is often based on civil law remedies to address unfair labour practices; and is in no way linked to the criminal justice system. An approach that recognizes that exploitative labour violations can make the leap to becoming criminal offences, notably the crime of trafficking in persons, is important. Labour inspectors must be equipped with the skills to identify indicators of trafficking for labour exploitation and refer cases to the police as appropriate. In addition, efforts should broadly focus on strategic compliance, not just enforcement. Such an approach trains, encourages and provides inspectors with extensive discretion to bring firms into compliance over time “by treating violations as mere symptoms and looking for their root causes in underlying technological or business practices.”⁵³

Another approach is to systematically engage workers’ organizations in the co-enforcement of labour standards. This is based on the premise that workers are uniquely positioned to identify violations and workers’ organizations are specially placed to tap into this pool of information and that these capabilities can be a valuable complement in reinforcing State capacity.⁵⁴

50 2007 Report of the Special Representative of the Secretary-General (SRSG) on the issue of human rights and transnational corporations and other business enterprises. Available at www.business-humanrights.org/sites/default/files/media/bhr/files/SRSG-report-Human-Rights-Council-19-Feb-2007.pdf.

51 Ending Child Labour, Forced Labour and Human Trafficking in Global Supply Chains.

52 Reference to A. Ruhmkorf’s recent report on different legal implications of national models of due diligence legislation across Europe.

53 M. Piore and A. Schrank, *Root-Cause Regulation: Protecting Work and Workers in the 21st Century* (Harvard University Press, 2018) 4, as cited in Literature Review on the Governance of Work, Dr Tess Hardy and Sayomi Ariyawansa, Centre for Employment and Labour Relations Law Melbourne Law School, commissioned by ILO, Labour Law and Reform Unit (LABOURLAW), October 2018, page 24.

54 Literature Review on the Governance of Work, Dr Tess Hardy and Sayomi Ariyawansa, Centre for Employment and Labour Relations Law Melbourne Law School, commissioned by ILO, Labour Law and Reform Unit (LABOURLAW), October 2018, page 24.

Corporate due diligence

As per the United Nations’ “Protect, Respect and Remedy: A Framework for Business and Human Rights,” corporations have a responsibility to respect human rights. They can do so by conducting due diligence – ensuring compliance with national and international laws as well as managing the risk of human rights abuses in order to avoid it.

At its core, human rights due diligence involves “assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.”⁵⁵ It should “cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships.”⁵⁶

Risk-based due diligence is the process whereby companies can identify, prevent, mitigate and account for labour and human rights risks – including forced labour, trafficking in persons and child labour – across their business operations and supply chains. Through the process of risk-based due diligence, companies seek to determine the likelihood and severity of child, forced and other exploitative labour risks in their own operations and across their supply chain based on their sourcing context, products and business models. On this basis, companies can then develop and implement tailored measures to cease, prevent and mitigate these risks.

The OECD Due Diligence Guidance for Responsible Business Conduct (Guidance), adopted in 2018, provides practical support to enterprises on the implementation of the OECD Guidelines for Multinational Enterprises. Implementing these recommendations helps enterprises avoid and address adverse impacts related to workers, human rights, the environment, bribery, consumers and corporate governance that may be associated with their operations, supply chains and other business relationships.

In practical terms, companies’ due diligence process involves six core steps: (1) Embed responsible business conduct into policies and management systems; (2) Identify and assess risks of adverse impacts in operations, supply chains and business relationships; (3) Cease, prevent or mitigate adverse impacts; (4) Track implementation and results; (5) Communicate how impacts are addressed; and (6) Provide for or cooperate in remediation when appropriate.

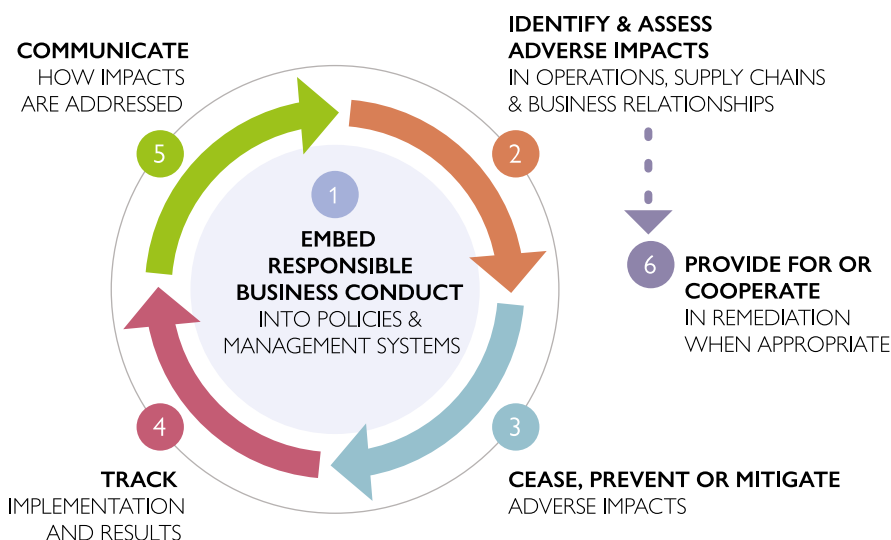


Figure 5.3

Due diligence process and supporting measures

Source: OECD Due Diligence Guidance for Responsible Business Conduct.

⁵⁵ United Nations Guiding Principles 17.

⁵⁶ United Nations Guiding Principles 17.

Remediation

Access to remedy is an important part of corporate responsibility to respect human rights in their operations and business relationships. Remediation is an “attempt to right a wrong, to correct – as far as possible – an injustice.”⁵⁷ It refers both to the process and the outcome to address human rights violations and their impacts. A remedy may include “apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (criminal or administrative), as well as the prevention of harm through, for example injunctions or guarantees of non-repetition.”⁵⁸

Businesses can work with State and non-State actors and take an active role in remediation, whether by providing the remedy itself or by participating in remediation through legitimate means.

At the core of guaranteeing access to remedy are judicial mechanisms. However, administrative, legislative and other non-judicial mechanisms also play a crucial role. The OECD Guidelines, for example, have a unique built-in grievance mechanism about company conduct.

Responsible and ethical consumption

While States and businesses have the main responsibility to protect and respect human rights in the private economy, consumers also play an important role in eliminating exploitative practices. Governments, businesses and civil society organizations also have a role in educating consumers on responsible business conduct and how consumers can contribute to eliminating labour exploitation.

Transgressions by businesses should be made available to the public, just as those operating responsibly to allow consumers to make informed decisions. Creation of standards and labels, such as “fair trade” and “sustainable,” can also help consumers to more easily make responsible and ethical decisions.

Additionally, consumers should educate themselves on issues such as which sectors and brands are most likely to rely on forced and exploitative labour, as well as learn about ethical business practices.

Consumers, through their choices, can motivate companies to address exploitation and human rights abuses in their supply chains and business relationships.

United Nations Guiding Principles on Business and Human Rights

In 2008, the United Nations approved the “Protect, Respect and Remedy” Framework on business and human rights. The Framework rests on three pillars: (a) the State duty to protect against human rights abuses by third parties, including business; (b) the corporate responsibility to respect human rights; and (c) greater access by victims to effective remedy.

In 2011, the United Nations Human Rights Council endorsed the United Nations Guiding Principles on Business and Human Rights, a set of guidelines that operationalize the “Protect, Respect and Remedy” Framework and further define the key duties and responsibilities of States and business enterprises with regard to business-related human rights abuses.

Promoting migrant integration and combating xenophobia and discrimination

Migrant integration is the process by which migrants become accepted into society, both as individuals and as groups. It is a two-way process of adaptation by migrants and host societies and implies consideration of: (a) the rights and obligations of migrants and host societies; (b) access to different kinds of services and the labour market; and (c) identification and respect for a core set of values that bind migrants and host communities in a common purpose.

57 United Nations Inter-Agency Coordination Group against Trafficking in Persons (ICAT), *Providing Effective Remedies for Victims of Trafficking in Persons* (Vienna and New York, United Nations, 2016).

58 <https://globalnaps.org/ungp/guiding-principle-25/>.

Migrant integration is related to the concepts of social inclusion and social cohesion. Social inclusion refers to migrants' inclusion and full economic, social, cultural and political participation into host communities. Social cohesion refers to concepts such as anti-discrimination, countering xenophobia and promoting mutual understanding.⁵⁹

Migrant integration, social inclusion and social cohesion are necessary to reduce the vulnerability of migrants to violence, exploitation and abuse as all three directly address the social beliefs, values, attitudes, behaviours, norms and practices that underlie discrimination and xenophobia.

Integration occurs in the public and private realms, across generations, and at the individual, family, community and national levels.⁶⁰ Key indicators of migrant integration include:

- Permanent residence: How easily can migrants become permanent residents?
- Access to nationality: How easy is it for migrants to become citizens?
- Anti-discrimination: Are all people effectively protected from racial, ethnic religious, nationality and other forms of discrimination in all areas of life?
- Education: Is the education system responsive to the needs of the children of migrants?
- Family reunion: How easily can migrants reunite with family?
- Health: Is the health system responsive to migrant needs?
- Labour market mobility: Do migrants have equal rights and opportunities to access jobs and improve their skills?
- Political participation: Do migrants have comparable rights and opportunities to participate in political life?⁶¹

Migrant integration therefore cuts across a number of policy and issue areas discussed above. Activities and programmes to support migrant integration can include:

- Policy analysis and advocacy, to assess the degree to which policies at the different levels of government address migrant integration in a comprehensive and integrated manner and to advocate for necessary changes;
- Coordination efforts, such as clearly identifying roles and responsibilities in different sectors at different levels, through institutional mapping and promoting dialogue at all levels in view of increasing mutual knowledge of integration practices;
- Sensitizing local officials on their roles in migrant integration and ensuring they have the financial, technical and human resources necessary to fulfil these roles;
- Working with service providers in health, education and other sectors to sensitize them on migrants' rights to services, improve their ability to provide migrant-friendly services, and ensure that they have the financial, technical and human resources necessary to provide services to both migrants and the host community in an equitable manner;
- Working with migrants to help them prepare for successful integration, for example through pre-departure orientation and post-arrival language training;
- Involving local communities in migrant integration efforts, for example by providing opportunities for migrants and host communities to regularly interact and for host communities to see and understand potential benefits of migration – such as diversity and new skills – to their communities;
- Working with the private sector and labour unions to combat workplace and recruitment discrimination;
- Working with members of the media, local and national leaders, and political representatives to foster social dialogue based on tolerance and respect and other measures to combat xenophobia and discrimination.⁶²

59 <https://migrationdataportal.org/themes/migrant-integration>.

60 www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/82745.pdf.

61 Migrant integration policy index 2015: [http://mipex.eu/home?news_type=All&&&page=330&countries\[0\]=29&tid_1\[0\]=58](http://mipex.eu/home?news_type=All&&&page=330&countries[0]=29&tid_1[0]=58).

62 See https://ec.europa.eu/regional_policy/sources/docgener/factsheet/oecd_local_integration_migrants_en.pdf and www.iom.int/migrant-integration-0.

5.3 RESOURCES FOR PART 5

Resources for creating an enabling environment

Canadian CED Network, Public Policy Advocacy: A best practice guide (2013)

https://ccednet-rcdec.ca/sites/ccednet-rcdec.ca/files/ccednet/public_policy_advocacy_-_best_practices.pdf

FAO Capacity Development Learning Modules

www.fao.org/capacity-development/resources/fao-learning-material/learning-modules/en/

FAO, How to Design Capacity Development Interventions and Ensure their Sustainability.

www.fao.org/capacity-development/resources/practical-tools/design-capacity-development/en/

IOM Data Protection Principles

https://publications.iom.int/system/files/pdf/iomdataprotection_web.pdf

IOM Guidance on Referral Mechanisms for the protection of migrants vulnerable to violence, exploitation and abuse and of victims of trafficking (2019)

IOM Guidance on Response Planning for migrants vulnerable to violence, exploitation and abuse (2019)

IOM, Migration Profiles: Making the Most of the Process

<https://publications.iom.int/books/migration-profiles-making-most-process>

IOM, More than Numbers: How Migration can Deliver Real Life Benefits for Governments and Migrants

<https://publications.iom.int/books/more-numbers-how-migration-data-can-deliver-real-life-benefits-migrants-and-governments>

Learning Network on Capacity Development

<http://lencd.org/>

OECD Development Co-operation Working Papers: Training and Beyond: Seeking Better Practices for Capacity Development (2011)

<https://dx.doi.org/10.1787/5kgf1nsnj8tf-en>

SCS Global Program and FHI360, Capacity Development Interventions: A Guide for Program Designers (2018)

www.ngoconnect.net/sites/default/files/2018-12/SCS%20Global_Capacity%20Development%20Interventions%20Guide_FINAL.pdf

SIDA, Guidance on Capacity Development: How to assess, support and monitor capacity development among partners in Swedish development cooperation (2011)

www.sida.se/contentassets/be84798140d9485499b498d0b625cec9/guidance-on-capacity-development_3163.pdf

Sonke Gender Justice Network, Policy Advocacy Toolkit: how to influence public policy for social justice and gender equality in Africa (2013)

www.girlsnotbrides.org/resource-centre/policy-advocacy-toolkit-how-to-influence-public-policy-for-social-justice-and-gender-equality-in-africa/

United Nations Global Pulse. Harnessing Big Data for Development and Humanitarian Action

www.unglobalpulse.org/about-new

United Nations Principles and Recommendations for Population and Housing Census

https://unstats.un.org/unsd/demographic/sources/census/docs/P&R_Rev2.pdf

UNDP, Capacity Development Practice Note (2008)

http://content-ext.undp.org/aplaws_publications/1449053/PN_Capacity_Development.pdf

UNDP, Capacity Development: A UNDP Primer United Nations Development Programme Capacity Development Group (2009)

www.undp.org/content/dam/aplaws/publication/en/publications/capacity-development/capacity-development-a-undp-primer/CDG_PrimerReport_final_web.pdf

UNICEF, Advocacy Toolkit: A guide to influencing decisions that improve children's lives (2010)

www.unicef.org/cbsc/files/Advocacy_Toolkit.pdf

UNODC, Toolkit to Combat Trafficking in Persons-Tool 2.7 National Action Plans and Strategies

www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_2-7.pdf

Young, E. and L. Quinn, Making Research Evidence Matter: A Guide to Policy Advocacy in Transition Countries (2012). [Online Publication - International Centre for Policy Advocacy].

<http://advocacyguide.icpolicyadvocacy.org>

Resources for migration governance

Global Compact for Safe, Orderly and Regular Migration

https://refugeesmigrants.un.org/sites/default/files/180713_agreed_outcome_global_compact_for_migration.pdf

MIGOF

www.iom.int/sites/default/files/about-iom/migof_brochure_a4_en.pdf

Resources for mainstreaming migration into national development policy

GMG, Mainstreaming Migration into Development Planning. A Handbook for Policy Makers and Practitioners.

<https://publications.iom.int/es/books/mainstreaming-migration-development-planning-handbook-policy-makers-and-practitioners>

Resources for addressing migration in times of crisis

IOM, Migrants in Disaster Risk Reduction. Practices for Inclusion (2017)

<https://publications.iom.int/books/migrants-disaster-risk-reduction-practices-inclusion>

IOM, Migration Crisis Operational Framework MC/2355

www.iom.int/files/live/sites/iom/files/What-We-Do/docs/MC2355_-_IOM_Migration_Crisis_Operational_Framework.pdf

MICIC initiative

<https://micicinitiative.iom.int/guidelines>

MICIC, Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster

https://micicinitiative.iom.int/sites/default/files/document/micic_guidelines_english_web_13_09_2016.pdf

Resources for supporting safe and regular migration

Global Compact for Safe, Orderly and Regular Migration

www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/195

ILO's General Principles and Operational Guidelines for Fair Recruitment

www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_536263.pdf

ILO Social Protection Floors Recommendation, 2012 (No. 202)

www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R202

International Recruitment Integrity System (IRIS)

<https://iris.iom.int/>

IOM, International Migration and Development Training Modules, Facilitators Guide.

<https://publications.iom.int/books/international-migration-and-development-training-modules>

OSCE, ILO and IOM, Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and Destination

www.osce.org/secretariat/19242

United Nations Guiding Principles on Business and Human Rights

www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf

Resources for combating trafficking in persons and smuggling of migrants

ICAT Pivoting toward the evidence

http://icat.network/sites/default/files/publications/documents/16-10273_ICAT_toolkit.pdf

ICAT Toolkit

http://icat.network/sites/default/files/publications/documents/16-10273_ICAT_toolkit.pdf

IOM Direct Assistance Handbook

https://publications.iom.int/system/files/pdf/iom_handbook_assistance.pdf

UNODC, Toolkit to Combat Trafficking in Persons Toolkit

www.unodc.org/res/cld/bibliography/toolkit-to-combat-trafficking-in-persons_html/07-89375_Ebook1.pdf

UNODC, Toolkit to Counter Smuggling of Migrants

www.unodc.org/documents/human-trafficking/SOM_Toolkit_E-book_english_Combined.pdf

UNODC, Global Report on Trafficking in Persons 2018

www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf

UNODC, Global Study on Smuggling of Migrants 2018

www.unodc.org/documents/data-and-analysis/glosom/GLOSOM_2018_web_small.pdf

Resources for social protection

ILO, World report on child labour: Economic vulnerability, social protection and the fight against child labour (Geneva, 2013)

www.ilo.org/ipeinfo/product/download.do?type=document&id=19565

Dammert, A.C., J. de Hoop, E. Mvukiyeye and F. C. Rosati, The effects of public policy on child labor: Current knowledge, gaps, and implications for program design. Working Paper: Understanding Children's Work Project (UCW), Rome, March 2017.

