

Summary Guide

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HUMAN RIGHTS OF A REFUGEE

PRINCIPLES IN THE LIGHT OF
REGULATORY CLAUSES



Human Rights of a Refugee:

Principles in the Light of Regulatory Clauses

Summary Guide

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This summary guide is the United Nations' Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations' report is compiled in abbreviation.

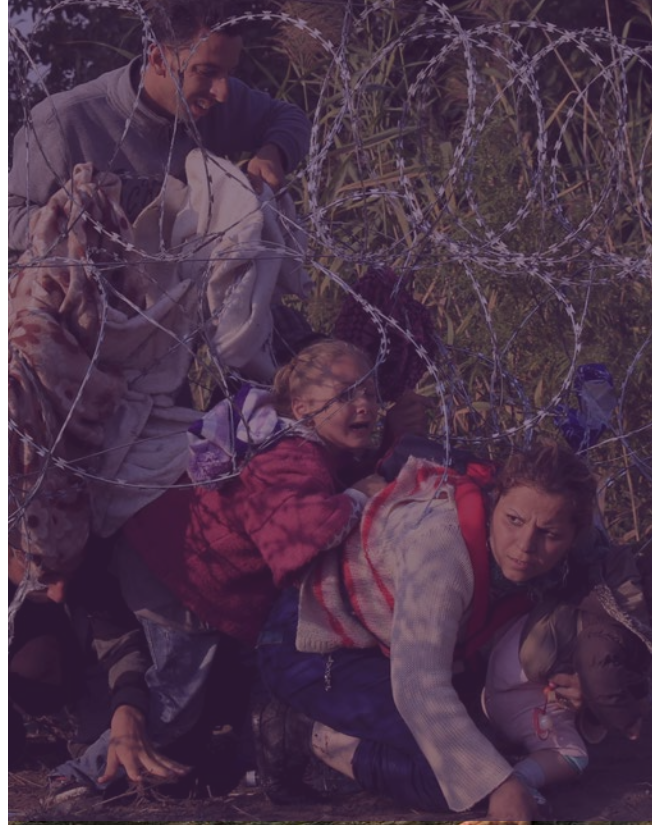
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What is this guide about?

This guide has been written in order to raise public awareness about refugees' rights violations faced at international borders. In the report "Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations", the basic legislation on asylum rights was handled on the basis of 20 principles. It is the fundamental obligation of States and all non-state actors to respect and protect the fundamental rights of migrants, who can be particularly vulnerable during their migration journey.

The duly fulfillment of international human rights by States provides protection to all persons, including to all migrants. However, the framework of these rights for migrants can be frequently less understood and applied. Therefore, States may need guidance in order to concretely implement these rights and transfer them from paper into action. The principles and guidelines presented in this paper seek to guide States on how to implement their obligations to

respect, protect and fulfill migrants' human rights in vulnerable situations.

While the principles are based on international human rights law and its related standards including international labor law, international refugee law, criminal law, humanitarian law and maritime law, they also include the contents of treaty law, customary international law and general principles of law.

Furthermore, the recommendations of international human rights treaties, international human rights bodies, and the comments or recommendations of the special procedure mandate holders of the Human Rights Council are included in the establishing of these principles. The recommendations within each principle are designed to provide guidance on how human rights can best be exercised and to develop, strengthen, implement and monitor states' measures to protect and promote the rights of vulnerable migrants.

Principal 1: Ensure that human rights are at the centre of efforts to address migration in all its phases, including responses to large and mixed movements.

States should ensure that legislation and other measures on migration management are compatible with the State's obligations under international human rights law. As a consequence, it should be ensured that all migrants should be allowed to fully enjoy their human rights and fundamental freedoms. In addition, the repercussions on human rights of new policies concerning migration should be evaluated prior to their adoption. Laws and other measures that have a negative or disproportionate impact on migrants' rights should be immediately reviewed, suspended, amended or repealed.



