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31st International Conference of the Red Cross Red Crescent
Geneva, 28 November–1 December – For humanity



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**31st INTERNATIONAL CONFERENCE
OF THE RED CROSS AND RED CRESCENT**

Geneva, Switzerland
28 November – 1 December 2011

**Migration: Ensuring access, dignity,
respect for diversity and social inclusion**

Draft resolution

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Background report

**Document prepared by the International Federation
of the Red Cross and Red Crescent Societies
in consultation with the International Committee of the Red Cross and
the Migration Reference Group**

Geneva, October 2011

DRAFT RESOLUTION

Migration: Ensuring access, dignity, respect for diversity and social inclusion

The International Conference of the Red Cross and the Red Crescent,

acknowledging the importance of respect for the human dignity and protection of all migrants, and expressing its deep concern about the continued suffering of those migrants living in the shadows of society;

reaffirming the primary responsibility of States to address the humanitarian needs of persons within their territory or under their effective control, including all vulnerable migrants, within the framework of national and international law and norms;

reaffirming the important role of National Societies as auxiliaries to their public authorities in the humanitarian field, including national and local authorities, in addressing the humanitarian needs of migrants, and contributing to shaping a more humane, equal and non-violent society;

recognizing the challenges that migration presents for the countries of destination but also of transit and origin, as well as the many benefits of migration and acknowledging the contributions of migrants to countries of origin, transit and destination;

expressing concern about the ongoing risks that migrants face to their safety, well-being¹, access to international protection and dignity and about the often alarming humanitarian situation of vulnerable migrants at all stages of their journey;

recalling the commitments made by States and the International Red Cross and Red Crescent Movement (the Movement) in 2007 and previously, to engage in the promotion of non-violence and promoting, respect for diversity and inclusion especially with regard to vulnerable migrants²;

recalling the responsibility of Red Cross and Red Crescent National Societies to act at all times in accordance with the Fundamental Principles and the Statutes of the Movement and to comply with national laws in providing humanitarian assistance to and working to ensure the protection to vulnerable migrants irrespective of their legal status;

welcoming the background report highlighting progress achieved in carrying out the commitments undertaken at the 30th International Conference of the Red Cross and Red Crescent, including the IFRC Policy on Migration adopted by the 17th Session of the General Assembly of the IFRC and endorsed by the Council of Delegates in 2009;

recognising that National Societies should enjoy effective access to all migrants, irrespective of their legal status, in order to deliver humanitarian assistance and protection services

¹ Well being refers to ensuring migrants enjoy the basic necessities of life such as access to health care, shelter, food, clothing and education

² 30th International Conference of the Red Cross and Red Crescent (IC), Resolution 1: Adopting the Declaration, "Together for humanity"; 28th IC, Resolution 1: adopting the Declaration "Protecting Human Dignity"; 28th IC, Resolution 1: adopting the Agenda for Humanitarian Action, General objective 4 and Final Goal 4.1; 27th IC, Resolution 1: adopting the Declaration and Plan of Action, Annex 2

without being penalised, both in their role as auxiliaries to the public authorities in the humanitarian field at all levels and under their general humanitarian mandate;

1. *Requests* States, in consultation with National Red Cross or Red Crescent Societies, to ensure that relevant laws and procedures are in place to enable National Societies to enjoy effective and safe access to all migrants without discrimination and irrespective of their legal status;
2. *Calls upon* States, within the framework of international laws and norms, to ensure that procedures for entry and other procedures at international border, especially those that might result in denial of access to international protection, deportation or interdiction of persons, include adequate safeguards to ensure the safety, access to international protection, well-being and dignity of those persons, including access to restoring family links services; and invites States and National Red Cross or Red Crescent Societies to consult in the implementation of those procedures;
3. *Calls for* enhanced cooperation between public authorities, at all levels, and National Red Cross and Red Crescent Societies in practical actions to promote respect for diversity, nonviolence and social inclusion of migrants and between migrant and local communities, resulting in an intensification of efforts to enhance cultural awareness in society at large and education, whether formal or non-formal, which promotes humanitarian values and develops interpersonal skills to live peacefully together. These actions further aim to enhance social cohesion through the promotion and engagement of local and migrant populations (especially youth) in voluntary service, community and sport programmes;
4. *Calls upon* States, National Red Cross and Red Crescent Societies, the International Federation and the ICRC to continue to collaborate and build partnerships which recognise the specific role of the Movement in working with the most vulnerable migrants. These partnerships should extend to local, national and international organisations (such as IOM and UNHCR, UNODC), non-governmental organisations and the private sector thereby creating a wider consensus on the humanitarian response to migration and strengthen the Movements humanitarian assistance and protection activities in conformity with the Fundamental Principles and Statutes.

