

# SOCIAL PROTECTION

An Operational Tool  
for the Humanitarian,  
Development and  
Peace Nexus



Linkages between Cash-based Interventions  
and Social Protection in Humanitarian  
and Non-humanitarian Settings

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Publisher: International Organization for Migration  
Regional Office for Middle East and North Africa (MENA)  
47C Abu El Feda Street  
Zamalek, Cairo  
Egypt  
Tel.: +2 02 273 65 140  
Fax: +2 02 273 65 139  
Email: [rocairo@iom.int](mailto:rocairo@iom.int)  
Website: <http://rocairo.iom.int/>

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**Dafuleya Gift**

*University of Venda*

**Neetu Mahil**

*Senior Member, Collaborative Cash Delivery*

**Marius Olivier**

*Director, Institute for Social Law and Policy*



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Gift Dafuleya is a social and development economist with more than a decade of experience in State and non-State social protection and migration in Africa, and currently serves as a lecturer at the University of Venda.

Neetu Mahil is a humanitarian CBI specialist with more than a decade of experience in the following: (a) delivering CBI and livelihoods programmes in high-risk emergency contexts; (b) conducting operational research to improve programme design and delivery; and (c) leading diverse teams and coordinating across stakeholders to accomplish strategic goals. As a senior member of the Collaborative Cash Delivery as its Global Coordination Lead, she provides operational leadership, technical advice and support to collaborative networks, and contributes to the strategic direction and value proposition of the Collaborative Cash Delivery. Ms. Mahil holds a master’s degree in Strategic Studies and Economics from Johns Hopkins University School of Advanced International Studies and a bachelor’s degree in Political Science and International Relations from the University of Southern California.

Marius Olivier has, for several decades, specialized in social protection, migration, labour law and planning law, also from a constitutional and international law perspective. He has rendered extensive consultancy services for international, regional and development organizations, as well as governments and research institutions, in the form of policy development and implementation, legal drafting, social protection and migration reports and assessments, and technical advice. He is Director of the Institute for Social Law and Policy; Honorary Professor for the Faculty of Law at Nelson Mandela University (South Africa); Extraordinary Professor for the Faculty of Law at North-West University (South Africa); Adjunct Professor for the School of Law at the University of Western Australia (Perth); and Fellow at the Stellenbosch Institute for Advanced Study.

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# LIST OF ACRONYMS AND ABBREVIATIONS

<b>CBI</b>	cash-based intervention
<b>ESSN</b>	Emergency Social Safety Net
<b>E-NPTP</b>	Emergency National Poverty Targeting Programme
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ICMW</b>	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
<b>IDP</b>	internally displaced person
<b>ILO</b>	International Labour Organization
<b>IOM</b>	International Organization for Migration
<b>IRC</b>	International Rescue Committee
<b>ISP</b>	informal social protection
<b>MENA</b>	Middle East and North Africa
<b>MPCA</b>	multipurpose cash assistance
<b>MSME</b>	micro, small and medium enterprise
<b>NFI</b>	non-food item
<b>NPTP</b>	National Poverty Targeting Programme
<b>PMT</b>	proxy means test
<b>SRSP</b>	shock-responsive social protection
<b>SWF</b>	Social Welfare Fund
<b>UNDP</b>	United Nations Development Programme
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>WFP</b>	World Food Programme

# 1. INTRODUCTION

This paper explores linkages between CBIs and social protection in humanitarian and non-humanitarian settings, focusing on linkages between humanitarian aid and sustainable social protection for migrants, including communities affected by forced displacement such as IDPs and refugees, climate change events or economic factors.<sup>1</sup> Many of these target groups are effectively undocumented and reliant on humanitarian aid, informal economic activity and informal forms of social protection to generate income and for economic survival. The paper focuses on MENA<sup>2</sup> region but draws from experiences elsewhere in the world and simultaneously reflects on the normative framework from the perspective of international norms and standards.<sup>3</sup> The impact of COVID-19 on migrants and displaced populations in MENA region has emphasized the need for a renewed focus on strengthening the links between CBI and social protection.<sup>4</sup>

The need to explore these linkages and pathways is informed by the importance of reconceptualizing the nature and impact of settlement by affected migrants, including populations affected by displacement, in the area or country of destination, as well as where the settlement occurs within the framework of prolonged transit. This enquiry must be mindful of the increasing appreciation in academic discourse and operational implementation of the need to bridge the humanitarian–development divide. With an emphasis mostly on humanitarian assistance, durable solutions for IDPs generally include (voluntary) return, local integration or resettlement.<sup>5</sup> For refugees, durable solutions focus primarily on repatriation to their country of origin under an integrated approach known as “repatriation, reintegration, rehabilitation and reconstruction” (4Rs), with local integration in the country of asylum as an option, where this is possible, or resettlement to a third country (UNHCR, 2003). However, the durable solution debate has seen an evolution of the displacement theme from a predominantly humanitarian and protection-oriented approach to an increasingly developmental one, also informed by the protracted nature of displacement, often in

<sup>1</sup> IOM uses the term CBIs for all programmes where cash assistance (in one form or another) is provided to beneficiaries (individuals, households or communities) to directly purchase and access goods or services. Main CBI modalities currently include the following: (a) electronic cash transfer; (b) hard cash payments; (c) electronic vouchers; and (d) paper vouchers. The term CBIs is to be used for both external programmatic discussion/coordination, as well as internal and accounting communication. The term CBIs is the equivalent to some other terms used by other organizations, such as cash and voucher assistance, cash-based assistance and cash transfer programming (IOM, 2020a and n.d.).

<sup>2</sup> The list of countries that make up MENA region, according to IOM, include Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, the Sudan, the Syrian Arab Republic, Tunisia, United Arab Emirates and Yemen (see <https://middleeastandnorthafrica.iom.int/where-we-work>).

<sup>3</sup> As has been noted in a recent policy brief on the socioeconomic impact of COVID-19 on migrants and displaced persons in MENA: “[T]he MENA region is witness to complex and diverse mobility patterns – including labour migration, forced displacement and large-scale mixed migration flows in the Gulf of Aden and North Africa, often characterized by high numbers of irregular migrants” (Jourdain et al., 2021).

<sup>4</sup> Throughout the region, migrants and displaced populations – who often work in the informal sector – have seen their access to livelihood opportunities and employment decrease significantly. Further to this, the decline in remittance flows to the MENA region heightened the socioeconomic vulnerabilities of entire communities, including communities of origin of migrant workers. In some of the most fragile contexts, remittances from abroad constitute a critical form of income for many migrants and displaced people, threatening to increase poverty rates if nothing remains unchanged. This is particularly worrying considering that migrants and – to some extent – displaced persons in MENA are often excluded or face barriers to access social protection systems (ibid.).

<sup>5</sup> I.e. sustainable reintegration at the place of origin (also referred to as return); sustainable local integration in areas where IDPs take refuge (local integration); sustainable integration in another part of the country (settlement elsewhere in the country) (see Brookings Institution – University of Bern Project on Internal Displacement, 2010:A–1; IOM, 2016; IOM, 2019a:53).

urbanized contexts (Aubrey and Cardoso, 2019). Displaced persons who do not return to their place of origin attempt to adapt and develop new livelihood strategies. These strategies are invariably linked to their active participation in the informal economy, as well as their reliance on informal forms of social protection in the country of destination as a means to progressively resolve the vulnerabilities that emerge during the period of displacement. There may be strong justification to replace the classic three-pronged solutions options (i.e. return, local integration and resettlement) by a “human settlement” approach, which requires the adoption of a dynamic approach recognizing change in livelihood patterns due to changing environments.

IOM, through its Progressive Resolution of Displacement Situations Framework, recognizes this, emphasizing mobility as key to allowing people to preserve or enhance available resources and opportunities, increasing access to basic assistance, enhanced livelihood opportunities and enabling them to save and/or better their lives. Based on the understanding that core protection and life-saving needs have been met, the Progressive Resolution of Displacement Situations Framework acknowledges that displacement vulnerabilities are progressively resolved, and therefore focuses on strengthening coping capacities, fostering self-reliance and creative conducive environments (IOM, 2016). Supporting efforts to foster self-reliance and create these types of environments necessitates an integrated approach that focuses on the context, realities and (social protection) needs of displaced persons and societies. This requires a development-directed approach sensitive to the relationship between movement/displacement–settlement/urbanization–changing livelihoods. Such an approach must seek to navigate the complexity of forced migration dynamics and support efforts to progressively resolve displacement situations in the pursuit of durable solutions, with particular reference to the social protection and economic (including labour market) dimensions of strengthening resilience at the community, household/family and individual levels. Simultaneously, solutions must adopt a whole-of-society and a whole-of-government approach, mindful of the perspective on host communities, the interplay with immigration law and policy, the need for labour market interventions and the adoption of context-sensitive governance arrangements. Evident in this latter regard is the need for the following: (a) government ownership and leadership; (b) institutional coordination; (c) cooperation with international (including cross-border) institutions, with regional and local governmental structures, and the private sector; (d) appropriate funding arrangements; and (e) dedicated management and operational arrangements. In essence, what is needed is a whole-of-government approach, also to social protection responses, which places the emphasis on a comprehensive strategic approach by national governments, rather than fragmented interventions directed by external actors. To this extent, governments will be fulfilling their “social contract” with the affected populations at the locations of destination, accentuated by the fact that the reasons why people leave their places of original habitat often are the result of the failure of the State to protect them, and emphasizing that governmental efforts to deal with the impact of displacement need to involve displaced societies, host communities and other migrant groups potentially affected.

