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Concurrent session 2: Managing Illicit Transnational Migration in Asia

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Transnational migration is a global phenomenon, which concerns around 200 million persons worldwide. In recent years, migration was high on the agenda of the international community due to its importance and complexity. It became a serious concern in all regions of the world, Europe, Africa, America and of course Asia Pacific, the region of most rapid changes and the centre of the shift of global and regional balances of power. Irregular migration is seen as one of the most important non-traditional security issue which requires strong coordination and cooperation among the various States and actors involved. It can neither be successfully managed through a one-size-fits-all approach nor by one country alone.

There is no question that managing transnational migration, particularly illicit or irregular migration, is a very complex issue. This refers to the reasons for migration, its forms, its flows, its trends and the living conditions of migrants. Migration involves multidimensional aspects such as political, economic, social, cultural, health, legal, security and humanitarian ones. These multidimensional issues also require multifaceted responses.

A regional framework on managing migration should be comprehensive, taking into consideration the stages of the migration processes, the variety of actors involved and the links between the various aspects I mentioned above. ASEAN and its member states have taken a number of initiatives to jointly address these challenges. The adoption of the Declaration on the Protection and Promotion of the Rights of Migrant Workers and the Declaration against Trafficking in Persons Particularly Women and Children and the related ASEAN Plan of Action and the establishment of committees to implement these declarations are positive steps. The same can be said for the Colombo Process Member countries which have taken concrete steps to manage labour migration including through signing bilateral agreements with other countries. No doubt, these efforts must continue and be strengthened.

When speaking about migration, one has to remain very modest as no one can claim having an overall solution. I will concentrate on the humanitarian side of the issue. It is clear that migration processes can lead to serious humanitarian consequences. While moving away from home is for many millions of migrants a thorough success allowing for a better life for themselves and their family – worldwide remittance flows reached \$ 501 billion in 2011 -, migration also generates pictures of dramatic suffering.

Everybody agrees that States are entitled, within the constraints imposed by international law, to control the entry and residence of non-nationals in their territory and decide about their deportation. This has to be done while ensuring the protection of the dignity and safety

of all migrants and the respect of their rights. Control measures by themselves may push more people into the hands of smugglers and traffickers, thereby increasing vulnerability. In turn, trafficking and smuggling being linked to organized crime, violence, and corruption, the security of the State may be undermined.

Screening of migrants' vulnerabilities, identification of the different protected categories, including victims of trafficking, asylum seekers and refugees, and providing holistic and differentiated answers is necessary. Relevant laws and procedure should be in place to enable impartial humanitarian organisations to enjoy effective and safe access to all migrants without discrimination and irrespective of their legal status.

The work of the International Committee of the Red Cross (ICRC) throughout the world has brought it in contact with migrants in many different contexts. This can range from large migrant communities who are suddenly affected by armed conflict as recently witnessed for example in Libya or Syria, migrants detained for having entered a country illegally as here in Malaysia and other countries, to the families of missing migrants in Mexico.

As such, the ICRC is not what we can call a migration agency. It is not our mandate to establish or advise on policies for the management of migration. We are also not a human rights organisation. As a non political independent and impartial humanitarian organisation, the ICRC cares for persons affected by armed conflicts and other situations of violence. It is also active on issues for which it has a particular expertise or in areas for which its unique nature as a specifically neutral and independent intermediary and its experience are seen by the concerned State as useful and bringing added value. The organization tries to constructively engage with the authorities to identify concrete solutions to humanitarian problems and to uphold international humanitarian law, when applicable, and other humanitarian standards.

In Asia Pacific, the ICRC is engaged in many countries, working together with the concerned government entities on issues related to persons detained, particularly detained migrants, as it is the case in Thailand, the Philippines or here in Malaysia. I would like to seize the opportunity to highlight the good dialogue and cooperation the ICRC enjoys with the Malaysian authorities. Through its visits to immigration detention centres, the ICRC supports the authorities with its technical expertise in detention related matters and directly addresses the needs of migrants, in particular, for restoring links with their family members, from whom some have been without contact for long. The ICRC has also progressively started to contribute to the safe return to their families of unaccompanied minors encountered in immigration detention centres. Concerning victims of human trafficking, the ICRC may be cooperating with the authorities, usually in coordination with IOM, to provide assistance in specific cases brought to its attention. In the countries of origin, the ICRC is also progressively looking at humanitarian assistance for the most vulnerable individuals who have been deported. For example, in the Philippines, basic rehabilitation work was carried out in a processing centre for migrant returnees and distribution assistance for improving their temporary living conditions is regularly taking place.

