Combating violence against migrants

Criminal justice measures to prevent, investigate, prosecute and punish violence against migrants, migrant workers and their families, and to protect victims.

For as long as humans have existed they have migrated, spreading goods, cultures and ideas across the globe. Currently, there are some 232 million international migrants.

Global migration patterns and the risk of violence

- **Europe**: 31% (72 million)
- **Asia**: 31% (71 million)
- **Oceania**: 3% (8 million)
- **Latin America and the Caribbean**: 4% (9 million)
- **Africa**: 8% (19 million)
- **North America**: 23% (53 million)

*United Nations, Department of Economic and Social Affairs, Population Division (UN DESA), 2013. Trends in International Migrant Stock: The 2013 Revision. UN DESA. www.unmigration.org

**The risk of violence**

- **Types of violence**: physical, sexual, psychological, deprivation, trafficking, early marriage, self-harm, suicide
- **High risk settings**: transit routes, detention facilities, homes and shelters, displacement camps, streets, schools, workplaces, disaster affected locations
- **Populations at high risk of violence**: children, especially separated and unaccompanied; youth; women; people living with disabilities; ethnic and religious minorities; any populations who are marginalized or seen as “different”
migrants, representing 3.2 per cent of the world’s population. Of those, 136 million live in developed countries, and 96 live in developing countries, with nearly two-thirds of all migrants living in either Europe (72m) or Asia (71m). Others reside in North America (53m), Africa (19m), Latin America and the Caribbean (9m) and Oceania (8m). Almost half (48 per cent) of all migrants are women, constituting some 52 per cent of migrants in developed countries and 43 per cent of migrants in developing countries. Globally, 15 per cent of migrants are under the age of 20 (compared to 35 per cent of the total population).

Although most migration is peaceful, the movement of people from one location to another can lead to situations of mistrust, misunderstanding and misuse of power which can manifest through violence. In fact, violence is not only a cause or “push” factor of migration, but violence is also a risk against migrants throughout the migration journey. Reports of deaths, particularly during irregular migration processes are increasingly common around the world, with the numbers of people who are victimised en route rising as organized criminals realize the profit to be made by exploiting human hope and desperation. Violence perpetrated against migrants by border and police officials in some regions pose additional threats to migrants. Many people become stranded en route and rendered more vulnerable to violence. The risk of discrimination and violence can continue, and even escalate, once migrants reach their destinations. Repressive policies aimed at curtailing migration mean that migrants may turn to smuggling services for lack of alternatives to migrate otherwise.

**Framework for Action**

The United Nations General Assembly Resolution 67/185 on ‘Promoting efforts to eliminate violence against migrants, migrant workers and their families’¹ points to the continuing instances of criminal acts committed against migrants, migrant workers and their families in all regions of the world, including acts of violence, and calls for States to strengthen their efforts to preventing and combat violence, prosecute its perpetrators and protect

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² UNHCR. (2011). Global trends report. UNHCR.
its victims. The normative framework for such efforts include international human rights treaties, International Labour Organization Conventions, Protocols and Recommendations, UN Convention against Transnational Organised crime, and other international instruments which outline a framework for protecting the rights of migrants, regardless of their status. Measures should also be informed by United Nations standards and norms in crime prevention and criminal justice.

The International Federation of Red Cross and Red Crescent National Societies (IFRC) has made migration a key priority and the humanitarian consequences of violence against migrants has been highlighted in its Strategy 2020, the IFRC Strategy on Violence Prevention, the IFRC Strategic Framework on Gender and Diversity Issues and Explanatory Note 2013, Mitigation and Response, and the IFRC Migration Policy 2009. These and a variety of practical tools support on-the-ground volunteers and communities to find effective and culturally-specific solutions to enhance the safety of women, men, girls and boys who are on the move in emergencies and non-emergency situations.

Guiding Principles
There are three key guiding principles that must inform all efforts aimed at confronting violence against migrants:

1. **Human rights** of migrants must be at the centre of all efforts to prevent, investigate, prosecute and punish violence against migrants.