BACKGROUND REPORT

Migration: Ensuring access, dignity, respect for diversity and social inclusion

Executive Summary

This background paper has been developed to strengthen the rationale behind the proposed resolution on migration of the 31st International Conference of the Red Cross Red Crescent. The paper outlines the vision of the International Red Cross and Red Crescent Movement (“the Movement”)³ for more coherent, comprehensive, and better coordinated approaches of the components of the Movement in addressing the humanitarian needs of vulnerable migrants and in working with migrants and host communities towards respect for diversity and social inclusion.

Reviewing the Declaration ‘Together for Humanity’ and the Federation Policy on migration, this document draws on the Movement's experiences with regard to access to vulnerable migrants as specified in the annex to Resolution 1⁴ of the Declaration. The promotion of a culture of non-violence and peace is also elaborated on. Finally, the paper includes a commentary on the importance of strengthening partnerships between the Movement, States, International Organisations and Non-Governmental Organisations and on current humanitarian challenges for vulnerable migrants.

The 31st International Conference provides an opportunity for discussion among components of the Red Cross and Red Crescent Movement and States about ways to fulfil commitments made at the 30th International Conference with regard to the humanitarian aspects of migration. The Declaration “*Together for Humanity*,” adopted at the 30th International Conference, called for “international cooperation at all levels to address the humanitarian concerns generated by international migration.”⁵ In the Declaration participants also resolved to intensify efforts to “mobilize community respect for diversity and action against racism, discrimination, xenophobia, marginalization and other forms of exclusion faced by all vulnerable groups.”

There has been progress since 2007 within some States and National Societies to address the humanitarian needs of vulnerable migrants. At the same time, the Movement remains concerned that there continue to be vulnerable migrants who live outside conventional health, social and legal systems, and, for a variety of reasons, still do not have access to processes which guarantee respect for their fundamental rights.

As part of encouraging implementation of the 2009 Federation Policy on Migration, we aim to bring current humanitarian concerns of migrants to the International Conference of the Red Cross and Red Crescent and identify effective approaches to reducing the suffering of vulnerable migrants, irrespective of their legal status. The International Conference provides the opportunity for governments and the Movement to exchange views on the issues outlined below and to identify constructive ways for moving forward.

³ The Movement comprises three main components: 186 National Red Cross and Red Crescent Societies, International Federation of Red Cross and Red Crescent Societies (IFRC), and International Committee of the Red Cross (ICRC).

⁴ Humanitarian concerns generated by international migration.

⁵ 30th International Conference of the Red Cross and the Red Crescent, Geneva, November 2007, Resolution 1: “Declaration: Together for humanity”, available at: <http://www.ifrc.org/Docs/pubs/events/intconf07/adopted/declaration-en.pdf>

Scope of the debate

The Movement's core principles of Humanity and Impartiality require attention to vulnerable people in society. Our commitment to Humanity means that our "purpose is to protect life and health and ensure respect for the human being."⁶ In the spirit of Impartiality, we make "no discrimination as to nationality, race, religious beliefs, class or political opinions."⁷

On this basis, the Movement plays an important role in assisting and protecting migrants since we work along the entire migratory trail, in countries of origin, transit and destination. Guided solely by their needs and irrespective of their legal status, the Movement is committed to relieving the suffering of migrants. We are engaged in a wide range of humanitarian assistance and protection activities to help migrants at risk of serious harm. We are committed to working with both migrant and host communities affected by migration in order to promote respect for diversity, nonviolence and social inclusion as an integral part of responding to migrants needs. Many activities stem from the role of National Societies as auxiliaries to the public authorities, as stated by the 2007 Council of Delegates Resolution: "while acting in an auxiliary capacity National Societies will be in a position to base their services strictly on vulnerabilities and humanitarian needs and maintain their independence and impartiality at all times without being drawn into debate on the political, economic and security aspects of migration."

Our approach to Migration

The year 2007 was a turning point for the Movement when in its statutory meetings, including the 30th International Conference of the Red Cross and Red Crescent, it was acknowledged that migration is one of the greatest challenges faced by the world today: that it can generate positive effects while also causing substantial vulnerability and suffering, which raises serious humanitarian concerns. Moreover, the decision in 2007 of the Council of Delegates was that, in addressing the humanitarian dimension of migration, the Movement should take an inclusive approach, regardless of the status of the migrants.⁸ Alongside the components of the Movement, the States participating in the 2007 International Conference outlined the specific nature of the humanitarian challenge through their declaration "*Together for Humanity*," recognizing migration as an all-encompassing humanitarian challenge:

"We are particularly concerned that migrants, irrespective of their status, may live outside conventional health, social and legal systems and for a variety of reasons may not have access to processes which guarantee respect for their fundamental rights."⁹

Accordingly, the Conference called for "international cooperation at all levels to address the humanitarian concerns generated by international migration." Spelling out a number of specific areas of concern, the resolution of the 30th International Conference further underlines the "role of the International Red Cross and Red Crescent Movement" and concludes by recognizing, in particular, the role of National Societies "in providing humanitarian assistance to vulnerable migrants, irrespective of their legal status."¹⁰

⁶ International Federation of Red Cross and Red Crescent Societies, "The Seven Fundamental Principles," available at <http://www.ifrc.org/en/who-we-are/vision-and-mission/the-seven-fundamental-principles/>

⁷ Council of Delegates of the International Red Cross and Red Crescent Movement, Geneva, Switzerland 23-24 November 2007, Resolution 5: "International Migration".