Resources for promoting decent work and private sector accountability

Ending Child Labour, Forced Labour and Human Trafficking in Global Supply Chains

https://publications.iom.int/system/files/pdf/ending_child_labour_en.pdf

ILO, Social Protection Floors Recommendation, 2012 (No. 202)

www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R202

ILO, World report on child labour: Economic vulnerability, social protection and the fight against child labour (Geneva, 2013)

www.ilo.org/ipeinfo/product/download.do?type=document&id=19565

IOM Remediation Guidelines

https://publications.iom.int/system/files/pdf/remediation_guidelines.pdf

Piore, M. and A. Schrank, Root-Cause Regulation: Protecting Work and Workers in the 21st Century (Harvard University Press, 2018) 4, as cited in Literature Review on the Governance of Work, Dr Tess Hardy and Sayomi Ariyawansa, Centre for Employment and Labour Relations Law Melbourne Law School, commissioned by ILO, Labour Law and Reform Unit (LABOURLAW), October 2018, p. 24.

Report of the Special Representative of the Secretary-General (SRSG) on the issue of human rights and transnational corporations and other business enterprises

www.business-humanrights.org/sites/default/files/media/bhr/files/SRSG-report-Human-Rights-Council-19-Feb-2007.pdf

United Nations Guiding Principles 17

<https://globalnaps.org/ungp/guiding-principle-17/>

United Nations Inter-Agency Coordination Group against Trafficking in Persons (ICAT), Providing Effective Remedies for Victims of Trafficking in Persons (Vienna and New York, 2016)

www.unodc.org/documents/human-trafficking/ICAT/ICAT_Policy_Paper_3._Providing_Effective_Remedies_for_Victims_of_Trafficking_in_Persons_2016.pdf

Resources for promoting migrant integration and combating xenophobia and discrimination

Migrant Integration Policy Index 2015

[http://mipex.eu/home?news_type=All&&&&page=330&countries\[0\]=29&tid_1\[0\]=58](http://mipex.eu/home?news_type=All&&&&page=330&countries[0]=29&tid_1[0]=58)

Combating xenophobic violence: A framework for action

www.humanrightsfirst.org/wp-content/uploads/pdf/UNHCR_Blueprint.pdf

5.4 STRUCTURAL FACTORS ASSESSMENT TOOLKIT

Introduction

The community and structural context provides the context within which to understand and interpret the individual and household/family factors. Structural factors refer to the broader political, economic, social and environmental conditions and institutions at national, regional or international levels that either increase or decrease an individual's likelihood of experiencing violence, exploitation or abuse before, during or after migrating. This toolkit provides guidance on how to assess the ways in which structural-level factors influence migrant vulnerability by using the assessment tool provided.

Use of the structural factors assessment tools will only provide part of the contextual information necessary to interpret the individual and household/family factors – the community factors are also an important element of this contextual analysis. Refer to Parts 2, 3 and 4 for information on conducting assessments of the individual, household/family, and community factors.

The structural factors assessment toolkit is intended mainly for use at the national or country level. However, if there is significant variation between regions within a country, it may be necessary to conduct a separate analysis for each region and to combine these assessments to form a comprehensive portrait of the situation for the whole country.

This toolkit contains: (a) a discussion of different structural-level factors and how they influence vulnerability; (b) an assessment tool to be used to gather, structure and present the information needed to assess the impact of structural-level factors on migrant vulnerability; and (c) guidance on how to apply and adapt the assessment tool.

Structural factors

The list of factors described in this section are based on existing literature on vulnerability to violence, exploitation and abuse, as well as research conducted using the IOM determinants of migrant vulnerability framework. The community factors discussed in this section can be assessed through use of the assessment tool provided in this toolkit.

Political system

The overall political system in a country plays a significant role in shaping the opportunities for political participation and organizing as well as enforcement of rights, including for vulnerable populations. In particular, a democratic political system typically offers opportunities for redress, for advocacy on behalf of people who experience violence, exploitation and abuse, and for vulnerable populations to organize for their own protection.

An analysis of this factor includes an assessment of whether the core constituent elements of a democratic regime are present, namely: regular, free and fair elections; separation of power between the executive, judiciary and legislative branches; and a free civil society. It also includes an assessment of an element that is typically part of a democratic regime but is of particular relevance to vulnerable migrants: freedom of movement within the country and to leave the country. An assessment of the political system is based on these various elements, to conclude if a country has a relatively more democratic regime or a more repressive/authoritarian regime.

Governance, including prevalence of corruption

Another component of a country's overall political structure that is particularly relevant to vulnerable populations is strong governance. This is understood to involve: (a) the existence of institutions which employ professionals in their field and which have clear and functional processes and procedures; and (b) those institutions having the capacity to fulfil their mandate. Strong governance is relevant to migrant vulnerability because transparent and accountable institutional processes reduce the likelihood of violence, exploitation and abuse and improve the opportunities for redress when it does occur.

An analysis of this factor includes assessing the prevalence of corruption, for example whether or not it is common for bribes to be required for public services or for well-connected individuals to receive special treatment from public institutions. It involves considering: (a) the transparency of institutional processes, that is whether or not the processes

are publicly known; (b) the accountability of institutions, that is, whether there is a functioning, publicly accessible system of redress or review for institutional actions; and (c) the capacity of institutions to carry out their functions.

Rule of law and law enforcement practices

There are three components to this factor: the legal framework, the judicial system, and law enforcement. Adequate legal frameworks and judicial systems are associated with providing protection and opportunities for redress to those experiencing violence, exploitation and abuse, while an adequate judicial system furthermore tends to have fewer instances of abuse and impunity. Adequate law enforcement practices provide protection from violence, exploitation and abuse and reduce the likelihood of its occurrence at the hands of law enforcement bodies.

In assessing the country's legal framework, the focus is upon whether it is: (a) clear, transparent and accountable; (b) includes labour legislation covering pay and working conditions, including provisions against slave and forced labour; (c) considers sanctions against violence, exploitation and abuse; and (d) generally treats non-citizens less favourably than citizens.

Regarding the country's judicial system, analysis focuses on how independent it is from interference by the executive and legislative branches of government, whether it has adequate capacity, and whether it is accessible to those without special connections or an elevated socioeconomic status.

The analysis of the country's law enforcement practices focuses on whether law enforcement bodies have adequate capacity, as well as whether and to what extent the use of excessive force or abuse of power by law enforcement bodies is common and/or tolerated.

Respect for human and other rights

This factor considers the formal and practical aspects of respect for human and other rights in the country, since such respect tends to be a good indicator of how vulnerable migrants will tend to be to violence, exploitation and abuse.

The factor considers the extent to which the country's formal legal framework includes commitments to human and other rights (such as on gender equality, children's rights and international labour standards), and then assesses the extent to which institutional and social norms respect those rights in practice.

Migration management practices

The country's migration management practices have a direct bearing on how migrants are likely to be treated. The factor considers five dimensions of those practices: (a) whether the migration management frameworks correspond to international standards; (b) whether they are predictable; (c) whether they are transparent/clear; (d) whether there are regular, easily accessible and diverse outmigration as well as immigration opportunities; and e) whether migration is criminalized. By focusing upon these dimensions, it ascertains the adequacy of the overall system as a basis for understanding whether migrants and potential migrants could potentially understand how to safely migrate, as well as whether they will in practice be able to safely migrate.

Social norms towards exploitation and abuse

This factor assesses the general attitudes in society as regards violence, exploitation and abuse. It does so by considering the level of tolerance of each, for example how tolerant people are of parents hitting their children, of paying migrants less money than citizens/locals, or of expecting domestic workers to work more than eight hours per day. It furthermore focuses upon whether attitudes in society are different when the victim is a migrant.

Regional distribution of human and economic capital

This factor aims to understand regional migration patterns by focusing on a comparative consideration of the country's economic and human development relative to its neighbours, in particular whether there are similar or fewer economic opportunities relative to those neighbours and whether there is a similar or worse standard of living. Further, it asks what the main source and destination countries for migrants are and why – for example is it due to a history of colonial linkages or some other historical or cultural ties? Finally, it assesses whether the main economic activities in the country are in sectors where there is a higher prevalence of violence, exploitation and abuse, such as construction, mining, forestry, textiles and domestic labour.

Guidance for applying and adapting structural factors assessment tool

Purpose

This assessment tool is intended to be used to assess the ways in which structural factors influence migrant vulnerability to violence, exploitation and abuse. It should be used together with the community factors assessment tool (see Part 4) to provide information on the context within which migrants are vulnerable or resilient to violence, exploitation and abuse, thereby complementing information gathered through the individual and household/family questionnaires (see Parts 2 and 3). Further, if such data is gathered over time and linked to data from other countries, it can inform understanding of larger trends regarding migrant vulnerabilities in a particular region and even globally. As such, it can potentially inform programming by governments, as well as national and international organizations and service providers.

Using the assessment tool to gather data

The assessment tool is meant to guide and structure the data collection process and to present it in a standardized format. It can be used in either paper-based or electronic format. The data gathered should be transcribed into an electronic version in order to ensure the durability of the data collected and the ability to use it to understand changes over time. This is also good for comparison purposes with other contexts and locations and therefore to be able to develop an evidence base for national, regional or global analysis.

Unlike the individual and household/family questionnaires, which focus on data collection from the individual migrant or potential migrant and his/her family, this assessment tool can be used to gather and structure data from a variety of data sources and through a variety of data collection processes.

Group interviews

The assessment tool can be used to conduct group interviews with key informants who are knowledgeable about the target country and who can analyse the situation generally and assess trends, rather than focusing on anecdotal information.

Participants for the group interviews should be selected on the basis of their knowledge about sociological, economic, political and environmental concepts, as well as of the actual social, political, legal and economic structures in the country. Suitable interviewees could include a combination of: academic experts (both men and women) in the economy, politics and sociology of the country; and representatives of civil society organizations, NGOs (both national and international), international organizations and/or United Nations agencies, IOM, and local or national governments. The key criterion is that there should be a diverse group of interviewees.

Group interviews are preferred to individual interview in order to combine different perspectives and create a more complete and more nuanced portrait of the country, leading participants to come to a collective consensus on the responses to the questions. Each group interview should include three to five interviewees, as any fewer and there will not be enough diversity of perspectives, and any more and it will be extremely difficult to arrive at a consensus and to allow all interviewees to participate equally. At least two group interviews should be conducted, as this will serve as a triangulation mechanism to reduce the impact of potential bias when conducting the analysis.

Groups can be convened to discuss all of the seven topics covered in the assessment form but, considering the diversity of the topics, it may be preferable to convene groups to focus only on topics on which they are especially knowledgeable. If separate groups are convened, the topics could be grouped as follows, with the participants selected on the basis of their relevant knowledge:

- Political system; governance, including prevalence of corruption; and rule of law and law enforcement practices: Participants should be selected on the basis of their knowledge of the political context and could include, for example, politicians and political scientists.
- Respect for human and other rights, and social norms towards exploitation and abuse: Participants could include human rights experts, activists, and sociologists.
- Migration management practices: Participants could include migration specialists from government departments, international organizations and academia.

- Regional distribution of human and economic development: This topic could be addressed by specialists in economics and/or labour issues.

In either case, each topic should be discussed by at least two groups.

Each topic requires between 30 and 90 minutes for a full group discussion. If a group is convened to discuss all seven topics, this is a significant demand on their time. Discussion sessions should be scheduled to take this into account – for example by holding a series of shorter sessions or two longer sessions. For groups that are convened to discuss only select topics, the discussion session should take between one and two hours.

Individual interviews

It is also possible to conduct a series of individual interviews, if group interviews are not feasible. However, this will require more time and more interviews, as each respondent will not be confronted with differing opinions or perspectives that could spark deeper reflection. The length of each individual interview will depend on if all topics or only a subset of topics are covered. In general, it is anticipated that each topic will take between 15 and 45 minutes to complete. As individual interviews should generally not last much more than 90 minutes, it may be necessary to schedule two interviews with a respondent. At least three respondents should be consulted for each of the topics.

Desk review

Information gathered through interviews should be complemented by a desk review of key documents and data related to the social, political, economic, environmental and other characteristics of the country. This again serves as a triangulation mechanism and can help to complement, validate or revise the information obtained through group and individual interviews. In particular, questions regarding the legal frameworks and the formal inclusion of human and other rights are perhaps best assessed through a review of the pertinent legal documents (the text of the laws, treaties and conventions to which the country is signatory or not). Other data sources include government policy papers, reputable newspaper and journal articles, research reports, analytical papers, academic commentaries, human rights reports, United Nations reports and national statistics.

Filling out the assessment tool

Most of the questions require a ranking. This ranking should be based off of discussions (or review of documents and data) and the key information recorded. In other words, it is not sufficient to simply ask for a ranking and move to the next question. Instead, each question should prompt a discussion; after the discussion, consensus should be obtained on the ranking (in the case of group interviews) and synthesized with information obtained from other sources. Recording the key information is necessary to justify the ranking given. For example, when asked to describe the extent to which there is a free press, interviewees can assert that journalists are subject to tight controls and must have their work approved by a censor; therefore, the ranking should be “No”.

Once data collection is complete, the information gathered should be synthesized, summarized and assessed in order to arrive at a combined set of responses that has been verified through the various sources. For each of the questions, the source of the data used to devise the combined response should be noted. If the data source is an interview respondent (either individual or group) indicate the names and positions of each of the interviewees. If the data source is a document, include a full citation for the document.

Adapting and explaining the questionnaire

Unlike the individual and household/family-level questionnaires, it is not expected that this assessment form will require sociocultural adaptation, as interviewees will be key informants with expert knowledge and should be open to discussing sensitive topics. However, they may or may not be familiar with all the terms. It is recommended that the interviewer provide some concrete examples of hypothetical situations to guide the discussions.

Structural factors assessment tool

Topic 1: Political system

1.1 Are there regular, free and fair elections?

- Yes
- No
- Partially
- Not applicable

1.2 Is there a separation of power between the executive, judiciary and legislative branches?

- Yes
- No
- Partially
- Not applicable

1.3 Is there a free civil society?

- Yes
- No
- Partially
- Not applicable

1.4 Is there freedom of movement within the country and to leave the country?

- Yes
- No
- Partially
- Not applicable

1.5 Is there a free press?

- Yes
- No
- Partially
- Not applicable

1.6 Based on the responses to the above questions, what kind of political system exists in this location?

- 1- Democratic regime
- 2- Tending towards a democratic regime
- 3- Tending towards a repressive/authoritarian regime
- 4- Repressive/authoritarian regime

Summary:

Sources of information:

Topic 2: Governance, including prevalence of corruption

2.1 How prevalent is corruption?

- 1- Very little prevalence of corruption
- 2- Relatively little prevalence of corruption
- 3- Relatively high prevalence of corruption
- 4- Very high prevalence of corruption

2.2 Are institutional processes transparent?

- 1- Very transparent
- 2- Relatively transparent
- 3- Relatively non-transparent/opaque
- 4- Very non-transparent/opaque

2.3 Are institutions accountable?

- 1- Very accountable
- 2- Relatively accountable
- 3- Relatively non-accountable
- 4- Very non-accountable

2.4 Do institutions have the capacity to carry out their functions?

- 1- Institutions have strong capacity
- 2- Institutions have relatively strong capacity
- 3- Institutions have relatively weak capacity
- 4- Institutions have very weak capacity

2.5 Based on the responses to the previous questions, how good is governance in this location overall?

- 1- Strong governance
- 2- Relatively strong governance
- 3- Relatively weak governance
- 4- Very weak governance

Summary:

Sources of information:

Topic 3: Rule of law and law enforcement practices

3.1 Are legal frameworks adequate (clear, transparent and accountable)?

- Yes
- No
- Partially
- Not applicable

3.2 Does the country's legal framework include a labour code/law covering pay and working conditions? Does it specifically include provisions against slave labour?

