



QUNO

Quaker United Nations Office

Foundations for Implementation

A reference tool containing guidance drawn from the UN's Special Procedures and Treaty Bodies to support States in human rights based implementation of the Global Compact for Safe, Orderly and Regular Migration.

Objective 8: Save lives and establish coordinated international efforts on missing migrants

What This Reference Tool Contains

This compilation draws on recommendations from:

- Special Procedure thematic reports that relate specifically to migrants
- Treaty Body General Comments and General Recommendations that relate specifically to migrants

This practical tool emphasises recommendations for individual State action rather than observations, and includes those recommendations that assist in turning the objectives into practical actions rather than echoing the principles and standards agreed in the Compact.

December 2018

Objective 8: Save lives and establish coordinated international efforts on missing migrants

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2015), A/HRC/29/36 (para.103)	Prepare for more arrivals by sea and commit to fully implementing obligations under international law to provide search and rescue services to migrants in distress at sea, with State provision being the cornerstone of search and rescue operations
SR migrants (2015), A/HRC/29/36 (para.104)	Carefully consider options for how incentives that negatively impact private vessels' willingness to assist migrants in distress can be removed, including the development of a means by which compensation is given for commercial losses
SR migrants (2010), A/65/222 (para.81)	The detention of children and adolescents through border control measures, such as interception at sea, should be addressed through a child protection approach. Similarly, migration authorities responsible for the mistreatment of children should be held fully accountable
SR migrants (2008), A/HRC/7/12 (para.69)	States should take all measures to inform officials involved in potential interdiction at sea operations of the rights and protections afforded to migrants in transit, including those that are irregular. The rescue of persons in distress at sea is not only an obligation under maritime law but also a humanitarian necessity, regardless of the legal status of those found or their reasons for travelling by sea. Trafficked persons and other vulnerable groups such as separated children and asylum-seekers should receive specific assistance, including necessary health care at reception
SR migrants (2008), A/HRC/7/12 (para.75)	States should take measures to review, compile and share information on irregular maritime migration. For bilateral and multilateral agreements to restrict irregular maritime migration States, relevant intergovernmental organizations and non-governmental actors should establish mass information campaigns to inform those in transit of the risks associated with such travel and improve communication among officials when migrants are intercepted at sea, including the risks associated with overland travel en route to the prospective embarkation point. Empirical data on the scale and scope of irregular maritime migration, interception, rescue at sea, disembarkation and treatment of persons who have disembarked should be harmonized and more systematically compiled by Governments and international agencies
Working Group on Enforced or Involuntary Disappearances (2017), A/HRC/36/39/Add.2 (para.86)	(a) Gather, compile and systematize all the information in relation to all individuals who go missing in, or transiting through, their countries. This information should also be systematically shared with bordering countries as well as with relevant international and/or regional organizations; (b) Intensify cooperation—bilateral and multilateral—with other States in the areas of identification, search, data collection, prevention, investigation and prosecution
WG enforced disappearances (2017), A/HRC/36/39/Add.2 (para.88(b))	Better monitor newly identified migratory routes — both by land and by sea — with a view to saving lives and upholding human rights in order to avoid as much as possible the disappearances of migrants during their journey;