2. The principle of **non-discrimination** underlines the fact that all persons have certain rights on the basis of their humanity, not on the basis of any other criteria. Any distinction made – including on the basis of a person’s immigration or other status – must be justifiable at law, serve a legitimate purpose, and be proportional to the achievement of that purpose.

A Lebanese Red Cross disaster responder covers a young Syrian refugee with a blanket. Ibrahim Malla/IFRC
3. The **victim-centred approach** is a key guiding principle highlighting that victims and their needs must be at heart of response efforts, and must prevail over other agendas including those concerned with migration policy or combatting organised crime.

**Ten Measures**

An effective, holistic response to combatting violence against migrants requires that many coordinated and mutually supportive measures be taken.

Much of normative frameworks and standards for migration recognise the special needs and vulnerabilities of migrant women and children. Therefore, while not included here, each of the ten measures below must also incorporate specific provisions for migrant women, children and other marginalized populations, where relevant.

The ten key measures are:

**MEASURE 1:** Establish an effective knowledge base

Collecting, analysing, sharing and using disaggregated data for the purpose of mounting evidence-based responses to violence against migrants is key, including through 1) developing standardized tools and methods of data collection, 2) ensuring appropriate data is collected in relation to violence against migrants, and 3) using results of data collection effectively.

**MEASURE 2:** Address root causes of violence in migration processes and responses

Emphasis should be placed on the complexity of causes of violence against migrants en route, including responses to irregular migration processes and other phenomenon that do not reduce violence but increase vulnerability to it. Responses
to these challenges include 1) providing access to safe migration channels, 2) making responses to irregular migration processes and transnational crimes rights-based, and 3) combating migration processes in detention of migrants.

**MEASURE 3:** Address root causes of violence in transit and destination countries

The causes of violence against migrants in countries of transit and destination are complex, and include racism, discrimination, xenophobia and related intolerance that results in violence. In this regard, action is required for 1) prevention of violence in employment of migrants, 2) prevention of violence in host communities, and 3) preventing violence within migrant communities.

**MEASURE 4:** Strengthen legislation to combat violence against migrants

Domestic legislation needs to accord with international law, and be robust enough to capture the specific violence that migrants may face, including within migrant communities. Measures outlined to these ends include 1) ensuring legislation does not exacerbate violence, 2) strengthening legislation against racism, discrimination and xenophobia and 3) strengthening legislation to combat violence within migrant communities.

**MEASURE 5:** Investigate and prosecute violence against migrants

Effective investigation and prosecution of violence against migrants, requires States to bring the criminal justice apparatus to bear in a way that caters for the particular challenges posed when victims are migrants. Specific measures include 1) strengthening relationships between migrants and police, 2) providing targeted, ongoing and multi-disciplinary training to police, and 3) implementing reporting mechanisms for migrants to report violence.

**MEASURE 6:** Protect victims and witnesses

Protecting migrant victims and witnesses of violence is often challenging as they may fear further victimisation or have other concerns owing to their irregular migration situations. Measures to address these challenges include 1) informing victims of their right to be protected from violence and to seek redress, 2) protecting victims from further violence and 3) protecting migrant witnesses from retaliation.

**MEASURE 7:** Assist migrant victims of violence

Provides for specific assistance measures to be put in place for migrant victims of violence who may face barriers to accessing assistance, owing to their migration status or other challenges. Measures discussed include 1) informing migrants of the availability of assistance services, 2) ensuring migrants have access to those services, and 3) providing services to migrant victims with special needs.

**MEASURE 8:** Provide access to justice

Access to justice is essential in effective investigations and prosecutions, as well in the prevention of further violence. Measures to strengthen such access include 1) supporting migrant victims through the criminal justice process, 2) ensuring their access to legal aid in criminal justice systems, and 3) removing barriers that migrants face in accessing justice.

