

List of Vulnerabilities of Migrants

which are Directly or Indirectly Caused by the Lack of a Legal Status

Direct consequences of Lack of Legal Status	Indirect Consequences	Indirect Consequences	Indirect Consequences	Possible Countermeasures / Alternatives
No or very limited access to healthcare	<p>Migrants: Health problems; failure to treat illnesses at an early stage leads to more serious or chronic illnesses</p> <p>Depending on region and country, malaria and other infections may go untreated for a long time and cause serious health problems or even death.</p> <p>States: Public health risk if contagious diseases are not detected and treated. Higher cost for public health systems due to very expensive emergency treatment of serious illnesses or chronic illnesses and</p>	<p>Migrants: Inability to work, job loss, destitution, psycho-social problems, financial problems.</p> <p>Inability to effectively participate in visa status resolution processes due to poor mental or physical health.</p> <p>Migrant children: negative impact of health problems on education and development in general</p>	<p>Frequent mental health problems, as difficult life situations and high levels of stress worsen pre-existing mental health problems and create new ones</p>	<p>Disconnect healthcare from migration and immigration policies; provide access to necessary (not just emergency) health care and to prenatal and maternity care without being reported to immigration authorities (e.g. by providing migrants without a legal status with anonymous health care certificates);</p> <p>establish or provide funding for health care facilities for persons without public health insurance, especially for the most vulnerable groups of irregular migrants, including children; provide migrants with easily accessible information about their rights to access healthcare.</p> <p>Promote free vaccinations for everyone, irrespective of their legal status.</p>

	<p>due to higher risk of illnesses spreading from infected/ untreated migrants to other people.</p> <p>Violating basic Human Rights such as the right to access health care could have negative repercussions on the international level and damage the reputation of the state / government. .</p>			<p>Create awareness among public health providers about irregular migrants' entitlements to health care.</p> <p>Create awareness among decision makers of the right to health care as a basic human right and on the consequences of refusing irregular migrants access to health care.</p>
<p>No or very limited access to adequate housing (e.g. due to penalisation of landlords and NGOs under the facilitation directive of the EU)</p>	<p>Landlords / NGOs: Intimidation, fear of punishment for facilitating irregular stay, reluctance to help migrants without a legal status</p>	<p>Migrants: Homelessness, destitution, social and health problems, exploitation (by landlords – high rents, sexual exploitation, labour exploitation, etc)</p> <p>Migrant women are particularly vulnerable to sexual exploitation and could be forced to offer sexual services in exchange for housing or other basic services.</p> <p>States / Communities / General Public: xenophobia and</p>	<p>Migrants: Problems with legal proceedings which require a place of residence</p> <p>Migrants & their families: Isolation, social problems, education problems, language problems, integration problems; separation of families (adults / children) through homelessness; parents may be forced to resort to child labour or even human trafficking to ensure food and housing for children</p>	<p>Provide access to legal aid, possibility to seek redress against exploitation without being reported to immigration authorities; better information for migrants about their rights; provide day-care centres in combination with education for children; ensure that landlords are not punished for renting accommodation to irregular migrants (unless there is exploitation) and that NGOs that provide accommodation are not punished for facilitating irregular stay; rewording of the EU facilitation directive (Council Directive, 2002/90/EC of Nov. 28th 2002) to make it fundamental rights compliant.</p> <p>Adapt national legislation to take into account the concrete circumstances on the ground.</p>

		violence against migrants who have to live in the streets and are more visible		
No or very limited access to official labour market, labour rights	Migrants are forced to do unofficial work and mostly dirty, dangerous or demeaning jobs; exploitation by employers, destitution, inability to find redress against labour exploitation and slavery; risk of child labour / human trafficking of children and young adults	<p>Migrants: Work-related illnesses and accidents, no job security, precarious working and living conditions, permanent insecurity, no social insurance, no possibility to access retirement pension schemes, no access to justice to ensure labour rights due to the risk of getting reported to the immigration authorities and being returned;</p> <p>General public: a culture of impunity is fostered;</p> <p>States: preventing and fighting organised crime are hampered;</p>	<p>Migrants & their families: Inability to find and afford adequate housing, lack of food, education problems, psychosocial problems; Vulnerability to become victims of crime;</p>	<p>Provide access to legal aid, counselling and protection (third party representation) without being reported to immigration authorities to access labour rights and to be able to fight exploitation;</p> <p>Defining conditions under which victims or witnesses of crime could be granted residence permits;</p> <p>Training of labour inspectors to counsel irregular migrants on their rights; legal counselling by NGOs, trade unions and workers' associations must not carry the risk of being penalised;</p> <p>consider offering a possibility of regularisation, e.g. after a certain period of stay and/or working in the country</p> <p>Separation between labour inspections and migration status; more regular migration avenues for low-wage work; migrants should always have the right to change employer without losing their legal status.</p>
No or very limited access to human rights	Imprisonment for the offence of irregular entry and stay, in addition to administrative detention	Migrants: Avoiding contacts with public health services due to the risk of	Health problems, destitution, illness, injury, death, trauma, exploitation, limited or	Prioritise the respect for human rights and for protection and assistance obligations over border management, immigration and law enforcement

