

New Walled Order:

How barriers to basic services turn migration into a humanitarian crisis



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Our Message

While there is room for disagreement about migration policy, the humanitarian imperative means that we must never needlessly sacrifice the survival and dignity of any vulnerable people, including migrants.

Around the world, migrants, especially irregular migrants, increasingly face barriers to accessing essential services that are indispensable to their survival and basic dignity, such as health care, shelter, food and legal assistance. There are a range of factors that prevent this access, including outright exclusions but also more indirect factors, such as fears of arrest, detention and deportation, prohibitively high service costs, and language issues.

Some claim that limiting access to essential services are justified by an interest in removing the “pull factor” for migration or ensuring law and order. Some states have sought to discourage, and even criminalize humanitarian service provision. Such restrictions violate migrants’ human rights. Migration can be managed more effectively when we do not compromise the safety and dignity of vulnerable people. States and humanitarian actors should be working together to ensure access to essential services for all vulnerable migrants.

The Global Compact on Migration is an opportunity to ensure that all people migrating, regardless of their status, have access to the humanitarian assistance they need. States can adopt a range of measures to achieve this, including building “firewalls” between immigration enforcement and public services.

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Photo caption page 3: Inside the refugee camp Konic 1, next to Pogorica the capital city of Montenegro. On July 24th, 150 families lost their homes in a huge fire. Anne/IFRC.



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A.I. COLLECTION

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Executive Summary

“Every human being, especially people fleeing conflict and insecurity, should have unhindered access to basic human rights, in particular the right to protection, health care, education and social services, at any phase of their journey. Human dignity should be respected and protected under any circumstances and we call on everyone to stop labelling people on the move as illegal migrants.”

Francesco Rocca,
IFRC President

Migrants often have considerable challenges in accessing the assistance they need, in particular those deemed “irregular”. In some circumstances, they are not eligible for state-provided services that can be of life-or-death importance (such as emergency medical care). This can be due to laws that restrict access based on immigration status, where services are unaffordable and migrants are not eligible for state subsidies provided to citizens, or where policies in place require fulfilling impossible pre-requisite criteria for services, such as providing a national ID card or other form of identification which migrants may have trouble obtaining.

There are also many informal barriers preventing migrants from accessing the services they need. This can include a lack of information about their rights and entitlements, as well as language and costs barriers. Irregular migrants may fear approaching service providers to access assistance or report abuse due to the possibility of arrest or deportation. Access to assistance is further limited when there are restrictions placed on the provision of humanitarian assistance by humanitarian actors, whereby humanitarian activities benefitting irregular migrants are discouraged and in some circumstances even criminalized.

States laws, policies and practices can have the effect either of creating or reducing the barriers preventing migrants from accessing assistance. States must ensure that lack of legal status does not become a barrier to the basic protection of life and dignity. The process to develop a Global Compact on Safe, Orderly and Regular Migration (the Migration Compact) offers a unique opportunity for states to agree together to meet the basic humanitarian needs of all migrants, irrespective of status. The following recommendations are therefore very relevant to the deliberations of the Migration Compact, but they are primarily offered with domestic application in mind.

States have a sovereign right to control their borders, subject to their obligations under international law. However, minimum standards in terms of meeting basic humanitarian needs must nonetheless be upheld to ensure that legal status does not become a barrier to the basic protection of life and dignity. Any work towards a Migration Compact needs to further this goal of meeting the basic humanitarian needs of all migrants and not lower the bar on the protection and assistance owed to and provided to migrants in vulnerable situations.

Photo caption page 5: Najweh Yaghooobi, 16 years, just married, from Afghanistan. Refugees arriving by bus to Serbian Sid at the border with Croatia. In the beginning of the crisis mostly young men fled. Now all. Women and men, old, young, sick, disabled, grandparents, whole families with pregnant women and babies. Donald Boström/IFRC/October 2015.



Better support for vulnerable migrants is needed now

- a. All migrants, irrespective of their status, should have access to essential services. States can promote increased access through proactively identifying and addressing formal and informal barriers to access to services, such as lack of information and prohibitive costs.
- b. Firewalls between essential services and immigration enforcement are key to ensuring vulnerable migrants get the assistance they need, without fear of arrest.
- c. It is essential that National Red Cross and Red Crescent Societies and other humanitarian actors be allowed to provide humanitarian services to migrants irrespective of status. This right should be protected and humanitarian assistance never criminalized.
- d. Early identification of needs is important to prevent those already in vulnerable situations from falling into even deeper crisis. Children, victims of trafficking and other vulnerable groups need particular support.

Introduction

Our work with migrants in need

The International Red Cross and Red Crescent Movement has significant experience working with governments, host populations and migrants to meet the humanitarian needs of migrants in countries of origin, transit and destination, as well as the communities that support them. National Red Cross and Red Crescent Societies, as auxiliaries to the public authorities in the humanitarian field, stand ready to assist and support states to meet the needs of vulnerable migrants.

Our approach is based on our Fundamental Principles – in particular the principle of humanity – which requires us to bring assistance, without discrimination, to prevent and alleviate human suffering wherever it may be found.

Regardless of their legal status – as refugees, asylum seekers, migrant workers, students, undocumented / irregular migrants or many other categories – all migrants are human beings and states must safeguard their safety, dignity and well-being.

In recent years, large-scale movements of migrants and refugees¹ around the Mediterranean Basin, in South and Southeast Asia, in Eastern Africa and the Horn, and in Latin America from the Northern Triangle onward to Mexico and the United States, amongst others, have dramatically highlighted the potential risks involved in migratory journeys. This is raising significant policy questions for states confronted with new challenges in dealing with population movements.

A particularly concerning tension has developed in recent years between the imperative to alleviate human suffering and state strategies to reduce and deter migration, often through restricting access to essential and lifesaving services. States have a sovereign right to control their borders, subject to their obligations under international law. However, minimum standards in terms of meeting basic humanitarian needs must nonetheless be upheld.

Although positive cases can be identified in various countries and regions, it is the experience of many National Red Cross and Red Crescent Societies that some migrants have significant challenges in meeting their basic needs and in accessing essential services (where they exist).² At the same time, some migrants are not able to access assistance provided by humanitarian and non-governmental organizations, leaving them unable to meet their most basic needs.

The situation facing irregular migrants – those migrants who do not have the necessary authorization or documents to enter, stay or work in a country as required under immigration regulations³ – is of particular concern. Contrary to a common perception, irregular migrants are also protected under international human rights law. International human rights law is generally applicable to every human being.⁴ Amongst other examples, the International

¹ According to its Migration Policy, the International Federation of the Red Cross and Red Crescent Societies uses a broad working description of 'migrants' as persons who leave or flee their habitual residence to go to new places to seek opportunities or safer and better prospects. This includes migrant workers, stateless migrants, migrants deemed irregular by public authorities. It also concerns, asylum seekers and refugees, while acknowledging the fact that they constitute special categories under international law. While the focus of this report is largely on migrants who do not seek asylum (given the fact that the latter often benefit from the support of a dedicated United Nations organization, that is, the United Nations High Commissioner for Refugees) there are some situations where migrants and refugees are experiencing the same challenges in terms of access to services.

² We have chosen to focus here on access to health care, in particular emergency, maternal and paediatric care, as well as to shelter and legal assistance, however National Red Cross and Red Crescent Societies around the world support, and often provide, assistance in meeting many other essential needs.

³ IOM, Key Migration Terms, <https://www.iom.int/key-migration-terms>. Note that irregular entry is not the only way to fall into an irregular status. Migrants may become irregular due to rejection of an application for asylum; bureaucratic failures in processing residence or work permit applications; withdrawal or loss of status; termination of regular status due to the breakdown of a personal relationship; or even birth in the EU to parents who are in an irregular situation. If they become unemployed or leave their employer due to abuse of exploitation they also become irregular.

⁴ There are some limited circumstances in which international human rights law specifically differentiates between citizens and regular and irregular migrants. For example, under the International Covenant on Civil and Political Rights, the right to freedom of movement is reserved for those "lawfully within the territory of a state" (Art 12), and the right to vote and to take part in public affairs is reserved for citizens (Art 25). See also article 13 on protection against deportation: "an alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law ..."

Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees a right to an adequate standard of living, including adequate food, clothing and housing (Art. 11) and a right to the highest attainable standard of physical and mental health (Art. 12). Most importantly, the ICESCR guarantees a right to non-discrimination in fulfilment of these rights, underscoring their equal applicability to migrants, regardless of status.⁵ In addition, in 2011, the state parties to the Geneva Conventions adopted a resolution at the International Conference of the Red Cross and Red Crescent “calling on states ... to grant to migrants appropriate international protection and to ensure their access to relevant services.”⁶ Despite the international legal framework, many states restrict irregular migrants’ access to social rights and irregular migrants are often the least able to access the assistance they need.

This report seeks to explore the different challenges that migrants face in accessing assistance in countries of transit and destination, with a particular focus on the challenges facing irregular migrants, and other migrants whose survival, dignity, or physical and mental health and wellbeing is under immediate threat. While the focus of this report is largely on migrants who would not be considered refugees (given the specific legal regime and protections for refugees), there are some parallels in the challenges experienced by all populations on the move – asylum seekers, rejected asylum seekers etc.

The report seeks to identify key global trends in terms of migrants’ access to essential services, documenting common barriers. We have chosen to focus on access to health care, in particular emergency and maternal health, as well as to shelter, food and essential non-food items (e.g. hygiene kits, clothes), though we support, and often provide, assistance in meeting the full range of essential needs.

We explore the formal barriers to access to assistance, such as eligibility for services, as well as informal barriers, such as lack information, language barriers, cost, fear of arrest and more. The report further reviews the legal, policy and practice frameworks across states, with a view to identifying policies that create and exacerbate barriers, but also seeks to highlight good practices and to identify frameworks that will ensure migrants are able to access the assistance they need.

⁵ There is a limited exception for developing countries with regard to the extent they guarantee economic rights. Article 2.3 International Covenant on Economic, Social and Cultural Rights provides a limited exception to the general rule of equal and universal access: “Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.” For a comprehensive review of state obligations to meet the economic social and cultural rights of migrants, see OHCHR: The Economic, Social and Cultural Rights of Migrants in an Irregular Situation, 2014, http://www.ohchr.org/Documents/Publications/HR-PUB-14-1_en.pdf

⁶ Resolution 3, 31st International Conference of the Red Cross and Red Crescent (2011).

Common barriers preventing migrants from accessing essential services

Formal and informal barriers to services

Where access to essential services for migrants is deficient, this is often due to restrictive legal and policy frameworks, which explicitly or implicitly exclude migrants, in particular irregular migrants, from accessing assistance. Legal approaches vary greatly across the world. Italian laws relating to access to health care, for example, extend to “all people”,⁷ thereby including immigrants, irrespective of their status (although informal barriers still exist). At the other end of the spectrum, there are laws that exclude immigrants, including those with resident status, from eligibility for public assistance if they have been in the country for less than a required number of years.⁸ The European Union Agency for Fundamental Rights notes, for example, that “access to healthcare beyond emergency care is typically linked to some kind of documented status (e.g. legal residence status, insurance status, registered employment, registration in local registry).”⁹ These are requirements that irregular migrants, in particular, often cannot meet, given they will not have national ID card or another form of locally-provided identification.

Even in countries where frameworks are relatively open, where migrants are granted access to essential services on an equal basis to citizens under law, they sometimes nevertheless face barriers to accessing essential services in practice. Some of these challenges are also encountered by vulnerable and marginalised members of host societies, such as costs associated with service provision, complexity of processes and bureaucratic hurdles, as well as lack of information about available services and entitlements. However, these issues are compounded for migrants, who often lack the necessary paperwork. Barriers to access commonly experienced by migrants include linguistic and cultural obstacles, physical/geographic obstacles, as well as discrimination and levels of discretion in implementing policies.

This lack of access to services has additional implications, undermining the necessary data collection required to promote better analysis of both needs and barriers to meeting those needs. This information and analysis can then inform policy and practice responses that facilitate improved access to assistance for all in need.

⁷ *Italian Constitution*, Article 32 guarantees access to health for all “individuals”.
https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf

⁸ See for example the *Personal Responsibility and Work Opportunity Reconciliation Act of 1996* (United States Federal Law) section 403.

⁹ European Union Agency for Fundamental Rights (FRA), *Fundamental Rights of Migrants in an Irregular Situation in the European Union* (Luxembourg, 2011), pp. 73–74
<http://fra.europa.eu/en/publication/2012/fundamental-rights-migrants-irregular-situation-european-union>

Barriers to access to services: health care¹⁰

restricted legal entitlements (e.g. laws that limit eligibility based on status or citizenship)

costs of services, combined with ineligibility for mechanisms providing sufficient financial protection for public sector services

opportunity costs (e.g. missed work) and indirect costs (e.g. cost of transit to service points), that impede initial access and pose challenges to treatment adherence

opening hours of services are not adjusted to working hours of migrants, or location of services that make access difficult

discrimination based on nationality (or lack thereof), religion, ethnicity/race, income, education level, disability, sex, health status, etc.

language challenges (including lack of translation/interpretation services)

lack of culturally appropriate services (e.g. the desire to be seen by a same-sex provider);

cultural and social norms, including those related to gender and age (e.g. autonomy of women in decision-making, access by adolescents to sexual and reproductive health services)

administrative complexities combined with limited support/capacity to navigate the health system (in terms of entry points, referrals, etc.)

low information accessibility and lack of awareness by health professionals, administrative staff and migrants themselves about health entitlements

lack of trust in providers and fear that privacy and confidentiality will not be respected;

fear of being reported to immigration authorities, losing one's job or being deported due to migration or health status

weak system capacities (e.g. weak financial protection mechanisms in general, shortage of skilled human resources, insufficient availability of medicines and technologies, etc.), which also affect others living in the country.

¹⁰ Summary list based on research by WHO: *Beyond the barriers: Framing evidence on health system strengthening to improve the* [http://apps.who.int/iris/bitstream/10665/259486/1/9789241513364-eng.pdf?ct=t\(News_bulletin_15_14_2016](http://apps.who.int/iris/bitstream/10665/259486/1/9789241513364-eng.pdf?ct=t(News_bulletin_15_14_2016)

Addressing fear of arrest, detention and deportation – firewalls and data protection

Migrants who do not have the necessary documents may fear arrest, detention and deportation if they make themselves known in order to access services or report abuses.¹¹ This is particularly true where governments require public service providers to share details of irregular migrants with immigration enforcement. For example, the Malaysian Immigration Department has counters at some public hospitals in Malaysia. It has been reported that there are examples of patients who do not possess a valid form of identification or a UNHCR-issued refugee card who have been arrested. This has included mothers and their new-born babies.¹²

Some states have created obligations on public (and often private) services to “denounce” irregular migrants or to share details of migrants with immigration authorities. Such frameworks clearly deter irregular migrants from seeking assistance due to fear of detection. Even when such laws do not exist, health workers may still report migrants to authorities.

Establishment of ‘firewalls’ between immigration enforcement and service provision (including health services and state justice mechanisms), and eliminating requirements for mandatory reporting of irregular migrants by service providers are key steps that can facilitate access to essential services.¹³ The Guidelines of the European Commission against Racism and Intolerance (ECRI), for example, recommends that states “ensure that no public or private bodies providing services in the fields of education, health care, housing, social security and assistance, labour protection and justice are under reporting duties for immigration control and enforcement purposes”, and “prohibit public and private bodies from reporting to and sharing with immigration authorities the personal data of, or information about, migrants suspected of irregular presence.”¹⁴ There are a number of examples of good practices across states relating to prohibitions on disclosure of personal data to the police (with exemptions around certain classes of criminal offences),¹⁵ in particular for health and education authorities,¹⁶ or specifically to protect the information of children of undocumented migrants of those in an irregular situation.¹⁷ Some municipalities have also adopted ordinances framed around privacy in these areas, such as the sanctuary laws in some cities of the United States.¹⁸

¹¹ See, e.g., Katie Mettler, “This is really unprecedented”: ICE detains woman seeking domestic abuse protection at Texas courthouse, Washington Post, February 16, 2016. https://www.washingtonpost.com/news/morning-mix/wp/2017/02/16/this-is-really-unprecedented-ice-detains-woman-seeking-domestic-abuse-protection-at-texas-courthouse/?utm_term=.cc32abede0ec