- Yes
- No
- Partially
- Not applicable

3.3 Does the legal framework contemplate sanctions against violence, exploitation and abuse?

- Yes
- No
- Partially
- Not applicable

3.4 Does the legal framework generally treat non-citizens less favourably than it does citizens?

- Yes
- No
- Partially
- Not applicable

3.5 On the basis of responses to the above questions, are legal frameworks adequate?

- 1- Adequate (clear and transparent processes, clear penalties for violence, exploitation and abuse, equal treatment for non-citizens)
- 2- Mostly adequate (mostly transparent processes, mostly clear penalties for violence, exploitation and abuse, almost equal treatment for non-citizens)
- 3- Mostly inadequate (little transparency in processes, few or weak penalties for violence, exploitation and abuse, mostly unequal treatment for non-citizens)
- 4- Inadequate (very little to no transparency in processes, very little to no penalties for violence, exploitation and abuse, discrimination towards non-citizens)

3.6 Is the judiciary system independent of the executive and legislative powers?

- Yes
- No
- Partially
- Not applicable

3.7 Does the judiciary system have adequate capacity?

- Yes
- No
- Partially
- Not applicable

3.8 Is the judiciary system accessible to all?

- Yes
- No
- Partially
- Not applicable

3.9 Based on responses to the previous questions, is the judiciary system adequate?

- 1- Adequate (independent and high capacity, accessible to all)
- 2- Mostly adequate (mostly independent and good capacity, mostly accessible to all)
- 3- Mostly inadequate (little independence, little capacity, difficult to access depending on socioeconomic status)
- 4- Inadequate (not independent, very little capacity, very difficult to access depending on socioeconomic status)

3.10 Do law enforcement bodies have adequate capacity?

- Yes
- No
- Partially
- Not applicable

3.11 How common is the use of excessive force/abuse of power by law enforcement bodies?

- 1- Very uncommon
- 2- Relatively uncommon
- 3- Relatively common
- 4- Very common

3.12 Based on the responses to the previous questions, are law enforcement practices adequate?

- 1- Adequate (mostly competent and high capacity, very little prevalence of excessive force/abuse of power)
- 2- Mostly adequate (mostly competent and good capacity, relatively little prevalence of excessive force/abuse of power)
- 3- Mostly inadequate (relatively little competence and little capacity, relatively high prevalence of excessive force/abuse of power)
- 4- Inadequate (very little competence and capacity, very high prevalence of excessive force/abuse of power)

Summary:

Sources of information:

Topic 4: Respect for human and other rights

4.1 Are human rights formally included in the legal framework?

- Yes
- No
- Partially
- Not applicable

4.2 Are other rights formally included in the legal framework?

- Yes
- No
- Partially
- Not applicable

4.3 To what extent do institutional norms respect human and other rights?

- 1- High respect for human and other rights
- 2- Tending towards respect for human and other rights
- 3- Tending towards low respect for human and other rights
- 4- Low respect for human and other rights

4.4 To what extent do social norms respect human and other rights?

- 1- High respect for human and other rights
- 2- Tending towards respect for human and other rights
- 3- Tending towards low respect for human and other rights
- 4- Low respect for human and other rights

Summary:

Sources of information:

Topic 5: Migration management practices

5.1 Do migration management frameworks correspond to international standards?

- Yes
- No
- Partially
- Not applicable

5.2 How predictable are migration management frameworks?

- 1- Very predictable
- 2- Mostly predictable
- 3- Mostly unpredictable
- 4- Very unpredictable

5.3 How transparent are migration management frameworks?

- 1- Very transparent
- 2- Mostly transparent
- 3- Mostly non-transparent/opaque
- 4- Very non-transparent/opaque

5.4 Are there regular and diverse outmigration opportunities?

- 1- Regular and diverse outmigration opportunities
- 2- Limited regular outmigration opportunities, to few destinations and / or with few modalities
- 3- Few regular outmigration opportunities, to very few destinations and/or with very few modalities
- 4- Very few to no regular outmigration opportunities

5.5 Are there regular and diverse immigration opportunities?

- 1- Regular and diverse immigration opportunities
- 2- Limited regular immigration opportunities, from few source countries and/or with few modalities
- 3- Few regular immigration opportunities, from very few source countries and/or with very few modalities
- 4- Very few to no regular immigration opportunities

5.6 Is migration criminalized?

- 1- No criminalization of or restrictions on migration
- 2- Some restrictions and/or partial criminalization of migration
- 3- Many restrictions and/or relatively high criminalization of migration
- 4- Criminalization of migration

Summary:

Sources of information:

Topic 6: Social norms towards exploitation and abuse

6.1 How much tolerance is there for violence in this society?

- 1- Little to no tolerance of violence
- 2- Some tolerance of violence
- 3- Relatively high tolerance of violence
- 4- Very high tolerance of violence

6.2 How much tolerance is there for exploitation in this society?

- 1- Little to no tolerance of exploitation
- 2- Some tolerance of exploitation
- 3- Relatively high tolerance of exploitation
- 4- Very high tolerance of exploitation

6.3 How much tolerance is there for abuse in this society?

- 1- Little to no tolerance of abuse
- 2- Some tolerance of abuse
- 3- Relatively high tolerance of abuse
- 4- Very high tolerance of abuse

6.4 Are these attitudes different when the victim is a migrant?

- Yes
No
Partially
Not applicable

Summary:

Sources of information:

Topic 7: Regional distribution of human and economic development

7.1 How does economic development in this location compare to its neighbours, and in global terms?

7.2 How does human development in this location (infrastructure, access to services such as health and education, safety and security levels) compare to its neighbours, and in global terms?

7.3 What are the main destination countries for migrants from this country? What explains those patterns?

7.4 What are the main source countries for migrants to this country? What explains those patterns?

7.5 Are the main economic activities in this location in sectors where there is a high prevalence of VEA, or integrated with markets with a high prevalence of VEA?

Summary:

Sources of information:

GUIDANCE FOR
THE PROTECTION,
CARE AND ASSISTANCE OF
VULNERABLE CHILD MIGRANTS



PART 6

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INTRODUCTION

Child migrants – whether accompanied (by family members, trusted adults, or a group of teenagers and young people with whom they have allied themselves along the way) or unaccompanied or separated from family and friends – are regarded as vulnerable. This vulnerability can be both situational – arising from their dependence on irregular migration routes, smugglers, etc. – and/or inherent in their status as children. At the same time, however, it is important for those responding to the needs of child migrants to recognize their agency and listen to them, as the children will often have clearly defined ideas of where they want to go and how they intend to travel.

While acknowledging the vulnerability of all child migrants, this Part recognizes that unaccompanied or separated children are especially vulnerable and that the challenges they face require particular responses. It is difficult to obtain accurate global figures regarding the number of children who are travelling independently, but their numbers are increasing. Many unaccompanied or separated children do not register with the authorities, either because they are unable or afraid to do so or because they have been advised by family, peers or smugglers to keep on the move to another destination. Still others are not permitted to contact the authorities, as they are controlled by traffickers and are destined for sexual, labour or other exploitation.

The motives of child migrants for leaving their countries of origin vary and may be multiple. They may be fleeing persecution, armed conflict, exploitation or poverty, or a combination thereof. They may have left or been sent by members of their family to ensure their survival or to obtain an education and employment. Alternatively, they may have been separated from their family during flight and be trying to join parents or other family members, or moving to join family that initially left the country of origin many years previously.

All child migrants nevertheless share certain fundamental characteristics. They are children, and therefore often lack legal capacity and are likely to be economically and socially vulnerable. Consequently, they should be treated first and foremost as children and not as irregular migrants. If they are travelling alone, they should also be regarded as children temporarily or permanently deprived of their supportive family environment and as such entitled to special protection and assistance. Yet there are still no harmonized standards for the reception, care and protection of such children.

Additionally, many countries do not have any formal procedures for listening to children and ascertaining what would be in their best interests or what solutions would be most appropriate for them. Some countries admit migrant children on a temporary basis, until they reach the age of 18 – but this is not a sustainable solution, especially if the adult family members they are travelling with are denied similar treatment, nor necessarily in their best interests, as it leaves them in uncertainty about their future. Some children may leave reception centres, thus becoming homeless and destitute, and potentially vulnerable to exploitation and trafficking networks. There are also instances where children are referred – whether they ask for asylum or not – to a process to determine their international protection needs, resulting in a longer processing time of applications generally and consequently longer waiting periods for the child. Some children are also channelled into procedures that do not give appropriate weight to their age and their rights under the Convention on the Rights of the Child.

Despite recent steps in many countries to embed the best interests principle in policy and legislation, huge differences remain in the way countries recognize the rights of migrant children, with some – but not all – placing them in the charge of a wide array of officials, courts or NGOs. Additionally, the application and use of the best interests principle often varies greatly depending on whether the migrant children are accompanied by family or travelling alone. This can lead to critical child protection gaps within and between different States, and, in some cases, even within States. As a result, unaccompanied or separated children can go missing or be exploited in receiving countries, or end up moving from country to country, finding themselves at risk of abuse, trauma and destitution.

This Part has been designed for use by any stakeholder implementing, or supporting the implementation of, the application of the best interests principle for a vulnerable migrant child. Depending on the national context, different entities may find themselves responsible for implementation of the best interests process, which consists of best interests assessments (BIAs), process planning and the best interests determination (BID) (see [sections 6.2 and 6.3](#) of this Part). However, it must be noted from the onset that the best interests principle set out in Article 3 of the Convention on the Rights of the Child applies to any State that has ratified the Convention.

Objectives

This Part aims to provide guidance on how the best interests principle can be applied in practice to identify appropriate care, protection and long-term solutions for migrant children who are outside their countries of origin or habitual residence (in the case of stateless children) and are either travelling with their families and/or trusted adults or are unaccompanied or separated from their parents or those who previously cared for them.

It draws on authoritative legal and policy frameworks within which the BID can be linked to existing national child protection, asylum and immigration procedures, and aims to help develop a best interests process for such children, in order to ensure a solution is found for each individual child. It thus seeks to assist States and others to meet their obligations under the Convention on the Rights of the Child, other international human rights instruments and relevant regional and national legislation and policies.

This Part includes practical tools such as diagrams explaining the best interests principle, which applies to vulnerable migrant children from the moment they are identified until a solution is found. It acknowledges that each country has different legal traditions, service provision capacities and experiences with migrant children. It therefore posits a process that will help each State meet its obligations under the Convention, but which can be tailored to fit in with its own child protection and asylum and immigration systems.

Given the broad understanding of the vulnerability of children engaged in migration, the underlying principles of the guidance should be applied to *all* children who are outside their country of origin or habitual residence, whether they have applied for international protection or not, and where certain risk factors are present. For example, in cases where the child may need international protection on grounds other than those relative to his/her parents, or where the child has developed strong ties to the receiving country, consideration should be given to which solution would be in the child's best interests. Based on the Convention and depending on the circumstances of the case, States and others should apply the procedural proposals set out here, such as child-friendly interviewing, to children who are in families but whose right to reside is not yet determined. These proposals may also be relevant for children born on the territory to parents who do not have regular status.

It is hoped that the guidance will be of assistance to the full range of professionals who encounter migrant children. These may include:

- *Policymakers*, who are responsible for developing and adopting the legislation, policies and procedures needed to ensure that BIAs and BIDs can be undertaken and a sustainable solution arrived at for any migrant child in the State;
- *Practitioners*, including but not limited to social workers, guardians, reception centre staff, designated caregivers, medical professionals, legal aid providers, persons responsible for family tracing and legal representatives, all of whom share responsibility for implementing the best interests process leading to a BID;
- *The judiciary*, members of which may find the guidance useful in interpreting the law as it applies to unaccompanied or separated children, including in the light of the Convention on the Rights of the Child and other relevant instruments;
- *Civil society and national human rights institutions*, which may play a role in monitoring and advocating for improvements in the treatment of migrant children.

Structure

The Part is divided into three sections. The first contains the legal framework underpinning “best interests” as a legal concept. It also reviews the interrelationship of the concept with other international conventions and regional and national legislation and case law. The second explores the “best interests” principle in more detail, discussing both its substantive and its procedural implications. It also explains why a “best interests” process is necessary. Section 3 outlines key features of the BID and discusses the practical steps that may have to be taken and the structures that may have to be created to ensure that the BID will lead to a realistic and appropriate solution for each individual child.

6.1 THE LEGAL FRAMEWORK CREATED BY THE BEST INTERESTS PRINCIPLE

Summary: The legal framework created by the best interests principle

- States have sovereign power to control their own borders and devise their own immigration policies. However, they also have obligations under national, regional and international law to respect and protect the human rights of children when enacting and implementing national asylum and immigration legislation and policy.
- All States (except the United States of America) have signed and ratified the Convention on the Rights of the Child and are therefore obliged under international law to implement it, in line with its Article 4.
- The “best interests of the child” (BID) is a complex concept that is not defined in the Convention on the Rights of the Child.
- The Committee on the Rights of the Child has adopted general comment No. 14, on the right of the child to have his/her best interests taken as a primary consideration (Art. 3(1)), which explains the concept and related State obligations in more detail.
- The Committee underlines that it is through the interpretation and implementation of Article 3(1), in line with the Convention’s other provisions, that the legislator, judge, administrative, social or educational authority will be able to clarify the concept and make concrete use thereof.
- Full application of the concept of the child’s best interests involves the development of a rights-based approach engaging all stakeholders to secure the holistic physical, psychological, moral and spiritual integrity of the child and promote his/her human dignity.

Introduction

States have the sovereign power to control their own borders and devise their own immigration policies. However, they also have obligations under regional and international law to respect and protect the human rights of unaccompanied or separated children when enacting and implementing national asylum and immigration law and policy.

The Convention on the Rights of the Child, which was adopted by the United Nations General Assembly on 20 November 1989, has been ratified by all but one¹ United Nations Member State. This underscores its authority as a source of international norms that the States must respect when taking any action in relation to children in their territory. The Convention is unique in that it is the only binding human rights treaty protecting the full range of rights enshrined in the Universal Declaration of Human Rights, with the exception of freedom of movement.² It also incorporates the rights from which children benefit under the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. In addition, it sets out certain rights included in other international treaties, such as the right to an identity, to foster care and to adoption.

The Committee on the Rights of the Child issues general comments to assist States in the implementation of the Convention. Those of greatest relevance to vulnerable migrant children are general comments No. 6, on the treatment of unaccompanied or separated children outside their country of origin, No. 12, on the right of the child to be heard, and No. 14, on the best interests of the child.³ Additionally, the Committee on the Rights of the Child and the Committee on the Rights of All Migrant Workers and Members of Their Families (Committee on Migrant Workers) jointly adopted two general comments on the human rights of children in situations of international migration in September 2017: joint general comment No. 3 (2017) of the Committee on Migrant Workers and No. 22 (2017) of the Committee on the Rights of the Child, on the general principles regarding the human rights of

1 The United States of America.

2 “The United Nations Convention on the Rights of the Child: Implications for Change and Protection of Refugee Children”, *International Journal of Refugee Law*, 1992, 4(4):680.

3 The full texts of the general comments can be downloaded from www.refworld.org.

children in the context of international migration;⁴ and joint general comment No. 4 (2017) of the Committee on Migrant Workers and No. 23 (2017) of the Committee on the Rights of the Child, on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return.⁵

The Convention does not permit derogation from any of its provisions at any time. This means that children may be entitled to a wider range of rights than adults, since the International Convention on Civil and Political Rights contains a derogation clause permitting the suspension of certain obligations in times of officially proclaimed emergency threatening the life of the nation. This consideration is important when dealing with migrant children who travel with their families, as the de facto presumption of States is often to treat the family as a single case, which may mean that the particular and special rights of children are overlooked or downplayed.

Challenges to implementation in a national context

This guidance aims to support the creation of a national framework that reflects the obligations under Article 3 of the Convention on the Rights of the Child. Its utility is contingent on individual States creating or strengthening their own national structures to ensure that all those encountering an unaccompanied or separated child in their own State comply with the Convention and ensure that they treat the best interests of these children as a primary consideration, in line with the recommendations of the Committee on the Rights of the Child.

Countries in which very few of the constituent elements of the recommended procedures are in place may need time to plan and develop or integrate them into existing structures and procedures and to provide the necessary training to the participants; in such cases, other entities may be designated to implement elements of the BID process on behalf of the State.

The BID as part of a national child protection system

It is recommended that where this is not in place already, States ensure that they develop a comprehensive child protection and welfare system designed to meet their national and international obligations towards children, irrespective of their nationality, statelessness or immigration status. The system should coordinate the actions of any State official or employee of any organization who has a role to play in meeting the protection and welfare needs of any child within the State's jurisdiction. To prevent, respond to and counter the wide variety of risks a child may face, it is recommended that States develop:

- A national legal and policy framework for the system;
- A national database about children and their needs and circumstances;
- A national coordinating body for meeting the best interests of children;
- Capacity-building initiatives in relation to human and financial resources;
- Prevention and rapid response services; and
- Advocacy and awareness-raising projects.

Within this framework, States should recognize that unaccompanied or separated children may be at increased risk of abuse and ill-treatment and may have additional welfare needs because of the trauma they may have experienced in their country of origin or habitual residence and/or when leaving that country. All State agents working with or on matters pertaining to unaccompanied or separated children should undergo training and awareness-raising to ensure such recognition, which should also be reflected in organizational culture and messaging.

Countries should also ensure that they address any public misperceptions and stigmatization of migrant children that can lead to them being socially ostracized, discriminated against or targeted by racist and xenophobic abuse and attacks.

⁴ Available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/GC/22&Lang=en.

⁵ Ibid.

