Protecting migrants in crisis and transit situations
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Action theme 2: Migrant rights and protection

Introduction

The stranding of tens of thousands of migrant workers at the Libyan-Tunisian border., the evacuations following Japan's triple disaster, the daily deaths along the US border and during the sea passages from Africa to Europe –these are all too common events that call for immediate international action. Among the many protection needs of migrants, those experienced during crises and transit are the most life-threatening. They are also solvable through concerted international cooperation.

At the 2012 GFMD, Civil Society urged creation of a protection framework for these migrants. Since then, we have formulated recommendations for an action plan to be undertaken in partnership with interested Member States sharing this concern—we know, some of you do, and we hope, most of you will... The action plan focuses on protecting and assisting our sisters and brothers stranded in transit and crisis situations—both the migrants caught up in humanitarian crises due to armed conflict, civil unrest and disasters and those who fall victim to violence and trauma in transit after sea or desert crossings, or when being held for organ smuggling or human trafficking purposes.

Here some recommendations:

(A) Recommendations on Policy

First, protection has to be driven by a needs-first principle.

Second, there should be a greater focus on assistance and protection needs of migrant victims of violence or trauma in transit. **This should include** attention to egregious gaps in protection and assistance for migrant women who are routinely raped and the thousands of children that are unaccompanied and abused along the major migration corridors worldwide.

Third, there is an urgent need for a more humane border management, including training for border guards on protection needs; using detention as a last resort; and ensuring migrants in detention have effective access to justice.

However, to ensure a human rights based migration and border management, but also for pragmatic reasons, a more fundamental policy change is needed, namely, **the current focus on securitization an externalization of border controls needs to be changed** to one of opening up opportunities for regular migration, including unskilled workers. Such a change in policy, by responding to root causes of irregular migration movements, would lead to fewer irregular border crossings and less smuggling of migrants.

(B) Recommendations on
Existing Protection Practices*

First, several effective protection frameworks driven by a needs-first principle exist already. These should be more effectively implemented, integrated, and scaled up, including:

1. Interagency Minimum Standards for Child Protection in Humanitarian Action;
2. UNHCR's 10 point plan of action for refugee protection and mixed migration;
3. The UNODC International Framework for action to implement the smuggling of migrants protocol; and
4. IOM's Migration Crisis Operational Framework

(UNHCR's 10 point action plan for refugee protection and mixed migration movements identifies protection gaps at various stages of mixed migration movements, with a particular concern for access to asylum systems. IOM has focused on capacity building through direct assistance to migrants, helping to develop policies and legislation, training government officials, disseminating information, and promoting cooperation and partnership.)

Second, States' suspension of immigration enforcement activities during crises, as for example, during Hurricane Sandy, **should be more widely adopted as a protection-sensitive measure during crisis situations**.

Third, collaboration in carrying out existing protection practices, as those of the national Red Cross Societies for the protection of migrants in crisis situations, should be emulated and scaled up.

For example:

1. The British Red Cross works in partnership with the police and other voluntary agencies to provide emergency support to victims of trafficking who are discovered through police raids.

2. The Norwegian Red Cross was instrumental in advocating for a change in national legislation that decriminalized humanitarian assistance to all migrants regardless of legal status.

(C) Recommendations for Additional Tools*

A framework is needed which identifies and guarantees the rights of those who move in the context of humanitarian crises and which clarifies the responsibilities of governments and the international community towards people in crisis related movements. Such a framework must encompass the principles of non-discrimination, non-refoulement, and family unity.

The framework must also encompass norms and effective practices regarding mixed migration movements, including **procedures and guidelines for ensuring that rescue at sea is implemented effectively**.

(D) Recommendations on Timelines and Partnerships

First, beginning next year, make migrants in crisis a priority area for the yearly agendas of Regional Consultative Processes (RCPs), and include all stakeholders in those processes.

Second, upon conclusion of the HLD, initiate a multi-stakeholder migrants-in-crisis Group to develop a matrix of existing legal instruments, guidance and practical examples on how States and other parties best respond in humanitarian crisis situations to protect migrants, including in situations of conflict, disasters and transit where migrants are victims of violence and trauma.   The Migrants-in-Crisis group could include representatives of interested governments, international agencies, Civil Society, and the Special Rapporteur on the Human Rights of Migrants.

Third, establish a Civil Society working group, facilitated by the Civil Society Coordinator's Office, which could serve as liaison between the migrants-in-crisis group and civil society organizations focusing on protection of migrants in transit and crisis situations.

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*the following criteria are helpful in identifying practices which include policies corresponding to current needs:
1. collaborative, multi-stakeholder programs;
2. programs which include participation of migrants about whom decisions are being made;
3. programs which include capacity building and information about human and civil rights;
4. programs which emphasize proactive risk management and protection components;
5. programs which prepare migrants and communities for inclusion and integration.