**MEASURE 9:** Provide restitution and compensation

Providing restitution and compensation to migrant victims of violence helps to support their recovery, empower them against further violence and punish perpetrators. Restitution and compensation mechanisms can be made accessible to migrants by 1) securing restitution and compensation from offenders, 2) providing state restitution and compensation and 3) providing restitution and compensation where the state perpetrates violence.
MEASURE 10: Sentence and rehabilitate perpetrators

Sentences imposed for violence against migrants should be commensurate to the seriousness of offences, and sentences imposed on migrant perpetrators should not be discriminatory. Rights of victims and offenders can be balanced by 1) ensuring appropriate sentences for crimes of violence, 2) ensuring non-discriminatory incarceration of migrants for violent crimes, and 3) strengthening rehabilitation and reintegration efforts.

Conclusion

Efforts to combat violence against migrants should be measured against the extent to which they achieve comparable results to those aimed at combating violence against non-migrants. The fact that victims of violence are migrants should not detract from criminal justice efforts; rather their unique situation and resulting challenges emphasise the need to take specific measures to respond to the particular vulnerabilities of migrants to violence and barriers they may face in accessing recourse against it.

The key conclusion that emerges from the measures offered in this document, is that criminal justice measures should be no less rigorous in relation to violence that is perpetrated against migrants, but in some instances may even need to be more rigorous so as to protect human rights, to uphold the principle of non-discrimination, and to ensure that criminal justice efforts are truly victim-centred.

Understanding and catering to the special needs of migrant victims

The United States’ organization ‘Futures without Violence’ works against violence through education programs, policy development, professional training programs and advocacy. Among the resources it makes available for providing assistance to migrant women is the Immigrant Women Power and Control Wheel that explains the different forms of power and control exercised over migrant women on account of their migration status. The wheel is available in English and Spanish.

Source: This version of the Immigrant Power and Control Wheel was adapted by the Family Violence Prevention Fund (www.endabuse.org) with permission from the Domestic Abuse Intervention Project in Duluth, Minnesota. It is available at: http://www.futureswithoutviolence.org/content/features/detail/778/.

2. Futures without Violence, see: http://www.futureswithoutviolence.org/content/features/detail/778/.
States should respect, protect and fulfill the human rights of all migrants, regardless of their legal status. Migrants whose rights are protected are able to live with dignity and security and, in turn, are better able to contribute to their host and origin societies both economically and socially than those who are exploited and marginalized. Migrants in an irregular situation, especially women, children and youth, are particularly vulnerable to abuse and exploitation. Host countries should avoid the criminalization of irregular migration, and prevent and combat discrimination, xenophobia, related intolerance and crimes against migrants and their families. Care should be taken to ensure that all persons in need of protection, including refugees, are identified and assisted within mixed migration flows.

Working with and for vulnerable migrants across the world is one of the long-standing traditions of the IFRC. The IFRC is committed to addressing the humanitarian concerns of migrants in need throughout their journey:

- providing assistance and protection,
- upholding their rights and dignity,
- empowering them in their search for opportunities and sustainable solutions,
- promoting social inclusion and integration between migrants and host communities.

The IFRC responds to migrant’s vulnerabilities without discrimination and irrespective of their legal status.

Sample actions to address violence against migrants by Red Cross Red Crescent National Societies

Refugee settings: The Kenyan Red Cross Society has responded to the risk of violence against Somali refugees in the Dadaab refugee camp through activities led by the refugee population itself. For example, it has facilitated dialogue within traditional leadership platforms, schools and community groups; established self-protection groups and referral systems; provided with UN partners psychosocial support, safe spaces and livelihood training for survivors of violence.

Anti-trafficking: The Red Bell campaign is a knowledge and capacity-building project between the Red Cross societies of Serbia, Bosnia Croatia and Montenegro that aims to improve awareness and resilience among potential trafficking targets by promoting a number of peer-to-peer activities such as role-playing games, simulations, forum-theatre and active participation exercises.

Domestic workers: The Philippine and Macau Red Cross Societies established the Pamilya Mo Lingap Ko Program to provide welfare services to Overseas Filipino Workers, including migrant domestic workers in Macau. The project was coordinated with government agencies in both countries, and included activities such as counselling, psychosocial evaluation, crisis intervention, child assistance, ambulance services, tracing and family reunification, health services and referral to other institutions for specific supports.