A child rights-based approach to international protection

The Committee on the Rights of the Child recommends the development of a comprehensive normative and institutional framework for protecting children's rights that effectively takes priority over immigration legislation and policy and is applied irrespective of a child's asylum or immigration status.⁶

Furthermore, in a refugee and protection context, human rights law can fill gaps and indicate directions. Some scholars have noted that correct implementation of the Convention on the Rights of the Child would require a realignment of protection for children, moving away from the formalities of a refugee status determination process, towards an approach guided by child's rights. Such an approach would suggest that countries should provide protection to vulnerable migrant children who are in need of protection for reasons related to them being children, which are not provided for in traditional international and regional human rights instruments but are contained in the Convention. This may mean that, even in cases in which a child is not found to be in need of traditional international protection, it may be appropriate for the child to be granted formal permission or leave to remain in the receiving country on a permanent basis.

Strengthening institutional accountability and capacity

Compliance with the requirements of Article 3 of the Convention on the Rights of the Child may be more successful and sustainable if countries ensure that a designated body, created at national level, carries responsibility for the Convention's implementation. The tasks of this body, or an existing institution fulfilling this role, with regard to Article 3 could include:

- Overseeing the drafting and dissemination of standard operating procedures for all those encountering vulnerable migrant children as part of their day-to-day employment, or as volunteers, after discussion and consultation with relevant departments or ministries;
- Establishing benchmarks to ensure that the procedures adopted conform with the due process principle;
- Designing and providing appropriate training courses on how BIAs and BIDs should be conducted;
- Recruiting, training and monitoring legal guardians for all unaccompanied or separated children;
- Recruiting, training and monitoring participants for BIDs;
- Collecting data on individual unaccompanied or separated children in the best interests process;
- Recording the outcomes of BIDs and keeping track of how BIDs affect (further) decision-making, including the implementation and sustainability of a solution;
- Establishing a dedicated monitoring system for BIDs;
- Coordinating the monitoring of BIAs with the departments or ministries employing the officials responsible for the relevant part of the best interests process;
- Liaising with children's ombudspersons, children's commissioners or others charged with protecting children's rights about any complaints, steps or actions undertaken in the BID process;
- Analysing the outcomes of its data-collection and monitoring processes (including the identification of gaps) and applying any lessons learned;
- Making recommendations for and designing or adjusting processes to ensure that a child's best interests are considered appropriately when a sustainable solution is identified for him/her.

The "best interests" principle defined

Article 3(1) of the Convention on the Rights of the Child states: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration".

The Convention does not define "best interests," and the Committee has only recently adopted general comment No. 14 on the best interests of the child.

Article 3(1) is also a fundamental, interpretative legal principle: if a legal provision is open to more than one interpretation, the interpretation which most effectively serves the child's best interests should be chosen. The rights enshrined in the Convention and its Optional Protocols provide the framework for interpretation.

⁶ Committee on the Rights of the Child, *The Rights of All Children in the Context of International Migration*, background paper for the 2012 Day of General Discussion (Geneva, August 2012).

Full application of the concept of the child's best interests requires the development of a rights-based approach engaging all stakeholders to secure the holistic physical, psychological, moral and spiritual integrity of the child and promote his/her human dignity. The word "primary" indicates that this consideration is pre-eminent or more important, but not paramount or the sole consideration for all actions affecting children. The Convention uses the word "primary" in relation to Article 3 and most other articles. The best interests of the child are only said to be a paramount consideration in Article 21, relating to the establishment by the State of a system of adoption, which, by its very nature, will sever a child's legal connection with his/her birth parents and provide him/her with a new identity and where best interests will become the determining factor when considering decisions on adoption.⁷

Identification and verification of unaccompanied or separated children

The discovery that a child is on the move alone or with someone who is not a family member or documented customary caregiver will normally raise questions about the child's safety. That said, not all children travelling alone meet the definition of an unaccompanied or separated child at risk, or raise any other child protection concerns. For example, teenagers travelling with verifiable documentation unaccompanied by their parents, and very obviously for holiday purposes or for documented study purposes, will very rarely raise protection concerns.

Such concerns are raised, however, when children arrive or are found at the border or within a State's territory alone or accompanied by someone who is not their parent or caregiver. A BIA will have to be rapidly conducted to ascertain whether there is cause for concern.

A BIA involves balancing the elements needed to decide in a specific situation for a specific child. At the point of entry, if a child exhibits indicators of risk factors, the main information required to make a simple assessment of whether it would be in the child's best interests to be referred to child protection services would normally be restricted to what is necessary to establish the child's identity, date of birth and/or age and, if relevant, nationality. At this point, lengthy interviews are normally not called for.

Identifying children who may be at risk can be highly challenging for those in first contact with the child. Some countries through which children transit will cite the tensions they face between providing access to their territory for the purpose of BIA/BID for children at risk and the need to provide effective border control. This applies especially when children are travelling as part of a larger group that contains adults who may or may not include their parents or customary caregivers.

Identifying and handling children at risk is difficult, but is critical for the children who find themselves in situations of vulnerability. Unaccompanied or separated children have probably already experienced trauma when crossing borders, and their encounters with border staff/law enforcement officials may in the best instance reassure the children, but in the worst, contribute to further traumatization. It is crucial to train border, law enforcement and migration staff in child-friendly interviewing techniques, and to provide the required back-up and access to child protection services, whether these are provided through State authorities or civil society, so as to ensure that vulnerable children are identified, but also that unaccompanied or separated children can be identified as soon as possible.

In many cases, no one in the group the child is travelling with will be able to provide documentation and/or proof that they are a family member or the child's caregiver. In such cases, professionals will need to rapidly assess the child's relationship to the individuals in question. In all such cases, immediate referral to child protection authorities is the preferred course of action. Where such a referral is not possible, provisions should be made for the child to be referred at the first possible instance to an agency or body specialized in dealing with children for assessment. In the meantime, the person who first identified the child will need to assess the quality of the relationship between the child and the adult(s) accompanying him/her, focusing on the safety of the child in gauging the need to provide alternative emergency placement if they believe that those adults are not the parent(s) or caregiver(s) and that the child is at risk.

⁷ See Committee on the Rights of the Child, *General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration* (art. 3, para. 1) (29 May 2013, CRC /C/GC/14), para. 38. Available at www.refworld.org/docid/51a84b5e4.html.

Age assessment procedures

Children arriving in a territory often have no valid documentation providing definitive proof of age. In the case of very young children, this usually presents no difficulties in terms of identifying that individual as a child and, as such, subject to special protection and assistance measures arising from that status. In the case of adolescents and older teenagers, however, it may prove difficult to ascertain who is or is not a child as legally defined in the Convention on the Rights of the Child, that is, a person below the age of 18. A simple visual assessment does not suffice to assess a person's probable age, and the difficulties are often compounded by the information that a child may have been instructed to give immigration authorities. Contrary to expectations, it is not always the case that older adolescents identify themselves as children; in many cases, older children apprehended or identified in transit will claim to be adults, in the belief that being identified as a child will impede their ability to move towards their intended destination.

Clearly, given the obligations that countries have to protect children – especially those who are without parental care, temporarily or permanently – under the Convention, it is in the authorities' interests to develop and implement procedures and guidelines for assessing the age of individuals who do not possess adequate proof of age and who may be children. Governments and other agencies that need to know the age of a person claiming to be a child are using a variety of assessment methodologies, including medical, physical and psychosocial forms of assessment, for that purpose. Age assessments are typically undertaken only when the children have no documentation and/or the authorities doubt that they are under 18, although some countries apply them as a matter of routine to all unaccompanied or separated children. Practices vary from country to country, but the assessments are usually performed shortly after arrival.

While there is no prescription for a “definitive” or “perfect” age assessment procedure, standards and guidelines do exist to assist countries in defining what elements an age assessment procedure might comprise, how it should be conducted, and how countries should deal with cases in which, even after age assessment, the child's age remains in question. Detailed guidance on these matters and an analysis of existing procedures and frameworks is available in two papers produced (through a consultative process with United Nations entities, civil society and national governments) by UNICEF: *Age Assessment, A Technical Note*⁸, which lists 10 overriding standards and principles recommended for the operation of age assessment procedures, and *Age assessment practices: a literature review & annotated bibliography*,⁹ which contains case studies, an analysis of different practices and further reading suggestions.

In summary, these papers recommend that age assessments conducted in cases when a child's age is in doubt need to be part of a comprehensive assessment that considers both the physical appearance and the psychological maturity of the individual. It is important that such assessments be conducted in a safe, child- and gender-sensitive manner with due respect for human dignity. The margin of appreciation inherent to all age-assessment methods needs to be applied in such a manner that, in case of uncertainty, the individual will be considered a child. As age is not calculated in the same way or given the same degree of importance universally, caution needs to be exercised in making adverse inferences of credibility where cultural or country standards appear to lower or raise a child's age. Children need to be given clear information about the purpose and process of the age assessment procedure in a language they understand. Before an age assessment procedure is carried out, it is important that a qualified independent guardian be appointed to advise the child.

Basic needs

Vulnerable migrant children need first and foremost to be given access to the procedures established for having their best interests assessed. The ability to provide the protection the children may need is dependent on their prompt referral and identification as children, on the basis of which they should be allowed to enter the territory. As laid out in general comment No. 6 of the Committee on the Rights of the Child, State obligations under the Convention on the Rights of the Child apply within the borders of a State, including with respect to those children who come under the State's jurisdiction while attempting to enter the country's territory.

The presumption of protection should also apply to children who have been in the country for a period of time, but have never been formally recognized as having access to/entered the territory but are later detected or present themselves to protection, immigration or other authorities.

⁸ Available at [www.unicef.org/protection/files/Age_Assessment_Note_final_version_\(English\).pdf](http://www.unicef.org/protection/files/Age_Assessment_Note_final_version_(English).pdf).

⁹ Available at www.unicef.org/protection/Age_Assessment_Practices_2010.pdf.

Distinguishing between the various protection needs of migrant and non-national children is difficult. Traffickers in persons are developing ever more ingenious ways to instruct their victims, sometimes exploiting asylum procedures to access territory, making the task for border police and officials increasingly challenging. However, as far as the child is concerned, the paramount concern of adults should be to ensure that child's safety and basic needs, on the understanding that the specifics of protection and care, and a more detailed examination of status, will be determined once that is achieved.

Trafficked children are often forced to commit illegal activities either as a direct result of the purpose they are exploited for, or because of the trafficking process (illegal border crossing, etc.). While the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, does not specifically address this issue, the body established to provide recommendations on the Protocol's implementation suggests a non-criminalization approach.¹⁰ Similarly, children who have entered a territory using the services of people smugglers should not be subject to prosecution or criminal sanctions. When it is suspected that a child has been trafficked, or has entered a territory through irregular means, the authorities should bear in mind that the child exhibiting risk factors will need immediate and exceptional protection, especially from her/his traffickers. Protective measures – including secure accommodation – in these circumstances will therefore entail careful safeguarding of the child's rights, including to freedom of movement, while addressing the potential security and personal safety risks facing the child.

Registration and documentation

Having obtained access to the territory, the at-risk unaccompanied or separated child will now have the opportunity to explain her/his specific circumstances. Countries recognize the specific vulnerabilities and psychological distress of unaccompanied children in interviewing and investigation processes, as reflected in the policies and practices put in place, for example, in the Netherlands, Norway and the United Kingdom, where screening interviews of children at risk are scheduled to allow for a recovery period before the children progress through the immigration or asylum system.

General comment No. 6 calls for initial interviews to be conducted in an age-appropriate and gender-sensitive manner, in a language the child understands and by professionally qualified persons, to collect bio-data and a social history to ascertain the identity of the child.

In recognition of the greater protection needs of unaccompanied or separated children, States should put in place safeguards for such children as soon as they are discovered.

Safety, security and shelter

Many migrant children, whether travelling independently (unaccompanied and separated children) or with their families, will be accommodated in some form of reception facility at some point. It is worth repeating here that the Convention on the Rights of the Child recognizes the right of every child to a standard of living appropriate for the child's physical, mental, spiritual, moral and social development, in which the right to protection from exploitation, abuse and violence, regardless of the child's migration status, is also guaranteed.

In whichever form of accommodation and/or facility children are held, the State and any other entities charged with their care and oversight are obliged to provide them with a protective and supportive environment in which they can receive a basic package of assistance and supportive measures. From the outset, in addition to protection from violence, children and adolescents must have guaranteed access to learning, play and recreational activities, medical care and psychosocial support.

¹⁰ Recommendations adopted by the meeting of the Open-ended Interim Working Group on Trafficking in Persons held in Vienna on 14 and 15 April 2009, annexed to *Trafficking in Women and Girls, Report of the Secretary-General* (4 August 2008, A/63/215), para. 11. See also OHCHR/Global Migration Group, *Principles and Guidelines, supported by practical guidance, on the human rights protection of vulnerable migrants* (Geneva, 2017). Available at www.ohchr.org/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf.

Non-detention of migrant children and alternatives to detention

In 2005, the Committee on the Rights of the Child stated, in general comment No. 6, that children should not, as a general rule, be detained on the basis of their or their parent's migration status. Detention cannot be justified solely based on the child's unaccompanied or separated status, or on the basis of migratory or residence status, or lack thereof.

In 2012, following its Day of General Discussion on “the rights of all children in the context of international migration”, the Committee noted unequivocally that the detention of children because of their or their parent's migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child. In this light, States should expeditiously and completely cease the detention of children based on their immigration status. This position has since been echoed by virtually every relevant United Nations institution and by regional human rights experts, including IOM, OHCHR, UNHCR, UNICEF, the Working Group on Arbitrary Detention, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, the Inter-American Commission on Human Rights, and the Inter-American Court of Human Rights and the Council of Europe, to name but a few.

Alternatives to detention are well documented and have proven to be effective, more humane and cheaper. However, they tend to be poorly understood by, and even unknown to, the authorities, including immigration officials. They are inexistent or too few in number for current needs. Where they are available, immigration officials at the frontlines may not be aware of their existence or may not be equipped to take them into account when applying best interests in their decisions, and these officials often have a great deal of discretionary power in placing individuals – including children – in detention.

The International Detention Coalition and UNHCR have both documented a range of good practices – applicable in different national contexts – that can be applied as alternatives to detention and that allow for supervision of migrant children and their families.

International Detention Coalition, 2012, *Captured Childhood: Voices of children who have gone through immigration detention*, a useful advocacy document. Available at <http://idcoalition.org/publication/captured-childhood/>;

UNICEF, 2011, *Administrative Detention of Children: a Global Report*: Provides an overview of types of immigration detention and case studies. Available at www.unicef.org/protection/Administrative_detention_discussion_paper_April2011.pdf;

UNHCR, 2012, *Detention Guidelines – Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, Available at www.unhcr.org/505b10ee9.html;

International Detention Coalition, 2015, *There are Alternatives*: Describes a range of models of alternatives to detention for children and families. Available at <http://idcoalition.org/publication/there-are-alternatives-revised-edition/>.

When it is in the child's best interests to keep the family together, the imperative requirement not to deprive the child of liberty extends to the child's parents and/or guardian, and requires the authorities to choose alternative measures to detention for the entire family.

As stated by the Committee on the Rights of the Child, “legislation, policy and practices should allow children to remain with family members and/or guardians if they are present in the transit and/ or destination countries and be accommodated as a family in non-custodial, community-based contexts while their immigration status is being resolved”.¹¹ The documents listed above indicate a range of alternatives to the immigration detention of children and their families. They vary from alternatives implying certain restrictions or obligations (e.g. regular reporting to the authorities, deposit of a financial guarantee, obligation to stay at an assigned residence, deposit of passport, etc.) to various forms of accommodation without conditions or restrictions.

¹¹ Committee on the Rights of the Child, op. cit., note 56.

Adequate housing and/or accommodation

The right to adequate housing is recognized in international law as part of the right to an adequate standard of living. Although the right to housing is not an absolute right, it still translates into several concrete obligations for States that are relevant to the current situation of vulnerable migrant children. Such obligations include preventing homelessness, addressing discrimination, protecting against forced eviction, ensuring security of tenure to all, and guaranteeing that housing standards are correct.

Reception facilities and accommodations for newly arrived and/or detected migrant children – travelling with their families or as unaccompanied or separated children – can be named as or understood by national authorities under a variety of terms: transit centres, accommodation centres, reception camps, and so on.

The term “centre” refers to any place used for collective accommodation. Many States make use of collective facilities, which are in principle open facilities. Some States establish initial or so-called “transit” centres to accommodate asylum seekers pending an admissibility decision. Others do not make any difference between such initial/transit centres and other accommodation centres. Migrants in transit centres usually have less access to community services, including education and health. This is of concern for children, who, under the Convention on the Rights of the Child, should have access to such services on the same basis as children who are nationals of the territory. Many States also make use of private homes (including hotels and apartments), particularly when attempting to manage large movements of individuals into their territory.