Much the same can be said in relation to the need to find sustainable solutions for migrants looking to improve their socioeconomic situation. Special and dedicated approaches are also needed in respect of both regular and irregular migrant workers who find themselves embedded in the informal economy. Additionally, in this context, in fulfilling its social contract obligations, governments are required to find ways and adopt measures in extending appropriate social protection to those affected. Developments and possibilities in this regard are discussed as follows.

## 2. HUMANITARIAN AID AND SOCIAL PROTECTION

There are various terms used in place of humanitarian aid. These include emergency assistance, response, assistance or relief, humanitarian action, aid or relief, relief assistance or social relief. Humanitarian action is defined by IOM (2019a:95) as assistance, protection and advocacy in response to humanitarian needs resulting from natural hazards, armed conflict or other causes, or emergency response preparedness. It aims to save lives and reduce suffering in the short term, and in such a way as to preserve people's dignity and open the way to recovery and durable solutions to displacement. It is governed by the principles of humanity, impartiality, neutrality and independence. The United Nations General Assembly of 1991 advocates for recognizing emergency measures as a step towards long-term development (United Nations, 1991:para. 9). This can be done through the development of pathways between humanitarian aid and social protection, a term that is generally but not exclusively used in a long-term, nationally institutionalized and developmental context.

Social protection is a broad term that covers all measures providing contributory and non-contributory benefits, whether in cash or in kind, to secure protection meant to prevent poverty and vulnerability throughout the life cycle and in relation to key identifiable social risks. Most public or private institutions that execute social insurance offer cover against nine classical benefit types: (a) children and families; (b) maternity; (c) unemployment; (d) employment injury; (e) sickness; (f) old age; (g) disability; (h) survivors; and (i) health care, which are operationally extended to also include poverty and social exclusion (ILO, 2010:20). The functions of social protection are mainly four-fold. One, it averts deprivation, and this is typically referred to as the preventive function (that is, it prevents risks from arising). Two, at the least, it (re-)integrates people to participate in labour markets and into society. Three, it provides benefits after the occurrence of some risks (that is, compensatory function). Lastly, it seeks social equity and addresses social exclusion (that is, transformative function).

From a compensatory function perspective, social protection programmes are often designed to address typical and idiosyncratic risks faced by individuals and households along their life cycle, such as the death of a breadwinner, unemployment, sickness, disability or old age, while SRSP refers to a system that responds flexibly to emergency shocks that are covariant, meaning those that affect large numbers of people and/or communities simultaneously, such as the COVID-19 pandemic, natural hazards, economic crises or conflict that also play a critical role in determining life outcomes (O'Brien et al., 2018).<sup>6</sup> In this way, SRSP provides a critical link between humanitarian aid and national social protection.

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<sup>6</sup> SRSP involves a range of activities that link humanitarian assistance, disaster risk management and social protection. Innovative SRSP design has focused on creating flexible and scalable systems and programmes. SRSP consciously connects policy, financing, targeting and delivery, aiming to improve the overall comprehensiveness, coverage and adequacy of support for poor, vulnerable and crisis-affected people in a more predictable and effective way (see Sabates-Wheeler and Longhurst, 2020).

## 2.1. CONVERGENCES AND DIVERGENCES

Humanitarian aid and social protection have important convergences that allow for linkages between them. Social protection and humanitarian assistance for instance have similar objectives of protecting and preventing risks for vulnerable people, as well as promoting and transforming the ability of vulnerable households to weather future shocks. To achieve these objectives, both approaches employ similar modalities, such as in-kind or cash transfers, or transfers conditional on engagement in public works projects or provision of services. In terms of financing, while social protection programmes can be either contributory or non-contributory, national social assistance programmes and humanitarian assistance are both non-contributory. Since both approaches typically use cash or in-kind transfers (non-contributory) to meet the consumption and basic needs of vulnerable households, the capacities between the two sets of interventions can be shared and links between them can lead to greater effectiveness, cost-efficiency gains and inclusivity.

Additionally, the way that these approaches target individuals or households for inclusion into their respective programmes can be similar. While increasingly in several countries, social protection programmes are universal in nature – with the provision of old-age benefits to the total cohort of older people above a certain age, irrespective of poverty or vulnerability status – many social protection programmes also target assistance based on poverty, demographic categories of populations, or a combination of both with the intention of reaching the most poor and vulnerable. Similarly, humanitarian assistance programmes target based on vulnerability and need, and since the poorest and most vulnerable in society tend to also be the same people affected by humanitarian crisis, there can be overlaps between those enrolled in social protection programmes and those targeted by humanitarian assistance. While both approaches can target the same households, such as IDPs or vulnerable host communities, humanitarian actors typically also target non-citizens traditionally excluded from social protection such as refugees and migrants. This means that some caseloads of both approaches can be shared, to an extent that humanitarian aid can be delivered through social protection programmes or social protection can be inclusive of vulnerable non-citizens such as refugees or migrants.

Whereas humanitarian assistance is generally thought to be short term, depending on the nature of crisis, the needs of the population, and funding arrangements, means that humanitarian assistance can be either one-off and short-term, or provided over a longer period, regularly and predictably. The latter is especially true in protracted conflict contexts, where in some cases humanitarian aid is needed for decades. Although the length of assistance provided in social protection transfers varies based on the programme and objective, in many cases, social protection tends to be longer term, regular and predictable. In protracted crisis contexts particularly, there can be convergences between the time frames of humanitarian assistance and social protection programmes.

Despite the many similarities in the objectives, design and delivery across social protection and humanitarian assistance in many countries, there are important divergences to consider when identifying whether linkages between social protection and humanitarian assistance are appropriate. It is important that while divergences do not necessarily make linkages inappropriate, linkages should only be considered where the differences do not compromise the effectiveness, impartiality or neutrality of humanitarian assistance (Longhurst et al., (Cash Learning Partnership), 2020).

The objectives of humanitarian aid mainly include saving lives and reducing human suffering caused by covariant risks that are wide scale in nature. Social protection in turn tends to address the idiosyncratic risks that affect income and cause poverty across the life cycles of individuals or households. Nevertheless, covariant risks (for examples, a public health incidence such as an epidemic or climate change events) may indeed imply for those affected by the occurrence of a particular social risk (such as the need for health care) and the activation of current/available social protection responses (such as access to health care). Some social transfer programmes are designed to address covariant risks in countries affected by regular climatic shocks such as with Ethiopia's Productive Safety Net Programme. Finally, it is worth noting that regular and predictable social protection support aimed at addressing idiosyncratic shocks can also provide some buffer or establish resilience in the face of covariant shocks. In the case of shocks that are either idiosyncratic or covariant or both, households require reliable social protection, either through social protection systems or humanitarian assistance as multi-month and regular assistance (such as CBIs, food aid or NFIs) to help households meet their basic needs and avoid negative coping strategies. While making these systems more efficient can help them afford greater caseloads, especially during covariant shocks, there are political, regulatory and legal challenges to the inclusion of migrant workers, including those in the informal economy, whether regular or irregular, and in some cases refugees and IDPs who may not contribute to the system.

Another important distinction is the extent to which social protection relies mainly on the State<sup>7</sup> to provide benefits to its citizens as part of its social contract, even if that responsibility is outsourced to private actors or civil society organizations to administer, or where these actors or organizations provide social protection independently (that is, not necessarily on an outsourced basis).<sup>8</sup> While social protection is mainly run by government ministries, departments or agencies and targets the poor or other vulnerable categories of persons (usually through social assistance programmes) and those who are insured (through social insurance programmes), social protection can also be provided privately and/or on an occupational basis.

In contrast, humanitarian assistance is typically independent of government action and considered necessary when the State cannot meet the needs of its populations or is itself party to a conflict.<sup>9</sup>

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<sup>7</sup> The role of the State is enshrined in Articles 22 and 25 of the Universal Declaration of Human Rights 1948. This declaration makes the provision of social protection the responsibility of the State towards its citizens; in other words, social protection is a human right provided by the Government. The State is therefore considered central to social protection systems development, including planning and implementation (see <https://un.org/en/universal-declaration-human-rights/>). Additionally, UNDP, WFP and International Monetary Fund definitions of social protection specifically identify the principal role of the State in social protection.

<sup>8</sup> There are examples of privately provided contributory and even non-contributory social protection, including private/occupational-based schemes and ISP arrangements. In fact, the position is that the role of the State could be multifunctional, even as part of its social contract. In some instances, the State acts as the direct provider, in particular in relation to vulnerable people; in other instances, the State is expected to provide the framework for examples, contributory or even non-contributory provisioning.

<sup>9</sup> Of course, it has to be appreciated that in many contexts, humanitarian assistance cannot be provided without approval of the government, even in the event that it is party to a conflict.