⁸ Council of Delegates of the International Red Cross and Red Crescent Movement, Geneva, November 2007, Resolution 5: "International Migration", available at: <http://www.ifrc.org/PageFiles/49631/resolutions5.pdf>.

⁹ 30th International Conference of the Red Cross and the Red Crescent, Geneva, November 2007, Resolution 1: "Declaration: Together for humanity", available at:

<http://www.ifrc.org/Docs/pubs/events/intconf07/adopted/declaration-en.pdf>.

¹⁰ *Ibid.*

As a consequence, the IFRC developed a policy setting out a strategic framework for addressing humanitarian dimensions of migration.¹¹ The Policy on Migration - developed in close consultation with the ICRC and welcomed by the Council of Delegates in November 2009 - is based on a concept of migration that allows for a direct and consistent focus on humanitarian concerns. This Policy provides guidance for the National Societies on their work in favour of vulnerable migrants and the components of the Movement pledged to work together on its implementation. IFRC has also adopted the strategy on violence prevention, mitigation and response,¹² which provides a useful tool to National Societies working with vulnerable migrants who may be subject to various forms of violence.

Rationale behind this background paper

Working with vulnerable migrants is rooted in our common mission, fundamental principles and universal character as well as in our volunteer and community base. Our primary focus is on migrants whose survival, dignity, or physical and mental health is under immediate threat. Despite the acknowledgement of the role of the Movement on this issue in 2007, as detailed above, a number of National Societies are facing problems in obtaining unconditional and effective access to provide humanitarian assistance to vulnerable migrants.

Access to migrants, irrespective of their legal status, is a necessary pre-condition to ensure that National Societies are able to provide necessary humanitarian assistance and, where applicable, protection to vulnerable migrants in their countries. Earlier this year, the Federation commissioned research¹³ that shows that migrants' access to conventional health, social and legal systems within a number of countries and at borders is hampered by certain administrative and legislative measures. Examples include border procedures which compromise and place at risk safety and well-being, procedures which pose difficulties for lodging an asylum application, as well as procedures which do not facilitate fair and efficient status determination resulting in detention of migrants. In keeping with these findings, the Movement calls upon States to ensure that all laws and procedures are in place to enable National Societies to have effective access to all migrants, irrespective of their legal status.

¹¹ Internal displacement and international migration are different but often interrelated phenomena. A distinction is made in the approach taken by the Movement when helping these vulnerable groups. The distinct policy documents on migration and internal displacement were adopted in 2009 and developed in parallel and complementarily. See also Report to COD on the implementation of the Movement's policy on internal displacement.

¹² <http://www.ifrc.org/PageFiles/53475/IFRC%20SoV%20REPORT%202011%20EN.pdf> and <http://www.ifrc.org/PageFiles/53475/IFRC%20SoV%20APPENDIX%202011%20EN.pdf>

¹³ A supporting Reference Document is under development. It will provide detailed information about the range of activities in which National Societies are engaged. The research took into consideration the outcome of a survey of eighty-four national societies conducted in June 2011 to collect information about programmes for migrants. The National Societies responded to five key themes: Does the National Society have access to migrants in their country, regardless of their legal status? Does the National Society provide humanitarian and protection services to migrants? Has the National Society established partnerships (government, non-governmental organisations, migrant associations or others) to strengthen the humanitarian and protection services provided to migrants? Has the National Society undertaken an examination of border policies to determine if they provide adequate guarantees to safeguard the safety, well-being, dignity and, if necessary, protection of migrants? Has the National Society undertaken any specific actions to combat xenophobia and stigmatization of migrants? The reference document also draws upon replies to a questionnaire on the implementation of the resolutions of the 30th International Conference, as well as IFRC documents and operational examples.

Migrants may continue to face a myriad of problems along the whole migratory cycle, i.e. not only upon arrival in the country of destination but also in countries of transit as well as in countries of origin (when they seek to leave or are returned). The prevalence of discrimination, exploitation, exclusion and violence calls for more intensified and innovative action. Ongoing dialogue between National Societies and their governments on respect for diversity, nonviolence and social inclusion is essential in order to create an enabling and supportive environment for lasting positive social change.

Expected outcome of the conference discussion on Migration

A number of evolving factors (e.g. armed conflicts and generalized violence, organised crime, including human trafficking and smuggling, tightened border controls, security policy, etc) is exacerbating the vulnerability of migrants around the globe. Migrants are directly affected by various situations during the whole migratory process, including potential forced return to their country of origin or transit. The 31st Conference presents an opportunity for States and components of the Movement to debate the main issues, threats and vulnerabilities currently affecting migrants all over the world.

