



Migration
Multi-Partner
Trust Fund

HUMAN RIGHTS MARKER GUIDANCE NOTE

This guidance forms an integral part of the Migration MPTF Operations Manual. This document constitutes the second version of the Human Rights marker. Initially endorsed by the Migration MPTF Steering Committee in 2020, the guidance has been revised to align with the UNSDG guidance on Joint Programmes subsequently issued¹, and has been prepared in collaboration with the Office of the United Nations High Commissioner for Human Rights (OHCHR). The updated guidance has been approved by the Steering Committee on 22 November 2023.

1. INTRODUCTION

The [UN Network on Migration](#) was established to ensure effective, timely and coordinated system-wide support to the implementation of the Global Compact for Safe, Orderly and Regular Migration (GCM). In carrying out its mandate, the Network is committed to prioritizing the rights and wellbeing of migrants and their communities. In all its actions the Network will respect the principles of the GCM and promote the application of relevant international and regional norms and standards to respect, protect, and fulfil the human rights of all migrants, especially those in the most vulnerable situations.²

The [Global Compact for Safe, Orderly and Regular Migration](#) rests on the purposes and principles of the UN Charter, the Universal Declaration of Human Rights, and the nine core international human rights treaties (paras 1-2). States have acknowledged their obligation to respect, protect and fulfil the human rights of all migrants, regardless of their migration status, and committed to fulfil the objectives and commitments outlined in the GCM, in line with its vision and guiding principles, and to implement the GCM in a manner that is consistent with rights and obligations under international law (paras 11 and 41). The GCM is based on a set of cross-cutting and interdependent guiding principles, including a guiding principle on human rights:

Human rights: The Global Compact is based on international human rights law and upholds the principles of non-regression and non-discrimination. By implementing the Global Compact, we ensure effective respect, protection and fulfilment of the human rights of all migrants, regardless of their migration status, across all stages of the migration cycle. We also reaffirm the commitment to eliminate all forms of discrimination, including racism, xenophobia and intolerance against migrants and their families (para. 15).

This Guidance Note serves as a reference for the UN system to integrate a human rights marker in the project cycle of Joint Programmes implemented with support from the [Migration Multi-Partner Trust Fund](#) (Migration MPTF), consistent with the GCM vision and guiding principles, and international human rights law and standards. It is intended to provide direction for all Participating UN Organizations (PUNOs) and other stakeholders developing or implementing Migration MPTF Joint Programmes, or seeking to improve their human rights marker systems.

This human rights marker will help track and report on allocations and expenditures for ensuring human rights are upheld in all Migration MPTF Joint Programmes. It will guide the development of an effective and coherent approach for tracking resources to support human rights-based results.

¹ The UNSDG guidance on Joint Programmes references the Guidance on Applying the Gender Equality, Human Rights and Sustaining Peace Markers, <https://help.uninfo.org/un-info/results-framework/guidance-on-applying-tags-and-markers/guidance-on-applying-the-gender-equality-human-rights-and-sustaining-peace-markers#human-rights-marker-elements-for-coding>

² UN Network on Migration, Terms of Reference.



2. WHAT ARE HUMAN RIGHTS?

Human rights are universal legal entitlements protecting individuals and groups (rights holders) against actions and omissions by States or other actors (duty bearers) that interfere with fundamental freedoms. Human rights are inherent to all human beings and are founded on respect for the dignity and equality of each person without discrimination. These rights are all interrelated, interdependent and indivisible.

Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to prevent private actors or third parties from committing human rights abuses. The obligation to fulfil means that States must take positive actions to ensure all people are able to realize their human rights.

Human rights have been a central pillar of the United Nations from its inception in 1945 with the adoption of the Charter of the United Nations. Human rights have been enshrined in the Universal Declaration of Human Rights and codified in a series of international human rights treaties ratified by States, as well as in other international and regional instruments that include human rights norms and standards. There are also regional human rights instruments, and most States have adopted constitutions and other laws that protect human rights and freedoms at the national level. Together with customary law, these instruments form the backbone of international human rights law.

Human rights include all economic, social, cultural, civil and political rights. International human rights law applies to all individuals, including all migrants, without discrimination. The human rights of migrants are also protected by the obligations and standards that arise from other bodies of international law, including international labour standards (or law), humanitarian and refugee law, the law of the sea and international criminal law.