Where substantial national capacities exist, humanitarian aid can be part of national response systems to respond to various shocks, including mobility crisis,<sup>10</sup> but in fragile or conflict-affected States;<sup>11</sup> however, social protection systems may be affected by conflict or crises and unable to meet the needs of their populations. Devereux et al. (2005) capture the central paradox of social protection as, the greater the need for social protection, the lower the capacity is of the State to provide it, especially in fragile States. In many contexts, due to the inability of fragile and/or conflict-affected governments to provide social protection, humanitarian actors have created parallel systems to fill gaps and in some cases have become the primary mechanism for providing social protection (ibid). In these contexts, humanitarian aid is mostly offered by United Nations emergency agencies, non-governmental organizations and charities, and targets those affected by hazards through discretionary and ad hoc transfers.

Because social protection is typically run by government agencies, the downside of merging caseloads is that it can jeopardize the humanitarian principles of impartiality, neutrality and operational independence. In a crisis where the government is partly conflicted or a party of the conflict, some vulnerable groups may also be intentionally excluded to intentionally reduce access to support for certain demographics. Even in contexts without crisis, nationally owned social protection programmes may exclude both citizens and non-citizens, who are poorly documented or undocumented. Additionally, insecurity, violence or disasters such as protracted flooding can also impede national government territorial access to certain groups, limiting their access to those most at risk. It is critical that any approaches considering the integration of caseloads apply a conflict-sensitive lens, including a thorough conflict and context analysis, to ensure “do no harm” is mainstreamed.

Finding sustainable long-term solutions for those dependent on humanitarian aid such as migrants, especially those in the informal economy such as IDPs and refugees, is critical especially as humanitarian donor funding shrinks, conflicts are increasingly protracted in nature, and needs continue to grow more pervasive especially as a result of the COVID-19 pandemic and associated restrictions. The pathways from emergency assistance to long-term social protection solutions, or exit strategies, centre on transitioning vulnerable caseloads to social safety net systems through linkages with humanitarian assistance, linking participants to contributory social security schemes via their participation in the labour market, and the extension of social protection for regular and irregular migrants in the informal economy, irrespective of status at any stage of migration cycle (IOM, 2019b). These pathways face considerable challenges and potential solutions. Before pursuing these avenues, it is important to note the impact of international normative frameworks on migrants' access to social protection, also in relation to the need to be aware of differential approaches to different categories of migrants' access to social protection foreseen by international law, and reflected in the complex interplay between immigration, social security and labour law domains at the national level.

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<sup>10</sup> The IOM Migration Crisis Operational Framework (MCOF) has been instrumental in promoting integration of mobility crisis into national response systems using 15 specific functions in an operational response: (a) camp management and displacement tracking; (b) shelter and NFIs; (c) transport assistance for affected populations; (d) health support; (e) psychosocial support; (f) (re)integration assistance; (g) activities to support community stabilization and transition; (h) disaster risk reduction and resilience building; (i) land and property support; (j) counter-trafficking and protection of vulnerable migrants; (k) technical assistance to humanitarian border management; (l) emergency consular assistance; (m) diaspora and human resource mobilization; (n) migration policy and legislation support; and (o) humanitarian communications.

<sup>11</sup> Fragile: Countries with high levels of institutional and social fragility, identified based on publicly available indicators that measure the quality of policy and institutions and manifestations of fragility. Conflict-affected: Countries affected by violent conflict, identified based on a threshold number of conflict-related deaths relative to the population. This category includes two subcategories based on the intensity of violence: (a) countries in high-intensity conflict; and (b) countries in medium-intensity conflict (World Bank, 2021).

### 3. MIGRANTS' ACCESS TO SOCIAL PROTECTION: NORMATIVE CONSIDERATIONS<sup>12</sup>

It is a universal principle that social protection accrues to every person; see Article 22 of the Universal Declaration of Human Rights (1948): “Everyone, as a member of society, has the right to social security”; and Article 9 of ICESCR (1966): “States Parties ... recognize the right of everyone to social security, including social insurance”. In fact, there has been a marked evolution. Older international instruments emphasized the reciprocal nature of (State) obligations, vis-à-vis each other in relation to the protection of migrants. In contrast, modern international law, including modern social security law, has moved beyond reciprocity to an individual entitlement independent of obligations based on whether another State has (also) assumed responsibility. For example, para. 6 of ILO Recommendation on National Floors of Social Protection, 2012 (Recommendation 202) stipulates that “Members should provide the basic social security guarantees referred to in this Recommendation to at least all residents and children”.

Many of the MENA countries have indeed ratified ICESCR. Some have done so with reservations; a few have reserved the right to restrict the right to strike, while one (Kuwait) has declared that its social security provisions only apply to Kuwaitis (see United Nations, 1966). Also, in terms of general international law principles, social rights such as the right to social security can be limited. However, the Committee on Economic, Social and Cultural Rights has made it clear that any such restriction, including a qualification period, must be proportionate and reasonable (United Nations, 2008). In this regard, it has specifically stated the following (*ibid.*, paras. 36–38):<sup>13</sup>

36. Article 2, paragraph 2, prohibits discrimination on grounds of nationality and the Committee notes that the Covenant contains no express jurisdictional limitation. Where non-nationals, including migrant workers, have contributed to a social security scheme, they should be able to benefit from that contribution or retrieve their contributions if they leave the country. A migrant worker's entitlement should also not be affected by a change in workplace.

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<sup>12</sup> See, among others, Olivier and Dafuleya, 2020.

<sup>13</sup> Authority omitted. The narrative in para. 28 refers in particular to the United Nations Convention relating to the Status of Refugees (1951), articles 23 and 24 and the United Nations Convention relating to the Status of Stateless Persons, articles 23 and 24.

37. Non-nationals should be able to access non-contributory schemes for income support, affordable access to health care and family support. Any restrictions, including a qualification period, must be proportionate and reasonable. All persons, irrespective of their nationality, residency or immigration status, are entitled to primary and emergency medical care.
38. Refugees, stateless persons and asylum-seekers, and other disadvantaged and marginalized individuals and groups, should enjoy equal treatment in access to non-contributory social security schemes, including reasonable access to health care and family support, consistent with international standards.

International law therefore recognizes the vulnerable status of migrants and requires the prioritization of their plight. Yet the scope of the human rights obligations imposed on States may vary with reference to the source of funding and, as is also apparent from the quotation above, different migrant categories. Regarding the former, Article 68(1) of ILO Social Security (Minimum Standards) Convention, 1952 (No. 102) stipulates that special arrangements may be adopted “in respect of benefits or portions of benefits which are payable wholly or mainly out of public funds and in respect of transitional schemes”. This is reflected in State practice too. Often, countries would exclude several migrant categories from accessing social assistance.

Concerning the latter, different migrant categories are often treated differently, even in terms of international standards. The same applies to refugees and asylum seekers. The quotation refers in this regard among others to the special status (to be) enjoyed by refugees, stateless persons and asylum seekers. Article 24 of the United Nations Convention relating to the Status of Refugees (1951) stipulates that countries that have ratified the Convention shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of social security, subject to certain limitations. Key elements of protection provided for in bilateral social security agreements benefiting nationals of the country concerned should also apply to refugees in the country, and survivors of refugees who die as a result of employment injury or occupational disease shall be entitled to compensation regardless of the fact that they may reside in another country.

Regarding (documented) migrant workers, ILO Convention 102 stipulates in Article 68 that: “Non-national residents shall have the same rights as national residents”. In fact, as has been remarked: “[A]ll current ILO social security standards define the personal scope of coverage irrespective of nationality and almost all contain similar clauses on equality of treatment between nationals and foreign workers in the host country, and most of them contain special non-discrimination clauses, such as, for example, Convention [No.] 102 of 1952” (Baruah and Cholewinski, 2006). This is informed by the considerations of migrants’ humanity, their vulnerability status and a human rights approach, reflected in Article 27 of ICMW (1990). Therefore, States must ensure equality of treatment for (documented) migrant workers and their families in relation to access to housing, social housing schemes, social and health services, unemployment benefits and unemployment services, provided conditions are met and subject to immigration terms (Articles 43 and 45 of ICMW). States should guarantee equality of treatment of social security provisions for migrant workers for any or all of the nine branches of social security that are in force in its territory and for which it agrees to be bound.<sup>14</sup> Furthermore, social security rights should be maintained when workers move from one country to another, and acquired rights should be exportable to home countries (or to countries to which migrant workers remigrate), and bilateral and multilateral social security agreements should be designed to support this.<sup>15</sup> Nevertheless, there is a discernible trend, confirmed by both international standards and State practice, towards affording enhanced protection to regular and longer-term migrant workers, often with reference to key principles operative in this domain, such as the lawful residence, lawful employment and means of subsistence criteria.<sup>16</sup>

In practice, irregular/undocumented (im)migrant workers enjoy paltry social security protection, also in MENA countries (United Nations, 2020:4, 6). They may at best be entitled to (rarely specifically defined) emergency health care and presumably also basic/essential forms of assistance. Kapuy (2011) also remarks that international law explicitly provides for equal treatment with nationals in social security, provided that irregular migrant workers fulfil the relevant national and international legal requirements.<sup>17</sup> International law further provides for equal treatment with regular migrant workers, but only in respect of social security rights arising out of past employment.<sup>18</sup> In fact, the Office of the United Nations High Commissioner for Human Rights has concluded that, although “there may be grounds, in some situations, for differential treatment between migrants and non-migrants in specific areas”, these will be permissible only “as long as minimum core obligations are not concerned: differentiations cannot lead to the exclusion of migrants, regular or irregular, from the core content of economic, social and cultural rights” (United Nations, 2010: para. 14). Regarding pathways to regularizing the status of undocumented migrants, note should be taken of relevant provisions of the Global Compact for Safe, Orderly and Regular Migration (2018). Under its objective 5, aimed at enhancing the availability and flexibility of

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<sup>14</sup> Equality of Treatment (Social Security) Convention, 1962 (No. 118): This provision is dependent upon the home country of the migrant also being a party to Convention 118, and to specific conditions regarding use of public funds.