With such a wide variety of practices and standards, the health, dignity and safety of vulnerable migrant children is at risk. It is thus crucial for States to improve the accommodation standards pertaining to children and families and to sure that they meet international and national requirements. The composition and dimensions of the facilities should be adequate and respect the right to privacy, safety and family life. The minimum standards for the protection of children in migrant accommodation centres are meant to protect children and adolescents from violence and provide them with support. They should include the following at a minimum: sufficient surface area per person and family, with openings and ventilation; separated safe spaces for women and girls; access to appropriate facilities for hygiene and sanitary needs that are separated by gender; access to water supplies, gas and electricity; and secure storage space for personal belongings. The facilities should be accessible for persons with disabilities. Health and safety standards should always be interpreted considering the best interests of the child, and not be used to justify any action that may cause further harm to children (i.e. dismantling informal camps without offering alternatives or placing children in closed centres). When clear national guidelines are missing, international standards should apply.¹²

Child safeguarding or protection rules are another important consideration, since adequate housing does not limit itself to the physical conditions of the building. All entities and individuals engaged in providing accommodation and services for migrants should be duly authorized to do so by the competent authorities. Recruitment screening procedures and codes of conduct should be mandatory for all staff, including police, immigration authorities, contractors and volunteers, as part of general child safeguarding policies. Staff in contact with children should have clear responsibilities, access to regular training focusing on the skills required for their work, and managerial support and supervision. There should be clear rules of accountability, reporting mechanisms for any child protection concern and adequate follow-up procedures. Children and their families should receive information about complaint mechanisms and be able to use them without interference. Regular monitoring and review should be conducted by State agencies, including ombudspersons, and children’s opinions given due weight in such processes.

For a more thorough explanation of the development and implementation of minimum safeguarding techniques and standards for migrant and refugee accommodation centres, specifically designed to provide protection for children and adolescents, see the minimum standards¹³ developed by UNICEF and the Government of Germany.

12 See The Sphere Project, *Humanitarian Charter and Minimum Standards in Humanitarian Response*, Minimum standards in shelter, settlement and non-food items. Available at www.spherehandbook.org/en/how-to-use-this-chapter-2/.

13 UNICEF/ Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, *Minimum Standards for the Protection of Children, Adolescents and Women in Refugee Accommodation Centres* (2016). Available at www.unicef.de/blob/133656/7de7042ecd24cde82d0c49a875bcd374/minimum-standards-for-the-protection-of-children--adolescents-and-women-in-refugeee-accommodation-centres-data.pdf.

In addition to minimum standards, and as resources allow, other conditions should be met, including availability of services, materials, facilities and infrastructure such as child-friendly spaces providing opportunities for recreational activities and for religious and spiritual life. Access to Wi-Fi, which facilitates access to information and helps maintain contacts with family members, friends and social support networks, is also an important consideration.

Access to essential basic services, including health and education

For many migrant children, migration may have a positive impact because of the greater possibilities they have to access health and nutrition, education, and social and child protection services in the destination community. However, these benefits are not universal, and many migrant children face legal, procedural, financial, cultural and social barriers to accessing services at destination and while in transit.

One of the main bottlenecks preventing migrant children from accessing services is the overall deficiency in services for all children within a territory, for want of prioritization, capacity and funding. Where service providers are not equipped to provide quality health, education, protection and social welfare services to nationals, they are unlikely to absorb the additional demands of children on the move. Where services do exist, they are often not adapted to the specific needs of families and children on the move or returned children; this includes the mode of delivery, where highly mobile or transiting populations have to be reached, the type of support, such as catering for language and cultural barriers, and addressing specific needs such as those of unaccompanied and separated children or children who have suffered from violence and exploitation on their journey. In many cases, the accessibility of services is explicitly linked to migratory status, citizenship or residency, either in law or in practice. Children migrating internally may also be affected, where access to services is linked to registration in the locality (and the registration often difficult to obtain).

The complexity of policies and guidelines and the growing responsibility of service providers, linked with inadequate and insufficient training for staff, often create confusion, which might ultimately lead to refusal of entitlements to migrant children and their families. In addition, access to services is often within the sphere of competence of regional or local authorities, adding another layer of complexity and potentially generating inequities in access to services even within the same country.

The Principles and Guidelines on the human rights protection of vulnerable migrants¹⁴ also stress the importance of providing non-discriminatory, culturally appropriate and gender-sensitive health care and access to shelter and housing. They urge countries to include migrants in national plans of action on housing and to develop procedures and mechanisms to ensure the access of all school-aged migrant children, including separated and unaccompanied children, as well as undocumented children, to adequate and appropriate education, on the basis of equality of treatment with nationals and with primary education free of charge for all.

However, particularly in transit countries, child migrants and their families often face the risk of human rights violations and abuse, and may be denied access to quality services, as transit countries may not be willing to provide those services or question their obligation to provide them to migrants who are only in transit on their territory. Article 2 of the Convention on the Rights of the Child clearly stipulates that all countries must "... respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind". All persons under the age of 18 involved in or directly affected by international migration are entitled to the full enjoyment of their rights and access to quality services, and States are obliged to treat children first and foremost – and without exception – as children.

States should place the best interests of the child before any administrative requirements and ensure that all children on their territory have equal access to quality services, regardless of whether the child is a national or resident of the country, in transit or at destination, or a regular or irregular migrant.

¹⁴ OHCHR/Global Migration Group, *op. cit.*, note 10.

6.2 APPLICATION OF THE BEST INTERESTS PRINCIPLE IN PRACTICE

Summary: Application of the best interests principle in practice

- The State must determine and implement a solution for each child at risk/vulnerable child and give primary consideration to the child's best interests in the process.
- Possible solutions include, but may not be limited to, return, local integration or a solution in a third country.
- In order to implement the substantive and procedural actions and obligations flowing from the Convention on the Rights of the Child, it is recommended that each State establish a best interests process, consisting of BIAs, process planning and a BID. That being said, resource constraints will often dictate that this process is simplified or limited in application.
- Safeguards to consider include the provision of a trained interpreter, an independent guardian or representative, legal representation, child-friendly procedures, multi-disciplinary independent decision-making and appropriate procedures to ensure the right of the child to participate, file a complaint and appeal as relevant at any stage of the best interests process.
- Those involved in the BID are encouraged to explore a full range of possible solutions, ensuring that the final outcome clearly explains and justifies which solution would be in the individual child's best interests.
- It is further recommended that States ensure that every child is provided with a temporary residence permit as soon as possible, and that the permit be renewed for the duration of the process and until such time as the BID is implemented.

Introduction

When considering what mechanism would give best effect to the best interests principle, it is recommended that States adopt a rights-based approach whereby children are recognized as active subjects of rights and the Convention on the Rights of the Child as the appropriate legal and normative framework. When applying Article 4 of the Convention to unaccompanied and separated children in particular, their vulnerability must be taken into account and will result in making the assignment of available resources to such children a priority.

This is best done through a best interests process, which can, depending on the national context, combine all or some of the following elements: BIAs, a best interests process planning meeting and a BID.

The best interests process addresses both substantive and procedural actions in relation to any child on the State's territory and may, depending on the individual case, result in the identification of a sustainable solution that is in that child's best interests and does no further harm to the child.

The length of time the process takes depends on the complexities of the individual child's needs, his/her physical and psychological health and any need for expert and home study reports (see *Home study report* on [page 280](#)). However, as a matter of principle, it is not in a child's best interests for decisions to be delayed unnecessarily or for them to be taken before the child has had the opportunity to recover from any trauma preventing him/her from disclosing information indicative of future risks and needs. In addition, care should be taken to ensure that an older child's case is not permitted to drift so that no sustainable solution is in place as s/he approaches 18. Generally, States are encouraged to complete the BID as soon as possible, observing the safeguards referred to in section 6.3 on [page 274](#), unless it is exceptionally determined to be in that child's best interests to delay the process.

Figure 1 describes a possible approach to operationalizing the best interests principle in practice. It sets out general actions for all children and specific actions for individual unaccompanied or separated children, which should both be informed by the best interests principle. It also sets out procedural safeguards for the best interests process in general and for the BID in particular.

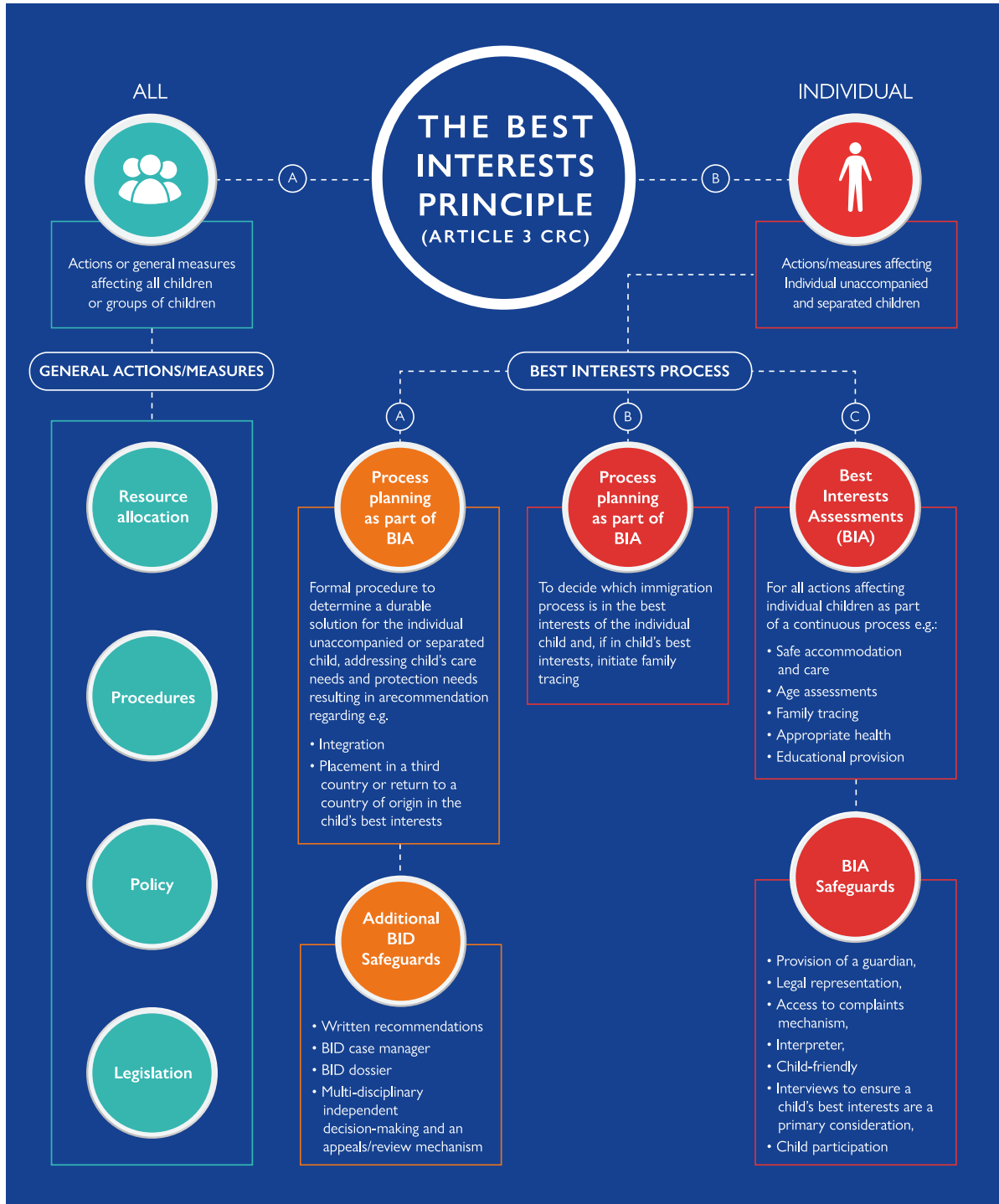


Figure 1

A possible approach to applying the best interests principle:
 From theory to practice

Substantive implications of the best interests principle

The best interests principle for vulnerable migrant children who are with their families and/or caregivers

When vulnerable migrant children are determined to be travelling with their parents or caregivers, a trusted and reliable family member or a responsible adult – in other words, when they are satisfactorily identified by a competent body as NOT being unaccompanied or separated – the de facto assumption is that they are to be cared for and protected by their parents or caregiver and that the latter are responsible, in the first instance, for protecting the child's best interests. However, this does not relieve the State of the obligation to undertake a BIA when considering solutions for the child, especially in terms of the right to remain on the territory and/or removal or return to the country of origin. The child should be treated as an individual rights holder, who has an individual case for consideration in asylum and migration status procedures.

Appropriate protection and care

Unaccompanied or separated children have the same substantive rights as all other children within the State's jurisdiction who can no longer rely on a parent, other relative or guardian to care for and protect them. The State is therefore responsible for providing such children with appropriate protection and assistance, an adequate standard of living, access to health services and recreational activities, and the same educational opportunities as all other children on its territory. It is also obliged not to detain unaccompanied or separated children merely because they have entered the State irregularly or have no permission to remain. Where unaccompanied or separated children are in a need of a solution, generally States will meet this substantive right by referring them to existing child protection and welfare systems. In situations where the local and/or national child protection system is weak or unable to assume care of unaccompanied or separated children for whatever reason, others – such as civil society organizations or NGOs – may step in. Such situations should nevertheless be regarded as the exception and should always be subject to a high degree of scrutiny and oversight.

Timely and proper referrals

The fact that an unaccompanied or separated child is outside his/her country of origin or habitual place of residence may also indicate that s/he has suffered torture or some other form of serious harm or exploitation or has been a victim of human trafficking. Some unaccompanied or separated children may have been neglected by their families, in which case it may not be in their best interests to be returned to the family's care. A State can best address these possible risks by ensuring that unaccompanied or separated children are referred to a best interests process and any appropriate immigration/asylum procedures as soon as possible, where this would be in that child's best interests and in order to avoid further exposure to risks.

It may be in the unaccompanied or separated child's best interests to be returned to his/her parents, relatives or adults who previously cared for him/her, whom the State is therefore under an obligation to trace. If they are located and the relationship verified, the State may undertake or commission a home study report to evaluate if it would be in the child's best interests to be returned to the parents or caregivers. The procedure for restoring family links and, where possible, working with family members and the child to explore when reunification might be in the best interests of the child is a crucial first step in this process. These actions are all part of BIAs.

The obligation to find a solution

The obligation to find a solution for unaccompanied or separated children is based on the acknowledgement that it is usually in the best interests of such children to be reunited with their families or provided with alternative permanent care by other adults able and willing to do so in an appropriate manner. At the same time, it is in children's best interests to be provided with a nationality, if they do not have one, or to have their nationalities confirmed by appropriate documents, or to be granted immigration status permitting them to live in a country where they will not be at risk of harm or ill-treatment and where their rights under the Convention on the Rights of the Child can be respected.

Definition of a solution

Sustainable solutions are those that ensure that unaccompanied or separated children are able to **develop into adulthood** in their country of origin or habitual residence, in the receiving country or in a third country, in an environment that meets their needs and fulfils their rights, as defined by the Convention on the Rights of the Child, and does not put the children at risk of persecution or serious harm.

Solutions should not presume that age is the only risk factor in a vulnerable migrant child's case. Merely permitting a child to remain in the State until s/he turns 18, potentially or because s/he has no passport to confirm his/her nationality or because the State has not been able to trace the family or previous guardian, is not a meaningful solution for either the State or the child. It can lead to the child experiencing prolonged detention and/or homelessness, going missing or being vulnerable to trafficking networks when s/he turns 18 and is no longer entitled to support and accommodation or leave to remain in the receiving State as a child.

Further, States should not postpone decisions on children's right to international protection or conclusions in the BID process until unaccompanied or separated children become adults. Nor should they delay consideration of children's international protection concerns indefinitely in hope that family tracing will identify a family member in the country of origin who can take the child and thus allow for his/her removal or return. Any delay not necessitated by an unaccompanied or separated child's individual circumstances is likely to exacerbate the child's anxiety about his/her future and, consequently, may lead to psychological and emotional harm.

Examples of possible solutions

Integration in the receiving country

In some circumstances, integration into society in the receiving country is likely to be the solution that is in the child's best interests. This is more likely to be the case for children who have been granted international protection on the basis that they will be at risk in their country of origin. It will also be more common where return is not possible on either legal or factual grounds, e.g. where there is no re-admission agreement with the country concerned or the child is stateless.

Integration in the receiving country must be based on a secure legal status, including residence status, and be governed by the rights under the Convention on the Rights of the Child that are fully applicable to all children who remain in the country, irrespective of whether this is due to their recognition as refugees, because they have been accorded some other form of international protection or there are other legal obstacles to return, or whether the BID has recommended against return and the children have another right to remain in the receiving State, in circumstances where respect for their rights under the Convention and/or any other applicable legal instruments cannot be guaranteed in their country of origin or habitual residence.

Family reunification in the receiving country

If a child has been granted refugee status or another form of national or international protection, it may also be appropriate to grant the child's parents, other relatives or the adults who previously cared for him/her permission to enter the State for the purposes of family reunification, if this is in the child's best interests. Any such application should be dealt with in a positive, humane and expeditious manner and in the context of children's right not to be separated from their parents against their will unless this is in their best interests.

Where it is believed that an unaccompanied or separated child's parents or relatives or an adult who had previously taken responsibility for him/her has travelled to the receiving country and been granted permission to remain, sufficient time should be allowed for them to be located in-country and a home study report completed.

Return to the child's country of origin

Should return be considered the most appropriate solution, it should not be carried out unless a suitable caregiver, such as a parent, other relative, other adult caretaker, or a child-care agency in the country of origin, has first agreed and is able to take responsibility for the child and provide him/her with appropriate protection and care.