Other non-binding instruments such as declarations, guidelines and principles adopted at the international level contribute to the understanding, implementation and development of human rights law and standards.

See: [UN, The foundation of International Human Rights Law](#)

[OHCHR, What are human rights?](#)

[ILO, International labour standards on labour migration](#)

[ILO, OHCHR, IPU, Migration, human rights and governance](#)

A. CROSS-CUTTING PRINCIPLES

The international human rights framework is based on a number of cross-cutting human rights norms or principles, such as equality and non-discrimination, participation, access to information, access to remedy, accountability and the rule of law. These cross-cutting principles are expected to guide States and other duty bearers in their implementation of human rights treaties. (See box: Cross-cutting human rights principles)

B. INTERNATIONAL HUMAN RIGHTS FRAMEWORK

Member States have a wide range of obligations to respect, protect and fulfil the human rights of all individuals within their territory or subject to their jurisdiction, including all migrants regardless of their status, and to establish domestic laws, policies and programmes reflecting those obligations. These obligations rest on the very foundation of the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights (UDHR), and the nine core international human rights instruments, which provide legal protection to everyone, without discrimination.

Cross-cutting human rights principles

- **Equality and non-discrimination** – All human beings are born free and equal in dignity and rights. The principle of non-discrimination prohibits distinction, exclusion, restriction or preference on the basis of a list of non-exhaustive grounds such as race, colour, descent, ethnic origin, sex, age, gender, sexual orientation, gender identity, disability, religion or belief, nationality, migration or residence status or other status. States should address direct and indirect discrimination against and unequal treatment of people in laws, policies and practices.
- **Participation and inclusion** – Everyone is entitled to active, free and meaningful participation in decisions that affect the enjoyment of their rights. All people have the right to access information, in a language and format accessible to them, regarding the decision-making processes that affect their lives and well-being.
- **Accountability and rule of law** – Everyone is entitled to claim and exercise their rights. States should ensure transparency in the design and implementation of their policies and must ensure that rights-holders have access to mechanisms of redress and to enjoy effective remedies when human rights breaches occur.

I. CHARTER OF THE UNITED NATIONS

Human rights, development, and peace and security are the three interlinked pillars of the UN System. Encouraging respect for human rights is a fundamental purpose of the United Nations under its Charter. All agencies and organizations under the UN System, within their own unique mandate, are committed to the common values and purpose of the UN Charter and contribute directly and indirectly towards the realization of human rights.

In the Charter, the United Nations commits to promote and encourage respect for human rights and for fundamental freedoms for all without distinction, including:

1. higher standards of living, full employment, and conditions of economic and social progress and development;
2. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
3. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

See: [UN, Charter of the United Nations](#)

II. UNIVERSAL DECLARATION OF HUMAN RIGHTS

The [Universal Declaration of Human Rights](#) (UDHR) was adopted by the General Assembly in 1948. In its Preamble, the UDHR asserts the “inherent dignity and the equal and inalienable rights of all members of the human family [which] is the foundation of freedom, justice and peace in the world”. It further affirms that “All human beings are born free and equal in dignity and rights” (Article 1) and that “Everyone is entitled to all the rights and freedoms set forth in this Declaration” (Article 2). The UDHR establishes no hierarchy between human rights; all rights are universal, inalienable, indivisible, inter-dependent and of equal importance. Human rights law thus provides that every person, without discrimination, must have access to his or her human rights. Simply put, all human beings have all human rights, including all migrants, regardless of their migration status.

III. UN INTERNATIONAL HUMAN RIGHTS TREATIES

Following the adoption of the UDHR in 1948, a series of international human rights treaties have been adopted and ratified by Member States to give legal form to the inherent human rights enshrined in the UDHR and have further expanded and developed the international human rights framework. The [nine core international human rights treaties, listed below](#), apply to everyone without discrimination:

- International Convention on the Elimination of All Forms of Racial Discrimination (1965);
- International Covenant on Civil and Political Rights (1966);
- International Covenant on Economic, Social and Cultural Rights (1966);
- Convention on the Elimination of All Forms of Discrimination against Women (1979);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984);
- Convention on the Rights of the Child (1989);
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990);
- International Convention for the Protection of All Persons from Enforced Disappearance (2006);
- Convention on the Rights of Persons with Disabilities (2007).