Recalling the commitment made by States in 2007 in acknowledging the role of National Societies in providing humanitarian assistance to vulnerable migrants, members of the Conference will be invited to adopt a resolution which encourages States to strengthen domestic legislation in order to provide the necessary legal framework to allow National Societies to undertake this role. In particular, States will be requested to take all remaining legal and procedural steps necessary to ensure that National Societies have the access to provide this assistance, including protection, to migrants in their respective countries, regardless of their legal status. Members of the Conference will be requested to affirm States' commitment to uphold, **with support from their National Societies**, the fundamental rights of migrants and to ensure that border procedures include adequate guarantees to safeguard their safety, well-being and dignity and if necessary their protection. States, international organisations and components of the Movement will be called upon to develop partnerships which strengthen the humanitarian services and protection for vulnerable migrants and incorporate in such partnerships relevant national and international organisations. We invite members of the Conference to explore opportunities to address xenophobia and stigmatization of migrants in public opinion and to alleviate and prevent human suffering of vulnerable migrants.

Conference Members will also be invited to submit voluntary pledges to undertake specific actions, individually or in partnership, which complement the resolution. Pledges should relate to the issues addressed by the Conference and promote partnerships that involve joint action and shared goals.

Responses of the Red Cross and Red Crescent Movement

1. In the past few years many National Societies working along migration routes have focused on the needs of migrants and their families at various stages of their migratory journeys, in many cases with the support of ICRC and IFRC.

An overwhelming majority of National Societies provide humanitarian services to migrants in source, transit and receiving countries. National Societies have the advantage of their auxiliary position, privileged access to governments, expertise in humanitarian aid and commitment to the fundamental principles to advocate for change and improved institutions and laws. Humanitarian diplomacy is a vital tool in this respect. When they are granted access, National Societies are able to provide essential services to detained migrants. Programmes that focus on specific issues such as better protection of unaccompanied

minors, improved reception conditions of asylum seekers, referral to legal representation, and better access to health care and psycho-social support are of particular importance.

With deep roots in local communities, many National Societies have developed programmes to sensitize local communities to the humanitarian needs of vulnerable migrants, assist migrants in their integration into the host community and promote opportunities for positive interactions between migrants and host communities. As discrimination, exclusion and violence are often based on ignorance and fear, both formal and non-formal education have the potential to play an important role in imparting values and skills that foster respect for diversity, constructive dialogue and the ability to live harmoniously. An example of this type of education at work in National Societies is the Youth as Agents of Behavioural Change Initiative (YABC).¹⁴ Many National Societies promote volunteering involving migrant and local communities to provide opportunities for intercultural dialogue. Volunteering provides a powerful platform to create dialogue, increase personal investment in the community and promote social inclusion.

2. In some regions, different networks and partnerships have been established to further cooperation and promote knowledge-sharing on migration related issues. For example, IFRC has signed an agreement with the European Community to support the Central Asian Red Crescent Labour Migration Network, which includes RCRC National Societies in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan and focuses on improving the situation of labour migrants, regardless of their legal status, through developing the network and strengthening cooperation amongst National Societies.¹⁵ In Central America and Mexico, the ICRC has supported since 2010 several National Societies to run projects which ensure that sick, injured or disabled migrants have access to appropriate care¹⁶ and are able to restore or maintain contact with their families. National Societies, IFRC and the ICRC are also engaged in addressing the important humanitarian and protection needs of the migrants and their families by restoring family links, visiting those who are in detention, providing migrants with psycho-social counselling and supporting the families of missing migrants. The ICRC builds the capacity of National Societies to handle migration issues through programs in which it has a clear competency and in the areas where the ICRC has a specific expertise or lead role (e.g. protection activities, detention, restoring family links, forensics).

Based on respect for the Fundamental Principles as well as the auxiliary role of National Societies, partnerships between the Movement and States are essential to more effective responses to the humanitarian needs of migrants. A recent survey of governments speaks of a deepening relationship between them and the Movement in two key areas. Firstly, National Societies are increasingly seen as preferred partners in ensuring that migrants are provided with basic amenities, and secondly as competent partners in advising on the humanitarian implications of migration. This sentiment provides a welcome opening for expanding the work of National Societies on behalf of vulnerable migrants.

¹⁴ YABC, empowers youth to work towards non-discrimination and respect for diversity, violence prevention, mitigation and response, inter-cultural dialogue, gender and social inclusion. Youth develop skills such as active listening, empathy, critical thinking, dropping bias and non-judgement, and non-violent communication. The YABC initiative has recently been used by several National Societies in North Africa in their programmes on migration. <http://www.ifrc.org/en/what-we-do/principles-and-values/youth-as-agents-of-behavioural-change-yabc/>

¹⁵ The project provides needs-based services and assistance to migrants through information and education centres of the National Societies and advocates for the basic rights of foreign workers so as to prevent and combat discrimination, xenophobia and social exclusion.