	<p>within the return procedure, separation of families, inhuman or degrading treatment, torture, denial of access to international protection, restricted access to healthcare, education for children, justice, adequate housing, etc.</p>	<p>apprehension and return.</p> <p>General public: a culture of impunity for violating the rights of migrants without a legal status is fostered; insecurity whether supporting, helping or rescuing irregular migrants will be punished.</p> <p>States: Fighting organised crime, social problems, xenophobia and hate crime is made more difficult.</p>	<p>sporadic access to education for irregular migrant children, etc.</p> <p>Social dependency, limited control over their own lives and constant fight for daily survival affect well-being, sense of self-esteem and human dignity of migrants.</p> <p>This all leads to an even higher risk of deception and exploitation.</p>	<p>concerns; inform migrants about their human rights; ensure that access to basic human rights is independent of a person's legal status; establish a uniform and easily accessible legal remedy against human rights violations which includes some financial compensation and which does not expose the irregular migrants to the risks of apprehension and return; train police officers and border guards, including on particular vulnerabilities of women and children, and make them accountable for violating the human rights of irregular migrants; do not return migrants to countries where their basic human rights will not be adequately protected.</p> <p>Disseminate the information in all areas / Publicity activities (TV's, Radio's, Airports, etc.)</p> <p>Workshops could be held to create awareness on the issue in question</p>
<p>No or very limited access to legal, social and return counselling</p>	<p>Lack of knowledge about migrants' rights, violations of migrants' rights, possible legal remedies are not used</p>	<p>High vulnerability to exploitation, even if irregular migrants have rights, they are effectively unable to access them; impunity of perpetrators</p>		<p>Introduce possibilities for anonymous or semi-anonymous, or other effective reporting facilities; provide access to legal aid and legal counselling (third party representation) without being reported to immigration authorities;</p> <p>Provide access to humanitarian assistance; ensure a durable solution through access to regularisation programmes or voluntary return programmes; ensure government or</p>

				<p>EU funding for NGO projects to help migrants without a legal status.</p> <p>Non-discriminatory access to basic services (e.g. health care, education and housing) brings both preventative benefits but also helps to identify victims of human trafficking.</p> <p>Encourage voluntary return by initiating livelihood projects in countries of origin (e.g. fishing, agricultural projects, etc.)</p>
No or very limited access to justice	<p>Migrants without a legal status are typically unable to access government support to report and fight crimes committed against them, either because they are not entitled to access the justice system, file complaints, receive legal support (e.g. a free lawyer to represent them if they cannot afford the fees) and/or because they are afraid of being reported to immigration authorities, detained and returned to their countries of origin.</p>	<p>Migrants: are forced to live in a situation of rightlessness; as a result they are easy to exploit (e.g. by traffickers, other criminals, employers, landlords) and easy to victimize by all kinds of criminals; this risk is even more pronounced concerning the most vulnerable groups of irregular migrants such as women and (unaccompanied) children;</p> <p>States: using illegality as an instrument to control/curtail migration has the consequence that</p>	<p>Migrants: Health problems, psychosocial problems, destitution, no/low education; no or very little integration/ inclusion in the host societies;</p> <p>States: high cost for fighting organised crime; high level of impunity of perpetrators / criminals as most crimes against irregular migrants in the 'shadow society' are not reported to authorities;</p>	<p>Grant government legal protection, effective access to justice and free legal representation by an attorney to everyone, irrespective of their legal status – without the fear of being reported to immigration authorities, detained and returned;</p> <p>Give irregular migrants access to free legal counselling and psychosocial support (e.g. via hotlines) without the fear of being reported to immigration authorities, detained and returned;</p> <p>Define conditions under which victims or witnesses of crimes, including domestic violence, can be granted residence permits; find effective ways to delink the immigration status of migrants from employers or other main permit holders in case of acts of violence committed by the main permit holder;</p>