¹² Stop the arrest and detention of asylum seeking women accessing maternal health care, Health Equity Initiatives, May 2014 <http://rightsinepile.tumblr.com/post/84534484837/stop-the-arrest-and-detention-of-asylum-seeking>

¹³ Crépeau F. and Hastie B. (2015) The Case for ‘Firewall’ Protections for Irregular Migrants. European Journal of Migration and Law 17, p. 157-183. Available at: https://www.researchgate.net/profile/Francois_Crepeau/publication/282552407_The_Case_for_%27Firewall%27_Protections_for_Irregular_Migrants/links/568fc90f08aec716aadb925/The-Case-for-Firewall-Protections-for-Irregular-Migrants.pdf; Also The European Commission against Racism and Intolerance (ECRI), General Policy Recommendation No. 16 on Safeguarding Irregularly Present Migrants from Discrimination, adopted on 16 March 2016, Council of Europe, Strasbourg, CRI(2016)16, http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N16/REC-16-2016-016-ENG.pdf

¹⁴ ECRI General Policy Recommendation No. 16 on Safeguarding irregularly present migrants from discrimination, adopted 16 March 2016, see recommendations 11-14 <https://reliefweb.int/sites/reliefweb.int/files/resources/REC-16-2016-016-ENG.pdf>

¹⁵ Spain’s Organic Law on Data Protection, referenced in Crépeau F. and Hastie B. (2015 p. 182. Op cit

¹⁶ For example in Italy, Finland and the Netherlands – Crépeau and Hastie, p 182 Ibid

¹⁷ In Portugal the Ministry of Social Affairs reportedly has a database of children of undocumented parents, which is inaccessible to immigration enforcement – Crépeau and Hastie, p 182 Ibid

¹⁸ See for example the approach taken by New York City – Crépeau and Hastie, p 182 Ibid

This is not only an issue for governmental actors, but also for humanitarian organizations. Humanitarian organizations may be obliged by legislation or by contractual obligations to share personal and sensitive data about migrants with authorities. In a number of countries, National Red Cross and Red Crescent Societies have sought to develop MOUs with government exempting them from such obligations, with mixed success. This is despite the fact that the state parties to the Geneva Conventions committed in 2011 to put the necessary procedures in place to enable National Societies “to enjoy effective and safe access to all migrants without discrimination and irrespective of their legal status.”¹⁹

Various mechanisms are available to ensure standards of protection of personal data are afforded to migrants. These can include:

- Agreements between non-governmental organisations and governments about the manner in which personal data is to be collected, transmitted, and managed;
- Common protocols that outline data sharing across state borders, whether with transit or host countries, and between governments, the humanitarian sector, or other service providers;
- Assurances of confidentiality for migrants through the development of agreements around the extent and limits of confidentiality of personal information, requirements for written and express consent where information is to be shared.

There are a number of common tools and guiding principles to assess data sharing in order to minimise risk of harm to vulnerable migrants accessing services. For example, the ICRC’s Handbook on Data Protection in Humanitarian Action outlines key standards, which should be applied to all data collected from migrants (see text box below).²⁰

Data Protection: The ICRC’s Handbook on Data Protection in Humanitarian Action outlines the following key standards, which should be applied to all data collected from migrants:

- **The principle of the fairness and lawfulness of processing:** Personal Data should be processed fairly and lawfully, with full transparency for data subjects involved.
- **The purpose limitation principle:** At the time of collecting data, the specific purpose/s for which data are processed should be determined and set out, which should be explicit and legitimate.
- **The principle of proportionality:** The data handled should be adequate, relevant and not excessive for the purposes for which they are collected and processed.
- **The principle of data minimization:** Only the minimum amount of personal data should be processed, as required to achieve the objective and purposes of processing.
- **The principle of data quality:** Personal data should be as accurate and up to date as possible.

Access to information

Migrants are often unable to access services simply due to a lack of information about their rights and entitlements in their host country, including what services exist and how to obtain them. Migrants travelling through multiple countries are often unaware of different practices and laws in the countries along their route. Information is therefore arguably an essential service in and of itself.

¹⁹ Resolution 3, 31st International Conference of the Red Cross and Red Crescent (2011)

²⁰ ICRC (2017) Handbook on data protection in humanitarian action. Available at: https://shop.icrc.org/handbook-on-data-protection-in-humanitarian-action.html?___store=default

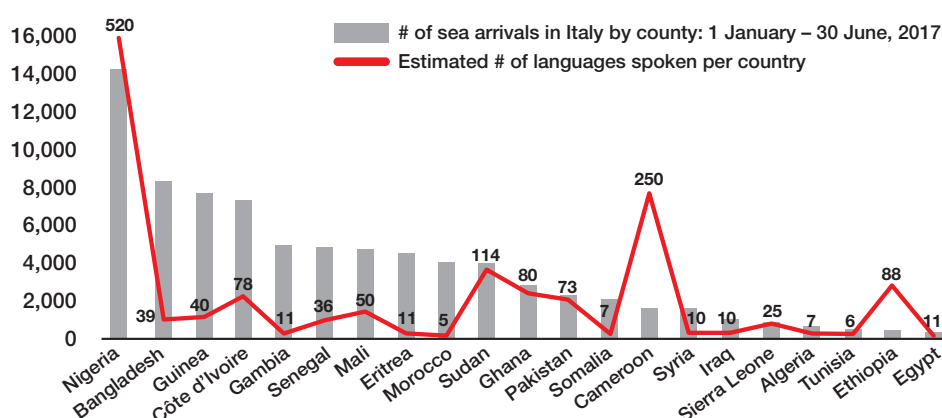
Why information provided is often ineffective

Both information-providers and migrants face difficulties due to constantly changing dynamics surrounding international migration, due to which information may quickly become obsolete and require revision. Migrants are often unaware of where they can access information from public authorities, or, in some cases, information is not provided in accessible languages or in an appropriate format. Evidence suggests that, while governments and humanitarian organizations do often share information to varying degrees about services, processes and entitlements available to migrants, it is in many cases not adequately available or understood. Additionally, migrants are often distrustful of information provided by official sources, looking instead to sources such as friends and family (or broader networks).²¹

The importance of language

The IFRC works with Translators without Borders (TWB), an international non-governmental organization that translates emergency information materials into other languages. They have conducted extensive research regarding information and language needs, finding that even the humanitarian community does a poor job of addressing the information needs of migrants and refugees.

In Italy and Turkey, for example, TWB found that none of the 46 humanitarian organizations they consulted routinely asked refugees or migrants what their native language is or which other languages they understood.²² Assuming a person's linguistic ability is based on his or her country of origin is not adequate. Registered migrants entering Italy in early 2017 came from 21 different countries, including Nigeria. Nigeria alone is home to over 500 languages. See chart below (courtesy of TWB).



This is one of the reasons that the IFRC policy on migration includes a commitment to “integrate members of migrant communities as staff and volunteers into their ranks”.²³ Information needs to not only be provided in the right language,

²¹ British Red Cross (2016) Humanity at a crossroads. Available at: <http://www.redcross.org.uk/~media/BritishRedCross/Documents/About%20us/Migration%20Report.pdf>

²² Translators Without Borders, Putting Language on the Map in the European Refugee Response, Sept 2017, <https://translatorswithoutborders.org/wp-content/uploads/2017/04/Putting-language-on-the-map.pdf>

²³ IFRC Policy on Migration: Guidance note 3.3 notes that “Linguistic and cultural barriers can prevent migrants from representing their own needs, interests and aspirations effectively. They also might misunderstand the role of the International Red Cross and Red Crescent Movement in their host country, and mistrust its national staff. By adopting policies to ensure the diversity of their staff and volunteers, National Societies can overcome such barriers and support social inclusion”. See: <http://www.ifrc.org/Global/Governance/Policies/migration-policy-en.pdf>

but there need to be adequate female interpreters available with the right language skills to provide support for survivors of violence and exploitation.

Translators should ideally be trained professionals, but where this is not feasible, interpreters need to be trained and supported, given often those doing the interpreting services may be persons who have suffered trauma, translating for others who are telling traumatic stories.

