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**PROTECTING MIGRANTS DURING TIMES OF CRISIS:
IMMEDIATE RESPONSES AND SUSTAINABLE STRATEGIES**

Background Paper

Introduction

In a world in which more and more people are on the move and countries are host to large migrant populations, the plight of migrants caught in crises in their destination countries is becoming increasingly evident. As a group of persons affected by crisis, migrants have often been less visible or neglected and may not be accounted for in traditional humanitarian responses. Given the growing number of migrants around the world, the consequences of crises for migrant populations will likely be a significant feature of future crises and need to be factored into humanitarian response mechanisms.

When migrants' host countries experience crises, migrant populations often have few means to ensure their own safety. In some cases migrants may be unable to leave the crisis area, in others they may be unwilling to leave or unable to access humanitarian assistance, while in others they may seek refuge across borders in adjacent countries. In the latter case, repercussions may spread throughout entire regions, particularly in border areas and neighbouring States. When protection in situ cannot be guaranteed, the return or evacuation of migrants to their countries of origin may sometimes be the best available way to ensure their protection¹ and avoid more drastic humanitarian consequences.

This paper is the second in a series² that examines the relationship between crises and human mobility, with an explicit focus on the unique situation of migrants when their destination countries experience crises.³ It will analyse the case of migrants caught in crises as a particular type of a "migration crisis"⁴, a concept used to emphasize and describe the various aspects of

¹ There is no universal definition of the term protection. For the purpose of this paper, a broad conceptualization shall be used: "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. human rights, humanitarian and refugee law)" (ICRC 2001).

² See first IDM workshop of 2012 "Moving to safety: migration consequences of complex crises" which took place on 24-25 April 2012, see www.iom.int/idmcomplexcrises.

³ In other words, the focus is on non-nationals in a State that is experiencing a crisis, mainly migrant workers and their families. It is explicitly recognized that refugees and asylum seekers may also be among vulnerable mobile populations in a crisis situation and require specific protection, in line with international law. A detailed discussion of the specific issues facing refugees and asylum seekers, however, is beyond the scope of this paper.

⁴ IOM uses "migration crisis" to describe large-scale, complex migration flows due to a crisis which typically involve significant vulnerabilities for individuals and communities affected. A migration crisis may be sudden or slow in onset,

human mobility emerging from modern-day crises. It will consider different scenarios of migrants stranded in crises; migrant-specific vulnerabilities in crisis situations; responsibilities of home and host countries and other actors; and areas of action for policy and international cooperation. For the purpose of this paper, the term “crisis” encompasses slow- and sudden-onset natural disasters as well as internal and international armed conflict (e.g. war, civil war or unrest).⁵ The paper places emphasis on the conditions of vulnerability and need generated by a crisis. Nonetheless, it recognizes that there are important differences between conflicts and natural disasters, especially in terms of security, breakdown of authority and institutions, and access to affected populations. Likewise, a crisis goes beyond the acute “emergency”. This paper therefore also considers pre-crisis and post-crisis / recovery phases in analysing the consequences of crises for migrants and their countries and communities of origin, transit and destination. Accordingly, this paper pays attention to cases in which countries of origin receive large numbers of migrants returning from a crisis-affected country, and the economic and social reintegration challenges that may ensue.

Migrants stranded in crisis situations

When a crisis occurs, migrants may become stranded, either in their country of destination which is experiencing the crisis, or in another country where they may have sought refuge. Such stranded migrants are typically exposed to severe vulnerabilities and need of protection and assistance, possibly including international migration assistance.⁶ Different, potentially overlapping scenarios may be distinguished:

- a) migrants may be affected by crisis in their country of destination but unable to access humanitarian assistance due to legal or practical barriers;
- b) migrants may be affected by a crisis and unable to leave the crisis zone to seek safety elsewhere, mostly due to practical barriers (“trapped populations”);
- c) migrants may be affected by a crisis but unwilling to leave a potentially dangerous situation, typically for fear of losing assets or being unable to return to the country or place of work after the crisis subsides;
- d) migrants may be affected by crisis and internally displaced in the country of destination;
- e) migrants may be affected by a crisis and cross an international border to seek safety in a country which is not their country of origin; and
- f) migrants may be affected by crisis and return or are evacuated to the country of origin.

Obviously, these scenarios may combine and overlap, and the same migrant may find him- or herself in several of the situations thus described during the course of a crisis. In addition, different categories of migrants experience crises differently, depending on their own capacity to seek safety and the capacity of their country of origin to assist them.

can have natural or man-made causes, and can take place internally or across borders. The concept of migration crisis is discussed in more detail in the background paper relating to the first IDM workshop of 2012 “Moving to safety: migration consequences of complex crises” which took place on 24-25 April 2012, see www.iom.int/idmcomplexcrises.

