



ASEAN Declaration on the Protection of Migrant Workers and Family Members in Crisis Situations and Its Guidelines



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ASEAN Declaration on the Protection of Migrant Workers and Family Members in Crisis Situations and Its Guidelines

The ASEAN Secretariat
Jakarta

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ASEAN DECLARATION ON THE PROTECTION OF MIGRANT WORKERS AND FAMILY MEMBERS IN CRISIS SITUATIONS

WE, the Member States of the Association of Southeast Asian Nations (ASEAN) on the occasion of the 42nd ASEAN Summit chaired by the Republic of Indonesia;

NOTING the significant progress made by ASEAN Member States in achieving the ASEAN Community Vision 2025, including an ASEAN Socio-Cultural Community which engages and benefits the people and is inclusive, sustainable, resilient and dynamic;

RECALLING the purposes of ASEAN, as enshrined in the ASEAN Charter, which are to enhance regional resilience, promote and protect human rights and fundamental freedoms as well as enhance the well-being and livelihood of the peoples of ASEAN for the strengthening of ASEAN Community;

ACKNOWLEDGING that the rights of migrant workers are an inalienable, integral and indivisible part of human rights and fundamental freedoms as enshrined in the ASEAN Human Rights Declaration;

RECALLING the guiding principles of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Cebu Declaration) and the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers (hereinafter referred to “ASEAN Consensus”) which establish rights for migrant workers and the members of their families already residing with them and recognise the shared and balanced responsibilities of the Receiving and Sending States of ASEAN to promote their full potential, dignity, fundamental rights, and fair treatment;

COGNISANT of International Labour Organizations (ILO) labour standards, the Global Compact on Safe, Orderly and Regular Migration and United Nations human rights instruments that call on the protection and promotion of the rights of migrant workers and their family members already residing with them, and frameworks to facilitate orderly, safe, regular and responsible migration throughout the cycle;

REAFFIRMING the commitments in the ASEAN Consensus and Cebu Declaration that Sending and Receiving States will cooperate and coordinate to extend full assistance to migrant workers who are caught in conflict or crisis situations in accordance with the respective national laws, regulations and policies;

FURTHER REAFFIRMING the collective commitments of ASEAN towards equitable access to social protection for all through the implementation of the ASEAN Declaration on Portability of Social Security Benefits for Migrant Workers in ASEAN, ASEAN Declaration on the Rights of Children in the Context of Migration, and ASEAN Declaration on Strengthening Social Protection;

FURTHER REAFFIRMING the commitments of ASEAN for better preparedness of policies and the resilience and agility of ASEAN workforce for the potential outbreak or recurring of crises in the future as stipulated in relevant ASEAN commitments and in accordance with ASEAN Member States' respective capacities, laws and regulations;

NOTING the recommendations adopted at 13th, 14th and 15th ASEAN Forums on Migrant Labour (AFMLs) on protection of migrant workers during the COVID-19 crisis and recovery and resumption of labour migration after the pandemic, and acknowledging the applicability of these recommendations to other types of crisis situations;

MINDFUL of the ASEAN risk landscape that is increasingly complex due to the layered compounding natural hazards and interconnected economies which are exacerbated by the impact of growing ageing population, rapid urbanisation, climate change and mobility of people;

UNDERLINING the need for greater inclusion of migrant workers in the crisis response measures across the region which are rights-based, inclusive, gender responsive and fair;

NOTING that for the purpose of this Declaration, "crisis situations" refer to public health emergencies, natural disasters, and other crises as determined by ASEAN Member States where the crises occurred.

DO HEREBY DECLARE our joint commitment to take the following actions in crisis situations and in anticipation of future possible crisis in accordance with the respective ASEAN Member States' national laws, regulations and policies:

1. **ADAPT** policies to include assistance to migrant workers across occupational areas at all stages of crisis preparedness, response and recovery for the specific needs of migrant workers, especially women, and their families already residing with them in crisis situations;
2. **MAINSTREAM** the protection and promotion of the rights of migrant workers caught in crisis situations and their family members left behind in the policies, programmes and mechanisms of Sending States;
3. **FACILITATE** access of migrant workers to timely and relevant information and support services in time of crises;
4. **SUPPORT** access to justice, grievance mechanisms and referral and support mechanisms to address various forms of harm and exploitation experienced by migrant workers in crisis situations;
5. **FACILITATE**, where relevant, timely access of all migrant workers affected by crises to sustained safety, health care, psychosocial support, social protection, livelihood support in time of furlough, sickness or injury, and return and reintegration to their countries of origin;

6. **STRENGTHEN** bilateral and/or multilateral cross-border coordination between countries of origin, transit and destination authorities in assisting and protecting migrant workers and their family members already residing with them in crisis and preventing them from becoming undocumented or being the victims of trafficking in persons;
7. **STRENGTHEN** cooperation to extend assistance to migrant workers of ASEAN Member States who are caught in crisis situations outside ASEAN in the event of need, based on the capacities and resources of the Embassies and Consular Offices of the relevant ASEAN Member States and based on bilateral consultations and arrangements;
8. **PROMOTE** whole-of-society and whole-of-government collaboration and partnership between ASEAN Member States and ASEAN's External Partners, international organisations, and other relevant international entities to better protect migrant workers and their family members already residing with them in crisis situations throughout entire migration process;
9. **COOPERATE AND COORDINATE** among ASEAN Member States to extend humanitarian assistance to migrant workers, irrespective of their legal status, and their family members who are already residing with them in the States where the crisis occurred; and
10. **WE** tasked the ASEAN Labour Ministers Meeting (ALMM) with the support of the ASEAN Senior Labour Officials Meeting (SLOM) and in cooperation with other relevant ASEAN sectoral bodies and organs, as necessary, to mobilise resources for the implementation of this Declaration and develop an ASEAN Guidelines on the Protection of Migrant Workers in Crisis Situations.