States are encouraged to inform children of the availability of any assisted voluntary return and reintegration programmes and assist them to access any such schemes, before any decision is taken on forced return.

Return to the child's family

Children's right to be brought up by their parents is one of the fundamental principles of international human rights law, and it is generally acknowledged that the family is the natural and fundamental unit of society and that it should be protected by the State. Furthermore, to ensure the full and harmonious development of their personalities, children should grow up in a family environment, in an atmosphere of happiness, love and understanding,¹⁵ and States should take all appropriate steps to ensure that unaccompanied or separated children are reunited with their parents except where further separation is necessary for the best interests of the child. Children are thus helped to preserve their identity and family ties, and to retain their ethnic, religious, cultural and linguistic background.

That being said, full account should be taken of children's right to express their views about any proposed return, and any reluctance to be reunited with their families should be carefully assessed. It should not be automatically presumed that it is always in children's best interests to be returned to the care of their parents or other relatives in their country of origin.

When unaccompanied or separated children have previously been abused, exploited or neglected by their parents in breach of the rights enshrined in the Convention on the Rights of the Child, it is very unlikely that it would be in their best interests to be returned to the care of their parents in a country of origin or a third country. This is an issue that the BID should address as a priority.

Practical examples of such situations include cases of children being sold to human traffickers by a parent, or left to fend for themselves on the streets because of a parent's addiction or new relationship or marriage. Further, attention must be paid to the risk of stigmatization and social exclusion that trafficked children, especially those exploited in the sex industry, may experience upon return to their country of origin or arrival in a third country. Finally, the risk of possible exclusion or punishment by family or the community that await the returning child, for instance, for failing to pay off debts owed to smugglers, may also need to be considered and assessed.

States should also analyse the precise circumstances which led to the unaccompanied or separated child being separated from or abandoned by his/her parents. Any factors which could potentially lead to a further separation should be assessed, such as:

- Local patterns of violence and displacement;
- Food shortages;
- Lack of security;
- Lack of access to basic services; and
- The possible recruitment of children into the armed forces.

Return to an appointed legal guardian

If an unaccompanied or separated child's parents or other family members cannot be traced or are known to have died, the child should only be returned to his/her country of origin if appropriate arrangements have been put in place for his/her accommodation and care. Provision should be made for an adult to acquire legal responsibility for the unaccompanied or separated child on return and for this responsibility to continue until the child becomes an adult or a later date, if the child suffers from a physical or other disability or is particularly vulnerable. It is not generally understood to be in a child's best interests to be returned to an institution, orphanage or residential children's home, which does not provide such individualized guardianship. Return to a child welfare institution in the

¹⁵ The Preamble to the Convention on the Rights of the Child recognizes "that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding".

country of origin or a third country should be considered the least preferred option, to be taken only if it is part of an agreed plan to reunite with family in a timely fashion or there are exceptional reasons for believing such return to be in the child's best interests.

Solution in a third country

Relocation to a third country may be in children's best interests when they cannot return to their country of origin and there are no other options in the receiving State. For example, if an unaccompanied or separated child has parents or close relatives who have a right to remain in a third country and a home study report has confirmed that they are capable of and willing to care for the child, it is likely to be in the child's best interests to be reunited with them in that third country.

Family tracing and restoring family links

The search for a solution should start with an analysis or assessment of the possibility of restoring family links and family reunification. States therefore need to take proactive steps to trace children's parents, if doing so is in the child's best interests.

However, as national child protection systems recognize, some children may be at risk from members of their own family. States should therefore recognize that it may not be in an individual child's best interests to be returned to the care of his/her family or even to resume contact with them. This will particularly be the case when the child has previously been abused, exploited or neglected by a parent or legal or customary guardian.

Other children may have been put under pressure by smugglers or their families not to reveal the families' whereabouts. It is vital that they be informed about the initial objective of family tracing, which is to restore family links. A guardian, or person in a similar position, could play a key role in counselling the child on the process and help build the necessary trust, thereby encouraging truthful disclosure. If a child refuses to consent to family tracing, but family tracing is nevertheless assessed to be in the child's best interests (for instance, where process planning finds that the child does not have any international protection needs), a guardian could consent to tracing.

Unaccompanied or separated children should not be expected to consent to family tracing on their behalf if they believe that this would place them or members of their family at risk. It will usually be inappropriate to initiate family tracing before a child's entitlement to international protection has been determined, especially if the child faces a risk of persecution by State agents. Care should be taken to ensure that any information about children and their families is collected, processed and distributed confidentially, to avoid placing them at risk.

Before commencing family tracing, it is recommended to assess:

- Whether and when it would be safe to trace the child's family;
- Whether and when it would be in the child's best interests for family members to be traced;
- Which, if any, organizations may be able to facilitate family tracing in the child's country of origin or a third country;
- Whether the child is old and/or mature enough to provide reliable information about his/her family and its whereabouts;
- Whether the information being provided by the child is accurate or whether it is designed to protect the child's family or any agents/smugglers who helped him/her come to the receiving country;
- Whether there are any conflicts of interest between the child and the parents or any other family members;
- Whether the child is still too afraid of or influenced by any agents/smugglers or traffickers to provide a true account of his/her origins;
- Whether the child is fully informed and understands his/her rights and the possible implications of tracing;
- Whether the child is giving informed consent to the family being traced at that point of time;
- Whether the child's guardian has consented to family tracing having assessed that it would be in the child's best interests.

If tracing is in an unaccompanied or separated child's best interests and does not place him/her or the family at risk, those involved should, with the child's or the guardian's consent, implement procedures to search for and find

the family as soon as possible. Where necessary, it may be useful to work with United Nations organizations, the ICRC, the National Red Cross or Red Crescent Society in the country, IOM, UNICEF or the ISS network of national branches, affiliated bureaux and correspondents. At the same time, the child should be regularly informed about any progress made and provided with any support needed to re-establish sustainable contact with the family.

The components of the best interests process

Figure 2 on the following page sets out possible components of a best interests process from the moment an unaccompanied or separated child arrives or is detected in the territory of a State until a sustainable solution is found. It describes the safeguards and actions that need to be in place throughout the process, building on international and regional legal instruments and on authoritative guidance, notably the general comments of the Committee on the Rights of the Child. Systems and procedures vary considerably among and even within States. Consequently, this Figure is very general in its conception and aims to simply indicate the elements that may be drawn from to strengthen national child protection and asylum and migration systems and procedures where needed.

Procedural safeguards, including guardianship

States are required to put in place procedural safeguards flowing from the Convention on the Rights of the Child, which ensure that migrant children can access the same child protection and welfare provisions as all other children on the territory of the State. These safeguards should ensure that the child's best interests are treated as a primary consideration in BIAs and the BID; they help ensure that the child has the physical, psychological and emotional stability to participate in the status determination and best interests process.

To ensure that children's best interests will be treated as a primary consideration, children should be provided with a professional interpreter, ideally trained specifically to interpret for children; a guardian or a professional exercising a similar role; and a child-friendly interview. Steps should be taken to ensure that children can exercise their right to participate, file a complaint and appeal, as applicable under national law.

Legal capacity and the appointment of a guardian

Being under 18, children are generally speaking not legally competent to make their own decisions about the services offered or to appreciate the legal and practical consequences of processes in which they are asked to participate.¹⁶ In the case of migrant children travelling with their parents or a recognized caregiver, the parent or caregiver is to be recognized as being competent to take such decisions on behalf of the child, unless the relevant child protection authorities have ascertained it is not in the child's best interests for this to happen and have undertaken the necessary processes under national law to remove the child from the care of the parent/caregiver. In the case of unaccompanied or separated children, or migrant children who have been removed from the care of a parent or caregiver, this warrants the appointment of a guardian and a legal representative, and/ or other persons who can support and ensure the child's best interests as soon as practicable. In particular, States should take steps to ensure that a guardian represents and assists an unaccompanied or separated child to obtain access to and benefit from reception and care provisions and procedures.

The importance of a qualified, independent guardian

Every guardian should have sufficient expertise in the field of childcare to be able to ascertain whether the best interests of the child are being safeguarded and his/her legal, social, health, psychological, material and educational needs are being appropriately met. As such, a guardian should have the necessary training and experience in child protection and child welfare, and, ideally, specific knowledge of international human rights law relating to unaccompanied or separated children.

National systems of guardianship vary significantly throughout the world. States have different understandings of the functions of guardians, with some countries seeing them primarily as legal representatives and counsellors of the

¹⁶ In some countries, legal capacity is attained at a younger age than at 18. For the purposes of ensuring child protection safeguards are maintained and obligations under the Convention on the Rights of the Child met, child-friendly procedural safeguards should be put in place and followed for all children under 18.

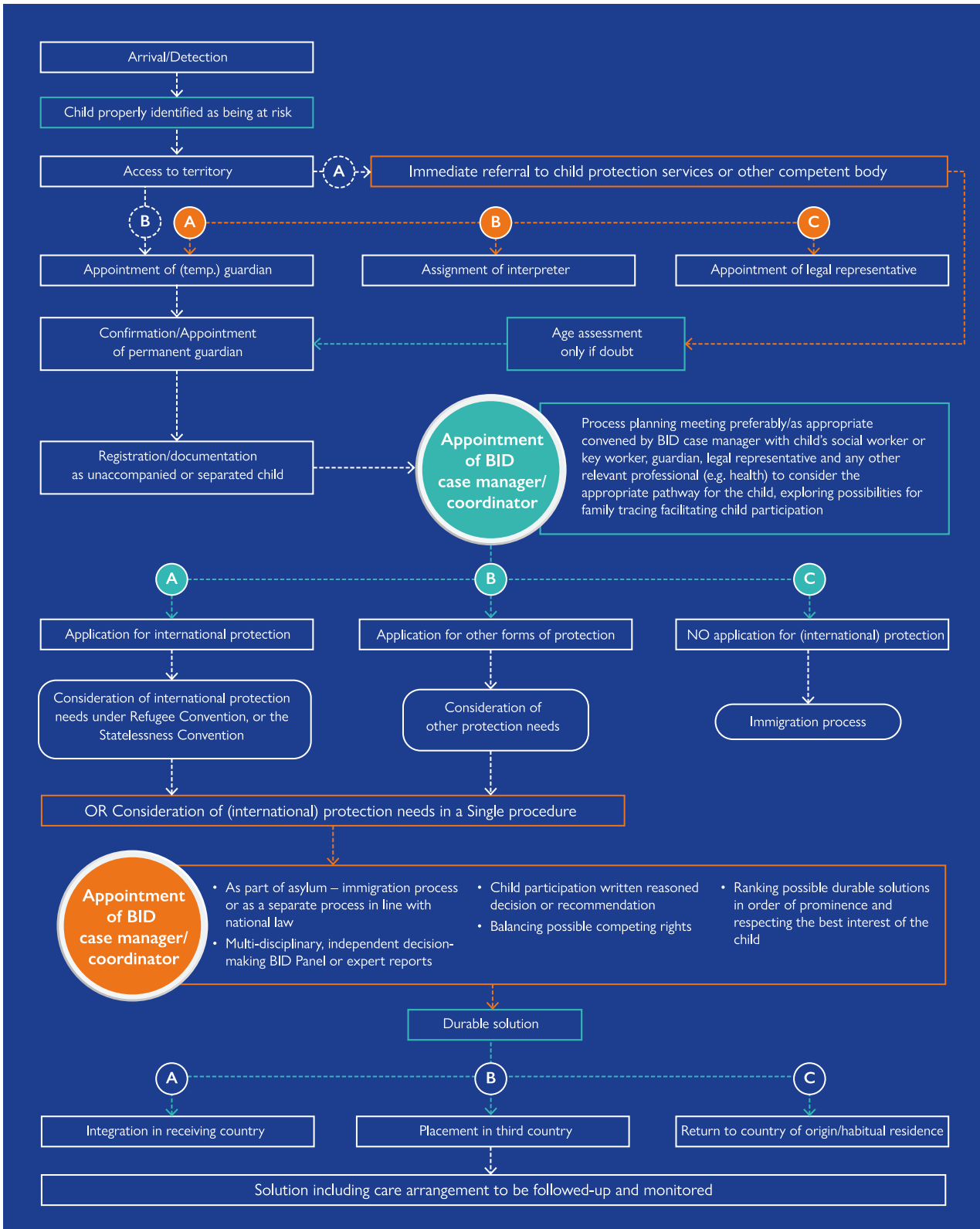


Figure 2

Possible components of a best interests process

children in their care, whose main responsibility is to assist their wards in asylum applications and procedures during the process of migratory status determination. In some countries, these guardians are also expected to arrange for the child's education, accommodation and health-care needs. However, in many States, guardians – as the main adults in the child's life – are expected primarily to ensure the child's physical and psychosocial well-being, and have little or no substantive input into the asylum/migration process. In many countries, it is not uncommon for a legal representative to be expected to ensure appropriate schooling for the child, or for a social worker to assist the child legally in the asylum procedure. Both guardians and other social workers can, in some States, participate in the BID, identifying sustainable solutions and integration support.

A further challenge is that of differentiating between professionalized, as opposed to benevolent or voluntary, guardianship systems. In a few countries, both types of systems exist in parallel. Professionalized guardians are employees of government agencies and NGOs who work in the social and legal sectors and have undergone formally recognized training to an agreed standard that may comprise licencing requirements. Benevolent and voluntary guardians are private persons who volunteer to become guardians. Depending on the country's system, capacities and potential conflicts of interest will have to be considered from different angles. In such cases, professionals trained in child protection – such as the ISS or UNICEF – can provide invaluable input.

The guardian as a bridge between the unaccompanied or separated child and other professionals

In some States, migrant children are also likely to be in contact with a very wide range of professionals, such as border and immigration officials, social workers and foster carers, employees in residential accommodation, lawyers and the judiciary, health-care workers, teachers and interpreters; they may have a limited understanding of the different roles that these people can play in their lives. Migrant children travelling in a family can generally rely on a parent or relative to mediate between them and other adults and ensure that their rights are protected. Unaccompanied or separated children cannot. Guardians can act as the link between children and existing specialist agencies and individuals who provide care and other services, explaining the children's views and advising them whether any services proposed are in their best interests.

Possible role and tasks of guardians

Child guardians should help children to participate throughout the best interests process. They should act in the child's best interests and play a variety of roles throughout the process, for example:

- Supporting and advising the child based on a relationship of trust;
- Facilitating the child's participation;
- Monitoring and coordinating the child's interaction with other professionals and any NGO advocates;
- Using their expertise to advise other professionals involved with the child;
- Ensuring that the child's health, educational, accommodation and support needs are met;
- Ensuring that the child obtains suitably trained and experienced legal representation;
- Making sure that the child has access to procedures to determine his/her needs for international protection if s/he wishes to apply for it or it was proposed as a result of the process planning meeting;
- Obtaining any necessary expert advice on behalf of the child;
- Advising the child early on about the possibility to restore family contacts through family tracing and its possible consequences, if the child is not or no longer in contact with the family;
- Acting on the child's behalf in relation to status determination decisions and the BID;
- Assisting the child to appeal against or complain about any decisions which appear to be unlawful and/or unreasonable, in accordance with established rules and procedures.

Responsibility for a child should preferably not be transferred between different guardians unless this is necessary in order to provide the child with specialist representation or support and is in the child's best interests. Children for whom it is necessary to provide a different guardian should be fully informed of the proposed change and the reasons for it. A child's request for a transfer to an alternative guardian should be facilitated if the request is reasonable and in the child's best interests. Children may request such transfers because they are looking for a guardian they can trust and to whom they can disclose their history, needs and families' whereabouts.

How to consider best interests

This section provides an overview of the possible components of a best interests process, i.e. a BIA, process planning and a BID.

Best interests assessment

A **BIA** is part of the overall best interests process and an assessment tool for protection of individual children. It generally results in an assessment of the child's situation and recommendations for protection and care. It can take place at various points throughout the best interests process, whenever an action is planned or taken that may have a direct impact on the unaccompanied or separated child's best interests. Moreover, an initial BIA is a fundamental first step to engaging the best interests process and may, depending on whether the child is in need of a sustainable solution, lead to a BID.

In many States, BIAs are most appropriately carried out by the competent child protection services. To reach the most informed conclusion, they should involve expert professionals from other disciplines, as relevant. Those involved in BIAs should have the necessary training, skills and expertise. The unaccompanied or separated child and the guardian should also participate, to enhance credibility and comprehensiveness.

BIAs may be needed in relation to, among other things, decisions to:

- Place a child in accommodation and decide on immediate care arrangements which are appropriate to meet his/her individual needs;
- Determine whether tracing of the child's family would be in the child's best interests and not put the child or family at risk, in the case of unaccompanied or separated children;
- Provide a child with health, educational or recreational services;
- Apply or not apply for international or other forms of protection;
- Decide whether a formal BID is needed;
- Collect the information needed for a BID.

Any later formal BID is likely to benefit from BIAs that are properly supported and documented and included in the BI(D) dossier.

First-line referrals and process planning

In most cases, the immediate welfare needs of unaccompanied or separated children are met after they have been referred to the competent child protection system and services. Immigration status may also need to be resolved.