According to article 1 of the Universal Declaration of Human Rights,

"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."



According to article 2 of the Universal Declaration of Human Rights,

"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty."

Principal 2: Counter all forms of discrimination against migrants.

All laws and measures that may directly or indirectly constitute any form of discrimination against migrants should be repealed or amended. All acts and expressions related to racism and xenophobia, raising stereotypes such as the fact that migrants are not citizens, have an irregular status or any discrimination based on age, religion and gender discrimination should be condemned, prosecuted and effective measures taken against it. States should hold accountable those who commit such acts, including politicians, decision-makers and the media while ensuring that victims have access to justice by reachable complaint mechanisms. Excessive hate speech and incitement to hatred should be considered criminal offenses and be brought before an independent court.





According to article 7 of the Universal Declaration of Human Rights,

"All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination."

Principal 3: Ensure that migrants have access to justice.

Migrants should be provided with access to qualified, independent and competent lawyers and to the possibility to seek legal advice during hearings and legal proceedings affecting them. It should be ensured that migrants who are victims or witnesses of crime can participate in legal proceedings and testify without fear of deportation.



According to article 10 of the Universal Declaration of Human Rights,

"Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."

Principal 4: Protect the lives and safety of migrants and ensure that all migrants facing risks to life or safety are rescued and offered immediate assistance.

Migrants who need protection and assistance, especially those who need psychological support after rescue, should be referred in a timely and effective manner. Migrants should be informed about asylum procedures and effective referral routes. Special support should be given priorly to the most vulnerable, including victims of shipwreck, trauma, torture, trafficking, sexual and gender-based violence. The special needs of rescued children who are traveling, separated or unaccompanied by their families or companions should be addressed.



According to article 3 of the Universal Declaration of Human Rights,

"Everyone has the right to life, liberty and security of person."



According to article 6 (1) of the International Covenant on Civil and Political Rights,

"Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life"

Principal 5: Ensure that all border governance measures protect human rights.

Individual screening and assessment procedures should be implemented as soon as possible after the arrival of migrants. Vulnerable individuals should be identified immediately and directed to appropriate services and protection agencies. A sufficient number of authorized experts should be available at the bor-

ders to carry out human rights-based screenings and referrals.



According to article 13 of the Universal Declaration of Human Rights

“Everyone has the right to freedom of movement and residence within the borders of each state
Everyone has the right to leave any country, including his own, and to return to his country”

Principal 6: Ensure that all returns fully respect the human rights of migrants and comply with international law.

Any migrant who is asked to consent to a voluntary return process should be informed fully and in detail about the choice he has made and should have access to up-to-date and accurate information on the place and conditions to which he or she will return. The consent of the migrant must be obtained without any coercion.



According to article 14 of the Universal Declaration of Human Rights,

“Everyone has the right to seek and to enjoy in other countries asylum from persecution”

Principal 7: Protect migrants from torture and all forms of violence and exploitation, whether inflicted by State or private actors.

Accessible and confidential services should be created for migrants who have survived violence and exploitation. These should include health, counseling, reporting and grievance mechanisms and effective referral arrangements. Migrants should have access to medical care, sexual and reproductive health services and essential medicines, as well as psycho-social and other forms of support to help their recovery and rehabilitation. Service providers should receive training to understand migrants’ human rights and migrant families affected by violence in order to respond to their needs, and break anti-migrant prejudices. Migrants’ experiences of violence, including domestic violence, sexual and gender-based violence, must be addressed before they cause further victimization, trauma and harm. Information on protection, services and rights should be provided to migrants in a form and language that they understand, in an age-appropriate manner.



According to article 4 of the Universal Declaration of Human Rights,

“No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”



According to article 5 of the Universal Declaration of Human Rights,

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

Principal 8: Uphold the right of migrants to liberty and protect them from all forms of arbitrary detention. Make targeted efforts to end unlawful or arbitrary immigration detention of migrants. Never detain children because of their migration status or that of their parents.