ADOPTED in Labuan Bajo, the Republic of Indonesia, on this Tenth Day of May in the Year Two Thousand and Twenty-Three, in a single original copy in the English language.

ASEAN GUIDELINES ON PROTECTION OF MIGRANT WORKERS AND FAMILY MEMBERS IN CRISIS SITUATIONS

I. INTRODUCTION

1. The sizeable number of migrant workers in the ASEAN region, including more than 7 million ASEAN migrants within the region, has contributed significantly to the region's economy and development. They are key to the region's effort to empower families to achieve the goals of poverty eradication, education, health and wellbeing and, not to mention, their paramount role in the realisation of ASEAN Community Vision 2025 and their contribution to economies and development of ASEAN Member States.
2. However, past public health emergencies, natural disasters, and other crises in the ASEAN region have shown that migrant workers, especially women, and their family members are among the least protected and most-at-risk in crisis situations, throughout the entire migration cycle. The reasons for this include their limited access to emergency services and public assistance, social protection, and other basic services in crisis situations; risk of losing their immigration status when they are displaced or lost their jobs; and challenges in outreach and cross-border coordination in providing them support, including evacuation and repatriation assistance. Addressing these risks and vulnerabilities requires strengthening migrant workers' and their families' resilience and ensuring their protection in the context of preparedness for, response to and recovery from crises. Particular attention needs to be given to inclusion of all migrant workers irrespective of age, gender, sex, disability, class, ethnicity, religion, legal status, nationality, or other factors.
3. ASEAN instruments on protection of migrant workers include the 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Cebu Declaration) and the 2017 ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers (ASEAN Consensus). These instruments recognise rights for migrant workers and the members of their families and the shared and balanced responsibilities of the Receiving and Sending States to promote the full potential, dignity, fundamental rights and fair treatments of migrant workers and their family members. In particular, through the adoption of the ASEAN Declaration of Protection of Migrant Workers and Family Members in Crisis Situations at the 42nd ASEAN Summit on 10-11 May 2023 in Labuan Bajo, Indonesia, ASEAN calls for the protection of migrant workers in conflict or crisis situations within and outside ASEAN.
4. At operational level, the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) has a robust work plan including activities in many key areas of labour migration governance

and protection of migrant workers' rights. During the COVID-19 pandemic, many of these activities – in particular, the 13th, 14th, and 15th ASEAN Forums on Migrant Labour (AFML) – focused on protection of migrant workers affected by the pandemic. The protection of migrant workers in crisis situations needs to be addressed more broadly under the ASEAN labour sector.

5. The ASEAN regional framework on disaster management includes, most importantly, the 2005 ASEAN Agreement on Disaster Management and Emergency Response (AADMER) and its Work Programme 2021-2025. This is supported by the ASEAN Regional Framework on Protection, Gender and Inclusion in Disaster Management 2021-2025. In the health sector, the ASEAN Post-2015 Health Development Agenda for 2021-2025 covers regional preparedness and response to public health emergencies and disaster health management under the ASEAN Health Cluster 2 on Responding to All Hazards and Emerging Threats as well as to enhance health system capacity and capability to seek to improve health service for documented migrant workers and special populations which is under the ASEAN Health Cluster 3 on Strengthening Health Systems and Access to care. Protection of migrant workers and their families in crisis situations should be mainstreamed into these existing ASEAN crisis frameworks. Furthermore, there is a need to adopt a new ASEAN guideline to holistically address the protection needs of migrant workers and their family members already residing with them in crisis situations.
6. This Guidelines complements and is mandated by the ASEAN Declaration on Protection of Migrant Workers and Family Members in Crisis Situations. The Guidelines is applicable in strengthening migrant workers' and their families' resilience and ensuring their protection in the context of preparedness for, response to and recovery from crises.
7. The implementation of the Guidelines should be coordinated with implementation of the overall migration and employment strategies of the countries, relevant regional commitments, including the ASEAN Consensus and relevant international commitments including those under the UN 2030 Agenda for Sustainable Development (SDGs) as well as the Global Compact on Safe, Orderly and Regular Migration (GCM).

II. OBJECTIVES OF THE GUIDELINES

8. The following are the objectives of the Guidelines:
 - 8.1. Articulate a set of guiding principles for ASEAN Member States on policies, institutional mechanisms, programmes and services required for protection of migrant workers and their families in crisis situations in line with the Cebu Declaration, ASEAN Consensus and other relevant ASEAN frameworks, UN and ILO human rights and labour standards, global development and migration frameworks and good practices, subject to prevailing national laws, regulations and policies of ASEAN Member States;
 - 8.2. Act as a guide to ASEAN Member States and all concerned stakeholders for the application of effective policies, strategies and action frameworks at the national, bilateral and regional levels to strengthen migrant workers' and their families' resilience and ensure their protection in the context of preparedness for, response to and recovery from crises;

- 8.3. Strengthen partnerships among ASEAN Member States on protection of migrant workers and their families in crisis situations;
- 8.4. Continuously and proactively encourage governments, employers' organisations, workers' organisations, recruitment agencies, individual employers, civil society organisations and other stakeholders to incorporate these guiding principles in their efforts to protect migrant workers and their families already residing with them in crisis situations and to ensure that crisis situations do not lead to increased undocumented labour migration.