Each of the nine core IHRL treaties has a corresponding [Human Rights Treaty Body](#), a committee of independent experts who monitor implementation of the treaty by its States parties, and who develop binding [jurisprudence](#) and other authoritative guidance in the form of [General Comments](#) on the specific content of the rights contained within each treaty.

See: [OHCHR, The core International Human Rights Instruments and their monitoring bodies](#)
[OHCHR, International Human Rights Law](#)

IV. A HUMAN RIGHTS-BASED APPROACH

While the human rights framework establishes fundamental rights and principles and requires States to contemplate a range of measures in order to respect, protect and fulfil their obligations, a human rights-based approach provides practical guidance and concrete tools to this end.

A **human rights-based approach (HRBA)** is normatively based on international human rights law and standards and operationally directed to respecting, protecting, and fulfilling human rights. The underlying feature of an HRBA is that it identifies rights holders, who, by virtue of being human, have a claim to certain entitlements, and duty bearers, who are legally bound to respect, protect and fulfil the entitlements associated with those claims. This requires knowing which international human rights treaties have been ratified by a particular country³, as well as an understanding the content of those treaty instruments, including through the jurisprudence and guidance of the relevant Human Rights Treaty Bodies. With this knowledge at hand, government authorities, international organizations, civil society organizations and other relevant stakeholders supporting the implementation of relevant laws, policies or practices will be equipped to ensure that such implementation works towards strengthening the capacities of rights-holders to claim their rights and of duty-bearers to meet their obligations.

Another key element of HRBA is that it seeks to analyse the inequalities that lie at the heart of policy problems and redress discriminatory practices that often result in groups of people being left behind. Thus, it is necessary to identify groups or individuals that may be in situations of vulnerability, and make their protection, inclusion and empowerment a priority.

³ To determine which human rights treaties a country has ratified, see <https://indicators.ohchr.org/>

In the context of migration, an HRBA places migrants as rights-holders to the forefront of all discussion and bases programming on migration on the fundamental principles of equality and non-discrimination, participation and inclusion, and accountability and the rule of law. Importantly, an HRBA understands that the rights contained within international human rights instruments are not reserved for citizens: they apply equally, without discrimination, to everyone who is within a State's territory or within its jurisdiction, regardless of the person's nationality or migration status. Therefore, an HRBA to migration laws, policies or practices prioritizes respecting, protecting, and fulfilling all human rights for all migrants.

Adopting an HRBA to programming is a critical part of UN activities that can be taken to meet the responsibilities to promote the respect, protection and fulfilment of human rights. Adopting an HRBA:

- Offers a distinct human rights lens through which to analyse a situation;
- Focuses on the most marginalized groups and individuals whose rights are regularly denied or ignored or violated;
- Seeks to bring laws, policies and social practices into line with international standards, addressing structural inequalities and patterns of discrimination;
- Encourages governments and other actors as duty bearers to meet the obligations they have voluntarily committed to under human rights law;
- Pays attention to not only the results but also the process by applying the principles of participation, non-discrimination, empowerment, transparency and accountability;
- Provides a set of international standards that helps ensure a consistent one-UN approach to sensitive issues, with a normative grounding in international standards.

See: [OHCHR, Improving Human Rights-Based Governance of International Migration](#)

[UNDG, UN Practitioner's Portal on HRBA to Programming](#)

[UNSDG, Human Rights Working Group, The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN System Agencies](#)

[UNDG, Guidance Note on Human Rights for Resident Coordinators and UN Country Teams](#)

The Secretary-General's Call to Action for Human Rights

In 2020, UN Secretary-General António Guterres issued "The Highest Aspiration," a call to action for human rights, designed to make concrete the Secretary-General's pledge to put human dignity at the heart of the UN's work. One of the call to action's guiding principles is: "Within the United Nations, human rights must be fully considered in all decision-making, operations and institutional commitments." Thus the call to action commits to ensuring that human rights principles inform the implementation of the 2030 Agenda, and that the UN continues to enhance our organizational culture, building upon existing initiatives – including Human Rights Up Front and follow-up to the Rosenthal report – which emphasize prevention, protection and human rights in our awareness, decision-making and programming at field, regional and Headquarters levels.

See: ["The Highest Aspiration": Call to Action for Human Rights](#)

Human Rights Up Front (HRuF) Initiative

The Human Rights Up Front (HRuF) initiative calls for collective responsibility across the whole UN system to prevent serious human rights violations, identifying risks of human rights violations at an earlier stage, leveraging the wide range of UN mandates and capacities to respond, and ensuring senior officials at the country level are supported and backed by UN Headquarters. The initiative deepens the commitment to the human rights imperative and calls for cultural, operational and political changes in the way the UN works in order to ensure that the UN does everything in its power to prevent or respond to serious violations of human rights.