WG enforced disappearances (2017), A/HRC/36/39/Add.2 (para.89(a))	Take all necessary measures to search for and locate disappeared migrants by using all means at their disposal, including forensic investigative resources, and incorporate ante-mortem information in a centralized database;
WG enforced disappearances (2017), A/HRC/36/39/Add.2 (para.89(b))	Investigate whether clandestine graves or other places where bodies may be concealed may exist in migratory transit areas and establish a register of found corpses, documenting the circumstances of the discovery;
WG enforced disappearances (2017), A/HRC/36/39/Add.2 (para.89(d))	Consider facilitating, including by the issuance of visas, the arrival of relatives of the disappeared implicated in the search for their loved ones
WG enforced disappearances (2017), A/HRC/36/39/Add.2 (para.91(a))	Ensure a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of migrants whose whereabouts are unknown;
WG enforced disappearances (2017), A/HRC/36/39/Add.2 (para.91(b))	Ensure the right of migrants to have recourse — with their informed consent — to the protection and assistance of the consular or diplomatic authorities of their State of origin if their rights are violated, including the right of the families of disappeared migrants to be assisted in the search for their whereabouts;
WG enforced disappearances (2017), A/HRC/36/39/Add.2 (para.92)	Given the transnational nature of the enforced disappearance of migrants, States should carry out all investigative efforts, both for the search for the migrants and for the prosecution of those presumed responsible, duly cooperating with the authorities of all States involved as well as with relevant international organizations
Special Rapporteur on extrajudicial, summary or arbitrary executions (2018), A/73/314 (para.89(e))	Instruct armed forces and police that life-saving humanitarian services should never be denied and that individuals providing such care should not be arrested, harassed or intimidated;
Special Rapporteur on extra-judicial executions (2018), A/73/314 (para.89(g))	Establish adequate systems to monitor the number of “humanitarian” prosecutions and convictions, as well as their effects;
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.91)	States should ensure that migration governance measures respect, protect and fulfil the right to life of all refugees and migrants, and that, in particular, no policies or practices rely on the likelihood, risk or severity of the harm refugees and migrants may incur to deter entry
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.92)	[States] should abide at all times with the principle of non-refoulement, including on the high seas and at borders
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.98)	States should carry out all investigative efforts into the death or disappearance of refugees and migrants with the cooperation of all States involved, and prioritize investigations into “aggravated smuggling”
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.99)	They should take all appropriate action to bring to justice all persons presumed responsible for the death of refugees and migrants, including through cooperation with other States
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.101)	[States] should investigate policies that may have contributed to unlawful death, and any failure to take reasonable measures to prevent them

Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.103)	States should ensure that refugees and migrants and their families have access to effective remedies, adequate, effective and prompt reparation for harm suffered and access to relevant information concerning the unlawful death and location of the remains
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.104)	States should ensure that families are able to report that a relative is missing, using simple and accessible procedures, whose security and confidentiality they trust, both inside and outside their countries: States should support families in searching for their missing relatives and, at a minimum, support the efforts of civil societies in providing this service
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.106)	States should monitor and record, at borders, points of arrival or disembarkation, all allegations of suspicious death or disappearances for investigation and trend analysis
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.108)	States should ensure that vessels carry out robust search-and-rescue operations, including in international waters
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.109)	States should ensure that interception measures at sea do not, de facto, deny access to international protection or lead to anyone being returned, directly or indirectly, to territories where their life or freedom would be threatened
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.111)	States should cooperate with and facilitate the work of civil society organizations engaged in search and rescue operations
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.115)	States should implement, inter alia, the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) and best practices regarding the treatment of the dead, such as those set out in the publication of the International Committee of the Red Cross, Management of Dead Bodies after Disasters: A Field Manual for First Responders, and the “Last Rights” project five-point action plan; and support and train local officials to implement these standards
Special Rapporteur on the situation of human rights defenders (2018), A/HRC/37/51 (para.66(a))	Take all measures to protect the right to life, liberty and security of person of people on the move and those who defend their rights;
SR human rights defenders (2018), A/HRC/37/51 (para.66(e))	In relation to the rescue of persons at sea specifically, observe legal provisions as contained, inter alia, in the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue, and the Convention on the Law of the Sea; ensure that people are not criminalized for rescuing people at sea, and that masters of vessels sailing under their flag observe rules regarding rescue at sea; and allow vessels in distress to seek haven in their waters, granting those on board at least temporary refuge;
Special Rapporteur on the rights to freedom of peaceful assembly and of association (2017), A/HRC/35/28 (para.91(m))	In the spirit of encouraging a more hopeful future, supported by a more vibrant civil society, the Special Rapporteur recommends that States: Recognize and facilitate civil society’s role in assisting those facing humanitarian crises, without abdicating the State’s responsibilities under international law, including those relating to migrants, refugees, conflict prevention and disaster mitigation

Guidance from Treaty Bodies

There is currently no explicit guidance from the Treaty Bodies on this objective



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This reference tool is part of a larger document that contains guidance for all 23 objectives of the Global Compact for Safe, Orderly and Regular Migration. It is available online at: quno.org/resource/2018/11/foundations-implementation

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