III. INTENDED USERS AND STAKEHOLDERS

9. The Guidelines aims to serve as guiding principles for stakeholders in strengthening migrant workers' and their families' resilience and ensuring their protection in the context of crisis preparedness, response and recovery in ASEAN Member States, notably:
 - 9.1. Governments of ASEAN Member States at central and local levels, including government authorities responsible for migrant workers, disaster management, health, social welfare, immigration and protection of citizens abroad;
 - 9.2. Employers' organisations;
 - 9.3. Workers' organisations;
 - 9.4. Migrant workers and their family members;
 - 9.5. Migrant communities and associations;
 - 9.6. Civil society organisations;
 - 9.7. Private employment agencies/private recruitment agencies;
 - 9.8. Private sector and employers in sending and receiving states;
 - 9.9. National human rights organisations;
 - 9.10. Regional stakeholders including but not limited to:
 - 9.10.1. Relevant ASEAN bodies across the three pillars which are in charge of migrant workers, disaster management, health, social welfare, immigration and human rights;¹
 - 9.10.2. Inter-governmental organisations with humanitarian and development mandates;
 - 9.10.3. ASEAN Dialogue Partners and donors; and
 - 9.10.4. Parliamentarians, academia and other organisations as relevant.

¹ ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW), ASEAN Committee on Disaster Management (ACDM), Senior Officials Meeting on Health Development (SOMHD), Senior Officials Meeting on Social Welfare and Development (SOMSWD), ASEAN Directors-General of Immigration Departments and Heads of Consular Affairs Divisions of the Ministries of Foreign Affairs (DGICM), ASEAN Inter-Governmental Commission on Human Rights (AICHR) and ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC).

10. The roles of governments, employers' organisations and workers' organisations should be synergised with the roles of other stakeholders, as listed above, in assisting migrant workers and their family members in crisis situations. Identification of the main coordinating ministry to provide assistance to migrant workers and family members and coordination mechanisms with labour ministry and other stakeholders should be established at national level especially in the Receiving States.

IV. SOURCES AND REFERENCES OF THE GUIDELINES

11. The following instruments and sources are considered particularly useful for drawing upon and elaborating the Guidelines and in its subsequent implementation by ASEAN Member States and concerned stakeholders:

IV.1 ASEAN FRAMEWORKS

12. General:
 - 12.1. ASEAN Charter
 - 12.2. ASEAN Community Vision 2025
 - 12.3. ASEAN Comprehensive Recovery Framework (AQRF)
 - 12.4. ASEAN Enabling Masterplan 2025: Mainstreaming the Rights of Persons with Disabilities
 - 12.5. ASEAN Human Rights Declaration
13. Protection of migrant workers and citizens abroad:
 - 13.1. ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Cebu Declaration)
 - 13.2. ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers (ASEAN Consensus)
 - 13.3. ASEAN Declaration on the Guidelines on Consular Assistance by ASEAN Member States' Missions in Third Countries to Nationals of Other ASEAN Member States
 - 13.4. ASEAN Declaration on Strengthening Social Protection and the Regional Framework and Action Plan
 - 13.5. ASEAN Convention against Trafficking in Persons Especially Women and Children (ACTIP)
 - 13.6. ASEAN Declaration on the Rights of Children in the Context of Migration
 - 13.7. ASEAN Declaration on Portability of Social Security Benefits for Migrant Workers in ASEAN
 - 13.8. ASEAN Guidelines on Effective Return and Reintegration of Migrant Workers

- 13.9. Joint Statement of ASEAN Labour Ministers on Response to the Impact of Corona Virus Disease 2019 (COVID-19) on Labour and Employment
- 13.10. Recommendations of the ASEAN Forum on Migrant Labour (AFML)
- 14. Disaster management:
 - 14.1. ASEAN Agreement on Disaster Management and Emergency Response (AADMER) and its Work Programme 2021-2025
 - 14.2. ASEAN Regional Framework on Protection, Gender and Inclusion in Disaster Management 2021-2025
 - 14.3. ASEAN Framework on Anticipatory Action in Disaster Management
 - 14.4. ASEAN Declaration on One ASEAN One Response: ASEAN Responding to Disaster as One in the Region and Outside the Region
- 15. Health:
 - 15.1. ASEAN Post-2015 Health Development Agenda for 2021-2025
 - 15.2. ASEAN Leaders' Declaration on Disaster Health Management 2017 and its Plan of Action (2019-2025) and Matrix of Detailed Activities
 - 15.3. ASEAN Strategic Framework on Public Health Emergencies
 - 15.4. Joint Statement of the 15th ASEAN Health Ministers Meeting on Strengthening Health Coverage for Documented Migrants including Migrant Workers and Special Populations
 - 15.5. Migration and Health: Case Studies in ASEAN

IV.2 UN AND ILO HUMAN AND LABOUR RIGHTS INSTRUMENTS

- 16. Human rights instruments
 - 16.1. Universal Declaration of Human Rights
 - 16.2. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
 - 16.3. International Covenant on Civil and Political Rights (ICCPR)
 - 16.4. International Covenant on Economic, Social and Cultural Rights (ICESCR)
 - 16.5. Convention on the Elimination of All forms of Discrimination Against Women (CEDAW)
 - 16.6. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
 - 16.7. Convention on the Rights of the Child (CRC)
 - 16.8. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW)

