

# Ten Recommendations for a Human Rights-Grounded Response to Migration in the Context of the COVID-19 Pandemic

COVID-19 has created unprecedented challenges in public health. It has also created enormous challenges in border management, migration and asylum policies, and service provisions. It is unacceptable that some governments are justifying actions based on a false dilemma between protecting public health and respecting the rights of people on the move, despite the reality that people on the move are one of the groups facing heightened and diverse risks during this pandemic. It is likewise indefensible that governments are implementing immigration enforcement actions that facilitate the spread of the virus. Public health considerations must take into account the critical protection needs of migrants and those fleeing persecution and violence.

The following recommendations constitute **10 minimum essential elements** that a response grounded in human rights to the migration phenomenon must include in the context of the pandemic.

1. **Comply with national and international legal obligations** regarding migrant and refugee rights and the right to asylum, as well as guidance and recommendations from specialized human rights organizations and other good practices. ([UNHCR Key COVID-19 Legal Considerations](#), [UNHCR Key COVID-19 protection messages](#), [Statement by the Inter-American Court of Human Rights \(IACHR\) on COVID-19 and Human Rights](#), [Inter-American Commission on Human Rights resolution 1/2020](#))
  - i. Guarantee the **right to seek asylum and international protection** and observe the **principle of non-refoulement**. ([Universal Declaration of Human Rights, article 14](#), [Refugee Convention, article 33](#)) The right to seek asylum must be recognized as an essential activity or essential travel and must not be suspended due to mobility restrictions.
  - ii. Guarantee the **right to exit any country**, including one's own, and **return to one's own country**. ([Universal Declaration of Human Rights, article 13](#), [International Covenant on Civil and Political Rights, article 12](#))
  - iii. Respect and protect the **right to family unity** and avoid any action that results in family separation. ([International Covenant on Civil and Political Rights, article 23](#))
  - iv. Ensure that the **best interest of the child principle** is followed in all decisions and actions relating to children and youth. ([Convention on the Rights of the Child, article 3](#))
  - v. While certain restrictions may be necessary to protect public health, the response to the pandemic, including restrictions on movement, must not result in blanket suspensions of these rights. **Any action taken to protect public health must be implemented in a manner that respects and accommodates these basic rights**. In the case that it is necessary to suspend or restrict any right in the interest of public health or life, such suspension or restriction must be proportional, adhere to the rule of law, and include protections for affected individuals. ([Siracusa Principles](#))
2. Guarantee that migrants and refugees receive **equal treatment, free of discrimination, including in access to health and hygiene services, social programs, information**, and all other responses to the pandemic. ([Universal Declaration of Human Rights, articles 7 and 25](#), [International Covenant on Economic, Social, and Cultural Rights, art. 2](#))
  - i. Issue migrants and refugees the necessary **temporary documentation** to safeguard their rights and access to housing, food, and health services during the pandemic.
  - ii. **Identify and mitigate protection gaps and risks for groups with specific needs**, such as the elderly, children and youth, women, people with disabilities, and members of the LGBTQ+ community.
  - iii. Refrain from measures addressing the COVID-19 pandemic that directly or indirectly discriminate against **migrant women and girls** ([Convention on the Elimination of All Forms of Discrimination against Women, article 2 \(d\)](#)) and ensure their equal participation in decision-making. ([Guidance Note on CEDAW and COVID-19](#), [CEDAW General Recommendation 26 on Women Migrant Workers](#))

3. **Reduce** as much as possible **in-person immigration and asylum procedural requirements** and offer digital alternatives or deferral of deadlines. For cases in which in-person proceedings are essential to protect an individual's rights, such as children's best interest determinations or asylum claims, implement measures to conduct them safely.
4. **Temporarily suspend immigration enforcement operations within borders** in order to protect public health at large by creating trust among migrant and refugee communities and encouraging the identification, treatment, and segregation of possible COVID-19 cases and the identification of rights violations.
5. **End detention of migrants and asylum seekers by using alternatives to detention and community support policies**, including release or additional case management support, that allow for the proper practice of hygiene and social distancing measures. Release must be accompanied by proper documentation that grants at a minimum temporary status with protection from deportation and equal access to basic services to protect migrants, asylum seekers, and communities from and to receive treatment for COVID-19 and related conditions.
6. **Temporarily end deportations.** As long as they continue:
  - i. Ensure that health professionals validate, monitor, and ensure that deportation and reception processes are not putting the health of transferred individuals, communities, or the public at risk.
  - ii. Inform individuals about the situation in their countries of origin, including existing restrictions and guidelines, and available services.
  - iii. Establish reception protocols that:
    - a. assess protection needs, including best interest determinations in the case of deportation of unaccompanied children, and identifying possible refoulement cases;
    - b. do not place additional restrictions on migrants and/or deportees that are not also applied to the rest of the population; and
    - c. allow repatriated people to comply with any exceptional measures that have been put in place, as well as observe social distancing and sanitation precautions in a safe manner.
7. **Reduce, as much as possible, the transfers of migrants and asylum seekers**, limiting them to those that are strictly necessary to protect their health and well-being or to allow them to exercise basic rights – including the right to liberty and access to health care, due process, and legal representation.
  - i. Ensure that health professionals validate, monitor, and ensure that these transfers do not pose a health risk.
8. **Avoid stigmatization of people on the move.** ([International Convention on the Elimination of All Forms of Racial Discrimination, article 2](#))
  - i. Ensure that official actions and discourse do not suggest, in any way, negative associations between people on the move and the pandemic.
  - ii. Conduct ongoing **campaigns against xenophobia** in the pandemic-specific context.
9. **Collaborate with relevant national and international actors** in order to:
  - i. Acknowledge the transnational reach of their policies and take responsibility for the consequences of their actions within and beyond borders.
  - ii. Strengthen the use of diplomatic and consular channels to offer an adequate and coordinated response for people on the move during this pandemic. For instance, effectuate safe returns to their home countries for individuals seeking to return.
  - iii. Capitalize on support from international organizations, other countries, and non-state actors. Under no circumstances should States delegate their responsibilities as a result of these collaborations.
10. **Develop an action plan to reverse policies of exception** that are implemented during the pandemic, undertake measures to address their consequences, and document good practices for future emergency situations.

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