¹⁶ The ICRC supports and coordinates the "humanitarian chain" which is an ambulance service run by Mexico, Guatemala, Honduras and El Salvador National Societies for transport home of sick or injured migrants stranded in border regions. ICRC supplies equipment and raw materials for migrant care and rehabilitation. Also, four Red Cross posts providing basic health care and restoring family links services for migrants have been established in border regions in Mexico and Guatemala.

The components of the Movement are also working with international organisations (e.g. the United Nations High Commissioner for Refugees and the International Organization for Migrations), international nongovernmental organisations (NGOs) and local NGOs working on human rights, refugee and migrant issues, and even directly with migrants or migrants associations. Partners work on a wide range of activities, including voluntary repatriation, assistance for asylum claims, assistance to families of missing migrants, assistance service to victims of ethnic-racial discrimination, assistance to the victims of trafficking, development of training and sensitization programs, integration programs, and advocacy.

During the recent events in Libya, a great number of migrants fled the violence and were trying to return to their countries of origin. Numerous National Societies in the countries of repatriation (Gambia, Guinea, Niger, Turkey, Philippines, Indonesia, Bangladesh, among others), often supported by IFRC and ICRC delegations, were involved and offered various assistance and protection services to receive migrants that were chartered back home by their authorities or IOM. The approach of the different components of the Movement was one of cooperation and offered a good example of a trans-regional action and external cooperation.

Problem statement for the 4 elements of the Draft Resolution

This section addresses specifically impediments to working with vulnerable migrants, and puts forward possible ways the international community can collaborate on improving the lives of vulnerable migrants. These suggestions form the basis of the proposed elements of the resolution on migration that will be presented at the 31st International Conference.

1. **Access of National Societies to all migrants in need** to deliver humanitarian assistance and protection activities in their countries, **irrespective of their legal status** continues to be challenging. Assistance to migrants goes hand in hand with efforts to protect migrants against abuse and exploitation and ensure that they have access to international protection and a fair status determination procedure for those concerned.

The Policy on Migration underlines that National Societies shall undertake sustained efforts to ensure that migrants have access to humanitarian assistance, essential services, and legal support; and they shall strive to obtain effective and unconditional access to all migrants, irrespective of their legal status. The Policy also emphasises that humanitarian access is not limited to material assistance, but to a broad range of concerns. Some National Societies have limited access to provide social, health, education and other humanitarian services to migrants in destination and transit countries. Migrants without adequate documentation often lack access to even the most basic humanitarian assistance.

Legislation or administrative decisions by government authorities also restrict the eligibility of migrants for many services. The fiscal crisis in many countries has led to cuts in social protection programs affecting particularly vulnerable populations, including migrants. Adequate funding for migrant-related activities is a barrier for many National Societies that indicate an interest in furthering their activities on behalf of vulnerable populations. Another major barrier to accessing migrants is gaining their trust to seek out help. Fear of deportation and fear of public authorities, as well as fear of potential discrimination and violence, keeps many migrants in the shadows rather than seeking assistance.

Yet, migrants may have serious need of assistance in order to cope with low incomes, health problems, poor housing, educational barriers and other problems they encounter as they migrate. Some of these needs may be acute, particularly if migrants have been victimized by smugglers or traffickers, have pre-existing health, mental health or nutrition problems related to conflict, food insecurity or other conditions they fled, or have endured long and dangerous journeys to reach their destinations. The exposure of migrants to tuberculosis, HIV/AIDS and

other diseases makes it particularly important to ensure appropriate screening and treatment in reception facilities and detention centres as well as in communities. Migrants may also be in need of help in finding family members separated by the events precipitating their departure or the migration itself.

In some countries there are legal provisions which penalize the provision of humanitarian aid to such individuals or groups. Even when there are no specific legal impediments to National Societies providing humanitarian assistance or protection activities, policies that limit eligibility to provide assistance pertain to National Societies along with other actors. In other cases, migrants are not informed by authorities that they can seek services from National Societies where these are available. Even when access is allowed, resources and information may be limited, and it may be illegal to spend public funds on support for migrants.

2. The Movement is in a unique position to help bridge the **gaps in assistance and protection of migrants along the migratory trails** due to its global network. We recognize the legitimate right of States – within their obligations under international law, refugee law and human rights law – to develop legal frameworks and border procedures to control and regulate migration on their territories. However, such practices and procedures can render migrants, especially women and children, highly vulnerable.

Even governments that are not parties to key international instruments, such as the 1951 UN Convention Relating to the Status of Refugees, have responsibilities under customary international law to ensure that persons are not *refouled* (forcibly returned) to life-threatening conditions in their countries of origin and to ensure they are treated humanely and fairly. Averting clandestine movements of people across borders and protecting individuals from harm, particularly those who are fleeing persecution, conflict and other serious violations of their rights presents a challenge to States.