- 16.9. International Convention for the Protection of All Persons from Enforced Disappearance (CPED)
- 16.10. Convention on the Rights of Persons with Disabilities (CRPD)
17. ILO International Labour Standards and non-binding frameworks
- 17.1. ILO Declaration on Fundamental Principles and Rights at Work, adopted in 1998 and amended in 2022, and Fundamental Conventions including:
- Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol)
 - Abolition of Forced Labour Convention, 1957 (No. 105)
 - Minimum Age Convention, 1973 (No. 138)
 - Worst Forms of Child Labour Convention, 1999 (No. 182)
 - Equal Remuneration Convention, 1951 (No. 100)
 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
 - Occupational Safety and Health Convention, 1981 (No. 155)
 - Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)
- 17.2. Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205)
- 17.3. Migration for Employment Convention (Revised), 1949 (No. 97)
- 17.4. Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- 17.5. Recruitment Agencies Convention, 1997 (No. 181)
- 17.6. All other ILO labour standards relating to employment, including standards on social security, conditions of work, employment policy, labour inspection, occupational safety and health (OSH), specific sectors of work such as domestic work and fishing
- 17.7. General Principles and Operational Guidelines for Fair Recruitment, 2016
18. Global development, disaster management, health and migration frameworks and good practices
- 18.1. UN 2030 Agenda for Sustainable Development, and the Sustainable Development Goals (SDGs)
- 18.2. UN Global Compact on Safe, Orderly and Regular Migration (GCM), 2018
- 18.3. Migrants in Countries in Crisis (MICIC) Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster, 2014

- 18.4. OHCHR Recommended Principles and Guidelines on the Human Rights Protection of Migrants in Vulnerable Situations
- 18.5. WHO Global Action Plan on Promoting the Health of Refugees and Migrants 2019-2023

V. GENERAL GUIDING PRINCIPLES

19. The general guiding principles below serve as the common framework and foundation for the Guidelines outlined in Section VI. The general principles are drawn from various sources, such as international instruments, ILO standards and frameworks, global and ASEAN frameworks identified in Section IV. Respect for these general principles ensures the consistency and policy coherence of various measures highlighted under the Guidelines.

V.1 RIGHTS-BASED

20. All policies and programmes on crisis preparedness, response and recovery shall respect the human and labour rights of migrant workers and their families and in line with international instruments that have already been ratified by ASEAN Member States, and ASEAN instruments. The ILO Committee of Experts and UN Treaty Bodies have underscored that human rights and international labour standards provide the guardrails to navigate crisis situations.²
21. All migrant workers shall enjoy effective and comprehensive protection of human rights and fundamental rights at work during crisis situations including the right to life, protection against inhumane or degrading treatment, support access to justice, facilitate timely access to immediate basic needs, (including but not limited to food, water, shelter and others), emergency health care, psychosocial support, file grievance or complaint, access to justice, or protection of their fundamental rights at work including equality and non-discrimination, collective bargaining rights, protection from forced labour and child labour. Irregularity with regard to stay or employment shall never be used to deny the rights of any migrant workers and their family members already residing with them in accordance with the prevailing national laws, regulations and policies of ASEAN Member States. Recommendations of the 13th and 14th AFMLs recognised the need to respond to the adverse impact of the COVID-19 pandemic on all migrant workers, regardless of their migration status.

V.2 NON-DISCRIMINATION

22. The principle of non-discrimination shall be applied in all aspects of crisis preparedness, response, and recovery. Non-discrimination means that migrant workers and their family members already residing with them affected by crises have the right to fair treatment including access to protection, emergency services and public assistance, in accordance with the prevailing national laws, regulations and policies of ASEAN Member States.

² Joint statement by the ILO Committee of Experts on the Application of Conventions and Recommendations and UN Human Rights Treaty Bodies Chairpersons, 24 February 2023.

23. The principle of non-discrimination is inspired by the Recommendations from the 14th and 15th AFMLs which call for non-discriminatory treatment of migrant workers. The definition of fair treatment refers to Article 7 of the ASEAN Consensus and Cebu Declaration which calls for fair treatment of migrant workers.

V.3 GENDER EQUALITY

24. Each Member State shall acknowledge the specific needs of women and girls in crisis situations and take appropriate measure to address those in all policies, programmes and services on crisis preparedness, response and recovery. Specific attention should be paid on preventing and addressing sexual harassment and gender-based violence during crises. Article 1(e) of the ASEAN Consensus outlines the general principle of upholding fair treatment with respect to gender and nationality, and protecting and promoting the rights of migrant workers, particularly women.
25. Crisis preparedness, response and recovery policies, programmes and measures need to be gender sensitive based on an understanding of how crises impacts women, men, boys and girls differently. They should also be gender responsive in articulating policies, actions and initiatives to address and redress gender-based inequalities, and gender transformative in creating opportunities to actively challenge gender norms, promote positions of social and political influence for women in communities and address power inequities between persons of different genders.

V.4 INCLUSION AND TARGETED SUPPORT FOR GROUPS IN SITUATIONS OF VULNERABILITY

26. All crisis preparedness, response and recovery policies, programmes and measures should give attention to inclusion of all migrant workers and their families already residing with them irrespective of age, gender, sex, disability, class, ethnicity, religion, legal status, nationality or other factors. The risks and vulnerabilities children face should also be given particular attention. Targeted support should be provided to groups in situations of vulnerability.
27. Inclusion is defined as the process of improving the terms of participation in society for people who are disadvantaged on the basis of age, gender, sex, disability, class, ethnicity, religion, legal status, nationality or other factors, through enhanced opportunities, access to resources, voice and respect for rights.