Identification of unaccompanied or separated children at risk

When a child is found at the border

When a child arrives or is found at the border alone or accompanied by someone who is not the child's caregiver, it is recommended that a BIA be undertaken without delay, to assess whether the child is at risk.

Children travelling alone and arriving at a State border will in general immediately raise questions about their situation. Equally, children arriving with certain adults or even family members may raise alarms due to their behaviour and demeanour or other child protection risk indicators.

Of course, older children or adolescents travelling alone may have passports, visas and other relevant documents, and they may be arriving in the country for a holiday, meeting their parents or travelling as a group with their parents' permission. Many children travel alone in circumstances which have been planned by the family and which do not meet the definition of unaccompanied or separated child, or raise any other child protection concerns.

However, to ensure that no child falls between the cracks, and given that in some instances information which might otherwise lead to a BID may not immediately be proffered by the child or available otherwise on first contact, it is recommended that a simple BIA be done, for example by contacting child protection services, in order to assess whether a more formal BID or risk assessment is required.

Unaccompanied or separated children can be most effectively identified by reference to the following non-exhaustive list of risk factors:

- Fraudulent documents (which may indicate smuggling, persecution, and/or human trafficking);
- No documents, or invalid documents (e.g. no/expired visa);
- Demeanour (behaviour possibly caused by pressure from a smuggler or trafficker or, indirectly, parents);
- The child states that s/he does not want to return home (reluctance to join parents or previous caregiver);
- The child indicates that s/he wants to apply for international protection or another status.

When a child is found on the territory

In this case, additional factors may be relevant, including, for example, when the child is unable or unwilling to give the address or name of a caregiver or accommodation facility in the receiving country (indicating the child may be a runaway or victim of human trafficking, have been involved/forced into organized begging, pickpocketing and/or child prostitution, be on the move to another destination, or have absconded from care to avoid return).

Potential actions/responses include:

- Granting access to the territory (in case of identification at the border);
- The quickest possible referral to child protection services or a court, as applicable under the national system;
- The appointment of a guardian, interpreter, legal representative, etc.

Temporary residence permit

For the duration of any procedure the child may need to go through, s/he should benefit from a temporary resident permit.

Main aim of the process planning meeting

It is recommended that the best interests process comprise a process planning meeting, to ensure that unaccompanied or separated children are channelled in a timely manner in the appropriate procedure, and allowed to seek international protection if needed.

Process planning is intended to bring efficiency both for the children and for the adults appointed to assist them, and to help avoid situations where (especially older) unaccompanied or separated children are left to “drift” and given leave to remain or some other form of temporary residence status until they are 18, after having been rejected in an asylum procedure or where no examination of their application for international protection would otherwise take place. It would also prevent situations where unaccompanied or separated children are channelled into the asylum procedure regardless of potential international protection needs, clogging the system and resulting in longer waiting periods; this would be in the best interests of neither the child nor the relevant authorities.

More specifically, process planning may be used to:

- Share the contents of the best interests dossier (on the child's circumstances, needs and wishes), while respecting any applicable data protection laws, as compiled to date;
- Take note of any request for, or wish to request, international protection that a child may have expressed to that point;
- Where no such request has been made, ascertain whether an application for international protection should be made on behalf of the child and, if so, whether s/he can give informed consent or whether the guardian will have to decide on his/her behalf;
- Discuss whether it is necessary to obtain any further medical, expert or country evidence for the status determination process;

- Consider what steps must be taken for a BID;
- Decide on a target date for the BID, considering that it may be preceded by, or run concurrent to, a status determination procedure, and that any disability or trauma from which the child may be suffering, and any special educational needs, may mean that a longer period will be needed to complete the BID process;
- Discuss whether and when family tracing should be initiated. If relevant, this discussion should consider whether the child has given, or can give, informed consent to such tracing or whether the child's guardian may have to be asked to consent on his/her behalf.

Who participates in the process planning meeting?

It is recommended that the child's guardian, legal representative and designated social worker (as relevant) participate in the process planning meeting. Appropriate experts may also be invited to attend or prepare reports. They may be invited by a professional responsible for managing the BID process, such as the child's guardian or legal representative, or a BID case manager, as suggested in this Handbook. It would also be appropriate to invite the child to attend part of the meeting, if s/he is sufficiently mature and attendance would not exacerbate any emotional or psychological trauma. Alternatively, the guardian could represent the child's views and best interests.

The best interests determination

Decisions regarding sustainable solutions for unaccompanied or separated children have long-term implications for their safety and welfare and should not be made lightly. It is therefore recommended that a formal BID procedure or mechanism be created, with clear procedural safeguards and documentation requirements, designed to find solutions for individual unaccompanied or separated children that are in their best interests.

The BID should be devised so that the child can participate in the process and involve participants with relevant expertise who can identify and balance all factors relevant to recommending the best available option for that child, which will be both sustainable and conclusive (for further details, see [section 6.3 on page 274](#)).

Every child displaying risk factors, whether in need of international protection or not, has the right to a BID to identify a sustainable solution. Even if an unaccompanied or separated child is found to be entitled to international protection, it is recommended that the State conduct a BID to ensure that the child's best interests are met in relation to other aspects of his/her life, as it cannot be assumed that a defined immigration status alone will achieve this. Similarly, if a child is found not to need international protection, it is important to undertake a BID, which may reveal that it is not in the child's best interests under the Convention on the Rights of the Child to return him/her to the country of origin or place him/her in a third country.

Section 6.3 on page 274 describes a suggested formal BID procedure and its main features in greater detail. States may wish to draw on all or some of the elements, as applicable and where there is no system in place or where current systems require strengthening. Admittedly, in many States it will not be possible to institute a formal BID procedure as outlined in this Handbook – or the State will ask an organization other than the national child protection and/or immigration authorities to conduct the BID. In such cases, the organization concerned must have clearly defined responsibilities and authorizations attributed by the State, and must proceed with extreme caution. Wherever possible, it should decline to conduct the BID without the participation of State participants, especially if the BID is likely to include decisions related to return to the country of origin or removal from the territory.

6.3 FEATURES OF A BEST INTERESTS DETERMINATION

Summary: Features of a best interests determination

- Countries should set up a BID procedure or mechanism, which is a holistic assessment of all possible sustainable solutions that could meet the best interests of children in need of such solutions and address their rights and needs, particularly any need for international protection and adequate care arrangements.
- As national systems vary greatly, there may be different ways to embed and to develop a BID procedure in existing systems. These may include out-sourcing elements of the BID process to civil society or intergovernmental organizations, for example, but in such cases, extreme caution must be exercised.
- As it involves a particularly important decision affecting the unaccompanied or separated child's future, it is recommended that the BID be a formal process with specific procedural safeguards, involving participants with expertise in child protection, and preferably the protection of migrant children in particular.
- Steps should be taken to ensure that the child can participate in a meaningful way throughout the BID process.
- Those responsible for the BID should consider criteria such as the child's individual characteristics and identity; his/her (international) protection needs; the ability and willingness of family members to care for the child; and the current political, social and economic situation in the child's country of origin.
- If an unaccompanied or separated child and/or his/her guardian and/or legal representative disagree with the BID outcome, the child should have the right to seek review by a court of law or to appeal, if possible under national law.

Introduction

There is no single way to reach a BID. Where no existing process provides for best interests to be given primary consideration in the circumstances where it is needed, namely to determine which sustainable solution is in the best interests of a child, there are several potential ways to strengthen existing systems and procedures. These are described in the paragraphs below.

The best interests determination in practice

The BID addresses key questions, including:

- Where it is in the child's best interests to live;
- With whom it is in the child's best interests to live;
- Who is best placed to have parental and/or legal responsibility for the child in the future;
- How the child feels about the options identified and proposed;
- What resources will have to be deployed and what services provided to sustain the solution recommended in the BID.

Preparatory actions and prior conditions

Where it has been determined that a formal BID is needed, certain conditions need to be in place and preparatory actions taken, such as ensuring that the child is:

- Given access to the State's territory (as a child at risk);
- Identified as an unaccompanied or separated child;
- Registered and provided with any necessary documentation;
- Referred to competent child protection services;
- Provided with safe accommodation and appropriate support by such services (and not detained);

- Provided with a temporary residence permit;
- Appointed a guardian;
- Provided with appropriate health and educational services;
- Provided with assistance to trace and make contact with family members, if such contact had been lost and if restoring contact is (deemed) in the child's best interests and will not put the child's family at risk.

Key features of the best interests determination

It is recommended that the BID be designed to consider a range of solutions and to recommend the one which has the most positive impact on the child in question, in the light of relevant legal and other considerations. It is further recommended that the BID:

- Be holistic, look at all the circumstances and ensure that a picture of the child's general circumstances is established, including what is known and not known, and what is required to explore "options" and identify possible outcomes;
- Be multidisciplinary (Participants should have relevant expertise and be capable of identifying and balancing all relevant factors in order to recommend the optimum option for the child. Such experience and knowledge are essential, as BID participants will be required to predict results and consequences. They can only do so accurately if they have all the information required);
- Ensures child participation through child-friendly procedures and proper information and support from both the child's guardian and legal representative or adviser;
- Be informed by the Convention on the Rights of the Child, i.e. examined in light of a specific protection/immigration regime but also more generally examine rights under the Convention;
- Ideally, feed into a determination process that is independent and has all due process safeguards;
- Demonstrate and document that the child's best interests have been a primary consideration;
- Be rigorous, flexible, transparent and accountable;
- Be carried out in a timely manner;
- Consider the short-, medium- and long-term options.

Child participation

The BID process needs to permit and facilitate participation by the child whose future is being considered, in line with Article 12 of the Convention on the Rights of the Child. The manner in which the child participates in the BID process will depend upon:

- His/her age, maturity and intellectual capability;
- The child's experience, environment, social and cultural expectations, and available support, all of which contribute to the development of his/her ability to form and express a view, given that a child's level of understanding is not uniformly linked to his/her biological age;
- Cultural and developmental factors, which may mean that young children are able to make cogent and well-informed decisions about serious matters affecting their lives;
- The information made available to the child and his/her guardian and legal representative;
- Any previous traumatic experiences which may prevent or hinder the child from fully disclosing his/her experience or fears, or the recounting of which may have a re-traumatizing effect.

Timing

The BID should be scheduled as soon as the BID case manager and the unaccompanied or separated child's guardian and legal representative have agreed that there is sufficient information in the child's best interests dossier (see *The best interests dossier* on [page 276](#)) for a sustainable and conclusive BID.

In the event that a return or third-country solution is being considered, it may not be possible to decide on a solution without a psychological, expert or home study report being provided. In that event, any delay would be purposeful and appropriate, but should be kept to the minimum time needed to obtain the missing information. In addition, it may become apparent during the BID that there is insufficient evidence and information on which to base a recommendation on which sustainable solution is in the unaccompanied or separated child's best interests. In that

case, it may be necessary to adjourn the BID so that the child's social worker, guardian or legal representative can obtain the required information and/or evidence.

Managing the best interests determination

As soon as an unaccompanied or separated child has come or been brought to the attention of the authorities and is considered a child at risk, the child should be referred either to the appropriate child protection services or another competent body within the country's child protection system, as appropriate. The child protection services then appoint an official to coordinate and manage the process – the BID case manager – as appropriate and resources allowing. In some countries, this may be an NGO, a civil society organization, or even an international organization; if so, there should exist a formal and recognized mechanism for documenting and recording such referrals, with adequate documentary proof that the organization's appointed BID case manager is an experienced social worker, childcare professional or other professional with appropriate expertise. S/he should have previously obtained the training and gained the experience required to understand the varying needs of unaccompanied or separated children and the way the BID process should be managed.

The need for an independent manager or coordinator

In order to avoid a possible conflict of interest, it is recommended that BID case managers not be the guardian or social worker assigned to the child, as they may be tasked to recommend a solution for the child and this may affect the relationship of trust between the child and the guardian/social worker.

The introduction of BID case managers may be a gradual process involving limited resources. Parts of the information-gathering and dossier compilation process may need to be (initially) undertaken by guardians or social workers.

Depending on how the BID is or may be linked to or integrated into existing national asylum and immigration processes, BID case managers can be given primary responsibility for compiling and updating the best interests dossier; convening a process planning meeting (see section 6.2 above) and drafting a BID report (see *Data collection and protection* on page 278). They can also be responsible for pursuing tracing efforts and obtaining information on the family or previous caregivers in the child's country of origin or habitual residence, if this is in the child's best interests (see *Information-gathering* on page 279); for commissioning medical or other expert reports, which may be needed before a solution can be identified; and for arranging a BID that takes the form of a panel meeting or includes expert input (orally or in writing) in existing procedures at national level, provided such input is given appropriate weight, i.e. primary consideration.

The best interests dossier

It is recommended that the best interests dossier be opened by the BID case manager or other competent person as soon as s/he has been appointed to work with an unaccompanied or separated child. The dossier should be updated regularly until the BID has been made. Any data collected in the process leading up to the BID and included in the dossier should comply with national and regional data protection legislation and be gathered in the light of the best interests of the child (see *Data collection and protection* on page 278 for further details).

Criteria for determining best interests

The primary consideration of the BID should be whether there is an option that would better secure the child's rights and needs in the short, medium and long term. This can only be determined by considering the individual unaccompanied or separated child's needs and circumstances, the indivisible nature of the Convention on the Rights of the Child and the interdependency of its various articles. As such, a BID on a sustainable solution in the child's best interests can rarely be reached by reference to a single factor, even if it is an important one. It is vital that each BID focus on the specific child in question: his/her individual characteristics, including age, sex, gender identity and sexual orientation; upbringing; level of physical and intellectual maturity; nationality (or lack thereof); cultural, spiritual and linguistic background; family ties and other relationships; physical, psychological and emotional vulnerabilities; and particular (wider) protection needs.

The criteria which BID participants are recommended to consider include, but are not restricted to, those listed below.

Safe environment

Safety is normally the priority. Exposure or likely exposure to harm usually outweighs other factors. It is recommended that those involved in the BID examine:

- Safety in the geographical locations under consideration, e.g. violence, recruitment of children into armed forces, and so on;
- Safety in the society, e.g. laws and policies in place to protect children if unaccompanied;
- Safety in the community, e.g. community attitudes may stigmatize certain children;
- Safety in the family/household;
- Past harm (frequency, patterns, trends and continued risk of harm);
- The capability to monitor the child's safety, e.g. child protection services present in the country to safeguard the child in the family;
- The availability of life-saving medical treatment for sick children.

Family and close relationships

Except when there are issues of safety, children's best interests are generally best met when they are with their own families. Family bonds and other close relationships are a key factor in determining a child's best interests. It is recommended that those involved in the BID:

- Consider what have been and are now the child's significant relationships;
- Look at the quality and duration of all the child's close relationships (parents, caregivers, siblings, other family members, other adults, children in the cultural community);
- Consider the child's attachment to them (length of any separation, age at separation, etc.);
- Consider the effect of separation from any significant relationship (past and future);
- Consider the potential effect of change in caregivers on the child;
- Assess the capacity of parents, caregivers and those with close relationships;
- Obtain the views of caregivers and those close to the child;
- Consider the possibility of family reunification (after tracing, verification and assessment of the relationship).

If family reunification is not practically possible but would otherwise be in the child's best interests, all necessary steps should be taken to enable the child to maintain contact with his/her parents so as not to undermine the possibility of family reunification in the future.

Identity rights and development rights

Children's developmental needs are generally best met by remaining in or maintaining close contact with not just their families, but also social and cultural networks. It is therefore recommended that those involved in the BID:

- Look at any child-specific considerations based on age, sex, gender identity, sexual orientation, ability, or other characteristics;
- Consider how best to preserve the child's identity, including nationality, name and family ties;
- Consider how best to continue the child's upbringing (cultural and community network);
- Consider how best to maintain the child's ethnic, religious, cultural and linguistic background, e.g. really understand the child's culture and traditions (Children who have spent a long period outside their country of origin may have had different experiences. Any possible conflicts may need to be explored and resolved before reunification.);
- Consider that continuity (of people and places) is vital to a child's feelings of security and stability;
- Consider how best to secure a standard of living adequate for the child's physical, mental, spiritual, moral and social development, e.g. systems in place to provide adequate access to services;
- Consider how rest and leisure, play and recreational activities appropriate to the child's age can best be realized;
- Consider what action will meet the child's right to physical and mental health;
- Consider how the child's educational needs can best be met;
- Weigh how to best secure successful transitions to adulthood (employment, marriage, own family).

Active consideration of the child's views

In order to respect the child's right to be heard (Article 12 of the Convention on the Rights of the Child), those involved in the BID need to:

- Inform the child about the process, the options being considered and the relevant considerations and consequences;
- Obtain the child's views, wishes and feelings about each of the above factors (in the past, present, and for the future regarding all possible sustainable solutions);
- Assess the child's understanding and maturity, i.e. the child's ability to comprehend and assess the implications of the options;
- Actively consider and determine what weight to place on the child's views (in light of above understanding).

Data collection and protection

Data should be collected in compliance with national and regional data protection legislation. There may be instances when the confidentiality of some reports means that only limited disclosure will be appropriate. In addition, if the best interests dossier contains information that may cause the unaccompanied or separated child psychological or emotional harm, his/her guardian and legal representative should consider whether they should take any action commensurate with their professional duties to limit its disclosure to the child. Generally, information should not be used for purposes which are contrary to a child's best interests.