Where should information be provided

Border points provide a key opportunity for dissemination of information, as well as identification of urgent health or psychosocial needs and for equally crucial onwards referral to relevant services. This is particularly important for migrants who have been the victims of trafficking, exploitation and other forms of abuse along their journeys, who should be offered opportunities to safely report crimes and receive necessary support. However, at border crossings, strict and sometimes heavy-handed immigration enforcement has increasingly become a priority, with officials rarely adequately equipped or instructed to provide information, or to identify and respond to urgent needs with referrals. In particular, crackdowns on trafficking and migrant smuggling have often inadvertently led to the criminalisation of victims.²⁴

Maldivian Red Crescent (MRC) outreach to migrants by migrants:

Migrants in the Maldives comprise approximately a quarter of the country's total workforce, with the majority originating from South Asian countries, including Bangladesh (58%), India (24%) and Sri Lanka (10%). Many migrant workers are engaged in low-paid labour in the construction and tourism industries. MRC recruited volunteers from Bangladesh, India, Nepal and Sri Lanka who expressed an interest in participating in branch activities. The relationships built with these groups were crucial when the Maldives experienced an outbreak of the H1N1 Influenza virus in March 2017. The Maldivian authorities declared a national alert to prevent the spread of the virus, and MRC staff and volunteers supported the national efforts by developing and disseminating information, including to migrants, on protecting themselves from infection. Materials were developed in nine languages commonly used by migrants. Volunteers from migrant groups were involved in the development, translation, dissemination and explanation of the information, education and communications (IEC) materials.

How should information be provided?

IFRC research has indicated that information works best when it is minimal, easy to absorb, available in different languages, and uses a range of distribution mechanisms. This ranges from radio and social media to low-tech methods and peer-to-peer sharing.²⁵ National Societies have explored methods of information-sharing that harness new approaches and technologies. For example, the Virtual Volunteer app (www.virtualvolunteer.org) is an easy-to-use web based tool which allows migrants (and prospective migrants) to find vital, reliable information in multiple languages to stay safe and healthy. The Virtual Volunteer app is currently live in the Philippines, Greece, Sweden and Italy, and is set to be expanded into further selected countries in West Africa, Europe and Asia.²⁶

²⁴ OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, accompanying document to the report of the Secretary-General on Protection of Migrants (A/69/277) presented to the 69th session of the General Assembly in 2014.

http://www.ohchr.org/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf

²⁵ IFRC, Smart practices that enhance resilience of migrants. 2016 Available at:

http://www.ifrc.org/Global/Publications/migration/Smart-practices-summary-report_EN.pdf

²⁶ Thanks to translation support from Translators Without Borders

Health services

Korea: Healthy Neighbour Centre

In order to address migrants' limited access to health care, the Republic of Korea National Red Cross (KNRC) established the Healthy Neighbour Centre in its Seoul Red Cross Hospital. The centre was established based on a tripartite Memorandum of Understanding (MoU) between the KNRC, Seoul National University Hospital (SNUH) and Hyundai Chung Mong Koo Foundation. The aim of the Healthy Neighbour Centre is to improve the quality of health and care for vulnerable persons, including migrants.

The Healthy Neighbour Centre provides subsidized or free medical services for vulnerable migrants – irrespective of their legal status. Migrants who stay in Korea for more than 90 days and submit medical records and other required documents are eligible for medical services.

Limitations on access to health care for migrants

In low and middle-income countries, migrants often face similar challenges to marginalised host country populations in accessing emergency health services. However, the situation is often substantially more challenging for migrants, as in many contexts 'migrant-unfriendly or migrant-indifferent' legal frameworks put migrants at a relative disadvantage, rendering them invisible, deprioritised or excluded from national health frameworks.²⁷

In the context of access to health care, states legal frameworks can generally be divided into the following situations:

- a) States where emergency care is inaccessible due to immigration status, e.g. where identity documents are needed to access hospitals,²⁸ or where presentation for assistance would result in arrest.
- b) States where even emergency care is inaccessible because it is prohibitively expensive. This includes states offering health care only within detention centres.²⁹
- c) States who give all migrants, including irregular migrants, the right to access emergency care (only) free of charge.
- d) States that give more than this – such as maternal and prenatal care, access to basic health services.³⁰

High cost as a barrier to health care

A significant barrier faced by migrants, and in particular irregular migrants, in accessing essential healthcare is the cost. While most high-income states in theory guarantee migrants' access to emergency healthcare, this is often not the case for migrants without regular status.³¹ For example, in 2011 the EU Agency

²⁷ ODI, *Health, migration and the 2030 Agenda for Sustainable Development*. 2016. Available at: <https://www.odi.org/publications/10477-health-migration-and-2030-agenda-sustainable-development>

²⁸ In Costa Rica, while the Constitutional Court has consistently ruled that all inhabitants must be guaranteed access to health services, access to health care for irregular migrants is particularly challenging as the procedure for obtaining it requires a residence card or a work permit. UN OHCHR *The economic, social and cultural rights of migrants in an irregular situation*. 2014, p 42 http://www.ohchr.org/Documents/Publications/HR-PUB-14-1_en.pdf

²⁹ In 2012 Cuadra found that Malta and Romania only provided access to health care for migrants in detention, while others, such as Sweden, Bulgaria and the Czech Republic, required repayment of emergency care at full cost. Carin Björngren Cuadra, *Right of access to health care for undocumented migrants in EU: a comparative study of national policies*, European Journal of Public Health, Volume 22, Issue 2, 1 April 2012, Pages 267–271, <https://doi.org/10.1093/eurpub/ckr049>

³⁰ Examples states reported to have provided more than emergency care included Germany, Hungary, Denmark and Greece. Carin Björngren Cuadra, *Right of access to health care for undocumented migrants in EU: a comparative study of national policies*, European Journal of Public Health, Volume 22, Issue 2, 1 April 2012, Pages 267–271, <https://doi.org/10.1093/eurpub/ckr049> Argentina's Migration Law (2004), for example, grants all migrant workers access to health services, irrespective of their status, UN OHCHR (2014) *The economic, social and cultural rights of migrants in an irregular situation*. Available at: http://www.ohchr.org/Documents/Publications/HR-PUB-14-1_en.pdf

³¹ Parikh N. S., *Migrant Health in Japan: Safety-Net Policies and Advocates' Policy Solutions*, 2010 <http://apjif.org/-Neal-S.-Parikh/3324/article.html>

for Fundamental Human Rights found that irregular migrants were entitled to emergency healthcare in 19 out of 27 EU member states, however, in 11 of these states irregular migrants were expected to pay for the cost of their treatment, often rendering treatment inaccessible.³²

Migrants are often excluded from insurance-based schemes even in high-income countries. For example, a recent study found that migrant workers in EU member states received 70% of the health service entitlements received by nationals, dropping to 59% for asylum-seekers and 35% for irregular migrants.³³ Similarly, studies from the United States have documented particularly low rates of insurance coverage for irregular migrants, who are ineligible for most public forms of health insurance coverage, including under the Affordable Care Act.³⁴

A distinction can be made between direct costs associated with treatment in many contexts and indirect costs such as those attached to transportation, medication, and loss of income due to time involved in seeking treatment. In many cases these represent similar barriers to those faced by other vulnerable members of host societies, although direct costs are often higher for migrants than for citizens.