V.5 GOOD GOVERNANCE

28. The key attributes of good governance such as principles of transparency, responsibility, accountability, rule of law, participation, and responsiveness to the needs of the migrant workers should underpin all aspects of strengthening migrant workers' and their families' resilience and ensuring their protection in the context of preparedness for, response to and recovery from crises. In the ASEAN Consensus, ASEAN Member States reaffirmed their adherence to the principles of democracy, the rule of law and good governance.

29. There should be a continuous monitoring and evaluation of crisis preparedness, responses and recovery to assess the effectiveness of policies, programmes and measures taken by ASEAN Member States and such reports should be publicly available, if agreed by all ASEAN Member States.

V.6 PARTICIPATION AND REPRESENTATION OF MIGRANT WORKERS

30. Where appropriate, all policies and programmes on crisis preparedness, response and recovery should be designed and implemented in consultation with and with participation of migrant workers, and their associations in order to integrate their needs. Migrant workers should be allowed to join workers' organisations and associations, including migrant workers' organisations, to voice their concerns and perspectives. Their right to join workers' organisations and associations is established in Article 20 of the ASEAN Consensus with its implementation contextualised to the different situations across ASEAN Member States.

V.7 WHOLE-OF-GOVERNMENT AND WHOLE-OF-SOCIETY APPROACHES

31. Whole-of-government and whole-of-society approaches are essential in strengthening migrant workers' and their families' resilience and ensuring their protection in the context of preparedness for, response to and recovery from crises. Key stakeholders in this effort may include relevant government authorities at national and local levels responsible for migrant workers, disaster management, health and protection of citizens abroad as well as recruitment agencies, employers' organisations, workers' organisations, civil society organisations, migrant communities and associations, and other relevant service providers as applicable to the national contexts of ASEAN Member States. Consultation of migrant workers or their associations is essential in ensuring that measures designed and implemented respond to their needs.
32. Whole-of-government and whole-of-society approaches are recognised as cross-cutting and interdependent guiding principles in the Global Compact on Migration. Whole-of-government approach considers that migration is a multidimensional reality that cannot be addressed by one government policy sector alone. To develop and implement effective migration policies and practices, a whole-of-government approach is needed to ensure horizontal and vertical policy coherence across all sectors and levels of government. Whole-of-society approach promotes broad multi-stakeholder partnerships to address migration in all its dimensions by including relevant migrant workers, diaspora, local communities, civil society, academia, the private sector, parliamentarians, employers' organisations, workers' organisations, national human rights institutions, the media and other relevant stakeholders in migration governance as applicable to the national contexts of ASEAN Member States.

V.8 PRINCIPLE OF SHARED RESPONSIBILITIES BETWEEN ASEAN MEMBER STATES

33. Sending and Receiving States have shared responsibilities to protecting migrant workers and their family members in the context of crisis preparedness, response and recovery. The Preamble of the ASEAN Consensus confirms the shared and balanced responsibilities of the Receiving and Sending States to protect and promote the rights of migrant workers and members of their families in the entire migration process.

34. In relation to paragraph 48, Transit States also have a shared responsibility to protect migrant workers and their families in time of transit during crisis situations in coordination with Sending and/or Receiving States.
35. In crisis situations, ASEAN Member States shall cooperate and coordinate to extend humanitarian assistance to all migrant workers and their families already residing with them in the receiving states affected by a crisis, irrespective of their legal status subject to the national laws, regulations, and policies.

V.9 EVIDENCE-BASED

36. Policies and practices to strengthen migrant workers' and their families' resilience and ensure their protection in the context of preparedness for, response to and recovery from crises should be based on solid evidence on impacts of crises on migrant workers and their protection needs. Any collection of data on migrant workers should be done in a manner that respects the right to privacy and integrity of migrant workers and their family members, especially those with irregular immigration status.

VI. ASEAN GUIDELINES ON PROTECTION OF MIGRANT WORKERS AND FAMILY MEMBERS IN CRISIS SITUATIONS

37. The below Guidelines represents effective operational measures and interventions that can be developed to strengthen migrant workers' and their families' resilience and ensure their protection in the context of crisis preparedness, response and recovery within the overarching framework of international and regional standards.

VI.1 STRENGTHENING RESILIENCE AND PREPAREDNESS

VI.1.1. Review and strengthen national legal and policy frameworks to improve migrant workers' and their families' resilience and ensure their protection in the context of crisis preparedness, response and recovery

38. Where possible, each ASEAN Member State is encouraged to review and strengthen their national legal and policy frameworks on crisis preparedness, response and recovery to ensure that all migrant workers and their families already residing with them affected by a crisis are covered in those frameworks and can enjoy non-discriminatory humanitarian protection and access to emergency services and public assistance.
39. National legal and policy frameworks on access to information, child-sensitive and gender-responsive health care, referrals, legal support, adequate housing including in emergency shelter, financial assistance, income support, emergency employment, social protection, reestablishing documentation and work permits, assistance in changing employers, and essential services for persons experiencing violence or harassment are encouraged to be reviewed and amended, when necessary, to ensure that migrant workers and their families already residing with them affected by crisis, irrespective of their legal status, will have access to these emergency services and public assistance without delay nor discrimination when a crisis occurs.