<sup>15</sup> Maintenance of Social Security Rights Convention, 1982 (ILO Convention No. 157).

<sup>16</sup> Lawful residence has been utilized by countries in order to differentiate between (enhanced) protection offered to “lawful residents”, on the one hand, and the lesser recognition afforded to the rights of irregular/undocumented residents, on the other. Requiring a “minimum level of subsistence” on the part of migrants (also referred to as a “means of subsistence test”) has permitted countries to develop their own financial criteria for purposes of granting lawful residence status to migrants. Migrants who are unlikely to be able to support themselves and their dependants will be refused admission to that country; similarly, (temporary) migrants who become dependent on State support may, on the basis of this principle, be refused continued residence. Lawful employment is required to ensure continued employment and often also as a precondition before (social insurance) benefits accrue to (categories of) non-citizens.

<sup>17</sup> See also Article 27(1) of ICMW.

<sup>18</sup> See Article 9(1) of ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).

pathways for regular migration, the Compact stresses the following, in relation to migrants affected by natural disasters and beyond:

- g) Develop or build on existing national and regional practices for admission and stay of appropriate duration based on compassionate, humanitarian or other considerations for migrants compelled to leave their countries of origin, due to sudden-onset natural disasters and other precarious situations, such as by providing humanitarian visas, private sponsorships, access to education for children, and temporary work permits, while adaptation in or return to their country of origin is not possible;
- h) Cooperate to identify, develop and strengthen solutions for migrants compelled to leave their countries of origin due to slow-onset natural disasters, the adverse effects of climate change, and environmental degradation, such as desertification, land degradation, drought and sea level rise, including by devising planned relocation and visa options, in cases where adaptation in or return to their country of origin is not possible.

Regular/documented migrant status provides not only in principal access to the labour market in countries of destination, but also pathways towards at least contributory social security and wider social protection services. It is therefore important to invest in regularization initiatives. Examples of such interventions include Thailand's National Verification Process (for nationals from Cambodia, Lao People's Democratic Republic and Myanmar); and South Africa's special permit regimes for nationals from Angola, Lesotho and Zimbabwe. In Portugal, given the COVID-19 context, the Government decided to regularize all foreign workers who had pending residential visa requests, granting them access to the health system and the same social rights available to nationals (United Nations, 2020:20).

### 3.1. LINKS BETWEEN HUMANITARIAN CASH-BASED INTERVENTIONS AND SOCIAL PROTECTION SYSTEMS

An increasing number of social protection programmes are relying on cash transfers to meet the needs of participants, and humanitarian CBIs have continued to increase to a record USD 5.6 billion in 2019, constituting 17.9 per cent of total international humanitarian assistance, double the USD 2.8 billion programmed in 2016 (10.6% of total humanitarian assistance) (Cash Learning Partnership, 2020). These trends are creating greater opportunities for building linkages between CBIs and social transfer programmes. As a form of direct non-contributory provision of assistance used by both social protection and humanitarian assistance programmes, CBIs can be a critical link between social protection and humanitarian action.

Linkages between social protection transfers and humanitarian CBIs are especially attractive because they can strengthen humanitarian CBIs by utilizing social transfer programme platforms or strengthen social protection systems by leveraging rigorous and principled aspects of humanitarian CBI programme design and delivery. Existing social protection programmes can, for example, be used to prevent or manage disasters; humanitarian responses can be used to build or strengthen social protection systems, particularly in situations of extreme fragility where social protection systems are either absent or weak; and where situations of forced displacement exist, social protection can be the foundation for strategies to reduce vulnerability (IOM, 2019b) and promote self-reliance (Idris, 2019). Linkages can also be critical for sustained support to the most vulnerable people, especially as humanitarian budgets are stretched, caseloads and needs are increasing and are often more longer-term due to new or compound shocks. Research conducted by IRC in Pakistan found that time for delivery of cash assistance to crisis-affected households could be cut by half, the cost of delivery could be reduced by more than half, and similar levels of participant satisfaction could be retained by linking CBI interventions to Pakistan's social protection system for targeting of participants (IRC, 2016). Similarly, a World Bank review estimated that humanitarian assistance provided through Ethiopia's social assistance programme cost USD 53 per beneficiary compared with USD 169 through the typical United Nations system delivery, mainly due to ability to leverage established distribution networks (OPM, 2017a).

Where linkages are appropriate, feasible and enhance achieving humanitarian outcomes, several pathways exist. SRSP is an approach that aims to integrate or harmonize social protection and humanitarian assistance policies, systems, programmes and actors to make social protection more responsive to shocks such as conflict, disasters or economic or health crises. This approach can help social protection programmes and policies become more responsive to shocks through vertical or horizontal expansion, alignment with or piggybacking between social protection and humanitarian assistance systems, or through design tweaks of social protection programmes in response to shocks.

**Vertical expansion** is when the value or duration of a social protection cash transfer programme is temporarily increased in response to a shock to meet the needs of some or all existing participants. Since programme beneficiaries may not be affected by a shock to the same extent, temporary top-ups can be targeted to a subset of the current beneficiary group. While typically the purview of government programmes, humanitarian actors can support vertical expansion through the following: (a) transferring or helping to raise resources for the government system; (b) strengthening programme design by sharing lessons from the design, delivery, value, duration and schedule of CBIs; or (c) filling gaps in coverage through stand-alone humanitarian assistance.

In response to the earthquakes in Nepal in 2015, for example, UNICEF implemented an emergency cash transfer programme serving existing social assistance beneficiaries in earthquake-affected districts (OPM, 2017b). In addition to learning from these kinds of examples, humanitarian actors can also leverage their numerous experiences in expanding vertically through top-ups during winter to meet the increased needs of vulnerable households during colder months or providing additional rounds of assistance to extremely vulnerable households based on vulnerability assessments. Increasing the value or duration of assistance requires the following: (a) strong coordination to ensure the increase is harmonized across actors; (b) additional funding to cover the costs of the top-up; and (c) particular attention to limiting inclusion and exclusion errors since vertical expansion involves giving some beneficiaries more while others may not receive any assistance at all.

**Horizontal expansion** is the temporary inclusion of additional and new beneficiaries from shock-affected communities into a social transfer programme by extending geographical coverage, modifying programme rules or relaxing eligibility criteria for inclusion. This approach enables greater reach than vertical expansion and may be more appropriate where social protection needs are more pervasive. This approach also requires strong coordination, specifically to ensure gaps and overlaps are avoided in terms of geographic coverage; and additional funding to cover the costs associated with adding more beneficiaries to the programme. As with vertical expansion, horizontal expansion is largely done by expanding existing government programmes, but there are examples from humanitarian action that can inform support of social protection programmes. Examples of horizontal expansion from the humanitarian side include adding vulnerable Lebanese households into humanitarian transfer programmes after the August 2020 port explosion.

In Jordan, the social assistance programmes do not cover asylum seekers, refugees and undocumented migrants. These groups are typically covered by the humanitarian organizations instead. The Government of Jordan has required that the residents be entitled to benefit from CBIs provided by humanitarian organizations, and this has resulted in social assistance for migrants being closely aligned with social assistance for citizens (Röth et al., 2017). At least 30 per cent of the caseloads receiving humanitarian assistance in Jordan were nationals meant to be covered by nationally administered social assistance programmes (Healy and Tiller, 2013). As explained by Hagen-Zanker et al. (2017), the Government of Jordan selects the beneficiaries of the programmes delivered by local and international organizations. This is also true for UNHCR caseloads, the WFP food voucher scheme and the UNICEF child grant. Verme et al. (2016) claim that the WFP food vouchers and the UNHCR cash transfers reduced poverty rates among the refugees, with the former

programme's effect being particularly strong. The evaluation of the UNICEF child grant showed that the cash assistance is not sufficient to sustainably improve the income of participants, but it partially prevents people from engaging in negative coping strategies (UNICEF, 2016).

Piggybacking refers to when an emergency response, delivered by either government or humanitarian actors, uses part of an established system or programme. Piggybacking allows for “cherry-picking” the strongest elements of a programme, such as existing beneficiary lists or established and tested cash delivery platforms, making them more effective and cost-efficient. This response option requires that an existing programme or delivery system exists to piggyback on. The fact that either a programme or its underlying delivery systems can be leveraged distinguishes this approach from the temporary scale-up of a specific programme (vertical or horizontal expansion). The piggybacking approach works well in contexts with parallel social protection and humanitarian assistance systems. Humanitarian actors can piggyback on government programmes and systems or vice versa. Both options save time and resources compared to establishing CBI delivery systems and platforms from scratch.