⁵ The term “crisis” is being used to broadly encapsulate a range of scenarios, including environmental hazards (climate change, natural disasters), economic/financial factors (market collapse), violence-related situations (conflict, internal and international disorder) or health-related matters (pandemics). Although crises can be local, national or transnational, they usually have similar consequences on communities and governments, including instability (political and/or economic), disruption of social life and of basic service delivery, mortality and health issues, and population movements (internal and/or cross-border).

⁶ There is no globally accepted definition of the term “stranded migrant”. The term describes situations in which a migrant is unable to stay in the country of destination/transit, unable to return to the home country, and unable to move to a third country, and typically subject to severe vulnerability and distress. Crises and emergencies represent one scenario among many others which can lead to stranding.

Migrant-specific vulnerabilities in crises

Migrants, like the rest of a population affected by a crisis, will likely face considerable hardship, distress and violence. However, experiences of major crises which impacted migrant populations have highlighted certain **vulnerabilities that are specific to migrants** which give rise to numerous assistance and protection challenges. As a result, humanitarian response systems may need to be strengthened or complemented with other measures to assist and protect migrants in times of crisis.

As concerns migrant-specific vulnerabilities, these may stem from the **migrant's legal status**: migrants in an irregular situation are particularly vulnerable and may be de facto excluded from humanitarian assistance, for instance because they are not registered by the country of origin or by the country of destination, or because they will not resort to relevant authorities for fear of being discovered. Secondly, there may be important **practical impediments** to accessing support, such as language barriers or a lack of information about available assistance, emergency shelters, or evacuations procedures. In general, migrants are rarely included in preparedness and contingency planning. Thirdly, it is important to note that where the **human rights of migrants are not adequately protected before a crisis**, migrants' vulnerabilities will be exacerbated during crises: for instance, where employers take away a migrant's passport or other documents, the person's ability to leave the country or access consular assistance and evacuation procedures will be seriously hampered. Cases of migrants being restricted in their freedom of movement (a well-known problem for migrant domestic workers living in their employer's home) result in extreme vulnerabilities and often serious injuries or even death if the person is unable to seek even basic shelter elsewhere. A climate of discrimination or xenophobic attitudes towards migrants are also likely to complicate their access to assistance, or worse, where civil unrest is involved, may lead to deliberate targeting of migrants. Where migrants' wages are being withheld, migrants may have no financial means to leave the crisis zone (and return home, for example) or simply cannot afford to forfeit the wages that are due to them. Fourthly, the vulnerabilities of migrants also need to be seen light of what happens **after a crisis**: in what could be termed "**socio-economic vulnerability**", the income and livelihood of migrants (and typically entire families or communities) might solely depend on their earnings in the country of destination. A sudden loss of income, assets and employment due to a crisis can thus be catastrophic for the migrant and his or her family or community who may have depended on remittances. Where migrants are forced to suddenly return to their home countries, they might return to unemployment and indebtedness (such as fees owed to a recruitment agent). The resulting psychological pressure for individuals as well as the economic and social repercussions for migrants, communities and entire countries should not be underestimated. Lastly, migrant-specific vulnerabilities may of course combine with other vulnerabilities related to **gender, age or health** which may aggravate their situation in times of crisis.

Legal provisions for migrants stranded in crises

States bear the primary responsibility to protect and assist crisis-affected persons residing on their territory in a manner consistent with international humanitarian and human rights law. Where needed, States should allow humanitarian access to crisis-affected persons such that humanitarian assistance can be provided by other States, including those whose nationals have been affected, and other relevant actors. The duty to ensure protection and assistance for migrants caught in crises therefore rests with the State of destination, the State of transit to which a migrant may have fled, and the State of origin which has responsibilities for its nationals even when abroad. Depending on the type and scale of a crisis, the breakdown of national

institutions and capacities, security, and diplomatic relations may severely impede the ability of States to provide adequate assistance and protection.