Conditions of detention must respect the person's fundamental dignity and meet minimum standards of international law. Migrants should never be held in prisons or similar places on the grounds that they have migrated to. Restrictions on freedom of movement or personal autonomy in detention should only be applied only if it is necessary to protect others' rights and public order.



According to article 9 of the Universal Declaration of Human Rights, "No one shall be subjected to arbitrary arrest, detention or exile."

Principal 9: Ensure the widest protection of the family unity of migrants; facilitate family reunification; prevent arbitrary or unlawful interference in the right of migrants to enjoy private and family life.



Efforts to reunite and keep families together should be facilitated. Regular, non-discriminatory channels for family reunification should be strengthened without disproportionate restrictions on age, income and language. Family registration and reunification processes must take into account that various forms of family existing. Gender-based or biased assumptions should not affect the registration or reunification of family representatives. Children should have the right to freely express their views when making decisions about possible reunification with their families.



According to article 16 (3) of the Universal Declaration of Human Rights, "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."



According to article 12 of the Universal Declaration of Human Rights, "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."

Principal 10: Guarantee the human rights of all children in the context of migration, and ensure that migrant children are treated as children first and foremost.

In theory as well as in practice, it should be ensured that national child protection systems take into account the situation and differing needs of migrant children and children born to migrant parents. Child protection policies and systems should be coordinated, both within the country and across borders, in accordance with international human rights law. Authorities who will communicate with migrant children should be trained on practices such as “child-friendly communication”. It should be ensured that adequate numbers of trained child protection officers are available at all stages of the migration journey.



According to article 25 (2) of the Universal Declaration of Human Rights, “Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.”

Principal 11: Protect the human rights of migrant women and girls.

Gender-specific prohibitions and discriminatory restrictions on women and girls’ migration, including age, marital status, migration status, pregnancy and/or maternity status, that limit the mobility of female migrants should be eliminated. Restriction

tions that prohibit migrant women from migrating to certain regions or states, as well as restrictions that require women to obtain permission from their spouses or male relatives to travel and obtain passports, should be removed.

The entire Convention on the Elimination of All Forms of Discrimination against Women is relevant concerning the protection of women and girls’ human rights. Any attempt to violate these rights should be prevented.

Principal 12: Ensure that all migrants enjoy the highest attainable standard of physical and mental health.

Migrants may have violent and urgent needs arising from emotional and spiritual difficulties. From the moment they arrive in their new country, they should be directed to appropriate services where they can access adequate mental health care. Psychosocial support should be provided to migrants who have lost family members and to migrant women who have had abortions during their journey. Migrant children should have access to special care and psychological support. Collaborating with migrants will help to ensure culturally appropriate mental health programs.



According to article 25 of the Universal Declaration of Human Rights, “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.”

Principal 13: Safeguard the right of migrants to an adequate standard of living.

Measures should be taken to ensure that migrants have an adequate standard of living, including when they are in temporary places such as reception facilities and informal camps. Such facilities should be accessible to all migrants, including children, persons with disabilities, older persons, pregnant, and nursing mothers. Regardless of age, gender and special circumstances, each individual should be provided with safe food in sufficient quantity and quality, including special nutritional needs, drinking water, appropriate clothing, and adequate housing.