Turkey, with its well-developed social protection system, provides a strong example of where piggybacking can enable humanitarian programmes to reach beneficiaries more quickly, reduce costs and develop “more appropriate, effective, durable solutions to the protracted crisis” (ibid.). Social assistance in Turkey is managed through a centralized system and database (Integrated Social Assistance Information System or ISAIS), which uses a form of PMT to define eligibility for social protection programmes (Idris, 2019). Two internationally funded programmes that target refugees – an unconditional cash transfer programme that supports basic needs (ESSN) headed by WFP, and a conditional cash transfer programme for education (Conditional Cash Transfer for Education or CCTE) operated by UNICEF – piggyback on the Government's centralized social registry (ISAIS) for targeting and case management (ibid.).<sup>19</sup> According to the European Commission, “the government's leadership in the response from the beginning, its willingness to engage in partnerships with international organizations and to compromise on aspects of programme design was a critical factor enabling the provision of cash at scale in Turkey” (European Commission, 2019).

It is important to note that there can be drawbacks. The ESSN prioritizes social cohesion between refugees and locals for example, by harmonizing transfer values with social assistance available to Turkish citizens under the national scheme. Yet using humanitarian approaches for determining transfer values based on the prices of basic items within a minimum expenditure basket, would result in a higher transfer amount compared to that received by poor community households. While the final transfer value represents a compromise between humanitarian principles and considerations of fairness in respect to host country welfare systems, it risks the ability of humanitarian actors to comprehensively meet the consumption needs of vulnerable refugees (Seyfert, 2018). According to WFP, high inflation rates (25% in September 2018) are threatening the ability of current transfer values to sufficiently to meet the needs of beneficiaries (WFP, 2018:5).

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<sup>19</sup> A 2018 evaluation of ESSN by OPM found that some elements of the transfer, in particular managing applications and running the applicant database, relied on the national system, while other elements, such as the rationale behind the transfer amount, monitoring and evaluation, and participant communication were managed by humanitarian agencies.

SWF is a government social transfer programme in Yemen that provides cash assistance to chronically poor households and people through the country's post office system. In October 2011, Oxfam aimed to deliver humanitarian cash transfers to vulnerable households in the Al Hudaydah governorate during a period of worsening food insecurity. Oxfam partnered with SWF and the post office to leverage the social assistance programme's existing beneficiary lists. Using and verifying these lists was faster and cheaper than community-based targeting and made use of the programme's established delivery mechanism. Additionally, Oxfam negotiated with the post office to use their mobile vans to reach people closer to their villages. UNICEF is currently using the existing SWF beneficiary database and transfer accounts to target approximately 1.5 million chronically vulnerable households as part of its humanitarian programme. Additional examples of piggybacking include UNICEF using Lebanon's NPTP beneficiary database to target beneficiaries for winter cash in 2017 and using Iraq's Ministry of Labour and Social Affairs beneficiary database to target vulnerable households in Dohuk for cash assistance in 2015 (UNICEF, 2019).

**Alignment** refers to when parallel responses (humanitarian and social protection) are aligned, either in objectives, targeting methods, verification tools, transfer values or delivery mechanisms, to create a pathway for future expansion or preserve or strengthen an existing social protection system. This approach is distinct from piggybacking as it uses a parallel infrastructure rather than piggybacking on the same system. Alignment may arise when an existing social protection intervention cannot meet needs in a shock-responsive way in the case of a crisis, because it operates in geographical areas other than the crisis-affected area, is unable to reach all the required caseload, has ceased to function because of the crisis itself, or where social protection programmes do not yet exist. An emergency response that is designed to align with an existing social protection programme can facilitate future integration, increase impact and contribute to sustainability by relieving pressure on the humanitarian system if alternative funding sources are found. In real-time, alignment can reduce duplication of efforts and efficiency gains, and enable the parallel systems to reach and meet the needs of both contributory and non-contributory groups. This approach is highly suitable for fragile contexts with weak or non-existing social protection infrastructure.

The Cash Consortium in Iraq has aligned its MPCA vulnerability assessment methodology with the World Bank's poverty reduction assessment model that uses a consumption-based survey and PMT. A key objective of using a PMT approach in humanitarian MPCA assessment is to "find a systematic mechanism for cross-sectoral referrals, including, very crucially, to government-administered social safety nets in the long-run, while enabling potential referrals across UN and non-governmental organisations in the short-term" (Cash Working Group Iraq, 2020).

In contrast, Lebanon's NPTP adopted (aligned with) the existing food assistance programme of WFP for Syrian refugees delivered through e-card food vouchers (European Union Trust Fund, 2020). In response to increased tensions between Syrian refugees and vulnerable Lebanese households, who were ineligible to receive the WFP e-card assistance, e-card food vouchers were expanded to poor Lebanese families through the NPTP national system under an Emergency NPTP Project (E-NPTP) in 2014 (Ildris, 2019). The e-cards are used by Syrian refugees and E-NPTP households across the same network of WFP-contracted shops in Lebanon (ibid.). As with the example from Turkey, while the value of the monthly transfers is harmonized across beneficiaries to avoid potential social tensions, due to Lebanon's financial and liquidity crisis, the value of E-NPTP transfers has not been able to keep pace with inflation, which is affecting the ability of WFP to adequately meet the needs of vulnerable Syrian refugees. While WFP continues to support E-NPTP on issues related to the WFP platform and advocate for increasing the value of transfers, lessons from this alignment can be used to influence the further development of NPTP to be more inclusive and effective.

To ensure humanitarian CBIs align with existing or future social transfer programmes, humanitarian actors could work with organizations either formally through alliances or consortia or informally through cash working groups to design and pilot safety net approaches that can be eventually scaled up and adopted by the government as social transfer programmes. Humanitarian actors should also actively engage with relevant government stakeholders across all stages of the programme cycle, when the context is in line with humanitarian principles, to influence the design of a future SRSP system.

**Design** tweaks involve making incremental adjustments to the design of social protection interventions in response to crises to make them more shock responsive. This may be particularly relevant in areas prone to rapid-onset disasters, such as earthquakes or cyclones, where infrastructure is damaged, or in areas affected by conflict where access to services is disrupted. Examples include developing protocols that allow beneficiaries to receive a cash transfer over the counter if an electronic payment system is no longer functioning, or that waive conditionalities (such as school attendance) if these cannot be fulfilled because of the crisis. Design tweaks can also improve coverage, timeliness or predictability of programmes in the event of a crisis.

In addition to carefully considering whether linkage between humanitarian action and social protection is appropriate given the various points of divergence, there are additional challenges associated with linkage. As examples of existing linkages between humanitarian action and social protection demonstrate, political commitment or lack thereof can be predictive of whether a linkage is productive. A lack of buy-in from the government to forge links can be rooted in competition for scarce resources or fear of losing power. In some cases, there is the risk that the government will seek to use the programme for political gains or political biases will influence the humanitarian response, which threaten humanitarian principles of impartiality and neutrality. From a technical perspective, the design of a humanitarian programme and the government's social assistance programme may be incompatible in terms of targeting criteria, intervention area, type of cash transfer and critically the size

or frequency of transfers. Further, since linkages require working across humanitarian and government staff, challenges can arise due to differences in systems, capacities and styles of working. When a social transfer programme has been created without crisis response in mind, there can be technical challenges to linking it with humanitarian assistance. For example, there may be contracts with payment agencies that do not allow vertical and horizontal expansion and need to be modified. A lack of technical and financial capacity within the government system can also present a strategic obstacle to fruitful linkages.

It is important to consider that social protection systems depend on contribution through national funds (such as oil rent and a reliable tax base), and in many humanitarian settings, these flows can be insufficient or unreliable. National social protection systems in many humanitarian settings can be dependent on external funding (lacking adequate contribution from their tax bases), lack technical capacity and have inefficiencies that limit their ability to meet the needs of their national populations who may contribute to the system. In many humanitarian contexts, national systems may not be able to meet the needs of their own populations and cannot extend support to non-contributory non-citizens without political consequences and so cannot provide greater inclusion or expansion of services to migrants or refugees. While there can be cost-efficiency gains for governments by digitizing social transfers and improving targeting approaches, humanitarian agencies may have to continue to advocate for the inclusion of vulnerable non-citizens.<sup>20</sup>

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<sup>20</sup> The Government of Mexico is saving an estimated USD 1.27 billion per year, or 3.3 per cent of its total expenditure, on wages, pensions and social transfers by digitizing and centralizing its payments (see [www.betterthancash.org/news/digitization-of-payments-in-mexico-saves-billions](http://www.betterthancash.org/news/digitization-of-payments-in-mexico-saves-billions)).