The international legal framework makes numerous provisions for the protection of migrants, including in times of crisis: first and foremost, all migrants, irrespective of their status, are entitled to the full protection of their human rights. With very few exceptions, these rights may not be abrogated, even in times of crisis. In cases of armed conflict, international humanitarian law also applies to migrants: the most relevant provisions include the principle of distinction between civilians and combatants, the right of migrants to leave the country in conflict, the prohibition of forced transfers, and departure arrangements.⁷ The Guiding Principles on Internal Displacement do not explicitly recognize migrants or non-nationals. Given the broad and inclusive intent of this document which has its basis in human rights and humanitarian law, it can be argued that migrants are encompassed in the Guiding Principle's definition of "persons who have been forced or obliged to flee or to leave their homes or places of habitual residence".⁸ Another critical mechanism in this context is consular assistance: consular services, such as the provision of travel documents and *laissez-passer* and repatriation, are the principal avenue through which countries of origin can protect their nationals abroad.⁹ Lastly, established protection frameworks for specific categories of individuals – such as refugees / asylum seekers and trafficked persons¹⁰ – must also be observed in times of crisis. Nonetheless, it should be noted that there is no single legal framework that ensures comprehensive protection of migrants stranded in crises.

Key areas for intervention for national policy and international cooperation

The previous section has outlined some of the most critical vulnerabilities and protection challenges associated with the situation of migrants stranded in crises. Several considerations pertinent for policymakers and international cooperation emerge from these observations: firstly, interventions are required in the "before", "during" and "after" of a crisis. Migrants and migration therefore need to be factored in pre-crisis preparedness, emergency response, and post-crisis recovery, reconstruction and transition. In addition, different actors are implicated in the situation of migrants caught in crisis and have differential responsibilities in resolving their plight. While countries of origin, transit and destination are primarily responsible for protection and assistance, the role of employers, recruiters and other private actors should not be forgotten. International organizations may be involved in the context of larger humanitarian responses or in facilitating the logistical coordination and international cooperation necessary for evacuation efforts. Finally, repercussions are felt far beyond the initial emergency, both in space and time: sustainable strategies are needed to support migrants and those who depend on them, including in countries of origin, who have lost their employment and main source of income. Where countries of destination had relied on migrant workers for important sectors of the economy, such as health care or construction, their sudden departure in a crisis may spell the loss of essential skills and labour which could hamper reconstruction efforts.

⁷ See 1949 Geneva Conventions and their 1977 Protocols, in particular the Fourth Geneva Convention Articles 35-46 and Protocol I Part IV.

⁸ For provisions at the regional level, see the African Union Convention for the Protection and Assistance of Internally Displaced Persons ("Kampala Convention").

⁹ See 1963 Vienna Convention on Consular Relations articles 5a and 5e.

¹⁰ At international level, the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the 2000 United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

In general, a better integration of migration management and humanitarian approaches is necessary to adequately tackle the immediate and mid- to long-term consequences of migrants caught in crises. The remainder of this section will briefly sketch some of the main areas for policy intervention and cooperation:

- *Preparedness and contingency planning*: consideration of migrants, their needs and vulnerabilities must be more systematically included in preparedness efforts at national, regional and international levels. This applies to both countries of origin and destination, as well as to different types of crisis such as natural disasters or pandemic emergencies. A lack of information about the size, location and composition of a migrant population in a country, for example, can severely impede effective responses in an emergency. Some countries with large numbers of nationals abroad have set up emergency funds to assist migrants caught in crises in their countries of destination.¹¹
- *Reduction of risks associated with migration*: at the level of the individual, preparedness efforts also extend to potential pre-departure orientation for migrant workers on available assistance and procedures in a crisis. More recently, micro-insurance schemes for migrants and their families have proved beneficial in mitigating some of the risks entailed by migration, including potential medical, repatriation or other costs in a crisis event.
- *Consular assistance*: as the primary mechanisms through which countries of origin protect their nationals in other countries, the capacities of consular services to respond in emergencies need to be strengthened. One of their principal functions is the replacement of lost travel documents and provision of *laissez-passer* for migrants to be evacuated to their home countries.¹² Consulates need to maintain up-to-date records on their nationals resident in a country and disseminate information about the assistance available to nationals when a crisis strikes. Where countries do not have the capacity to maintain a network of consular services, collaborative solutions between countries may be found. Also, consulates tend to be located in capitals or major cities, but should anticipate that emergency consular services are often required in different parts of the country or in border regions.
- *Protection and assistance in situ*: during a crisis all migrants are entitled to non-discriminatory access to aid, such as shelter, food and water, and health care. National civil protection or disaster response mechanisms should take into account migrant populations and potential barriers they may face in accessing assistance (for instance due to irregular status). At the international level, the cluster system of the Inter-Agency Standing Committee has developed strategies to reach out to migrants and address their specific needs.
- *Protection and assistance through referral*: humanitarian responders need mechanisms to identify those with particular needs and vulnerabilities, such as unaccompanied minors and victims of trafficking. Effective referral systems are particularly essential when dealing with large-scale, “mixed flows” and should, for example, ensure due

¹¹ IOM Council Resolution No. 1229 of 5 December 2011 establishing the Migration Emergency Funding Mechanism is one example of the recognized need of States for more immediate and reliable responses to the migration realities flowing from modern-day crisis situations. To date, the Governments of the Bahamas, Mauritius, Romania, South Africa, Turkey, and the United States have generously contributed to the Fund (status: 2 July 2012).