40. Sending and Receiving States are encouraged to review their labour migration policies to strengthen the protection of outgoing migrant workers whose deployment is delayed and those whose return is affected by a crisis. Where feasible, provision should be made for reimbursement of relevant migration-related costs to prospective migrant workers who paid such fees or costs for jobs overseas but could not be deployed during crisis. Sending States are also encouraged to strengthen their legal and policy frameworks to address increased risk of illegal recruitment and trafficking in persons during crises.
41. Each ASEAN Member State is encouraged to acknowledge the specific protection needs of women and girls in crisis situations and give attention to inclusion of all migrant workers and their families already residing with them, irrespective of age, gender, sex, disability, class, ethnicity, religion, legal status, nationality or other factors. It is therefore important to consider the participation of migrant workers in policy and legal reviews and how they can be represented.
42. Inclusion of all migrant workers and their families in the above protection when a crisis occurs is essential for their preparedness, responsiveness, recovery and ability to be resilient from the effects of a future crisis. Further efforts to strengthen migrant workers' resilience to crises need to include improving access to regular pathways for labour migration, fair recruitment and decent work for all migrant workers. These efforts need to include strengthening national laws and their enforcement on decent work and improving migrant workers' job security, wage protection, social protection, living and working conditions, access to support services, access to grievance mechanisms and justice, including cross-border handling of complaints.

VI.1.2. Collect age- and sex-disaggregated data on migrant worker populations and their exposure to crises to support crisis preparedness and response measures

43. Each ASEAN Member State shall collect information on the location and characteristics of migrant worker populations to plan and target crisis preparedness and response measures. Member States shall also collect information on unforeseen circumstances created by crisis situations that have adverse impacts on migrant workers to support evidence-based preparedness and responsiveness to crisis-related harms.
44. Where possible, Member States are encouraged to overlay data on migrant worker populations with a mapping of regional, national and local risks of crises to identify migrant populations at risk. It is recommended that, where feasible, government authorities do this mapping in partnership with migrant worker communities and associations, workers' organisations, employers' organisations, civil society organisations, humanitarian organisations and other partners that have access to migrant worker populations and enjoy their trust.
45. Data on migrant worker populations should be collected, protected and stored in a manner that respects the right to privacy and integrity of migrant workers and their family members already residing with them. Data on migrant workers and their families should be disaggregated by age and sex and, where possible, by gender, disability, class, ethnicity, religion, legal status, nationality or other factors.

46. Where possible, ASEAN Member States are also encouraged to make arrangements for sharing of data on exposure of migrant workers and their families to crises between Sending and Receiving States and between national and local governments.

VI.1.3. Improve inter-agency and cross-border coordination on protection of migrant workers and their family members in crisis situations

47. Each ASEAN Member State is encouraged to promote policy coherence and whole-of-government and whole-of-society approaches in protecting migrant workers and their families already residing with them in crisis situations. Collaboration includes sharing of information among stakeholders for better resilience against impending crises, where appropriate. Stakeholders are recommended to develop concrete actions to synergise their respective roles, identify the coordinating mechanisms and main coordinating ministry in assisting migrant workers and their family members already residing with them in crisis situations.
48. Relevant authorities in Sending, Transit, and Receiving States shall improve bilateral or multilateral cross-border coordination in assisting and protecting migrant workers and their families already residing with them in crisis situations. Cross-border coordination should include provision of gender-responsive consular and labour attaché services in facilitating search, safe evacuation, return and repatriation during crisis situations, as well as contributions of the governments, employers and all stakeholders to the evacuation costs. Such coordination mechanisms can be part of bilateral labour agreements or memorandums of understanding (MOUs).
49. Where appropriate, bilateral or multilateral arrangements should also be made on collaboration between ASEAN Member States to assist citizens of other ASEAN Member States in a crisis situation in a third country in accordance with the ASEAN Declaration on the Guidelines on Consular Assistance by ASEAN Member States' Missions in Third Countries to Nationals of Other ASEAN Member States. Furthermore, where appropriate, ASEAN Member States may apply this Guidelines in providing humanitarian assistance to migrant workers from non-ASEAN countries in their respective countries during crisis situations.

VI.1.4. Strengthen delivery of support services and information to migrant workers

50. Each Member State shall strengthen the mandates and operational capacity of government and non-government actors to provide services and information to migrant workers and their families already residing with them in crisis situations and during crisis preparedness and recovery. These actors may include the Receiving States' government agencies, Sending States' government agencies, embassies or overseas missions, recruitment agencies, employers' organisations, workers' organisations, civil society organisations, migrant worker communities and associations, humanitarian organisations and other relevant service providers. In this regard, ASEAN Member States shall promote sharing of best practices from within and outside the ASEAN region to support the strengthening of their operational and data collection capacities and promotion of evidence-based policies.

51. ASEAN Member States should make particular efforts to empower migrant workers and their family members themselves through awareness raising and dissemination of information in accessible languages and formats that they understood and to ensure migrant workers without Information and Communication Technologies (ICT) or in isolated workplaces, such as domestic work, have access to information. Awareness raising should be linked to specific available services which support the preparedness, response and recovery of migrant workers and their family members from crisis situations.