## 4. LINKS TO EARLY RECOVERY AND LIVELIHOODS

Pathways for vulnerable households to long-term solutions can rest on their ability to access stable and decent work. This is the central focus on early recovery and livelihoods programming. Early recovery is an approach that aims to address the recovery needs arising during the humanitarian phase of an emergency through humanitarian mechanisms aligned with development principles. The early recovery approach “enables people to use the benefits of humanitarian action to seize development opportunities, build resilience, and establish a sustainable process of recovery from crisis” (OCHA, n.d.). As such, this approach is critical to reducing needs and supporting vulnerable individuals and households, such as migrants, IDPs, refugees and host communities, become less dependent on humanitarian aid or social assistance over time. Operationally, for humanitarian actors, early recovery is often linked with livelihoods interventions that aim to generate and protect income and assets through decent employment.<sup>21</sup>

The two principal avenues for humanitarian livelihood participants to access work include either waged employment within the labour market (either formal or informal) or self-employment in the labour market, that is, in the private sector (which can also be formal or informal). Livelihood interventions that aim to connect participants to employment opportunities in labour markets (such as working for someone else) typically use a combination of vocational training programmes, also referred to as technical vocational education and training (TVET), and apprenticeships models, also referred to as job placements or internships, which could be accompanied by a wage subsidy. Vocational training programmes aim to build individual participants’ capacity and skills in market-relevant vocational trades with a focus on the knowledge, practical competencies and attitudes necessary to perform a certain trade or occupation in the labour market. Apprenticeships provide on-the-job training and experience, usually with a third party paying the salary of the apprentice for the duration of the apprenticeship. In protracted conflict and transitional contexts, informal apprenticeships remain the chief mode of skills transfer for potential workers, especially for young workers (ILO, 2014a).<sup>22</sup> Livelihood interventions that aim to support existing or aspirational business owners, focus instead on entrepreneurship or business skills training typically coupled with capital support. Entrepreneurship or business training and support generally work with MSMEs or participants with the desire to start a business.

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<sup>21</sup> **Decent work** is defined as “productive work for women and men in conditions of freedom, equity, security and human dignity”. It refers to opportunities for work that are as follows: (a) productive and deliver a fair income; (b) provide security in the workplace and social protection for workers and their families; (c) offer better prospects for personal development and encourage social integration; (d) give people the freedom to express their concerns, to organize and to participate in decisions that affect their lives; and (e) guarantee equal opportunities and equal treatment for all (see <https://ilo.org/global/topics/decent-work/lang--en/index.htm>).

<sup>22</sup> In these informal systems, learners or apprentices acquire the skills for a specific trade in a micro or small business by learning and working side-by-side with an experienced craftsperson. These apprenticeships are based on an informal agreement embedded in local norms and traditions, rather than on a contractual relationship, leaving room for misunderstandings and low standards.

While implementers hope to enable vulnerable persons to become self-reliant and reduce or eliminate reliance on non-contributory humanitarian assistance or social protection systems through livelihood interventions, it is important to note that the evidence on the effectiveness of these kinds of interventions can be mixed and are context specific. Factors affecting effectiveness include whether training content matches labour market needs, macroeconomic conditions, the comprehensiveness of services provided, whether cash or financial support is included, quality delivery, and the varying constraints participants face.

In achieving these outcomes, early recovery and livelihood actors can face immense challenges especially in humanitarian contexts, where conflicts can be protracted, or disasters can be recurrent with prolonged impacts. In these contexts, ongoing conflicts and crises can disrupt markets for goods, services and labour and revenues streams for the State, destroy critical infrastructure and people's livelihoods, while displacing people multiple times or over a long period of time. These countries can consequently face severe macroeconomic challenges including significant budget or current account deficits, monetary issues related to inflation, deflation or currency shortages and liquidity constraints, shortages of basic items or significant price volatility, and tend to suffer from fiscal mismanagement to address these issues. Concurrently, fragility and conflict can contribute towards increased investment risk, thereby undermining the willingness of foreign companies to invest and support economic recovery. This is compounded if governments are unable to provide a favourable investment environment, or if the country is still considered to be unstable. Without organic economic growth, they can be dependent on natural resources, imports, and overly reliance on the public sector for employment and benefits, resulting in an underdeveloped and under-supported private sector. Due to a combination of these factors, the number of decent jobs available in these contexts are insufficient to provide gainful employment to those who need it. Unemployment in humanitarian settings tends to be higher than in non-humanitarian settings, with livelihoods, sectors and value chains debilitated by conflict.

In many humanitarian settings, migrants, refugees and in some cases IDPs are not formally registered, and groups traditionally excluded from formal employment instead work in the informal sector, and so are excluded from national planning, social safety net support and critically do not contribute into the systems through taxation, even though they contribute to economic development. As discussed in the text that follows, their ability to contribute to social protection may be constrained, but suitable means or models to include them into social security provisioning could be designed. If links to labour markets are through formalized employment or private businesses, then participants not only benefit from social protection but can also contribute to social protection systems through taxation and other contributions.

It is important to note that in some humanitarian settings, highly vulnerable groups, such as migrants, IDPs and refugees, can be excluded from public sector jobs and prohibited from working in specific sectors. These groups can also be excluded or limited in relation to their access to the (private sector) labour market. As far as refugees are concerned, according to the 2019 policy brief by IRC (2019):

Of the 145 state parties to the 1951 Refugee Convention only 75 formally grant refugees the right to work through accession to Articles 17–19 or through domestic employment laws. Almost half of the signatory countries declare reservations, often in full, and those that grant the right may impose conditions or reservations to this right. The same limitations apply to many of the 48 states that are not parties to the Convention. Some countries completely legally bar refugees from work, be it as an employee or starting a business. Many countries that in principle allow refugees to work subject to workplace restrictions on their right to work, limiting for example the sectors in which refugees can work, the geographical areas where they can seek work, or the number of refugees who can be employed by a certain firm. Among the countries that restrict or prohibit refugees' access to labour markets are those that host the majority of the world's refugees.

In Jordan, for example, a complex set of rules and onerous requirements limits refugees to working in sectors like agriculture, construction, manufacturing, food and beverage services and retail and wholesale. For the latter three sectors, work permits are tied to an employer (Mennonite Central Committee, 2017). It is also important to note that these restrictions and requirements do not apply uniformly to all refugee nationalities. Non-nationals can also face barriers to obtaining work permits, have limitations on their freedom of movement, and constraints on the ability to establish a business. In Lebanon, migrant domestic workers are excluded from Lebanon's labour law protections, including requirements for a minimum wage, limits on working hours, a weekly rest day, overtime pay and freedom of association. According to Human Rights Watch (2020), their status in the country is regulated by the *kafala* system – a restrictive immigration regime of laws, regulations and customary practices – that ties migrant workers' legal residency to their employer. Workers cannot leave or change employers without their employers' consent, placing them at risk of exploitation and abuse. Those who leave their employers without "permission" risk losing their legal residency in the country and face detention and deportation. Refugees are limited to the above and manufacturing.

Moreover, there can be government restrictions on the inclusion of migrants, refugees or asylum seekers into programmes in both humanitarian and non-humanitarian settings, as well as on what delivery mechanisms can be used by humanitarian agencies, all of which can hamstring the ability to meet the needs of highly vulnerable groups effectively.

Still, opportunities do exist for vulnerable groups in the private sector. Increasing the number of and supporting MSMEs, either in the form of regular brick-and-mortar shops, home-based businesses or e-commerce, and targeting specific aspects of a particular value chain are promising approaches to increase the availability of jobs and provide income to vulnerable households, especially for those who may be restricted from entering the labour market (public sector jobs or a majority of sectors). To have impact, longer and more comprehensive trainings with a combination of services are more effective, while measuring and seeing impacts typically requires a longer time horizon (Cho and Honorati,

2013; Grimm and Paffhausen, 2014). The key to business success is individualized and tailored training and support informed by the specific constraints and barriers a new or existing business faces (McKenzie and Woodruff, 2012). Financial assistance for the duration of training and as start-up capital can be critical to the viability of businesses (Haushofer and Shapiro, 2016). Finally, follow-on support in the form of mentorship or peer exchanges are vital for new and small businesses, while a consulting approach has been found to be more impactful for more established and larger businesses (Lafortune et al., 2018). Peer exchanges in particular are a highly cost-effective approach that show significant and positive results, addressing the lack of networks among migrants, refugees and IDPs that can impede their productive engagement in the labour market (Cai and Szeidel, 2017). This can be coupled with guidance and support in accessing capital to maintain and grow businesses. In addition, enhanced diaspora engagement would help to strengthen the responses indicated here.

While implementers use the available and relevant evidence to inform the design of livelihoods interventions that connect participants with employment opportunity or opportunities to start or expand existing businesses, these efforts will have limited impact without complementary advocacy efforts that better connect vulnerable groups to labour markets and social protection. In addition to advocating governments to open all sectors for non-nationals and IDPs and enable the labour market to function effectively, the formalization of employment and private businesses would enable them to better interact with social protection systems, both in terms of contribution and support during times of shocks (idiosyncratic or covariant).

Also, investment in and incorporation of vulnerable migrants in integrated national public safety net responses (that is, national public works arrangements) should also be considered; this may reduce reliance on a raft of non-contributory social protection interventions and could, if well-designed and properly executed, provide a pathway for vulnerable migrants to formally enter the labour market and hence participate in contributory social security schemes. In addition, consideration should be given to involve public works participants directly in national, contributory social programme interventions. Recently advocated as a national response for Yemen (UNDP, 2020), the examples of similar arrangements in Ethiopia and India are helpful. In Ethiopia, the Productive Safety Net Programme began in 2005 with the goal of moving from humanitarian support to prevent famine, to a sustainable safety net that would offer protection against malnutrition while pulling households and communities out of poverty traps. The programme has been supported by humanitarian donors (led by WFP, UNDP and USAID) who moved from annual to multi-year pledges, development donors (led by the World Bank and the European Union), and the Government of Ethiopia. The programme employs between 5 and 15 million people annually, depending on the weather, and it also includes a cash window for households where members cannot work. The expectation that income can be earned during downturns has allowed households to accumulate assets. The investments have largely focused on rehabilitating environmentally degraded regions, improving agricultural productivity such as terracing and reforestation, and regreening large expanses of degraded landscapes.