The ICRC has been implementing some of these activities on its own and some in partnership with National Societies of the Red Cross and Red Crescent, which are members of the same Movement, the International Movement of the Red Cross and Red Crescent. Some of these Societies are carrying out many and very important activities for migrants. This is in conformity with a pledge made by the Movement to try to reduce the vulnerability of persons - migrants and their family - who are negatively affected by migration.

Migrants are often seen as people trying to improve their economic situation by leaving their country of origin for a wealthier country or at least a country with apparently more working opportunities. While that is true in many cases, the actual situation is, however, far more complex. The purely voluntary nature of migration is often questionable as external constraints such as insecurity for them or their families and the increasing difficulty in

accessing reasonable means of subsistence may also be involved. Furthermore, on their journey, many migrants may get trapped because they have been arrested and remain in detention for several months, some even for years pending their deportation. In some situations, migrants may additionally be victims of violence and find their fundamental rights being violated.

A large majority of migrants began their journey voluntarily, for the purposes of employment. Although migration flows include highly skilled migrants, most migrants work in low-skilled jobs, in sectors where often labour standards are not applied. The recruitment process for a typical migrant begins in the country of origin, facilitated by numerous private agencies and intermediaries that operate in both sending and receiving countries. This commercialization of the recruitment process often exposes migrants to human and financial exploitation at various stages of the migration process and may actually contribute to irregular migration, mainly due to lack of information and clarity during the process.

For many migrants, the cost of reaching their desired destination is often a large one that leaves them heavily in debt, and makes their return difficult, if not impossible. Consequently, migrants may encounter employment-related issues such as improper wage payments, unauthorized deductions, excessive overtime, as well as occupational health and safety concerns through the course of their work. The language barrier in the destination countries also places them further from protection mechanisms, if any, and often at the mercy of their recruiters or employers.

Though the majority of migrants cross borders using legal channels, irregular migration is a structural reality in Asia's migration flows. No country is immune from irregular migration, whether in the form of unauthorized entry, stay or employment. Irregular migrants are frequently exposed to exploitative conditions, as they have often much more to lose than their employers. Fearful of detection, arrest and expulsion, migrants in an irregular situation often face considerable hurdles in accessing healthcare, education for their children or appropriate housing due to the lack of legal status.

Two subtypes of movement further complicate unauthorized migration: the smuggling of migrants, where a smuggled person is one who travels voluntarily but irregularly to another country with the assistance of a third party, and the trafficking of persons especially women and children, which occurs for sexual, forced labour and other forms of exploitation. Noteworthy to say that women are particularly vulnerable: almost 1 migrant in 2 is nowadays a woman. They often suffer from discrimination in regards to both their status as migrants and the fact of being women.

Most States resort to the detention and deportation of irregular migrants.

Let me now speak about detained irregular migrants. Their specific vulnerabilities stem from various factors. Often, the reasons which led to departure are an indicator of a person's vulnerability. A person who has fled persecution requires a specific response. Often migrants are apprehended on arrival or in transit countries during migration. This is generally the end of the hope to find a stable environment and a decent lifestyle in a country other than their own, for which they invested all their energy, and frequently also their funds. The uncertainties surrounding placement and remand in detention for reasons associated with migration are particularly likely to increase the vulnerability of migrants. Once placed in detention, migrants often face difficulties in contacting their families back home. This adds to their anxiety and uncertainty as well as that of their families.

A special vulnerable category of detained migrants is that of minors. Considering their immaturity, limited ability to deal with adversity and their high developmental needs during these years, imprisonment can be highly damaging and undermine their psychological and physical health. Many children experience the actual process of being detained as a new

traumatising experience in addition to traumas related to the circumstances of departure, journey and possibly separation from their family.

Another specific category are refugees and asylum seekers who should benefit from a proper identification and consequent treatment of their case.

I would like to raise a last issue of particular concern for the ICRC: the migrants who do not reach their destination and become missing migrants. Many migrants disappear during the journey, in particular at sea. In such cases, the families remain with uncertainty regarding the fate of their loved ones. These families have the right to be informed of the missing person's fate and the authorities have a role for providing the relevant information. This includes the necessity to carry out inquiries and to search for the persons reported missing. States can put in place measures to help facilitate the return of remains to families and management of information on the dead. Such measures include, when possible, bilateral discussions with embassies to speed up the process of identification and return of remains. In a disaster related situation, as can be the sinking of a boat, the ICRC stands ready to share its expertise on the restoring of family links and on the proper management of human remains.

This is only a short summary of the often tragic consequences of migration. The ICRC will continue to work with the other components of the International Movement of the Red Cross and Red Crescent towards vulnerable migrants and stands ready to support the authorities in the Asia-Pacific Region, as an non political independent and impartial organization, in their efforts to answer to the great challenge of addressing the negative consequences of migration in order to simultaneously improve the protection and care of vulnerable migrants.

I thank you for your attention!