VI.2 CRISIS RESPONSE

VI.2.1. Effective outreach and provision of gender-responsive emergency support to migrant workers and their family members in crisis situations in Receiving States

52. When a crisis occurs, each ASEAN Member State shall provide affected migrant workers and their families already residing with them with information and emergency support. Emergency support provided to migrant workers and their families shall include, where applicable, information, gender-responsive health care, referrals, legal support and remediation, adequate housing including in emergency shelter, financial assistance, income support, wage protection, emergency employment, social protection, re-establishing documentation, visa and work permit extension, assistance in changing employers, and essential services for persons experiencing violence or harassment, where necessary. Access to emergency support and public assistance should be delinked from fear of sanctions for immigration violations.
53. ASEAN Member States should ensure that migrant workers or their family members already residing with them who lose their documents or whose documents expire during or as a result of the crisis and cannot return home are not subjected to sanctions for immigration violations. Special protection should be provided to migrant workers with irregular immigration status, such as victims of human trafficking during crisis situations as well as in time of statelessness in the context of migration.
54. Provision of information and emergency support should acknowledge and address specific support needs of women and girls in crisis situations and ensure inclusion of all migrant workers.
55. Noting states' responsibility as duty bearers to provide rights-based assistance, ASEAN Member States are encouraged to seek collaboration with embassies or overseas missions, recruitment agencies, employers' organisations, workers' organisations, civil society organisations, humanitarian organisations, diaspora organisations and migrant worker communities and associations to ensure effective outreach to migrant workers and the availability of services for them. The use of technology should also be maximised to ensure timeliness and inclusivity of information and emergency support.

VI.2.2. Effective cross-border coordination of gender-responsive search, evacuation, return and reintegration during crises

56. During crisis situations, relevant government agencies in Sending and Receiving States shall coordinate together to facilitate non-discriminatory, safe evacuation of migrant workers and human rights-based and gender-responsive return and reintegration

for stranded migrant workers and family members who want to return home during crises. Sending and Receiving States need to also cooperate on search for missing migrant workers and the management of deceased migrant workers who die away from their countries of origin and families. Authorities in either country are encouraged to seek collaboration with recruitment agencies, employers' organisations, workers' organisations, civil society organisations, migrant worker communities and associations, and other relevant partners to assist in these search, evacuation, return and reintegration efforts.

57. Any evacuation and return efforts during crisis should respect the principles of non-refoulement, prohibition of collective expulsions, freedom of movement, right to return, avoiding family separation, and child protection and child's best interests.

VI.2.3. Promoting livelihoods in crisis hit areas and preventing unsafe migration out of necessity

58. ASEAN Member States should rebuild livelihoods in crisis hit areas and promote ethical recruitment, inclusive humanitarian assistance and other measures to prevent unsafe labour migration out of necessity.
59. ASEAN Member States affected by crises should ensure a continuing safe labour migration and prevent a potential increased risk of illegal recruitment activities in crisis affected areas which may lead to unsafe labour migration, forced labour, trafficking of migrants, including children, and other forms of exploitation.
60. Those prospective migrant workers who paid relevant migration-related costs for jobs overseas but could not be deployed during crisis should be reimbursed in accordance to arrangements between ASEAN Member States.

VI.3 POST-CRISIS RECOVERY

VI.3.1. Reintegration support to migrant workers and members of their families returning from areas affected by crises

61. ASEAN Member States will provide reintegration support services to migrant workers and their families returning from areas affected by crises, building upon the ASEAN Guidelines on Effective Return and Reintegration of Migrant Workers. The reintegration support should include assistance in finding employment or establishing livelihoods, entrepreneurship support, skills training and certification, healthcare, social protection, psychosocial counseling, and facilitation of settlement of outstanding wages and other claims. Medical assistance and disability support upon return must be provided particularly after illness or injury-causing crises.
62. All returnees, both men and women, shall have effective equal access to reintegration support and services.

VI.3.2. Resumption of labour migration in post-crisis

63. ASEAN Member States shall promote re-establishing regular labour migration channels to resume normal labour migration activity after crises. In case of post public health emergency, health and other additional protocols will be taken into account in resumption of labour migration but should not impede labour migration or create unfavourable working conditions for migrant workers. Regular labour migration pathways need to be accessible and provide effective protection to migrant workers' rights to prevent exploitation, coercion and trafficking in person.
64. Clear and transparent public information services on the resumption and process of labour migration in post-crisis shall be availed by ASEAN Member States to ensure that migrant workers, employers and other stakeholders are prepared and could participate fully.

VII. CAPACITY-BUILDING OF IMPLEMENTING ORGANISATIONS AND PARTNERS

65. Strengthening migrant workers' resilience and ensuring their protection in the context of crisis preparedness, response and recovery is a multi-stakeholder effort, which requires participation of relevant government authorities, recruitment agencies, employers' organisations, workers' organisations, civil society organisations, migrant communities and associations, and other relevant service providers. ASEAN Member States should build capacity of these stakeholders to build common understanding of their respective roles in protecting migrant workers in crisis situations and to foster collaboration and coordination of efforts.
66. The ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) should facilitate bilateral or multilateral cross-border coordination between ASEAN Member States in assisting and protecting migrant workers and their families already residing with them who are in crisis.
67. Assistance may be sought from competent national agencies and international development partners for capacity-building efforts.

