



QUNO

Quaker United Nations Office

Migration Justice: Delivering on the promise of the Global Compact for Migration



Paper 6: Migrants in vulnerable situations as a result of migration policies and practices

The Global Compact for Migration's people-centred approach: rethinking migration policy



The Global Compact for Migration (GCM) is grounded in international human rights law and reaffirms States' commitment to respect, protect, and fulfil all human rights for all migrants. The promise of the GCM requires a review of migration policies and procedures to ensure they are human rights based, in line with international law and effective for peaceful, just and inclusive societies. States must take responsibility for the impacts (intended and unintended) on people of policies of deterrence and hostility that place migrants in vulnerable situations.

Who are migrants in vulnerable situations?



Migrants in vulnerable situations, as stated by the Office of the High Commissioner for Human Rights (OHCHR), are persons who cannot effectively enjoy their human rights, are at increased risk of violations and abuse and for whom specific human rights protection interventions are required to prevent and address these situations.¹ Situations of vulnerability can arise from the situation in countries of origin, transit or destination. Vulnerability can be understood as both situational and personal. In either case, migrants are not inherently vulnerable, nor do they lack agency but rather are facing vulnerabilities due to policy choices and the impact of systemic oppression. People centred migration governance calls for States to establish policies that prevent, mitigate and provide human rights protection for those in vulnerable situations.



What creates situations of vulnerability for migrants?

Vulnerable situations for migrants can arise from a broad range of factors that may intersect and exist simultaneously, influencing each other and changing for better or worse as circumstances evolve. We would like to highlight three factors regarding creating and exacerbating situations of vulnerabilities:

- Strategies and policies of deterrence including criminalization of irregular entry or stay, practices of push-backs, lack of access to justice and services for people with irregular status, and lack of pathways to regularize migration status.
- Gaps in legal protection categories or delays and failings in processes to determine and effectively provide legal protection that allows people to remain safely in countries of destination.
- Discrimination resulting in vulnerabilities and human rights violations due to inequality among people resulting in certain identities related to race, gender, sex, etc. being seen as "less than". For example, see [our policy brief on dismantling racism in migration governance](#).



¹ Principles and Guidelines, Supported by Practical Guidance, on the Human Rights Protection of Migrants in Vulnerable Situations, page 5, available at <https://www.ohchr.org/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf>



Our vision of migration justice

Rooted in our belief that there is that of the sacred in everyone and our commitment to building a world without violence, we are deeply concerned by national policies of pushbacks, discrimination, family separation, expulsion and others that violate human rights and place migrants in situations of vulnerability. As stated in our [Quaker Migration Statement](#),

"Migration justice means an end to injustices inherent in migration management policies and practises which emphasize division over connection and privilege the wellbeing and perceived security of some over the lives and security of others."



The promise of the GCM

States made commitments under the GCM for a human rights, people-centred migration policy. Each objective provides guidance and actions to fulfil those commitments. **Objective 7 of the GCM**, explicitly calls to *Address and Reduce vulnerabilities in migration*. In addition there are other key objectives: **Objective 5: Enhance pathways for regular migration**, **Objective 8: Save lives**, **Objective 11: Manage borders in an integrated, secure and coordinated manner**, **Objective 12: appropriate screening, assessment and referral**, **Objective 21: safe and dignified return, readmission, and reintegration**.



Existing guidance to prevent and address situations of vulnerability for migrants include:

- The [Principles and Guidelines, Supported by Practical Guidance, on the Human Rights Protection of Migrants in Vulnerable situations](#) (hereafter Principles and Guidelines) by the Global Migration Group and OHCHR.
- 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](#)
- Recommendations from the [Secretary General's second Report on the Implementation of the GCM](#).
- [Guidance Note on Regular Pathways for Admission and Stay for Migrants in Situations of Vulnerability](#) by The United Nations for Network for Migration
- The report by the Special Rapporteur on the Human Rights of Migrants on [means to address the human rights impacts on pushbacks of migrants on land and at sea](#)
- [Foundations for Implementation](#) for the GCM, by the Quaker United Nations Office (2018), gathering guidance and recommendations from Special Procedure thematic reports and Treaty Bodies.



Despite this guidance, the Secretary General's second Report on the GCM calls for the International Migration Review Forum (IMRF) to "harness the power of multilateralism to provide concrete guidance in three areas of overarching and common importance" including "how to reduce the vulnerabilities that undermine the rights or well-being of migrants, their families and societies, including the tragedies that stem from irregular and precarious migration and the responses to them".² The report mentions that between January 2019 and November 2021 more than 8,436 migrant deaths were recorded globally, while 5,534 went missing and are presumed dead. The Secretary General says, **"We can do better, and we must"**.³



² UN Secretary General's second Report on the Global Compact for Safe, Orderly and Regular Migration A/76/642 of 27 December 2021, paragraphs 7-10. Available at: <https://undocs.org/en/A/76/642>

³ Ibid, paragraph 96



Suggested pledge for States:

Undertake a [participatory review process](#) to assess and revise migration policies and practises to identify where they create or exacerbate vulnerable situations for migrants.



Revise legislation, policy and practice on the basis of these reviews to integrate the findings in order to prevent situations of vulnerability and mitigate harm for people in these situations.

Priorities for national action

- Steps to better respect, protect and fulfil the human rights of migrants in vulnerable situations can be taken alongside a comprehensive policy review. We see these as priorities for national action, they can be drawn on for more detailed pledges, ideally including timelines for action.
- Prioritize saving lives and upholding the human rights, dignity and safety of migrants in all aspects of migration governance. Including cooperating internationally to protect the lives and safety of migrants at land and at sea.
- Ensure compliance with obligations set forth in international human rights law and standards.
 - › Analyse the legality under international law and the human impact of deterrence based policies and practices that criminalize irregular entry and stay.
- Close protection gaps through actions such as:
 - › Providing for humanitarian protection
 - › Enabling family reunification
 - › Expanding regular pathways for migration
- Put in place firewalls, separations between immigration enforcement activities and public service provision, in order to provide migrants with the confidence and safety to access services and exercise their human rights.
- Put an end to pushback practices, respect completely the prohibition of collective expulsion and uphold the principle of non-refoulement.
- Protect and assist all migrants at international borders without discrimination; to this end, address bias in law enforcement and adopt and implement standard operating procedures that provide operational guidance on human rights compliant border governance.
- Actively engage with the existing resources and guidelines mentioned in this paper to address situations that put migrants in risk of vulnerabilities, abuse and human rights violations.