Health facilities as a source of immigration control

As outlined above, a major barrier to accessing health services is fear of arrest. In some countries, immigration officers are posted at hospitals to identify and arrest those with papers, whilst other governments also oblige collection and sharing of details of undocumented migrants seeking treatment in public hospitals.³⁵ A report by the Health for Undocumented Migrants and Asylum Seekers (HUMA) Network, documenting irregular migrants' access to healthcare in ten European countries for example, reported a 'generalised tendency in all EU countries to restrict undocumented migrants' entitlements to access health care and to look at health as an instrument serving immigration control purposes'.³⁶

Access to maternal health services

Studies have found that migrant women on average have higher rates of pregnancy-related complications and caesarean sections. This is often for reasons related to reduced access and lower standards of care, resulting in higher rates of stillbirth, maternal and neonatal death.³⁷

This is the case not only in low income countries but also in high income countries. According to UNICEF, "seven EU Member States make no specific provision

³² European Union Agency for Fundamental Rights (2011) *Fundamental rights of migrants in an irregular situation in the European Union*. 2011:

<http://fra.europa.eu/en/publication/2012/fundamental-rights-migrants-irregular-situation-european-union>

³³ IOM, *Recommendations on access to health services for migrants in an irregular situation: an expert consensus*. 2016, http://equi-health.eea.iom.int/images/Expert_consensus_Recommendations.pdf

³⁴ UCLA Centre for Health Policy Research, *Undocumented Immigrants and Health Care Reform*. 2012, <http://healthpolicy.ucla.edu/publications/Documents/PDF/undocumentedreport-aug2013.pdf>

³⁵ Guardian, *Crackdown on migrants forces NHS doctors to 'act as border guards'*. 2017 <https://www.theguardian.com/uk-news/2017/apr/20/crackdown-migrants-nhs-doctors-border-guards-immigration-undocumented-migrants>; also <http://rightsixinexile.tumblr.com/post/84534484837/stop-the-arrest-and-detention-of-asylum-seeking>

³⁶ HUMA network, *Access to health care for undocumented migrants and asylum seekers in 10 EU countries*. 2009 http://www.episouth.org/doc/r_documents/Rapport_huma-network.pdf

³⁷ ODI, *Health, migration and the 2030 Agenda for Sustainable Development*. 2016 <https://www.odi.org/sites/odi.org.uk/files/resource-documents/10761.pdf>

for maternity care for migrants at all (Bulgaria, Cyprus, Finland, Lithuania, Luxembourg, Poland and the Slovak Republic) although it is assumed that all of them will include giving birth within the definition of emergency care”.³⁸ According to a Médecins du Monde (MdM) report looking at the situation across Europe, some “43.6% of pregnant women interviewed were not able to access antenatal care before attending an MdM or partner clinic, 38.9% receiving care after the 12th week of pregnancy and 67.8% having no health coverage and having to pay.”³⁹

Access to health care services for children

Following consultations by the IFRC and Terre des Hommes with 69 agencies in Central America, it was found that the health needs of migrant children vary according to where the children are along their migration journey and become more complex as they face different risks while migrating.⁴⁰

Migrant children experience specific and multiple barriers to health care, including access to vaccinations. Those who have fled conflict have sometimes missed out on vaccinations in their country of origin.⁴¹ These children are also often unable to access vaccinations after they leave. According to the World Health Organization (WHO), “children account for third of the 50,000 refugees, asylum seekers and migrants currently living in Greece. The most vulnerable are the young children who have yet to receive any vaccinations because health care in their home countries has been interrupted by civil unrest and war”.⁴² For example, of 1,764 children seen in MdM clinics in 2016 across Europe and Turkey, 30 to 40% were not vaccinated against tetanus, hepatitis B (HBV), mumps, measles and rubella (MMR) and whooping cough.⁴³

Lack of implementation where rights exist

While there are examples of good practices from several countries worldwide, it is notable that even in contexts where national frameworks are inclusive, implementation can vary. For example, Thailand offers universal health coverage, which includes irregular migrants, having extended the country’s existing universal health care policy for nationals to all migrants irrespective of their status.⁴⁴ However this scheme has faced several challenges: uptake has been low among migrants, the scheme has seen differences in implementation between different locations within Thailand, and hospitals in some areas show greater

³⁸ UNICEF, *Refugee and migrant crisis in Europe: Is health care accessible?* Advocacy Brief, January 2017, <https://data2.unhcr.org/en/documents/download/53856>

³⁹ Médecins du monde/International Network 2016 Observatory Report : *Access to healthcare for people facing multiple vulnerabilities in health in 31 cities in 12 countries*, November 2016, https://mdmeuroblog.files.wordpress.com/2016/11/observatory-report2016_en-mdm-international.pdf

⁴⁰ IFRC and Terres des Hommes, *Identifying Causes and Defining Strategies to Address Youth Violence and Legal Protection, with Regards to Migration in the Northern Triangle of Central America*. 2017, referenced in IFRC Protection and Assistance for Children on the Move, 2017, https://refugeesmigrants.un.org/sites/default/files/ifrc_position_childrenonthemove.pdf

⁴¹ These include only receiving 1-2 doses of certain vaccinations, isolated campaigns, and lack of safety for humanitarian agencies to access children. See for example MSF <https://reliefweb.int/report/syrian-arab-republic/syria-tens-thousands-children-left-unvaccinated>.

⁴² <http://www.who.int/mediacentre/commentaries/refugee-children-vaccination/en/>

⁴³ Médecins du monde/International Network 2016 Observatory Report : *Access to healthcare for people facing multiple vulnerabilities in health in 31 cities in 12 countries*, November 2016, https://mdmeuroblog.files.wordpress.com/2016/11/observatory-report2016_en-mdm-international.pdf

⁴⁴ NPR, *Only One Country Offers Universal Health Care To All Migrants*. 2016 <http://www.npr.org/sections/goatsandsoda/2016/03/31/469608931/only-one-country-offers-universal-health-care-to-undocumented-migrants>

rates of compliance than others.⁴⁵ Similarly, in Italy, while irregular migrants are granted access to preventive, urgent and essential treatment, significant regional variation is seen between regional authorities, who have interpreted and implemented legislation in different ways.⁴⁶

Psychosocial support in Sweden

Since 1985, the Swedish Red Cross has run psychological treatment centres for vulnerable migrants in five Swedish cities. The treatment is for migrants who have suffered trauma linked to torture, armed conflict or difficult or dangerous migration journeys. At these specialised centres, professional teams of physicians, psychologists, psychotherapists, physiotherapists, social workers and interpreters work closely with the migrants to help them work through their traumas. Patients are usually referred to the centres by other health facilities, including primary health care, as the National Society is seen as a leading specialist in the area in Sweden. Once patients are admitted they are provided with therapy based on their need, with a variety of methods available. Duration of treatment varies from a few months to several years.

Thai Red Cross dental services to undocumented migrants: In Thailand, there are high numbers of undocumented migrants who are unable to access services provided by the government for Thai nationals, including access to government-run medical clinics. Patients must pay high fees to be seen by a private dentist which most cannot afford. Many migrants have very poor dental health, often resulting in them presenting with complicated cases. Another challenge, especially for people who work in the fishing industry, is that they are living on a daily wage and their income often fluctuates depending on the fishing season. During the peak season, their employer will prefer them not to take leave, and migrant workers may prefer to work rather than losing their daily wage to go to a clinic. The Thai Red Cross Relief and Community Health Bureau has an on-going programme providing dental services and clinics for migrants in three locations and is the only organisation currently providing basic dental services to migrants free of charge.

Protection of migrants in Latin America: Thousands of people in Mexico and Central America decide to leave their homes every year to escape poverty and violence. In the hope of a better life, they set off on a journey that can often be long and treacherous. The ICRC, in collaboration with the National Red Cross Societies of Mexico, Guatemala and Honduras, has set up aid stations along the migration route. Red Cross volunteers at these points provide migrants with basic health care, water and the opportunity to contact loved ones. In addition, the Mexican Red Cross also runs a mobile clinic where Red Cross staff and volunteers move along the migratory trails to where they can best reach migrants to offer services, such as first aid and information about locations where migrants could find support.

Humanitarian organizations filling the gaps

Often it is humanitarian organizations that are filling in the gaps in service provision. For example, since 2010, the Swiss Red Cross Zurich Branch has been running the Meditrina Clinic for undocumented and irregular migrants. Meditrina is open 3 days a week and offers a wide range of services including consultations, treatment, information, advice and tests about HIV/AIDS and information about the Swiss healthcare system. The clinic also refers patients to a wide network of general practitioners, specialists, non-physician practitioners and hospitals who are able to welcome them in their own practices for further treatment. In such cases, patients may be required to pay a small fee. However, if they are not able to do so, Meditrina will pay for the consultation. The clinic has a pharmacy with basic medicine available free of charge, as well as agreements with local chemists to have other drugs available at factory price.

Similarly, in Copenhagen, the Danish Red Cross runs a clinic which is open to all migrants, irrespective of their legal status, who do not have access to conventional health care services. The clinic is free of charge and provides standard medical examination and treatment, vaccination of infants and children, examinations of pregnant women, physiotherapy treatment and consultations with a psychotherapist. Psychological and psychiatric care is also available directly, provided by specialists collaborating with the Danish Red Cross on this project.