Access for the Red Cross and Red Crescent Movement to migrants who are intercepted at sea or land borders and either returned to their countries of origin or diverted to third countries is problematic. In the last decade, public policies related to management of migration flows have become increasingly restrictive worldwide. These trends have consequently increased the vulnerability of migrants along the whole migratory process, creating new humanitarian needs.

In many cases, boats are unseaworthy or land routes are dangerous and can lead to people missing and humanitarian needs in countries of arrival. This issue has, for instance, arisen recently in response to boat departures from North Africa.

In some situations, when migrants are intercepted in transit, States have built off shore reception capacity in third countries or on territory that is not considered to be an integral part of the State. In other cases, governments remove asylum seekers who reach their territory to what they consider to be the first safe country of asylum.¹⁷ In worse cases, governments return interdicted migrants to their home countries without giving them an opportunity to seek asylum or other protection. National Societies often have difficulty in accessing migrants in such situations to determine the need for humanitarian assistance. In an example of effective collaboration between National Societies and States, some National Societies have been successful in persuading their governments to refrain from removing asylum seekers to third

¹⁷ Martin, Susan and Andrew I. Schoenholtz, “Asylum in Practice: Successes, Failures, and the Challenges Ahead,” *Georgetown Immigration Law Journal* 589 (2000), 606-607. The Dublin Convention and Schengen Implementation Treaty established the ‘country of first asylum’ concept, setting out rules to identify the country responsible for making the one and only asylum determination, a determination that all other signatories then pledge to respect.

countries when poor living conditions or procedural safeguards would increase their vulnerability.¹⁸

Even when migrants have exhausted all avenues of appeal against removal, repatriation can increase the vulnerability of migrants. There is often little coordination or cooperation among destination, transit and source countries in ensuring that returnees are safe and reintegrated into their home communities. National Societies may be unaware that return has taken place, making it impossible to monitor conditions or provide assistance. These return cases are particularly problematic when involving especially vulnerable populations such as trafficking victims, unaccompanied or separated minors, persons with medical conditions or physical handicaps, and asylum seekers.

Detention is used globally as a common tool for managing migration flows. The humanitarian consequences of detention, however, are heavier than alternatives that enable migrants to live in local communities. In addition, detention should always be a last resort solution, decided after examination of individual cases. A study comparing various models designed to ensure that migrants adhere to rules of their release and reporting requirements, including that they appear at hearings to determine if they should be removed, determined a high level of compliance at lower cost than detention.¹⁹ A study published by UNHCR identified a number of potential alternatives, including the use of bonds or assurances, community-based supervised release or case management, designated residence at accommodation centres, electronic tagging or reporting, or satellite tracking, or home curfews.²⁰

Detention impinges on the ability of migrants to contest orders of removal, including through the asylum system. Detention of children is an issue of significant concern. Unaccompanied and separated minors as well as children apprehended by immigration authorities with their parents are subject to detention in a number of countries. Although a number of governments allow or even encourage National Societies to work with detained populations, this is not always the case. Access is often mediated by government institutions and subcontracted agencies that use discretion in determining whether to permit National Societies to assist detained migrants. Access may be limited in terms when or how often the Red Cross and Red Crescent staff can access detention facilities, or at what stage in the migration process they have access to individuals.

To adequately address vulnerability, it is important that specific legal instruments²¹ protecting certain groups of people (e.g. refugees, asylum seekers, and victims of trafficking) are respected. Throughout the migration process, people are subjected to a number of risks, including theft, exploitation, slavery, violence, physical and psychological abuses, discrimination, deprivation of liberty, disappearance, disruption of family links, loss of dignity and sometimes even death. Therefore, the Movement seeks ways to increase humanitarian assistance for the most vulnerable migrants and to prevent suffering at the earliest stage possible, not once mishap or tragedies, such as drowning at sea, have already occurred.

¹⁸ The Swedish Red Cross reports, for example, “We influenced our Government and authorities to stop the transfers of asylum seekers to Greece where they face poor reception facilities” and “within a European context we have tried to influence European policies and practice with regards to access to Europe, access to effective protection and a fair and humane asylum procedure”

¹⁹ Christopher Stone, “Supervised Release as an Alternative to Detention in Removal Proceedings: Some Promising Results of a Demonstration Project,” *Georgetown Immigration Law Journal*, vol. 14, no. 3 (2000).

²⁰ Alice Edwards, “Back to Basics: The Right to Liberty and Security of Person and ‘Alternatives to Detention’ of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants,” Geneva: UNHCR, 2011 available at <http://www.unhcr.org/refworld/pdfid/4dc935fd2.pdf>

²¹ See “Collection of International Instruments and Legal Texts”, available at www.unhcr.org/455c71de2.pdf. This Collection spans four volumes and contains over 260 documents that have been compiled after extensive consultations to support those working on issues relating to forced displacement, statelessness and related matters.