In India, in February 2006, the Union Government launched the National Rural Employment Guarantee Act (later renamed the Mahatma Gandhi National Rural Employment Guarantee Act). It was extended to all districts in 2008 and is the largest and most ambitious social security and public works programme in the world. Approximately one fourth of all rural households in India participate in it annually. It aims to enhance livelihood and security in rural areas by providing at least 100 days of wage employment in a financial year to every household whose adult members volunteer to do unskilled manual work. Workers covered by the Mahatma Gandhi National Rural Employment Guarantee Act have the following rights: (a) employment on demand (in the form of an application to the local government office); (b) minimum wage; (c) payment within 15 days; (d) basic worksite facilities; and (e) social audit accountability and grievances mechanisms. In the fiscal year 2019–2020, over 52 million households and nearly 75 million individuals worked under this programme.<sup>23</sup> It should be noted that UNDP was a key partner, providing technical and capacity support in the design and delivery of the programme (see UNDP, 2011 and 2010).

These advocacy efforts should leverage salient lessons from the way in which international law deals with migrants' access to labour markets in host countries:

- International law recognizes the vulnerable status of migrants generally and of particular categories of migrants specifically – as well as, in particular, refugees.
- International law is sensitive to the balance between foreigners' access to labour markets and the protection of host community members' participation in the labour market.<sup>24</sup>
- Therefore, but subject to several considerations indicated below, there appears to be an in-principle scope for governments to regulate, and even restrict, the access of foreigners to the labour market of the host country. As indicated by the International Commission of Jurists (2014:263): “States may legitimately regulate or restrict the right to work of non-citizens or particular categories of non-citizens – those with particular types of work or residence permits, or asylum-seekers”.
- In accordance with the provisions of ICESCR, all individuals have the right to freely chosen or accepted work, including the right not to be deprived of work unfairly – a dignity issue. This right, which can be limited, also applies to migrant workers. Different applications of the right to work of non-citizens and citizens, as well as differences between different categories of non-nationals, must be objectively justifiable and non-discriminatory on other grounds, such as race or ethnicity (ibid.).
- Restrictions on the free choice of employment must be time-bound, must correspond with the interests of the State, and must be informed by national legislation.
- Lawful residence in the host country could be set as a condition for access to the labour market.
- Employment protection and equality of treatment apply to migrant workers, in particular when they are already engaged in employment.

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<sup>23</sup> See [https://nregarep2.nic.in/netnrega/dynamic2/dynamicreport\\_new4.aspx](https://nregarep2.nic.in/netnrega/dynamic2/dynamicreport_new4.aspx).

<sup>24</sup> See Article 14 of ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and Article 52 of ICMW.

- International refugee law supports access to wage-earning employment and self-employment for refugees and asylum seekers.
- Regarding refugees and asylum seekers, there is a clear tendency, also in the practice of States, away from encampment policies in support of labour market integration.
- International standards stress the importance of a proper labour market analysis: accurate and disaggregated data should inform evidence-based policies regarding access to labour markets.
- Article 23 of the Universal Declaration of Human Rights (1948) states the following: (a) everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment; (b) everyone, without any discrimination, has the right to equal pay for equal work; (c) 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; and (d) everyone has the right to form and to join trade unions for the protection of his interests.
- The Global Compact on Refugees (United Nations, 2018), a pact of international solidarity and cooperation for refugee protection and host community development agreed in 2018, includes an aim to enhance refugee self-reliance and “... foster inclusive economic growth for host communities and refugees” through “economic opportunities, decent work, job creation and entrepreneurship programmes”.

Using these conventions to push governments to include and formalize those who are currently excluded from formal labour markets is not only a potential exit strategy for humanitarian actors but is a significant source of revenue for struggling governments through a larger tax base.

## 5. SOCIAL PROTECTION FOR MIGRANTS IN THE INFORMAL ECONOMY

In reality, many migrants invariably resort to informal economy engagement and reliance on informal forms of social protection to ensure economic survival. For the majority of them, mainstream social protection responses often may not be available or accessible, especially if they happen to be undocumented. In MENA region, also due to the limited coverage of formal social protection systems,<sup>25</sup> important informal and semi-formal safety net modalities provide a crucial lifeline for individuals and households, and effectively for migrants too: these modalities rely on notions of solidarity and redistribution operating within the framework of kinship-based and mutuality-based forms of support. As noted by Jawad (2017:16), nuclear and extended families have always played a key role in social support; the family is also a last resort for financial support. In the last decade, however, the family in MENA region has become a less reliable source of social support due to the widespread incidence of poverty and the breakdown of family bonds. Also, their ability, and that of mutuality-based modalities indicated later on this section, to address covariant risks caused by health pandemics or large-scale climate- or conflict-induced migration, including displacement, remains questionable. Nevertheless, the most significant source of social protection for vulnerable populations – particularly for those employed in the informal sector – are religious welfare organizations. These include large welfare organizations such as Caritas and the important Zakat institution – the compulsory giving of a portion of one's wealth to charity, considered a religious duty for all adult Muslims with a minimum standard of wealth: "Zakat is a major source of redistributive social transfers, either informal (as private charitable donations), semi-formal (collected and distributed by mosques) or formal (administered by the government)" (Devereux, 2017:19–20; Lorenzon, 2016:5, 10). Much can be learned from countries such as the Sudan that has incorporated Zakat into the formal social protection system: the Zakat Fund in Sudan supported over 2.1 million families with cash transfers and other benefits in 2016. Also, the National Zakat Fund in Jordan is, after the National Aid Fund, "an important component of the national social protection system, offering cash transfers to poor people and other vulnerable groups such as orphans and people with disabilities" (Bilo and Machado, 2017:42–43; see also Jawad, 2017:16 and van Diesen, 2017:25–26). Repurposing Zakat to serve the social protection needs of vulnerable migrants, inclusive of displaced populations and vulnerable hosting communities, therefore is important.

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<sup>25</sup> While it is true that there is restricted social protection coverage of informal workers in MENA region, some countries are making efforts to provide social protection for informal workers. For example, in response to COVID-19, Jordan developed a new emergency programme specifically for informal workers and was able to rapidly deliver assistance through e-wallets for up to 250,000 beneficiaries (see UNICEF, 2020).

Special attention should also be paid to possibilities of extending formalized forms of social protection to migrants in the informal economy (ILO, 2019; Olivier, 2019 and 2020; Olivier and Dafuleya, 2020). However, there are several reasons why relying on traditional formalized forms of social security arrangements has not resulted in significant extension of coverage of informal economy and informal workers. These include, but are not limited to the following:

- **Restricted coverage** – Social insurance (contributory) schemes invariably have a formal economy focus (usually requiring an identifiable employer–employee relationship), while social assistance schemes extend protection only to certain vulnerable categories, including the aged, children and persons with disabilities – the focus of such schemes is not on able-bodied individuals. In addition, extending social assistance schemes to informal economy workers and their dependants may not be financially sustainable.
- **Traditional schemes are not sufficiently tailored** – Mainstream social security schemes do not make adequate provision for the context of these workers, for examples, in relation to their contributory capacity, the conditions for claiming benefits, and the nature and priority of benefits required by these workers.
- **Limited relevance of traditional social (security) risks** – The classical social (security) risks (poor health, support needed in the event of sickness, maternity, unemployment, occupational injuries and diseases, disability, survivorship, old age and family responsibility) may not capture risks to which these workers and their dependants are typically exposed to – such as climate change, and the loss of the means by which informal economy workers pursue their income and livelihoods.
- **Structural considerations: Restricted labour market context and changes to the nature of work** – In the Global South, most workers do not have access to insufficiently developed formal labour markets. Many of them are also exposed to new and unstable forms of work, including work in supply chain contexts. All of this impacts negatively on their access to social security/social protection.
- **Insufficient provision for voice and representation** – For several reasons, many trade unions do not sufficiently represent the interests of these workers.

Lately, international instruments at the global level have been providing a normative framework. Key standards and principles, flowing from instruments such as ILO Recommendation on National Floors of Social Protection, 2012 (Recommendation 202) and ILO Recommendation on the Transition from the Informal to the Formal Economy, 2015 (Recommendation 204), the IOM IRIS standards (IOM, 2019c), as well as the Montreal Recommendations on Recruitment (IOM, 2020b) and also the United Nations Guiding Principles on Business and Human Rights (Office of the OHCHR) can be summarized as follows:

- International (United Nations and ILO) and regional standards confirm the right of all persons and all workers, including informal economy workers, to social security protection;
- Adoption of an appropriate policy and legal foundation to inform, support and mandate the extension of (contributory) social security to informal (economy) workers is advised;

- Coverage extension should occur progressively via any one or combination of a non-exclusive list of modalities, including contributory and non-contributory arrangements;
- Recent ILO instruments emphasize that contributory arrangements should be sensitive to the context and contributory capacity of these workers.