The sustainability of any solution recommended in the BID will be contingent on the quality and breadth of the information obtained during the entire best interests process. A comprehensive best interests dossier is therefore an essential component of the BID. As part of this, it will be important to give due weight to any expert and country reports that address the particular needs of the individual unaccompanied or separated child.

The best interests dossier may contain any or all of the following:

- The record of any interview with the child on arrival or after identification in the territory, but only if this took place in the presence of the child's guardian and after the child had been provided with legal advice and representation (conditions that would need to be fulfilled for the information's use in a status determination procedure);
- Any police, prosecution service or criminal court records in relation to any illegal entry or human trafficking offences relating to the child or persons associated with the child;
- Any records of previous visa applications made on the child's behalf before arrival, and any evidence to indicate that these had been made by an adult who was planning to traffic or smuggle the child to the receiving State;
- Information relating to any age assessment and/or detention of the child, including on the basis that it was asserted that the child was an adult;
- Any application for (international) protection made by or on behalf of the unaccompanied or separated child;
- Any reasoned decision on such application made by an appropriate administrative body, court or tribunal, depending on where the BID fits into the national system;
- Any medical, psychiatric or psychological records and reports relating to the child, access to which is not restricted by confidentiality concerns;
- Any assessments and reports relating to the child prepared by child protection services or a manager or employee of a residential placement where the child may have lived or be living;
- Any report on tracing efforts;
- Any home study report from the country of origin or habitual residence or from other countries in which the child has close family members;
- Any report on the child's significant relationships in the receiving country;
- Reports on the general conditions in the child's country of origin or habitual residence or third country, including more specific conditions that would affect the child;
- Any other documents deemed to be relevant to that individual unaccompanied or separated child's case;
- Any identity or other official documents relating to the child from his/her country of origin or habitual residence, if the child is stateless, and if their authenticity is disputed, any expert evidence in that regard;
- Any records of BIAs and/or court proceedings.

Information-gathering

The BID case manager or other relevant professional may be tasked to ensure that the information and expert reports needed to inform a sustainable and conclusive BID outcome are obtained beforehand.

It is important to draw on the widest possible variety of sources, as it is unlikely that the individual unaccompanied or separated child will have the necessary documentary evidence on which to reach a sustainable BID.

In order to ensure that the information-gathering process respects the best interests of the child, in particular the principles of confidentiality and privacy, and in order for it to be in line with the principles of necessity and proportionality, it is recommended that States explore possibilities for developing information-sharing protocols between relevant services and participants.

Child participation in the context of a BID

It would not generally be appropriate to interview an unaccompanied or separated child solely to obtain information for the BID recommendation as such. Children should not be interviewed more often than necessary when the events being explored may have caused them harm. However, unaccompanied or separated children should be permitted to submit further statements if they wish to do so, or to instruct their guardians to make representations on their behalf to ensure that their views on the content of the BID report are made clear to any BID participants.

Evidence assessment

It is vital to place the child's evidence and other supporting documentation in context by obtaining reports from experts familiar with the history, culture and socioeconomic circumstances in the child's country of origin or a third country under consideration. It is further recommended that experts also be asked to comment on the likely effect of the child's age, maturity, gender, gender identity, sexual orientation, clan or ethnic origin, religion and any disability or special educational needs or any treatment s/he may receive, on his/her treatment or living conditions if s/he were to be returned to his/her country of origin or moved to a third country.

In order to review the situation of an individual unaccompanied or separated child in its proper context, BID case managers are advised to consult information sources and child-specific reports by relevant international human rights organizations, to ensure that there is sufficient child-specific material available to identify any particular issues relating to the treatment of children in the event of their return to their country of origin or move to a third country.

Potential sources of information

Past life and current conditions in the country of origin/habitual residence

- Country reports (experts)
- Home study
- Tracing results
- Medical report
- Report from mental health professionals
- Reasoned decision of asylum/immigration authorities
- Reasoned decision of any asylum/immigration, youth, juvenile or family court
- Statement by the child

Journey to the receiving country

- Country experts
- Border police
- Prosecution services
- Statement by the child

Past exploitation

- Police
- Prosecution services
- Expert in human trafficking
- Representative of relevant NGOs
- Country information on prevalence and forms of exploitation
- Statement by the child

Medical and psychological needs

- Medical, psychiatric and psychological reports
- Child's social worker or key worker
- Statement by the child

The child's current stage of development

- Foster carer
- Key worker
- Social worker
- Child welfare assessment
- Treating physicians
- Psychologist and/or (spiritual) counsellor
- Teacher
- NGO worker
- Guardian
- Statement by the child

The child's preferred sustainable solution

- Guardian
- Legal representative
- Foster carer
- Key worker
- Social worker
- The child's social and friendship network
- Statement by the child

Optimum sustainable solution for the child

- Guardian
- Legal representative
- Country experts
- Expert in human trafficking
- Other experts
- Home study in the country of origin
- Home study in a third country

Home study report

A home study report is a crucial source of information for any BID, as it considers the child's safety, permanency and well-being and the parents' or caregiver's ability to ensure the child's safety. It will ideally also assess the parents' or caregiver's ability to provide the child with appropriate accommodation, financial support, health care, and educational and recreational opportunities. The home study may also consider whether the child will be provided with an environment in which s/he can realize his/her potential as s/he develops into adulthood.

An integration report may be required if one of the options being considered is long-term placement with a foster family and/or in the event of adoption in the receiving country. There is long-standing international practice in home studies.¹⁷ A home study report considers the situation and suitability of the family/parent(s) or previous caregiver(s) in the child's country of origin or habitual residence or in a third country, as may be relevant.¹⁸

Timing of the home study

A home study is carried out to inform the BID and to explore all the available options for the child. It usually follows successful tracing of family members or other relatives of the unaccompanied or separated child at the process planning stage, but may also be carried out during the best interests process.

A home study can be commissioned or initiated by the BID case manager or another suitable professional, including the child's social worker or guardian. It is recommended that the home study be carried out by relevant professionals from the child protection or social services in the country to which the child may be returned or transferred. In some cases, it would be inappropriate to contact national authorities, for example if there is a claim of persecution by the State.

Possible elements of a home study report

In order for the BID to be properly informed, it is recommended that the home study report contain information regarding:

- The composition of the family and patterns of social interaction of the parent(s) or former caregiver(s), including the nature of contact and involvement with others, the presence or absence of social support networks and relationships;
- The background and history of parents/caregivers, including a possible history of abuse and neglect by them;
- Information on the reasons and circumstances of the separation between the child and the family/caregiver;
- Suggestions, thoughts and difficulties (mentioned by the parents/caregivers), and problems of access to necessities such as income, employment, adequate housing, childcare, and needed services and supports (including schooling), in view of the child's eventual return and reintegration;
- The hopes and wishes of the parents/caregivers for the child's future;
- Parenting/caring practices, methods of discipline, patterns of supervision, understanding of child development and/or of emotional needs;
- Other behaviours and conditions, such as domestic violence, mental illness, physical health, physical, intellectual and cognitive disabilities, alcohol and drug abuse;
- Professional observations and possible recommendations from the relevant professional/assessor.

In order to facilitate home studies, States are encouraged to design appropriate procedures that respect the best interests of the child through transnational cooperation with relevant child protection or social services in countries of origin or habitual residence or third countries. Every effort should be made and resources invested, to the extent possible, to carry out a home study.

In the event a home study cannot be undertaken, it is recommended that the BID be conducted based on the best information available. No matter what the circumstances, the solution identified should ensure appropriate protection and care arrangements are in place for the child. In the absence of reliable home study information, it is important to recognize that any decision to return the child to his/her country of origin is being based on limited information, and as such, may not be in the child's best interests.

¹⁷ The ISS, for example, carries out family assessments in countries of origin.

¹⁸ The ISS Family Assessment Form contains a list of basic indicators for family type, parents' ages, siblings, living standard, income, level of education and occupation of both parents, type of accommodation, family health situation and children's clothing and hygiene, among others. It assesses resources and needs in respect inter alia of basic care, nutritional status, safety, psychoemotional security, stability, social integration, and enlarged family and community resources, and it proposes measures and attributes responsibilities.

The BID report

The BID case manager, as appropriate, may be put in charge of drafting the BID report, which refers to the key documents in the best interests dossier, sets out one or more possible solutions and assesses the level of risk attached to each. The BID report is sent by the BID case manager to those involved in/responsible for the BID at national level. The unaccompanied or separated child's guardian and legal representative also receive the report, all within a reasonable time frame, before the BID is finalized.

If the unaccompanied or separated child and his/her guardian and/or legal representative are not satisfied that the BID report or dossier contains the necessary information or recommendations to identify a sustainable solution, or that the child's best interests have not been given primary consideration, they must be able to submit further information or reports.

Possible participants

There is no single model or way for conducting a BID, and the people involved in the BID may vary depending on the child's needs and background. This section discusses the participants who are generally best placed to make a BID.

Unaccompanied or separated children will in many cases have experienced persecution, ill-treatment and trauma in the countries from which they arrive and/or on their journeys to the receiving country. Consequently, a wide range of issues are likely to arise in relation to their identity, nationality, possible statelessness, ethnicity, gender and the social, economic and political circumstances in their countries of origin. Some may also have been victims of human trafficking. This is likely to influence their present and future physical, psychological and emotional health and well-being.

There are therefore clear advantages to the State and to the child if the BID is conducted by a range of independent experts, who can draw on their experience and diverse qualifications to identify and balance the relevant factors. It is recommended that those responsible for or involved in a BID be drawn from a variety of backgrounds. They could be medical and psychiatric professionals, academics (e.g. in the field of children's rights), social workers, civil servants, NGO employees or legal professionals.

Impartiality

All BID participants should maintain strict impartiality and confidentiality at all times. It is recommended that they sign a confidentiality agreement, which is kept on record, when they are appointed to the list of possible BID participants.

In order to ensure the necessary objectivity, BID participants should ideally not have managerial or other responsibility for the child, or be accountable to child protection services or the State's immigration authorities. They should bring any professional or personal conflict of interest to the attention of the BID case manager, and should be replaced by another person from the BID expert list.

Advisers potentially able to provide input for the BID

BID case managers can provide guidance on the BID process to those involved in the BID and be responsible for producing a written record of the BID outcome and the reason therefor. Where a panel is the chosen format/arrangement for the BID, the BID case manager should be present at the panel meeting, in order to advise panel members about the best interests process and answer any procedural queries. The unaccompanied or separated child's social worker can also be present at the panel meeting or present his/her views in writing or orally, depending on the BID procedure at the national level, to clarify any issues that may arise about the child's current needs and vulnerabilities.

In addition, the unaccompanied or separated child's guardian should be present and able to participate in the panel discussion, or present his/her views otherwise. While the BID is not in and of itself a legal process, but rather part of an existing national process or (legal) procedure, it is recommended that the unaccompanied or separated child's legal representative also be involved, to protect the child's legal rights and to provide a legal perspective on any possible recommendations.

If relevant, an adult in whom the child has confidence, for instance a teacher, spiritual counsellor or foster carer, may also be invited to provide input about the child's day-to-day needs, abilities and progress. It may also be appropriate to invite law enforcement officers or State prosecution officials to contribute to or provide input for the BID, if they have relevant evidence about crimes perpetrated against the individual unaccompanied or separated child, or, more exceptionally, if the child has a criminal record that needs clarification that is not obtainable from the best interests dossier. Immigration officers can also be asked to give input, in order to clarify any points relating to the child's entry into the country, immigration status or process, as might be appropriate.

One designated authority to ensure quality

It is further recommended that a designated national authority (e.g. child protection services) be responsible for recruiting, training and providing experts with remuneration, resources permitting, if they are appointed to sit on a BID panel or contribute to a BID. A roster of suitable candidates/panel members can be drawn up for that purpose. The BID case manager, or other authority with final responsibility for the BID under the national system in question, can then be responsible for selecting suitable BID participants for each BID.

Whereas a panel constitutes good practice for a BID, independent experts who can identify, discuss and balance the different factors and options can also make meaningful contributions, for example by submitting reports or making oral statements/contributions in other procedures.

The outcome of a best interests determination

To be of maximum use and impact, and to give proper weight to the best interests principle, the outcome of a BID should go beyond simply stating that the child should remain in the receiving State, be returned to a country of origin or habitual residence, or move to a third country. It should also outline how this conclusion was reached, which factors were considered and how they were balanced or weighed against other possibly competing rights arising from the Convention on the Rights of the Child or other treaties.

The outcome should be based on the totality of the evidence available to the participants in the BID process, and should give priority to ensuring that an unaccompanied or separated child will be safe, be it in the country of origin or habitual residence, the receiving country or a third country. It should outline how it can best be implemented, so that this information can be passed to those with parental or legal responsibility for the child in the future. It is therefore recommended that the BID also result in the formulation of a plan, together with the child and the child's guardian, to implement the recommended sustainable solution. Any necessary timelines and the entities/persons responsible for implementing the plan should also be identified.

Weighing best interests against “other” interests

The BID should give appropriate weight to the rights and obligations under the Convention on the Rights of the Child and other human rights instruments. It is only after a sustainable solution is identified using the BID that “other interests” can be weighed alongside best interests, although with best interests being given “primary consideration”. The Convention does not exclude other considerations, which, if rights-based, may in certain rare circumstances override best interests considerations.

The *travaux préparatoires* for the Convention clearly reflect, however, that the drafters intended that the best interests of the child could only be overridden by other interests in extremely compelling circumstances. Whereas the Convention remains silent as to when such extremely compelling circumstances may arise, general comment No. 6 of the Committee on the Rights of the Child mentions situations in which the child constitutes a serious risk to the security of the State or to society, adding that “non-rights-based arguments such as those relating to general migration control, cannot override best interests considerations”.¹⁹

As further explained by the Committee on the Rights of the Child, if, exceptionally, the solution chosen is not in the best interests of the child, the grounds for this must be set out in order to show that the child's best interests were a primary consideration despite the result. It is not sufficient to state in general terms that other considerations override the best interests of the child; all considerations must be explicitly specified in relation to the case at hand,

¹⁹ Committee on the Rights of the Child, *Treatment of unaccompanied and separated children outside their country of origin*, General comment No. 6 (2005) (CRC/GC/2005/6), para. 86.

and the reason why they carry greater weight in the particular case must be explained. The reasoning must also demonstrate, in a credible way, why the best interests of the child were not strong enough to outweigh the other considerations. Account must be taken of those circumstances in which the best interests of the child must be the paramount consideration.

Right to seek review or appeal

Written reasons for the BID should be presented to the unaccompanied or separated child and his/her guardian and legal representative as soon as is practicable, whether they were in attendance when the BID was made or not. An informed decision can then be made with or on behalf of the child as to whether there are any grounds to appeal or seek review of any legal decision informed by the BID, and as to whether it would be in the child's best interests to do so where such right is governed by national law.

Reopening a best interests determination

A BID can be reopened if:

- There have been changes in circumstances, such as successful tracing of family members or the emergence of new evidence, that could alter the original decision;
- The initial BID (decision) could not be implemented within a reasonable time frame.

If such changes occur, the child's guardian and/or the child's legal representative should have the right to contact the child's previous BID case manager (or other authority overseeing the BID process) and request the reopening of the BID process.

The decision to do so may depend on the existence of new or further evidence that was not previously taken into account or available.

Monitoring and data collection

A variety of monitoring and evaluation measures may need to be strengthened to assess capacity-building efforts, evolving procedures and outcomes for the children concerned. It is therefore recommended that the department or ministry responsible for the BID consider establishing its own internal monitoring process to assess whether the training it is providing is appropriate and whether the policies and procedures it has put in place are capable of protecting unaccompanied or separated children's best interests.

One very important aspect of both departmental and national monitoring processes, such as those carried out by ombudspersons for children, should be an assessment of the extent to which an individual unaccompanied or separated child is or was able to participate in a meaningful way in both the BIA and the BID. Countries should also assess whether the child was provided in a timely manner with a guardian and/or legal representative who was sufficiently expert, experienced and motivated to ensure that the child's case was presented accurately and fully in the overall best interests process. Another important focus of the monitoring process could be the extent to which child-appropriate procedures have been adopted to reflect the objectives of the best interests process.

It may also be necessary for countries to improve their methods of collecting data, as the accuracy of information in relation to children in migration movements is often uneven. This may particularly be the case if unaccompanied or separated children are being cared for by different institutions and authorities and if they have not applied for asylum. If this is the case, countries could consider working with academic institutions or NGOs to strengthen their data-collection and analysis capability.

In particular, data should be collected on the number of unaccompanied or separated children granted residence permits for reasons other than the recognition of refugee status or another international protection status. Data should also be collected on the children's sex, gender identity, sexual orientation, age, nationality, ethnic group and socioeconomic status, and on any disability they may suffer, so that the success or failure of the best interests process for all groups of children can be meaningfully analysed. Finally, it is recommended that States strengthen cooperation with countries of origin and establish measures to monitor and assess the outcomes for children who have been returned.



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