Border procedures which result in deprivation of liberty must be prescribed by law, meet humane standards, be subject to periodic and judicial review and, where used, last for the minimum time absolutely necessary for compelling reasons.

3. Despite many initiatives and serious attempts from different stakeholders, discrimination,²² exclusion²³ and violence²⁴ remain major humanitarian challenges that cause suffering for millions of people across the world today. Xenophobia and stigmatization of migrants render it difficult for migrants to gain access to needed assistance and for National Societies to take action on their behalf. Migrants may additionally be subject to various forms of violence throughout their journey.

Violence, discrimination, stigmatization, intolerance and exclusion are often a refusal to accept the other's difference based on fear, ignorance, bias or prejudice. The key to creating social inclusion is to develop an ability within communities and among individuals to deal with these differences, to respect and appreciate diversity rather than reject it, and, importantly, find solutions together to the challenges. Local communities and migrants need to approach differences with an open perspective, *i.e.* seek to understand where others come from and respect the right to think differently.

Members of the International Conference will be invited to explore ways to promote respect for diversity and social inclusion of migrants and between migrants and host communities. There are countries in which migration leads to increasing social tension, **xenophobia and stigmatization**, which in turn increase the vulnerability of migrants. Many National Societies are already working with migrant and host communities to address discrimination and have developed programmes to promote awareness and positive interactions between migrants and host communities.

4. Work on migration issues usually implies **cross border and inter regional relations with States and National Societies**. It is therefore important that the Movement strengthens partnerships with a focus on our specific mandates and collaborates closely with other stakeholders at the local, regional, national and international level.

In an era of complexity and financial constraints, and with ever increasing migratory flows, no one actor has the capacity to engage effectively in protecting vulnerable migrants. In the survey taken of Movement activities, National Societies in all parts of the world report providing some programming targeted to migrant needs but partnerships have been critical to this activity. The Ivory Coast Red Cross has expressed appreciation for the support of the Spanish and French Red Cross for projects to improve social cohesion and decrease intergroup tensions. Funding was cited as a barrier by National Societies in Hungary, Ukraine, and Greece, the latter of which notes that delays in receiving funds from the

²² Discrimination was officially defined by the Council of Delegates of RCRC in 2005 as *any kind of adverse distinction or segregation targeting certain individuals for the sole reason that they belong to a particular category*. Respect for diversity means not only accepting that others may be different, but also respecting that difference. Both concepts are rooted in the Fundamental Principles, in particular the Principles of impartiality and unity. The Principle of impartiality precludes the making of any distinction on the basis of nationality, race, religious beliefs, class or political opinions, or any other criteria such as gender, ethnic origin, social origin, class, philosophy, sexual preference or orientation, age, disability, physical characteristics and language.

²³ There is a growing level of intolerance and exclusion in many countries and especially against groups of indigenous and immigrant populations. A lack of understanding of the underlying causes can easily channel this intolerance into clashes that oppose segments of the population.

²⁴ In its Strategy on violence prevention, mitigation and response, the IFRC has defined violence as: *“the use of force or power, either as an action or omission in any setting, threatened, perceived or actual against oneself, another person, a group, a community that either results in or has a high likelihood of resulting in death, physical injury, psychological or emotional harm, mal-development or deprivation.”* According to the World Health Organisation (WHO), violence can be viewed under three categories: self-directed, interpersonal and collective. Each category has various types of violence. Cutting across these categories and types are different forms of violence: psychological, physical, sexual and neglect.

European Union hamper their work to support unaccompanied minors and refugee integration.

Partnerships are also essential to overcoming a further barrier to accessing migrants – gaining their trust to seek out help. Fear of deportation and fear of public authorities, as well as fear of potential discrimination and violence, keeps many migrants in the shadows rather than seeking assistance. Many survey responses mentioned this issue, including the Central Asian project report which noted that “Often in the country of destination migrants are reluctant to contact the Red Crescent for fear of being discovered, detained, deported or returned by state authorities, and because of language barriers.”²⁵ National Societies must reach out proactively to migrants, at their places of work and recreation, and through cooperation with trusted organisations to access hard-to-reach populations.

National Societies engage actively with a range of partners. They have relationships and in some cases agreements with national ministries, including Border, Asylum and Immigration Ministries, Foreign Ministries, Interior Ministries, Employment/Labour, Social Protection and Health Ministries, Human Rights bodies, and with local and provincial governments. These opportunities give the National Societies access to vulnerable populations and funding to support various services.

Given the global presence and network of the Movement, the potential for cooperation between National Societies is tremendous. Though there are significant collaborative efforts, more cooperation between the Red Cross and Red Crescent Movement and governments, as well as collaboration among National Societies, is necessary to fully address the humanitarian challenges of global migration. There has been some successful collaboration on return assistance, which the National Societies have identified as a programming area of special complexity. As of yet, few National Societies in destination countries have sustained contacts with National Societies in the countries of return. As exceptions, the Swedish Red Cross, the Luxembourg Red Cross, and the Spanish Red Cross have implemented or are implementing re-integration or return projects in countries of return. The Mali Red Cross has as main partners the Spanish, the Swiss and the Danish Red Cross Societies and the International Federation.