⁴⁵ ODI, *Health, migration and the 2030 Agenda for Sustainable Development*, 2016 <https://www.odi.org/sites/odi.org.uk/files/resource-documents/10761.pdf>

⁴⁶ European Union Agency for Fundamental Rights, *Migrants in an irregular situation: access to healthcare in 10 European Union Member States*. 2011: <http://fra.europa.eu/en/publication/2012/migrants-irregular-situation-access-healthcare-10-european-union-member-states>

Adequate standards of living

A gale was blowing through the camp, plucking tents from their holdfasts. I was working with the team to provide clothes to families that needed them — many were shivering from the deep cold, wet after their long journey. One particular family stood out, they were six together. The parents came to ask for proper clothes for their children. One, a 12-year-old boy stood slightly away from the family. His parents tried to find some clothes that would fit him, but with no luck. Mohammed walked away, and his parents continued to try to find clothes for the rest of the family. I walked towards him and offered my help — I knew he needed help to change his wet clothes and torn shoes, and do something for the cough I could hear he had. But the boy repeated over and over again to me: “I do not need clothes, I am OK.”

Dr. Azmi Al Astal,
*Director of the Palestine
Red Crescent Society's
Psychosocial Department
in Gaza working alongside
Hellenic Red Crescent*

Migrants, in particular irregular migrants, are often unable to access the basic essentials needed for an adequate standard of living, such as shelter, food and other essential items (such as clothing and hygiene items). If irregular migrants work, they are most likely to be employed in informal labour markets. Wages are often so low that migrants become unable to meet their own basic needs.

In some cases, government policies require settlement of migrants in reception centres, for varying periods of time. Although divergent standards are seen worldwide, these are in many contexts characterised by poor conditions, overcrowding, and high levels of sexual violence or other threats to personal security.

On the Greek islands, for example, IFRC teams reported in December 2017 that four of the five island camps were hosting two or three times as many people as they were designed for. In the Reception and Identification Centre of Lesbos, Moria, for example, more than 3,000 people were living over winter in makeshift tents with no insulation which raises concerns over both survival during extreme winter conditions and potential fires. Underlining deep insufficiencies in relation to shelter, data collected by MdM in Northern France found that almost two thirds of refugees and migrants treated had health conditions related specifically to poor and cramped living conditions.⁴⁷

In many countries, irregular migrants are not eligible for public housing. In 2014, the UN Office of the High Commissioner for Human Rights (OHCHR) noted that “it is frequently reported that local authorities refuse to accept irregular migrants in centres for the homeless or destitute, and provide no assistance to them, except in the most extreme cases of vulnerability (e.g. new mothers), and then for limited periods only”.⁴⁸

Some humanitarian organizations are trying to fill the gaps. For example, in Norway, the Norwegian Red Cross provides accommodation to undocumented or irregular migrants, for a limited period of time. The centre opens at 10 p.m. and closes at 7 a.m. Migrants can stay for 3 nights in a row and then they have to apply again. There is, however, no formal agreement with the authorities that they will not search the premises for persons without valid documents.

⁴⁷ Walker G., *Local, dynamic, flexible: healthcare provision in the refugee response. Humanitarian Exchange Special Feature – Refugees and vulnerable migrants in Europe*. 2016
<http://odihpn.org/wp-content/uploads/2016/09/HE-67-FINAL.pdf>

⁴⁸ UN OHCHR, *The economic, social and cultural rights of migrants in an irregular situation*. 2014,
http://www.ohchr.org/Documents/Publications/HR-PUB-14-1_en.pdf

Legal aid and access to justice

Similar gaps in services can also be identified in the area of legal assistance. Many irregular migrants suffer abuses, but fear taking such cases to the police due to fear of arrest and detention, resulting in widespread impunity. There are many examples of this taking place, including recent reports in the UK of a woman who reported being kidnapped and raped who was arrested on immigration charges while being cared for at a centre for sexual assault victims.⁴⁹

This can only be addressed through establishment of firewalls between the police (to whom crimes are reported) and immigration control. Amsterdam Police for example have reputedly created a space for migrants to report crimes (prioritizing reducing crime) and this experiment is being turned into a policy for all police in the Netherlands, effectively “firewalling” crime response from immigration enforcement.⁵⁰ Several municipalities in Europe have also tried to address this issue, including providing free legal advice to migrants.⁵¹

Many humanitarian organizations also try to provide some legal support to migrants. The Russian Red Cross provides legal advice to migrants through a mobile unit which aims at reaching out to irregular migrants where they are. They not only provide direct assistance to migrants (hygiene kits, etc.) and information about access to health care, but the team of Red Cross volunteers also provide legal advice to migrants. The Russian Red Cross has set up a 24 hour “hotline” that vulnerable migrants can call if they are experiencing problems with their employers, in which case the Red Cross can play the role of mediator or advise the caller about actions they can take. The team will also support migrants to submit an official complaint if they wish.

The Swedish Red Cross also operates a hotline that migrants can use to obtain legal advice. The Netherlands Red Cross runs a project to support victims of human trafficking, whereby Red Cross volunteers with a legal background provide victims with practical and legal support during the temporary residence permit procedure and the application procedure for a non-temporary residence permit on humanitarian grounds. This includes assistance in applying for personal documents (like birth certificates and passports), assistance with gathering information about the security situation in their countries of origin, completing forms, and referring them to organizations for housing, health, psychosocial, voluntary return, financial or other services.

⁴⁹ Haroon Siddique and Kevin Rawlinson, Guardian, *Rape victim arrested on immigration charges after going to police*, November 2017, <https://www.theguardian.com/lifeandstyle/2017/nov/28/victim-arrested-on-immigration-charges-after-going-to-police>. See also in other contexts: Tom Dart, the Guardian, *Undocumented Texas woman arrested while seeking domestic violence help*, February 2017, <https://www.theguardian.com/us-news/2017/feb/16/texas-undocumented-woman-arrested-el-paso-domestic-violence>

⁵⁰ Picum, “Firewall”: A tool for safeguarding fundamental rights of undocumented migrants, 22 December 2017, <http://picum.org/firewall-tool-safeguarding-fundamental-rights-undocumented-migrants/>, <http://paspoortamsterdam.nl/politie-en-aangifte-doen/>

⁵¹ For example, the city of Ghent, Belgium reportedly provides free legal advice to all migrants organised by the Integration Service of the city of Ghent and funded by the local government, p 180 Crepeau and Hastie, Op Cit.

Access to emergency assistance following a disaster

When disasters – such as a storm or an earthquake – hit a community, it is often the poorest, with the least stable housing, who suffer the most, and irregular migrants generally fall into this category. For example, in 2011 more than 3.4 million people were affected by Thailand's worst flooding in more than five decades. Many communities across the country were isolated for weeks, relying on local authorities and organizations like the Thai Red Cross for basic assistance. The situation was particularly difficult for the country's migrant workers, who, without documentation, were often invisible to authorities and humanitarian organizations and are missing out on assistance.

National Red Cross and Red Crescent Societies working across the world regularly raise concerns around migrants being left out of disaster response plans and the actual response. All the barriers outlined above – from fear of arrest, to lack of information, to not having the right identity document used to access services – apply consistently in the context of disaster response – from the United States, to Belize, to Thailand. For example, the Maldives recently experienced a water crisis when the desalination plant – the only source of potable water for the capital Male – broke down. The Maldivian Red Crescent (MRC) was asked to distribute water, however the initial process followed by the government was to provide water upon provision of the national ID card. When MRC explained that this would deny access to water to many migrant workers, a policy decision was taken not to check for any identification at the distribution points to ensure access to water for all, regardless of status.

IOM's *Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disasters* (MCIC Guidelines)⁵² outline the responsibilities of states to ensure that migrants, including irregular migrants are adequately included in disaster preparedness and prevention measures, and in response and recovery.

⁵² Migrants in Countries in Crisis: Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster
<https://micicinitiative.iom.int/guidelines>

The fragile space for humanitarian organizations

Meeting unmet needs

In many cases, humanitarian actors have attempted to facilitate migrants' access to essential services through direct service provision. Some humanitarian actors provide services at border crossings and reception points, aiming to ensure that immediate demands of immigration enforcement are balanced by services that identify and respond to urgent needs.