See: [Overview of the Human Rights Up Front Initiative](#)
[United Nations, Human Rights Up Front](#) (video)
["Rights Up Front" Detailed Action Plan](#)

3. THE HUMAN RIGHTS MARKER

To uphold the GCM's commitment to respect, protect and fulfil the human rights of all migrants, regardless of their migration status, across all stages of the migration cycle, a **Human Rights Marker** has been developed. This Marker is designed to help Participating UN Organisations (PUNOs) and implementing partners ensure their Joint Programmes and initiatives are consistent with international human rights law and its principles, and take a human rights-based approach to programming.

The Migration MPTF Human Rights Marker tracks the:

% of Joint Programmes and initiatives that are normatively based on international human rights law and standards and operationally directed to respecting, protecting, and fulfilling the human rights of migrants by strengthening the capacities of 'rights-holders' to claim their rights and of 'duty-bearers' to meet their obligations.

In order to assess compliance with this marker, PUNOs, at the design phase of the Joint Programme, should assess their compliance with the 4-point scale Human Rights marker, based on the Human Rights marker elements (listed below).

Human Rights Marker		
	Definition	Guidance
A	Principal contribution is to the realization of human rights	<ul style="list-style-type: none"> • Primary or principal contribution of the Joint Programme is towards the realization of human rights. • At least 5 of the 6 Human Rights Marker elements are evident in the Joint Programme.
B	Significant contribution to realization of human rights	<ul style="list-style-type: none"> • At least 3 of the 6 Human Rights Marker elements are identified. • The Joint Programme therefore makes a substantial contribution towards the realization of human rights.
C	Limited contribution to realization of human rights	<ul style="list-style-type: none"> • There is limited consideration of human rights. • For example, there may have been a human rights analysis or participation of key stakeholders including rights holders in the activity, but other key elements are not identified. • Accordingly, contribution to human rights is minor to the overall outcomes of the Joint Programme.
N/A	Not expected to contribute to realization of human rights	<ul style="list-style-type: none"> • There is no consideration of human rights issues and there are no results relating to human rights.

Human Rights Marker elements:

1. The Joint Programme is explicitly grounded in the enjoyment or fulfilment of human rights (or lack thereof).
2. The normative framework and/or the outcomes from treaty bodies/UPR or special procedures are used to inform the Joint Programme.
3. The Joint Programme targets patterns of discrimination, inequality or marginalization.
4. References to 'rights holders' and/or 'duty bearers' with respective responsibilities and entitlements.
5. Participation and meaningful engagement of various stakeholder including the beneficiary groups/rights holders incorporated into the Joint Programme.
6. Issues identified through a thorough human rights analysis, including from a gender perspective, and addressed through capacity development.

4. INTEGRATING HUMAN RIGHTS IN THE MIGRATION MPTF JOINT PROGRAMMES

This section provides guidance to all Joint Programmes, independently from their Human Right marker, on adopting a Human Rights Based Approach (HRBA), and integrating human rights throughout the project cycle – from conceptualization, through to development, implementation, monitoring, and evaluation – as well as on employing a human rights due diligence approach.

A. ADOPTING A HUMAN RIGHTS BASED APPROACH (HRBA)

As a core commitment of United Nations programming, an HRBA should be adopted by all Joint Programmes seeking Migration MPTF funding, whether or not such a proposal has human rights as its primary or principal objective. An HRBA helps to ensure that all Joint Programmes are undertaken in a manner that is normatively aligned with international human rights law obligations, and thus consistently respects protects and fulfils the human rights of all migrants regardless of migration status, including the imperative to “do no harm”, which should guide the UN’s operational work at all times.

See: [UNDG, UN Practitioner’s Portal on HRBA to Programming](#)

[UNESCO, Human Rights-Based Approach to Programming](#)

[UNICEF, Human Rights-based Approach to Programming](#)

B. INTEGRATING HUMAN RIGHTS THROUGHOUT THE PROJECT CYCLE

I. CONCEPT NOTE

The concept note for any Joint Programme seeking Migration MPTF funding should already specify a commitment to a human rights-based approach and reflect an understanding of the relevant human rights obligations in the country concerned, as well as an initial understanding of the potential human rights risks and impacts of the Joint Programme as conceived.