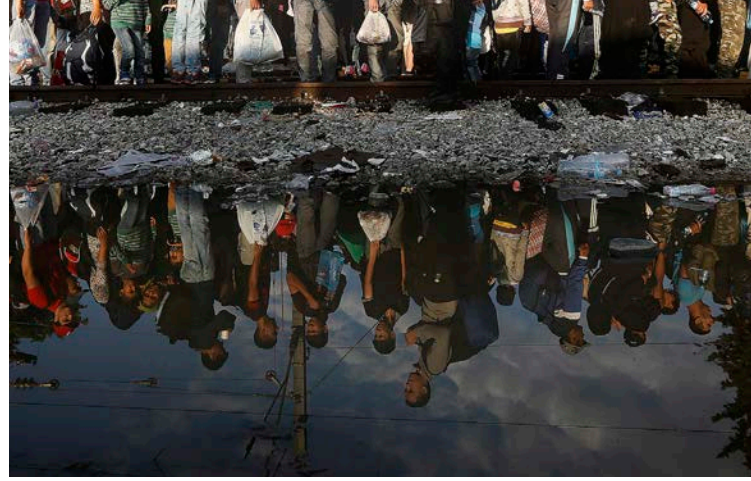


According to article 22 of the Universal Declaration of Human Rights,

“Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.”

Principal 14: Guarantee the right of migrants to work, in just and favourable conditions.

Effective grievance mechanisms should be established to ensure that workers, regardless of their nationality, migration and residence status, can file complaints against employers and seek remedies if there are



any violations of workers’ rights. Migrants, regardless of their migration status, should be provided with unrestricted and effective access to legal remedies and compensation for violations of their workplace rights, without fear of reprisal or deportation. All migrants should have the right to benefit from workers’ compensation programs without discrimination.



According to article 23 of the Universal Declaration of Human Rights,

“Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. Everyone has the right to form and to join trade unions for the protection of his interests.”

Principal 15: Protect the right of migrants to education.


An understanding of the situation and rights of migrants should be ensured through content that promotes intercultural awareness and dialogue between migrant and host commu-

nities in schools and college curriculums. Targeted training should be provided to education staff at all levels to promote respect for cultural diversity and migrants' human rights.

 According to article 26 (1) of the Universal Declaration of Human Rights, "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit."


Principal 16: Uphold migrants' right to information.

Migrants have the right to seek, receive and impart information in a language they understand and in formats they can access. It should be ensured that migrants receive accurate and reliable news and information about their rights and situation through the media of their choice. Information for migrant children should be provided in age-appropriate languages and formats.

 According to article 19 of the Universal Declaration of Human Rights, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Principal 17: Ensure that all responses to migration, including large or mixed movements, are monitored and accountable.

Complaint mechanisms should be established for migrants who should be informed on this question. All alleged violations of migrant's human rights must be promptly, impartially and independently investigated and prosecuted.

 According to article 8 of the Universal Declaration of Human Rights, "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."

Principal 18: Respect and support the activities of human rights defenders who promote and protect the human rights of migrants.

Public policies and programs should be established in order to sustainably support and protect human rights defenders at all stages of their work. All restrictions placed on individuals or on their activities as part of non-governmental organizations must comply with international standards. Legislation affecting the activities of human rights defenders, including legislation on public safety and public order, and legislation and procedures for the registration and financing of non-governmental organisations, should be compliant with international human rights law.



According to article 19 of the Universal Declaration of Human Rights, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Principal 19: Improve the collection of disaggregated data on the human rights situation of migrants while protecting personal data and their right to privacy.

It should be ensured that research and data collection methods are carried out in an ethical way. Research and data collection should not re-traumatize or harm migrants, but should comply with international standards and principles on the protection of personal data. The information must be permanently and irreversibly anonymized to both protect privacy rights and ensure that it is not used for purposes that would endanger or harm migrant's life. Information collected should not be used, stored or processed in a way that puts migrants at risk.



According to article 17 (1) of the International Covenant on Civil and Political Rights, "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, not o unlawful attacks on his honour and reputation."



Principal 20: Ensure human rights-based and gender-responsive migration governance.

Integration policies and partnerships that promote inclusion, social and economic equality, and cultural diversity should be developed for the integration of migrants in their new societies. For this purpose, public and private sectors, civil society and migrant communities should be able to work together.



According to article 22 of the Universal Declaration of Human Rights, "Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality."



Human Rights of a Refugee

PRINCIPLES IN THE LIGHT OF
REGULATORY CLAUSES



Refugee^{International}
Rights Association
ULUSLARARASI MÜLTECI HAKLARI DERNEĞİ