For example, the Italian Red Cross has provided the first line of response at ports where migrants and refugees disembark in Italian territory. Services provided include basic health screening, primary treatment for minor ailments, referral to clinics and hospitals for secondary treatment, food and hygiene kits, psychosocial support and preventative "Restoring Family Links" (RFL) initiatives – ensuring families are not separated at the port by providing a space for them to wait until their family members disembark, before boarding buses to be transported to reception centres together. Essential services are also provided in key locations where migrants are located, such as camps and reception centres. The "safe point" in Italy is a "mobile" mechanism, in the sense that they go and provide their services where the migrants are.

Locations where the International Red Cross and Red Crescent Movement has provided basic health and psychosocial support to migrants include Libya, Egypt, Tunisia, Greece, Hungary, Italy, the Former Yugoslav Republic of Macedonia (FYROM), Niger and Thailand. Similar services are provided throughout the Americas. As noted above, the ICRC has paired up with the Red Cross societies of Mexico, Guatemala and Honduras to set up aid stations along the migration route to provide migrants with basic health care, water and the opportunity to contact loved ones. Guatemalan Red Cross, for example, offers Medical Care through local clinics, transfer to hospital if needed, psychosocial support as well as access to showers for migrants.

Finally, humanitarian actors have often aimed to address the complex issues involved in essential service provision through innovative programmes and partnerships, spanning humanitarian organisations, the private sector and public service providers. For example, in Honduras, the government has partnered with IOM to operate a call centre supporting Honduran migrants living abroad, providing information related to services provided by the consulates of Honduras, migrants' rights abroad and regularization, as well as a channel to report rights violations.

Criminalization and prevention of assistance

In recent years, a tension has sometimes arisen between humanitarian organisations' imperative to alleviate human suffering wherever it can be found and state strategies for migration management.

In particular, tensions have been evidenced through the criminalisation of individuals and organisations delivering humanitarian assistance, whereby, in some contexts, humanitarian activities have been discouraged or banned, and access to vulnerable populations curtailed. Such restrictions have been implemented on the basis of a perception that these activities are likely to encourage irregular movement by diminishing suffering along migratory routes, or encourage visible congregation of migrants in hotspots where aid is delivered. For example, in March 2017, the mayor of Calais banned 'repeated, prolonged gatherings' around the site of the former Calais 'Jungle' camp, making food distributions illegal, in a bid to prevent the camp's re-establishment.⁵³

Likewise, recent years have seen increasing opposition to humanitarian search and rescue operations in the Mediterranean. There have been armed attacks on rescue boats,⁵⁴ run-ins with Libyan border control⁵⁵ and in March 2017, European border agency Frontex accused NGOs of colluding with smugglers and in doing so endangering lives.⁵⁶ In 2017, the Italian government proposed a Code of Conduct for those undertaking search and rescue in the Mediterranean, announcing that failure to abide by its provisions could lead to the refusal to authorize the disembarkation of migrants in Italian ports. This code includes provisions limiting activities in Libyan waters and NGOs have raised concerns around the impact of this code on operational effectiveness and impartiality.⁵⁷

Humanitarian organisations acknowledge states' sovereign right to control their borders, taking into consideration their obligations under international human rights law and international refugee law, while maintaining that this should be balanced with commitment to avoiding risks to human life and allowing delivery of basic humanitarian assistance aimed at maintaining human life and dignity. The trend of 'criminalising compassion' is dangerous and puts many lives at risk. While the apparent rationale is that some lives may be legitimately sacrificed in the short term in order to reduce a potential 'pull factor' that may contribute to risk-taking in the future, this rationale contradicts the principle of humanity, while simultaneously proving unlikely to achieve states' objectives of reducing irregular journeys

⁵³ Guardian, Calais mayor bans distribution of food to migrants. 2017: <https://www.theguardian.com/world/2017/mar/02/calais-mayor-bans-distribution-of-food-to-migrants>

⁵⁴ Lizzie Dearden, *Refugee crisis: Armed men shoot at international aid workers in attack on rescue ship patrolling Mediterranean*, 26 August 2016, Independent: <http://www.independent.co.uk/news/world/europe/refugee-crisis-armed-men-shoot-at-international-aid-workers-in-attack-on-rescue-ship-patrolling-a7210781.html>

⁵⁵ Giacomo Zandonini, *How the humanitarian NGOs operate at sea*, 22 May 2017, Open Migration <https://openmigration.org/en/analyses/how-the-humanitarian-ngos-operate-at-sea/>

⁵⁶ The Conversation, *NGOs under attack for saving too many lives in the Mediterranean*. 2017 <https://theconversation.com/ngos-under-attack-for-saving-too-many-lives-in-the-mediterranean-75086>

⁵⁷ Euronews, *Italy's code of conduct for NGOs involved in migrant rescue: text*, August 2017 <http://www.euronews.com/2017/08/03/text-of-italys-code-of-conduct-for-ngos-involved-in-migrant-rescue>; Eugenio Cusumano, *Straightjacketing migrant rescuers? The code of conduct on maritime NGOs*, 27 Sep 2017 <http://www.tandfonline.com/doi/full/10.1080/13629395.2017.1381400>

Evidence has shown that restrictive policies, such as those criminalising humanitarian activities, are unlikely to stop migratory movements, but instead simply divert people towards different routes, often increasing risks.⁵⁸

In working together towards ensuring access to essential services for all vulnerable migrants, states and humanitarian actors should recognise their ability to play different but complementary roles. Exact division of responsibilities between authorities and humanitarian actors will vary between contexts, based on capacities on either side. For example, while in some contexts, it may be appropriate for states to directly provide reception and shelter, in others, particularly in low income countries where public resources are already overstretched, humanitarian actors may be better placed to do so. Equally, in many contexts humanitarian actors may be a more trusted or accessible source of information to migrants than public authorities; in such cases humanitarian actors can facilitate access to information, working in cooperation with public authorities to ensure information is accurate and up-to-date.

The “Blue Dots” project for migrant children and their families.

UNHCR and UNICEF have set up special support centres for children and families along the most frequently used migration routes in Europe. National Red Cross Societies are supporting a number of these.

These are known as “Blue Dots,” and will provide a safe space for children and their families, with a number vital services in a single location. The hubs aim to support vulnerable families on the move, especially the many unaccompanied or separated children at risk of sickness, trauma, violence, exploitation and trafficking.

The hubs are operational or about to open in Greece, the former Yugoslav Republic of Macedonia, Serbia, Croatia and Slovenia. Hubs will be located in selected strategic sites – border entry/exit points, registration sites, some strategic urban centres – as well as through mobile/outreach teams. The services include:

- restoring family links - services provided by the Red Cross and Red Crescent network;
- family reunification;
- child friendly space and dedicated mother and baby/toddler spaces;
- private rooms for counselling;
- psychosocial first aid;
- legal counselling;
- safe spaces for women and children to sleep;
- outreach social workers;
- information desk with Wi-Fi connectivity.

⁵⁸ ODI, *Europe's refugees and migrants: hidden flows, tightened borders and spiralling costs*. 2016 <https://www.odi.org/publications/10558-europe-s-refugees-and-migrants-hidden-flows-tightened-borders-and-spiralling-costs>

Neutral spaces offering humanitarian services

Building on the presence of National Societies along the migratory trails as well as on the presence of volunteers in potentially every part of the world, the Red Cross and Red Crescent Network has established innovative and proactive initiatives to accomplish their mission. They seek to ensure access to humanitarian assistance for all persons in need, without placing them at greater risk (for instance to detention or deportation), whilst respecting state laws and policies around border control.

One such innovation is the establishment of humanitarian service “hubs” or “safe spaces”, i.e., a mechanism aimed at offering essential services to all migrants regardless of status in a safe environment, including the deployment of mobile units in some countries of transit and destination.

While the terminology of such mechanisms may vary, it is important to highlight the importance of ensuring a space where migrants would not fear arrest from the authorities.

These “hubs” are places where irregular migrants have access to a variety of services that they are not able to access under other conditions. The range of services offered can vary greatly from one context to another. In some cases, migrants may have only access to information (“information points”). In others, they may be able to stay for a few days to rest, have access to food and water, to basic health services, to legal advice, and to information.