II. JOINT PROGRAMME DOCUMENT

At the Joint Programme document development stage, PUNOs should identify potential human rights impacts of Joint Programmes, both positive and negative, and elaborate plans for how to monitor and evaluate human rights impacts, as well as for mitigating foreseeable negative human rights impacts, and providing access to justice and remedies in the event of unforeseen negative human rights impacts. This should be accomplished in part through a consultation process with those likely to be affected by the Joint Programme, conducted in a manner that is gender-responsive, child-sensitive, and designed to ensure meaningful participation of those in situations of vulnerability. PUNOs should also ensure staff awareness of human rights obligations, including human rights treaties ratified (See: [human rights indicators](#)), other relevant instruments such as [ILO Conventions](#) on promoting decent work and labour migration and relevant recommendations of the human rights treaty bodies, independent experts of the UN human rights system, and the Universal Periodic Review, as well as the supervisory mechanisms of other relevant UN agencies.

III. JOINT PROGRAMME IMPLEMENTATION

Throughout the lifetime of the Joint Programme, PUNOs should maintain consultation processes with affected individuals, communities and relevant stakeholders, and should effectively monitor the human rights impact of Joint Programmes with reference to relevant human rights and other relevant standards. Joint Programme staffing should be gender-balanced and take account of stakeholder needs. PUNOs should maintain transparency with regard to Joint Programme planning and implementation and ensure access to information for affected stakeholders.

IV. JOINT PROGRAMME EVALUATION AND REPORTING

At the Joint Programme evaluation stage, the independent evaluator must include, in his/her evaluation, the impacts of the Joint Programme's activities on the human rights enjoyment of impacted rights-holders. The evaluation report should also reflect on the overall adherence to human rights programming guidance and identify lessons learned. Annually, the Migration MPTF Fund Management Unit, in collaboration with OHCHR, will compile the data provided by the independent evaluation reports and capture it in its annual report and overall tracking of results.

See: [OHCHR, Human Rights Indicators: A Guide to Measurement and Implementation](#)
[ILO, The rules of the Game, An introduction to the standards-related work of the International Labour Organization, Geneva, 2019](#)

C. EXERCISING DUE DILIGENCE

Exercising a human rights due diligence approach, encouraging the respect of and promoting human rights, is critical for the UN's work with all actors, including partnerships with State, non-State, civil society and [corporate actors](#).

See: [United Nations, Guidance Note: Human Rights Due Diligence Policy on United Nations Support to Non-United Nations Security Forces](#)
[United Nations, Guiding Principles on Business and Human Rights](#)
[OHCHR, Benchmarking Study of Development Finance Institutions' Safeguards and Due Diligence Frameworks against the UN Guiding Principles on Business and Human Rights](#)
[ILO General principles and operational guidelines for fair recruitment, and Definition of recruitment fees and related costs](#)

Human Rights Due Diligence Policy

The Human Rights Due Diligence Policy on United Nations Support to Non-United Nations Security Forces (HRDDP) - including police, immigration officials, border guards, coast guards, prison or detention officials - is a particular UN system-wide policy that applies specifically to UN support security forces that are not part of the UN--including support provided by member agencies of UN Country Teams--and in any context, whether conflict or non-conflict. It requires the UN entity to: (1) conduct risk assessments on whether the entities receiving support might commit grave violations (as defined by the policy); (2) provide support only when risks of grave violations do not exist or are mitigated through the adoption of specific measures (so-called) mitigatory measures); (3) establish procedures for monitoring the conduct of recipient entities during the time support is provided; and (4) bring allegations of grave violations to the attention of national authorities with a view to bringing these to an end, should they be committed during the period of support, and, should that be ineffectual, potentially to suspend or withdraw support. The HRDDP is primarily aimed at encouraging UN entities to ensure that support to non-UN security forces is consistent with the UN's purposes and principles. For the purposes of the HRDDP, "support" is understood broadly to refer to most forms of UN support, including financial support, training, mentoring, advisory services capacity-and institution-building and other forms of technical cooperation.

In practice, the implementation of this policy in a variety of contexts and situations where the UN system is engaged has already led to improvements, including increasing understanding that human rights violations by support beneficiaries will not only affect the UN entities concerned but also the validity efficiency and impact of corresponding programmes.