VIII. RESOURCE MOBILISATION

68. ASEAN Member States shall review and strengthen their national crisis preparedness, response, and recovery budgets to ensure that allocations are made for protection of migrant workers and their families already residing with them affected by a crisis irrespective of their legal status. The budget allocations shall ensure migrant workers' and their families' non-discriminatory protection and access to emergency support.
69. Efforts to strengthen migrant workers' and their families' resilience and ensure their protection in the context of preparedness for, response to and recovery from crises should be brought to the attention of international organisations, development partners, the United Nations Network on Migration, and ASEAN Dialogue Partners for any support

they can organise in the form of technical assistance or finance. Crisis preparedness, response and recovery should not be considered in isolation but as part of longer-term development assistance programmes.

70. Public–private partnerships should also be encouraged at national, regional, district and village levels to fund efforts to strengthen migrant workers’ resilience and ensure their protection in the context of crisis preparedness, response and recovery.

IX. IMPLEMENTATION, MONITORING AND EVALUATION OF THE ASEAN GUIDELINES

71. The ASEAN Guidelines should be widely disseminated to intended users and stakeholders, and to the public in general. Publicity of the Guidelines should be given through different media, including press releases, television, radio and social media. ASEAN Member States are encouraged to translate the Guidelines into local languages for wider dissemination.
72. Monitoring, periodic review and evaluation of the status of implementation of these Guidelines should be made robust, led by the ACMW and carried out by governments, employers’ organisations, workers’ organisations and other relevant stakeholders to ensure respect for the Guidelines in national and ASEAN policies. Migrant workers and their family members should be engaged in the planning, monitoring and evaluation processes, as appropriate. The ASEAN Secretariat may also provide support and advice on monitoring and evaluation processes.
73. The use of this Guidelines is voluntary and non-legally binding. However, ASEAN Member States are encouraged to use the Guidelines widely in improving their national, bilateral and multilateral efforts to strengthen migrant workers’ and their families’ resilience and ensure their protection in the context of crisis preparedness, response and recovery. In the utilisation of the Guidelines, ASEAN Member States are encouraged to coordinate and collaborate with relevant stakeholders in their own country and in other ASEAN Member States, including with relevant government agencies, recruitment agencies, employers’ organisations, workers’ organisations, civil society organisations, migrant communities and associations, and other relevant stakeholders.

ANNEX

GLOSSARY OF KEY TERMS WITH DEFINITIONS

1. The Member States of the Association of Southeast Asian Nations

Association of Southeast Asian Nations, consisting of 10 Member States: Brunei Darussalam, Cambodia, Indonesia, the Lao People's Democratic Republic, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam.

2. Crisis

For the purposes of this Guidelines and in accordance with the ASEAN Declaration on Protection of Migrant Workers and Family Members in Crisis Situations, the term “crisis” refers to public health emergencies, natural disasters and other crises as determined by ASEAN Member States where the crises occurred.

a. Emergency

Disaster emergency means a situation where a Party declares that it is unable to cope with a disaster.³

Public health emergency means as an extraordinary event which is determined to constitute a public health risk to other States through the international spread of disease and to potentially require a coordinated international response.⁴

b. Crisis preparedness

Preparedness refers to the knowledge and capacities developed by governments, professional response and recovery organisations, communities and individuals to effectively anticipate, respond to, and recover from, the impacts of likely, imminent or current hazard events or conditions.⁵

c. Crisis response

Response refers to the provision of emergency services and public assistance during or immediately after a disaster or other crises in order to save lives, reduce health impacts, ensure public safety and meet the basic subsistence needs of the people affected.⁶ Disaster response is predominantly focused on immediate and short-term needs and is sometimes called as disaster relief.

³ Definition in the ASEAN Agreement on Disaster Management and Emergency Response.

⁴ Definition in the ASEAN Strategic Framework for Public Health Emergencies.

⁵ Definition in the ASEAN Strategic Framework for Public Health Emergencies and UNISDR Terminology on Disaster Risk Reduction, 2009.

⁶ Definition in the ASEAN Strategic Framework for Public Health Emergencies and UNISDR Terminology on Disaster Risk Reduction, 2009.

d. **Crisis recovery**

The restoration and improvement, where appropriate, of facilities, livelihoods and living conditions of disaster-affected communities, including efforts to reduce disaster risk factors, and may still be part of response.⁷

3. Disaster

Disaster means a serious disruption of the functioning of a community or a society causing widespread human, material, economic or environmental losses.⁸

The UN definition further specifies that potential disaster losses in lives, health status, livelihoods, assets and services could occur to a particular community or a society over some specified future time period.⁹

4. Resilience

Resilience means the ability of a system, community or society exposed to hazards to resist, absorb, accommodate, adapt to, transform and recover from the effects of a hazard in a timely and efficient manner, including through the preservation and restoration of its essential basic structures and functions through risk management.¹⁰

5. Migrant Worker

Migrant worker refers to a person who is to be engaged or employed, is engaged or employed, or has recently been engaged or employed in a remunerated activity in a State of which he or she is not a national.¹¹

6. Receiving State

The ASEAN Consensus uses the term “Receiving State” to refer to the ASEAN Member State which hosts a migrant worker.

7. Sending State

The ASEAN Consensus uses the term “Sending State” to refer to the ASEAN Member State of which the migrant worker is a national.

⁷ Definition in the ASEAN Strategic Framework for Public Health Emergencies and UNISDR Terminology on Disaster Risk Reduction, 2009.

⁸ Definition in the ASEAN Agreement on Disaster Management and Emergency Response.

⁹ UNISDR Terminology on Disaster Risk Reduction, 2009.

¹⁰ ILO Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205).

¹¹ Definition in the ASEAN Consensus on Protection and Promotion of the Rights of Migrant Workers.



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