		<p>parts of the society have to live outside the (rule of) law (i.e. outside government control) and that substantial opportunities are thus created for criminals and criminal organisations who operate in this 'shadow society'; this in turn creates more and far higher sophisticated criminality (which the state has to fight using very substantial resources) than irregular migration as such: using illegality as an instrument creates more crime and thus more suffering of irregular migrants.</p> <p>General public: general level of security and quality of living are negatively affected if parts of society are living in the shadows of illegality, if government control is</p>		
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		not functional in all parts of society and if there is an increase in (organised) criminal activities due to this fact.		
No or very limited access to education & training	Lack of education, inability to acquire higher qualifications and to access more highly qualified jobs; difficulties with making a living and with developing one's full potential	<p>Migrants & their families: poverty, destitution, social problems, exclusion; health problems</p> <p>States: in the long run higher (social) costs for children of irregular migrants without access to education as they become vulnerable to exploitation and are likely to rely more heavily on social systems if remaining in the host country; potential negative impact on voluntary returns</p>	<p>Migrants: Limited possibilities for social engagement, few opportunities for choice or achievement.</p> <p>Their integration into the host society will be difficult if they remain and lack education, and so will the reintegration in their countries of origin.</p> <p>General public: risk that a culture of exclusion and xenophobia is fostered.</p> <p>States: Governments have to face more public pressure from different political groups due to the social problems generated by large uneducated groups of migrants.</p>	<p>Provide effective access to education facilities, schools and (vocational) training without being reported to immigration authorities; access should at least be given to primary and secondary schools; police and immigration authorities should not be allowed to apprehend irregular migrants in the vicinity of schools.</p> <p>Consider implementing 'humanitarian scholarships' for migrants without a legal status, to increase their level of education and enhance their chances on the labour market.</p> <p>Increase the number of language training facilities for migrants. Training at these facilities should be affordable for migrants without a legal status and there should be no danger of detection by immigration police.</p>
No or very limited access to official means of travel / transportation / legal entry mechanisms	Carriers transporting irregular migrants are sanctioned and held liable for their return.	Migrants: No alternatives to using the services of smugglers and to taking very long, expensive and	Migrants: High vulnerability to trafficking and other forms of exploitation; high danger of illness, injury and death;	Create safe and effective legal avenues for migration, especially for potential asylum seekers who want to access international protection, e.g. through protected entry mechanisms or humanitarian visa; create additional

		<p>dangerous journeys to reach countries of destination / places of safety.</p> <p>States: this policy leads to the formation of an underground transportation industry managed by criminal organisations</p>	<p>States: High cost for border protection, detention & forced returns; high financial cost for fighting smuggling & THB; high political cost of restrictive government immigration policies being seen as the primary cause of criminal smuggling, THB and numerous deaths of migrants when trying to cross borders illegally.</p>	labour migration schemes.
No or very limited access to international protection	Pushbacks, interdictions, refoulement, inefficient asylum procedure.	Risk of persecution, dangers to the health, freedom and the lives of migrants	Trafficking, exploitation	<p>Create legal avenues to access international protection, e.g. through protected entry mechanisms or humanitarian visa; create protection-sensitive border management systems.</p> <p>Migrants who have lodged an asylum application must always be granted a legal status in the country, including during the appeals procedure.</p> <p>Create more regular ways for migrants to enter Europe for low wage work.</p>
No or very limited access to government support, protection and services	Fear of detection, detention, expulsion, exploitation	Reluctance to seek government (judicial, police) or NGO help, protection and redress against exploitation, abuse and criminal attacks	Exploitation, trafficking	<p>Provide access to legal aid without being reported to immigration authorities, ensure better protection for victims of Trafficking in Human Beings.</p> <p>Reduce vulnerability by reinforcing protection in basic areas, such as</p>

				<p>access to basic labour rights, justice and (international) protection and basic social services.</p> <p>Provide better information to migrants about their existing rights;</p>
<p>Criminalisation of migrants without a legal status</p>	<p>Reporting of irregular migrants to immigration authorities (compulsory / informal)</p>	<p>Migrants:</p> <p>Imprisonment of irregular migrants for the offence of irregular entry and stay;</p> <p>Fear of being discovered, detained and deported =></p> <p>Migrants don't report crimes committed against themselves => Impunity of perpetrators;</p> <p>Migrants are afraid to claim their rights;</p> <p>Migrants do not seek access to public services such as education and health.</p> <p>States: border and immigration management take precedence over the protection of human rights;</p> <p>General public:</p>	<p>Migrants: vulnerable to exploitation, extortion, stigmatisation, trauma, abuse, racist violence, denial of access to many services and rights, social isolation.</p> <p>Migrant women are often victims of crimes such as violence and rape, but, because they fear and experience poor treatment and accusations they rarely report these crimes.</p> <p>States: High cost and major difficulties of fighting organised crime caused by illegalisation</p>	<p>Reduce criminalisation by abolishing criminal sanctions for irregular (attempted) border crossings or irregular stay; give effective access to legal aid and counselling without being reported to immigration authorities; better information of migrants about their rights; better information and awareness-raising among the general public about the reasons for irregular migration and about the situation of migrants without a legal status and that they are entitled to have access to basic human rights.</p> <p>The media can contribute to the enforcement of positive or negative images of migrants without a legal status. Try to encourage and support a more balanced and less biased media coverage.</p>