Comparative experiences provide helpful pointers to inform coverage extension. A wide range of measures have been adopted by countries to extend social security coverage for informal economy/informal workers. Some of the key developments in this regard are the following:

- Innovative and at times extensive conceptualization has been introduced to widen the application of social security, so as to also include those in the informal economy (such as India and the United Republic of Tanzania) – via revisions to social security and labour laws.
- Non-contributory schemes have been adapted to ensure inclusion of these workers – for example, through the introduction of universal pension arrangements (such as Namibia and Nepal).
- Contributory schemes have been extended to achieve inclusion, at times even on a compulsory basis (such as domestic workers in South Africa), and are increasingly supported through government incentives, including government subsidies; the introduction of national health insurance schemes also serves this purpose (such as Thailand and Viet Nam).
- Some governments have introduced comprehensive arrangements to cover the whole of the informal economy. Examples include China, India, Indonesia, Ghana and Rwanda.
- Some countries have included informal economy workers sector by sector, usually on the basis of separate or dedicated schemes. Examples include Ecuador, Tunisia and the Indian welfare funds modality.
- Tailor-made design modalities have been introduced, including the following:
  - Specialized contribution modalities (such as flexible options allowing workers to contribute according to their ability and at a frequency that reflects the reality of their income generation, such as in the case of seasonal workers (Ghana, the Philippines and Viet Nam); the setting of realistic income baselines as a basis upon which contributions are calculated (Tunisia); and, importantly, the increasing tendency of government subsidies to support or even replace the contributions of poor informal economy workers (India (proposed), Myanmar, Rwanda, United Republic of Tanzania and Viet Nam);
  - Relaxed entitlement criteria (accessing benefits without complying with lengthy contribution periods or other onerous conditions);
  - Dedicated, context-sensitive benefit arrangements addressing the key short- and long-term needs of informal workers (Ghana and Rwanda).

- Supporting arrangements, including the following:
  - Stakeholder consultation, undertaken preferably by a high-level consultative team;
  - Recognizing the importance to engage with representatives of informal economy workers;
  - Carefully coordinated communication;
  - An enabling environment, enhancing the ability to contribute to and access the new system;
  - Involving cooperatives or unions to achieve coverage inclusion (such as the Dominican Republic);
  - Adopting a unified tax package, which includes both the payment of social security contributions and the payment of taxes;<sup>26</sup>
  - Providing monetary and/or other incentives.

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<sup>26</sup> Several Latin American countries have introduced a monotax system, whereby tax payments and social security contributions are paid as a single package, instead of separate payments. Referred to as the Montributo system in Uruguay, but also applied in Argentina, Brazil and Ecuador, this has been an effective tool for the extension of social security coverage to small businesses and independent workers, especially women (see ILO, 2014b; Durán-Valverde et al., 2013).

## 6. COVID-19 SOCIAL PROTECTION RESPONSES FOR MIGRANTS IN THE MIDDLE EAST AND NORTH AFRICA REGION

COVID-19 has shown that all people need to be free from the virus if lives are to be saved and if economic activity is to return to normal. This means that States must ensure quality health care for all, including migrants, during this COVID-19 period and beyond. This is critical because if a large number of irregular migrants in the economies and societies of MENA region are excluded from health-care services, they will present a huge risk to public health in their countries of destination.

The Organisation for Economic Co-operation and Development (2020) provides several examples of countries in MENA region that have made strides towards assisting refugees with access to health care. In Jordan, the Government has coordinated with UNHCR to respond to the COVID-19 crisis faced by refugees by putting in place measures that ensure their access to national health services, including inclusion in the national vaccination campaign for COVID-19. The Government of Lebanon coordinated with several non-governmental and international organizations to prevent the spread of COVID-19 in refugee camps by providing disinfection equipment and conducting awareness campaigns. In Yemen, the Government is recorded to have been in discussions with the World Bank to assess the provision of cash transfers to refugees in camps.

Some governments in MENA region responded to the socioeconomic effects of COVID-19 on migrant workers, including those in irregular situation, by introducing employment protection measures. The Regional UN Issue-Based Coalition on Social Protection (United Nations, 2020) provides some country examples on this. Qatar ensured that foreign workers affected by lockdown and quarantine measures receive their full salaries. In Kuwait, foreign workers received food transfers and were provided shelter. In Bahrain, Kuwait, Qatar and Tunisia, foreign workers who had become irregular were exempted from the payment of penalties and/or extending work or residence visas.

Food transfers to refugees and IDPs in MENA region were mostly provided by United Nations agencies (ibid.). WFP and UNHCR delivered food transfers to refugees in Algeria and Libya, respectively. The same institutions distributed vouchers for food in Jordan and Kuwait, respectively. IOM distributed food/NFI vouchers in Jordan to migrant workers as well. Refugees were provided with cash transfers in Algeria, Egypt, Jordan, Lebanon, Kuwait and Tunisia by UNHCR. United Nations Relief and Works Agency provided cash

transfers in Egypt and Jordan, while IOM provided the same in Lebanon. In Jordan, IOM is implementing MPCA for Syrian and non-Syrian refugees. IDPs were included in the provision of cash transfers in Iraq by UNHCR and WFP and in Yemen by UNHCR. Where there have been existing humanitarian assistance programmes, there are country examples where these were vertically expanded by increasing benefits for refugees and IDPs as was done by WFP in Iraq. There are also country examples of horizontal expansion where beneficiaries of humanitarian assistance programmes were temporarily expanded. This was done by WFP in Iraq, UNICEF in Jordan and the Syrian Arab Republic, and UNHCR in Lebanon, Tunisia and Yemen.

## 7. RECOMMENDATIONS

International law recognizes the vulnerable status of migrants and displaced populations and requires the prioritization of their plight. Countries bear pertinent obligations to extend social protection that may be varied in nature for migrants irrespective of category. Yet, the scope of the human rights obligations imposed on countries may vary with reference to the source of funding and different migrant categories. Commendable progress has been made in some MENA countries to identify sustainable solutions that reduce the vulnerabilities of migrants and displaced populations, including, when appropriate, efforts to transition from CBI to social protection support, or align CBI and social protection support; other countries could learn from a range of comparative examples on how this can be achieved, bearing in mind international norms and guidelines.

Dedicated measures must be considered to ensure social protection coverage for migrants engaged in the informal economy/informal work. Based on a fast-growing range of lessons learned from comparative country experiences and guided by the developing normative framework at the global and regional levels, the following interventions should in particular be considered:

- Support appropriate ISP arrangements, and strengthen ISP governance arrangements;
- Consider engagement with extension modalities, such as those mentioned earlier in this paper;
- Strengthen voice and representation of migrants generally, and informal economy participants in particular (including representative structures);
- Facilitate/support arrangements with local governance structures to accommodate these workers.

Humanitarian actors have an imperative to establish exit strategies and support national systems where possible and feasible. Indeed, the United Nations General Assembly of 1991 advocates for more integrated approaches between emergency measures and long-term development, and there is growing interest in nationally owned social protection that is responsive to humanitarian needs especially in the face of heightened risks and impacts from COVID-19. Linkages between humanitarian aid and social protection can help meet the needs of vulnerable populations with faster, cheaper and more rigorously designed interventions, but collaboration requires political will, sufficient convergences between the design and delivery of assistance, as well as the application of humanitarian principles, leveraging existing learning to avoid pitfalls and sufficient donor support and funding. For humanitarian aid to open the way to recovery and social protection, where appropriate, caseloads that are typically administered through emergency assistance should be aligned and/or merged with those that are administered by national institutions of social protection, when the above conditions are met.

- Systematically consider potential linkages between humanitarian aid and social protection especially in contexts where humanitarian needs are growing, donor funding becomes further stretched, and during a global health pandemic that threatens critical health, social protection and humanitarian systems.
- As a form of direct non-contributory provision of assistance, cash transfers or CBIs provide the strongest potential link between humanitarian aid and social protection, and so should be designed and delivered by humanitarian actors in consideration of social protection systems and vice versa to increase the potential of future integration.

Humanitarian organizations have continued to work to both meet the needs of affected populations, while also amplifying efforts to design and implement programmes that concurrently reduce needs and address root causes. This is critical as needs remain pervasive in protracted contexts, humanitarian funding becomes more stretched, and exit strategies to social safety net systems remain unreliable.

- To increase the availability of jobs and provide income to vulnerable households, especially those who may be restricted from entering the labour market, increase support for MSMEs, either through regular brick-and-mortar shops, home-based businesses or e-commerce, and target specific aspects of a particular value chain.
- To have greater impact, plan for longer and more comprehensive entrepreneurship training that is individualized and tailored to address the specific constraints and barriers a new or existing business faces, combine trainings with support services, such as mentorship, peer exchanges or consultations, and financial assistance for the duration of training and as start-up capital. Peer exchanges, which is a highly cost-effective approach that addresses the lack of networks among migrants, refugees and IDPs, should be considered to impede their productive engagement in the labour market.

Finally, since these efforts will have limited impact without complementary advocacy efforts that better connect vulnerable groups to labour markets and social protection, it is critical that agencies make the business case to governments to open sectors for non-nationals and IDPs and enable the labour market to function more effectively, and formalize employment and private businesses to enable them to contribute to the social protection system through taxation and receive support during times of either idiosyncratic or covariant shocks.

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International Organization for Migration (IOM)  
Regional Office for Middle East and North Africa (MENA)

47C Abu El Feda Street, Zamalek, Cairo, Egypt

Tel.: +2 02 273 65 140 • Fax: +2 02 273 65 139 • Email: [rocairo@iom.int](mailto:rocairo@iom.int) • Website: <http://rocairo.iom.int/>