To function effectively, it is important to have a formal or informal agreement with the authorities to ensure that migrants can be assured that accessing them will not lead to detection and arrest, while the authorities can be assured that the humanitarian service “hub” will not be used to hide or facilitate the flight of irregular migrants. To achieve this balance, a formal agreement setting out the exclusively humanitarian nature of the allowed activities, is the best option.

These neutral locations where humanitarian services are offered can be worthwhile all along migratory routes. While the distinction between countries of transit and destination is not always relevant, as some countries may be both at the same time, migrants’ needs in each type of context differ. For instance, in some countries of destination, it may be important to offer longer-term support to migrants, in terms of legal advice or health care, amongst others. In countries of transit, migrants might visit only briefly.

The provision of humanitarian services can take many forms – there is no “one size fits all” model. There are different models ranging from an established office to mobile units. It is essential to be creative to identify the best ways to reach out to all migrants, including irregular migrants.

Examples of humanitarian service points provide by National Red Cross and Red Crescent Societies

Italian Red Cross Safe Points aim to provide services that reduce the vulnerability of all migrants in need, particularly those who do not have access to the reception system. Services provided include legal information and advice, information on rights, first aid, basic health care and orientation, psychosocial support, and restoring family links. Additionally, Safe Points provide referrals to other available sources of assistance. For example, information is provided on locations of safe sleeping spaces in municipalities. Migrants are also advised on how to access the public health facilities and referred to professional psychiatric care (where relevant).

In **Agadez, Niger**, the Red Cross of Niger (with support of the French Red Cross) offers services for migrants and returnees in its office. Services include RFL, information, psychosocial support, first aid and referrals to hospital.

The Belgian Red Cross Espace Migrants provides **information and orientation services** to all migrants, irrespective of their legal status. The centre provides services such as listening to migrants, orientation, legal and social counselling, assistance with administrative procedures, information about the health care and education systems, identification of accommodation and distribution of clothes. With a team of up to 30 trained volunteers of very diverse backgrounds, including 17 different nationalities, the Center is open nearly every day and also refers migrants to NGOs for other services. *Espace Migrants* also accompany the Red Cross mobile health teams to reach out to homeless people which include many irregular migrants

The **Virgil Bus works in Salzburg Austria**, and is a cooperative project of various NGOs, the city of Salzburg and the Austrian Red Cross. The Virgil Bus provides medical services for homeless people and migrants without medical insurance in Austria. Volunteer medical doctors, paramedics and interpreters help patients in emergency medical conditions. The bus operates once a week together with street workers of Caritas Salzburg and changes locations between two emergency accommodations for homeless people and the main train station. It aims at integrating patients in regular health system, when possible.



Conclusions and recommendations

States have the power to substantially reduce the barriers to essential services described in this report, without losing their capacity to control immigration. We recommend that the steps below be implemented in domestic law, policy and practice.

The negotiation of the Global Compact on Safe, Orderly and Regular Migration is an excellent opportunity to solidify commitments and plans in this respect. Indeed, the Compact can hardly be expected to make much of a difference in promoting “safe” migration, if it does not address these issues, ideally through concrete, time bound goals, such as the following:

1. Guarantee all migrants the right to access essential services, irrespective of status.

In order to implement this commitment, States should ensure that, their laws:

- Provide that migrants, irrespective of status, can access essential basic services. This must include essential health care, including all emergency services, maternal care (including delivery, as well as ante- and post-natal care) and paediatric services. It must also include access to shelter, food and essential non-food items.
- Ensure that special attention is paid to ensuring access to services of particularly vulnerable groups such as children, pregnant women and trafficked persons, irrespective of their status.
- Explicitly state that immigration status does not consist a legitimate basis for denying access to essential services where they are available.
- Ensure collection of anonymized sex and gender disaggregated data on assistance needs and access to services.

2. Implement firewalls between essential services and immigration enforcement.

In order to implement this commitment, States should ensure that, they:

- Institute firewalls between immigration enforcement and public services and abolish policies and legislation requiring public service-providers to disclose irregular migrants’ details to immigration enforcement.
- Implement appropriate data protection rules for all those providing services to migrants, in line with established good practices, to ensure that migrants’ personal data is handled carefully and used only to address immediate needs.

3. Promote increased access to essential services through proactively identifying and addressing formal and informal barriers to access.

In order to implement this commitment, States should ensure that, they:

- Develop national action plans to identify and address barriers to accessing essential services affecting vulnerable migrants – such as cost, cultural and linguistic barriers, complexity of processes and lack of information about entitlements. Action plans should be based on context-specific analysis, and sensitive to the barriers faced by particularly vulnerable groups, such as children, women, older persons, persons with disabilities and those who have faced torture or exploitation.
- Monitor outcomes in terms of the number of people who actually receive services from the migrant population, rather than solely whether they have theoretical access, with concrete achievable targets.⁵⁹
- Ensure that migrants are wherever possible included in the planning, implementation and monitoring of the services from which members of their community benefit.
- Ensure that all information provided to migrants is accessible and relevant to needs, in line with good practices.

4. Ensure that National Red Cross and Red Crescent Societies and other humanitarian actors can provide humanitarian services to migrants irrespective of status.

In order to implement this commitment, States should ensure that, they:

- Ensure that relevant laws, procedures and/or agreements are in place to enable National Societies and other humanitarian actors to enjoy effective and safe access to all migrants without discrimination and irrespective of their legal status.
- Ensure humanitarian assistance is never deemed unlawful.
- Support and partner with humanitarian actors to provide services. Key areas for partnership may include information provision, training to public authorities and services to restore family links.
- Commit to the establishment of places where humanitarian actors are able to provide essential services to vulnerable migrants, with guarantees that people can obtain humanitarian assistance regardless of status and without fear of arrest by immigration authorities due to their immigration status.
- Ensure that provision for such humanitarian services are included in national legislation and training is provided at national, regional and local levels to ensure that protections afforded to humanitarian service points are understood at all levels of immigration enforcement.

⁵⁹ SPHERE standards are a useful example of this: for example, the indicators under access to essential health care services include: “at least 95 per cent of children aged 6 months to 15 years have received measles vaccination” and “at least 95 per cent of children aged 6–59 months have received an appropriate dose of Vitamin A”.

5. Promote early identification of needs to prevent those already in vulnerable situations from falling into even deeper crisis.

In order to implement this commitment, States should ensure that, they:

- Ensure that all authorities that are in regular contact with vulnerable migrants are adequately trained to recognise vulnerabilities, urgent needs and provide onwards referral. Public authorities might consider working with humanitarian actors to provide training, including on trafficking, protection standards applicable to particularly vulnerable groups (e.g., children, women, the elderly, those with disabilities), restoring family links, first aid and psychosocial first aid.
- Ensure that all service provision is sensitive to protection needs, especially those of particularly vulnerable groups. Risks of exploitation should be monitored and addressed, and clear mechanisms provided for complaints. Service provision should draw on established good practices e.g. establishing safe areas in reception centres, establishing separate reception areas for minors, ensuring multiple workers at food distributions.



The Fundamental Principles of the International Red Cross and Red Crescent Movement

Humanity The International Red Cross and Red Crescent Movement, born of a desire to bring assistance without discrimination to the wounded on the battlefield, endeavours, in its international and national capacity, to prevent and alleviate human suffering wherever it may be found. Its purpose is to protect life and health and to ensure respect for the human being. It promotes mutual understanding, friendship, cooperation and lasting peace amongst all peoples.

Impartiality It makes no discrimination as to nationality, race, religious beliefs, class or political opinions. It endeavours to relieve the suffering of individuals, being guided solely by their needs, and to give priority to the most urgent cases of distress.

Neutrality In order to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.

Independence The Movement is independent. The National Societies, while auxiliaries in the humanitarian services of their governments and subject to the laws of their respective countries, must always maintain their autonomy so that they may be able at all times to act in accordance with the principles of the Movement.

Voluntary service It is a voluntary relief movement not prompted in any manner by desire for gain.

Unity There can be only one Red Cross or Red Crescent Society in any one country. It must be open to all. It must carry on its humanitarian work throughout its territory.

Universality The International Red Cross and Red Crescent Movement, in which all societies have equal status and share equal responsibilities and duties in helping each other, is worldwide.

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