Other examples of partnerships include the Ubuntu Project in Southern Africa in response to anti-migrant violence in South Africa in 2008, which is seeking to integrate activities regionally in Southern Africa²⁶ to increase the capacity of communities and leaders to cope with the social cohesion problems raised by migration, and reduce vulnerabilities in the migrant population. In the North African region, cooperation between the National Societies²⁷ seeks to assist individuals in transit and migrant producing communities.

Recognising the important role that partnerships play in responding to the humanitarian needs of vulnerable migrants, the Movement calls upon States, National Red Cross and Red Crescent Societies, the International Federation and the ICRC to build partnerships which strengthen the humanitarian assistance and protection activities for persons negatively affected by migration, ensuring that such partnerships extend to those local, national and international organizations, non-governmental organizations and the private sector that respect the Fundamental Principles of the Red Cross and Red Crescent.

Working in partnership with communities and other organisations increases the likelihood that the activities of the components of the Movement will be effective in ensuring the dignity and well being of all migrants. In particular we will focus our efforts on increasing access to

²⁵ Central Asian Red Crescent Labour Migration Network, Progress Report, 1 January to 31 December 2010

²⁶ South Africa, Swaziland, Lesotho, and Zimbabwe

²⁷ Algeria, Libya, Morocco, and Tunisia

humanitarian services, protecting migrants along the migratory trail, combating xenophobia and stigmatization, and promoting respect for diversity and social inclusion around the globe.

Addressing the challenges ahead

Ensuring that the most vulnerable migrants receive assistance and protection, irrespective of their legal status, is an imperative that is in keeping with the humanitarian principles of the RCRC Movement and the policy on international migration adopted in 2009. The Movement has a special role to play in this regard, given our presence along the migratory route and the auxiliary role of the National Societies. As this paper has shown, there is much to celebrate in the wide range of activities in which National Societies are engaged in providing humanitarian assistance, restoring family links, advocating for humane and effective policies, combating xenophobia and stigmatization of migrants and promoting respect for diversity, nonviolence and social inclusion. Nevertheless, much more needs to be done to ensure the safety and security of migrants, many of whom are in extremely dangerous — even life threatening situations.

Of paramount importance is ensuring that migrants have access to humanitarian assistance and protection, regardless of their legal status. Governments have the right to control their borders. Their actions to manage migration must be consistent with international law, in particular international human rights and refugee law. We all have an obligation to ensure that the rights of migrants are upheld and to implement policies in a manner that ensures the safety and dignity of migrants.

Promoting respect for diversity, nonviolence and social inclusion are also essential aspects of any response to migration. In this context youth should be a particular area of focus. National Societies can, where possible, complement formal and non-formal education programs, partnering with national government or local educational authorities. In addition, voluntary service has the potential to have significant impact in reducing levels of violence and building a more cohesive community by creating inter-personal connections and a sense of belonging. National Societies can be ideal partners to create volunteering platforms involving both migrant and host communities to promote social inclusion.

This paper has raised a number of areas in which greater collaboration between National Societies, the IFRC, the ICRC and States would help ensure that the Movement is able to fulfil its commitment to provide humanitarian assistance and, where applicable, protection to vulnerable migrants. To summarize, the Movement:

1. Requests that States, in consultation with National Red Cross or Red Crescent Societies, to ensure that all laws and procedures are in place to enable National Societies to have effective access to all migrants, irrespective of their legal status, and provide humanitarian assistance and, where applicable, protection in their countries;
2. Calls upon States, within the framework of international laws and norms, to ensure that border procedures, especially those that might result in denial of access to international protection, deportation or interdiction of persons, comprise adequate safeguards to guarantee the safety, well-being and dignity of those persons, including with respect to detention, restoring family links and co-operating with family reunification procedures; and invites States and National Red Cross or Red Crescent Societies to consult in the implementation of those procedures;
3. Calls for continued cooperation between Governments, at all levels, and Red Cross and Red Crescent National Societies in practical actions to promote respect for diversity, nonviolence and social inclusion of migrants and between migrant and host

communities. This could, for instance, be done through the incorporation of values and skills based education in formal educational curricula and in non-formal education. This could also be accomplished by promoting the engagement of local and migrant populations (especially youth) in voluntary service or community programmes aimed at increasing community cohesion, in order to promote social inclusion;

4. Calls upon States, National Red Cross and Red Crescent Societies, the International Federation and the ICRC to build partnerships which strengthen the humanitarian assistance and protection activities for persons negatively affected by migration, ensuring that such partnerships extend to those local, national and international organisations, non-governmental organisations and the private sector that respect the Fundamental Principles of the Red Cross and Red Crescent.