		risking punishment for supporting, helping or rescuing migrants without a legal status.		
Detention, prison, custodial penalties	Deprivation of liberty, criminalisation, fear of forced return, suffering, illnesses, psychological damage, psychological trauma, PTSD,	Forced return; Separation of families / no or hardly any possibility to offer RFL in prisons; No child protection – risk of detention of minors / of minors and adults in same prisons	The number of unaccompanied minor migrants without a legal status could be increased	Use detention only as a measure of last resort and only (if absolutely necessary) for initial health and security assessment - never as a deterrent! Establish effective alternatives to detention, create a strong presumption against detention in national laws; do not use custodial penalties in addition to the detention foreseen under the EU return directive or other regulations; drastically reduce the currently very long maximum detention period of 18 months within the EU; ensure that detention for an indefinite period of time is illegal, that detention is always legally reviewable and that detainees know their rights to a review of their detention
Penalisation of help for migrants who lack a legal status (facilitation of irregular entry, stay or transit)	Migrants: Fear; no or very little NGO support and services for irregular migrants due to intimidation	Exploitation, abuse, THB, no access to housing, legal aid, health care, etc.		Abolish all provisions in national and EU law which might make humanitarian aid for irregular migrants illegal (e.g. Facilitation Directive, 2002/90/EC of Nov. 28 th 2002)
No birth certificates for children without a legal status	Fear of approaching civil registries for birth registrations, due to the risk of getting reported to immigration authorities, being apprehended and returned.	No access to government services, even if theoretically entitled (e.g. schools, health care, justice); de facto statelessness	In case of return: difficulty to acquire travel documents.	Establish a right of every child to receive a birth certificate, irrespective of the legal status and without being reported to immigration authorities

No death certificates / official graves / identification of dead; possible lack of dead body management of migrants	Family of Migrants: hardly any chance to know about the fate of family members, possible problems with inheritance	States: high costs for identification of dead bodies after burial; no one to cover costs		Mapping of stakeholders; common understanding of treatment of unidentified bodies of (possible) migrants; training of responsible staff; procedure/agreement between those who are responsible for data sharing and matching
Limited possibilities for RFL due to lacking registration possibilities/registration under wrong names/fake identities	Relatives / Red Cross: No or hardly any possibility to trace separated family members;	No access to family reunification according to asylum act/EU guidelines	Families: impact on psycho-social and physical conditions of migrants	Pre-Information in Countries of Origin, how to stay in contact, where to turn to in case of loss of contact; Information of data/privacy protection within RC/RC; offer access to internet in "secure places"
No/hardly any possibility for family reunification due to registration under wrong names/fake identities	High cost for proof of identity e.g. lawyers costs; DNA costs	Illegal ways to realize family reunification; high costs; favours smuggling	Danger of psychosocial trauma	Establish and fund NGO projects which offer confidential services to migrants and their close relatives to prove their relationship and to enable them to reunite with their families. Consider possibility to regularize status after a certain period of (registered) stay in the country. Right to family reunification under certain circumstances a certain period of time after regularization?
Migrants become younger and younger to increase the chance to legal status - Focus on Children	Migrants: Increasing numbers of arrivals of unaccompanied children; no future: no education, high danger of exploitation, human trafficking, child soldiers, detention, etc.	Psychological trauma – high pressure and responsibilities on child from all sides	Families in Country of Origin: all savings go into the travel of the child – increase of poverty and resilience in CoO	No obligation for minors to disclose the identity and whereabouts of relatives. No obligation for Tracing Services to accept Tracing cases for relatives of minors without explicit consent of the concerned minor. The minor's best interest always has priority. Implement and respect the European

				<p>Convention on the Exercise of Children's Rights</p> <p>Support countries of origin with livelihood projects.</p> <p>Establish effective strategies for dealing with separated children and their particular vulnerabilities, including efficient systems for guardianships for such children and young adults.</p>
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