¹² See 1963 Vienna Convention on Consular Relations for more detail.

referral of refugees and asylum-seekers to relevant authorities or agencies to avoid compromising protection, access to asylum and non-refoulement guarantees.

- *Admission and border management systems in crises:* countries need to be prepared for the potential influx of persons fleeing crises from a nearby or neighbouring country, including many who do not qualify for refugee protection. Mechanisms, such as temporary admission and protection, may be required to prevent the stranding of a large number of people at a border. Where they exist, regional agreements for the movement of people can facilitate the returns of affected individuals to their home countries.
- *Evacuation and international migration assistance:* humanitarian evacuation to home countries is sometimes the only reliable protection mechanism available for migrants caught in crises, and a way to avert more severe humanitarian consequences. A critical condition is that non-refoulement guarantees are respected and individuals are not returned to situations where they may face persecution, torture or inhumane or degrading treatment. When States do not have the capacity of resources to evacuate their own nationals, international assistance may be needed. A contentious issue is the evacuation of non-national relatives / dependants (such as spouses who hold a different nationality). Evacuations can be large operations at a global scale which require high degrees of operational coordination between local and international humanitarian agencies, border management authorities, consular officials, military bodies, and private and commercial transport companies.
- *Health and psychosocial support:* a crisis experience is likely to take a heavy toll on a migrant's physical and emotional health, possibly exacerbating pre-existing conditions. Continuous medical attention is necessary, including travel health assistance in the case of evacuations, medical escorts or referral of vulnerable migrants to health services, including mental health. Ensuring continuity of care upon return can be particularly challenging when migrants' countries of origin lack adequate health care capacities.
- *Reintegration and longer-term support to returnees and communities:* where migrants return or are evacuated to their home countries, these countries often struggle to receive and reintegrate returnees socially and economically. Policy interventions may target the alleviation of debt, financial assistance and income generation projects, provision of psychosocial assistance to returnees, and wider community development projects. Reintegration initiatives should try to differentiate between the needs of men and women, or those with families and those without. In some cases, private recruiters and employers have contributed to repatriation and reintegration efforts but such actions tend to be sporadic and the responsibility of private actors in this regard is not clearly defined.
- *Migration for reconstruction, recovery and development:* facilitated mobility and the benefits of migration can contribute to restoring the livelihoods of migrants and their communities as well as promote the long-term recovery of a crisis-affected area. Cooperation between countries and with employers and recruiters could aim to ensure the payment of outstanding wages or the option to re-migrate to the countries, conditions permitting, to support the reconstruction effort.

Conclusion

In a mobile world, the migration consequences of crises are increasingly complex. One phenomenon which is likely to become widespread concerns the effects of crises on migrants: migrant populations get caught between the frontlines of conflict, are affected by natural disasters in their countries of destination, and fall between the cracks in established humanitarian assistance and protection systems. As yet, most governments are unprepared to address the situation of migrants in acute emergencies or to cope with the ripple effects created by the large-scale displacement and return of migrants for countries and communities. The required assistance, protection and coordination efforts represent a challenge for countries hosting migrants and countries concerned about their nationals abroad alike. Comprehensive and lasting solutions must encompass migration, humanitarian, development and security dimensions. Meanwhile, international agencies, including IOM and its partners, are continuing to enhance their cooperation and operational capacities to support States and migrants in addressing contemporary migratory challenges emanating from complex crises.

Further reading

- IOM 2012 International Dialogue on Migration: first intersessional workshop *Moving to safety: migration consequences of complex crises* (24-25 April 2012)
- IOM 2012 *Returnees from Libya: the bittersweet experience of coming home*. Policy brief
- IOM 2012 *Migrants caught in crisis: The IOM experience in Libya*
- IOM and Migration Policy Institute 2012 *Asian labour migrants and humanitarian crises: lessons from Libya*. By Brian Kelly and Anita Jawadurovna Wadud
- IOM *International Migration Law Newsletter*. Issue 3 Autumn 2011
- IOM 2011 *Humanitarian emergency response to the Libyan crisis*. Seven-month report 28 February 2011-27 September 2011
- Forced Migration Review No. 39 June 2012 *North Africa and displacement 2011-2012*

Visit the workshop webpage: www.iom.int/idmmigrantsincrisis