



# ACTION TO ASSIST AND PROTECT TRAFFICKED PERSONS

Guidance for European Red Cross National Societies  
on Assistance and Protection to Victims of Human Trafficking



This document has been produced in cooperation with the European Red Cross Action for Trafficked Persons Network (ATN)

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# 1. Background

## 1.1 INTRODUCTION

The practical experience of European Red Cross National Societies shows that human trafficking seriously impacts on trafficked victims' integrity and wellbeing, increasing their vulnerability. While it is the primary role of States to prevent trafficking in human beings, investigate and prosecute traffickers, as well as to assist and protect trafficked persons, Red Cross and Red Crescent National Societies (hereafter referred to as National Societies) could play an important role in the area of protection of and assistance to victims of human trafficking.

## 1.2 PURPOSE, SCOPE AND TARGET AUDIENCE

This guide is designed to support European Red Cross National Societies services to respond to trafficking in human beings. Building on and complementing the Migration Policy of the International Federation of Red Cross and Red Crescent Societies (IFRC), the document provides additional guidance to assist and protect trafficked persons (but it is not itself a policy).

It focuses mostly on human trafficking in relation to migration. However, victims can be trafficked either transnationally (crossing at least one international border) or domestically (within the borders of one country). The International Red Cross and Red Crescent (RCRC) Movement assists and protects all types of victims of trafficking, including persons who have been trafficked without crossing international borders.

Working with and for vulnerable migrants is one of the long standing traditions of the Red Cross and Red Crescent Movement. The humanitarian response of National Societies in Europe to support vulnerable migrants increases the likelihood of encountering (potential) victims of human trafficking.<sup>1</sup> The IFRC Migration Policy sets out principles for National Societies that they shall take into account and adopt in their work in this field. It acknowledges that "migrants may be subject to human trafficking, sexual or labour exploitation" that expose them to heightened and acute risks to their physical integrity and well-being.<sup>2</sup>

The request to produce guidance on action to assist and protect trafficked persons originates from National Societies who are members of the European Red Cross Action for Trafficked Persons Network

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<sup>1</sup> *Joint pledge: responding to human trafficking of migrants in Europe.* Available at: <http://rcrcconference.org/2015/12/06/joint-pledge-responding-to-human-trafficking-of-migrants-in-europe/>

<sup>2</sup> *As mentioned in the IFRC Migration Policy, migrants "may be subject to human trafficking, sexual or labour exploitation" that expose them to heightened and acute risks to their physical integrity and well-being.* Available at: <http://www.ifrc.org/en/what-we-do/migration/migration-policy/> (Article 5.2)

(ATN).<sup>3</sup> Throughout 2015-2016 the ATN steering committee has consulted the RCEU Office, ICRC, IFRC Secretariat and ATN participants in its development, edit and review.

## 1.3 CONTENT

This guidance makes recommendations for strategic programming on the issue of human trafficking, including activities on:

1. **Raising** awareness
2. **Assistance** and protection
3. **Humanitarian** diplomacy

Taking into account the international legal framework<sup>4</sup> on action in relation to trafficking in human beings, this paper draws on current operational, analytical and policy work. It provides guidance for National Societies in responding to the vulnerabilities of trafficked persons. Decisions in determining the activities for those well placed National Societies to respond should be based on the needs of the victims, the capacities and capabilities of the National Societies (including skills, specialised knowledge, resources and psychosocial support to assist workers). National Societies should constantly bear in mind and regularly assess the specificities and the risks associated with trafficking in human beings. All responses should always be in accordance with not only international, regional and domestic legislations but also with relevant Movement policy framework documents.<sup>5</sup>

<sup>3</sup> In 2017 the ATN has over 22 National Societies from all over Europe actively participating.

<sup>4</sup> United Nations (2000) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Available at: [https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg\\_no=xviii-12-a&chapter=18&lang=en](https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=xviii-12-a&chapter=18&lang=en)  
International Labour Organisation, Worst Forms of Child Labour Convention, 1999 (No. 182). Available at: [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312327](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312327)  
United Nations Convention on the Elimination of All Forms of Discrimination against Women. Available at: <http://www.un.org/womenwatch/daw/cedaw/>  
United Nations UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/TraffickingPersons.aspx>  
ILO Abolition of Forced Labour Convention (Convention No. 105 of 1957). Available at: [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312250](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312250)  
Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011L0036>

<sup>5</sup> Including e.g.: IFRC Migration Policy and IFRC Strategy on Violence Prevention, Mitigation and Response 2012-2020. Available at: <http://www.ifrc.org/PageFiles/53475/IFRC%20SoV%20REPORT%202011%20EN.pdf>; Child Protection Action Plan 2015-2020 [http://www.ifrc.org/Global/Publications/principles/IFRC-Child-Protection-Action-Plan\\_2015-2020.pdf](http://www.ifrc.org/Global/Publications/principles/IFRC-Child-Protection-Action-Plan_2015-2020.pdf) and IFRC Strategic Framework on Gender and Diversity Issues 2013-2020 <http://www.ifrc.org/Global/Documents/Secretariat/201412/IFRC%20Strategic%20Framework%20on%20Gender%20and%20Diversity%20Issues-English.pdf>

## 2. What is Human Trafficking?

### 2.1 DEFINITION

A number of definitions for human trafficking exists in treaties and protocols developed by the United Nations (UN)<sup>6</sup>, the International Labour Organisation (ILO)<sup>7</sup> and the European Union (EU)<sup>8</sup>. All definitions include key concepts related to the 'act', the 'means' and the 'purpose' of trafficking in human beings, with the emphasis on the 'use of force' or 'debt bondage' and 'exploitation' during the transfer, harbour and receipt of human beings.

The UN 'Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children' provides the following definition for trafficking in human beings:

Trafficking in persons shall mean "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat, use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purposes of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, forced marriage slavery or practices similar to slavery, servitude or the removal of organs".<sup>9</sup>

The definition above makes clear, in Article 3(b), that consent of the victim to the intended exploitation is irrelevant when any of the 'means' listed have been used.<sup>10</sup> When trafficking involves a child it is irrelevant whether the means above, such as force or deception, have been used or not.<sup>11</sup> A child will be recognised as trafficked if he or she has been moved within a country, or across borders, whether by force or not, with the purpose of exploiting the child.

<sup>6</sup> United Nations (2000) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (also known as the Palermo Protocol).

<sup>7</sup> International Labour Organisation, Worst Forms of Child Labour Convention, 1999 (No. 182).

<sup>8</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. A

<sup>9</sup> United Nations (2000) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Article 3(a)

<sup>10</sup> UNODC (2014) The role of 'consent' in the trafficking in persons protocol. Available at: [https://www.unodc.org/documents/human-trafficking/2014/UNODC\\_2014\\_Issue\\_Paper\\_Consent.pdf](https://www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf)

<sup>11</sup> The Palermo Protocol establishes children as a special case for whom only two components required - movement and exploitation - because a child cannot give consent to being exploited, even if they are aware/agreeable to being moved (ECPAT UK)

## Domestic trafficking

Although this guidance paper focuses mostly on human trafficking in relation to migration, victims can be trafficked either transnationally (crossing at least one international border) or domestically (within the borders of one country). As recent reports indicate, domestic trafficking is increasingly on the rise. The Red Cross Red Crescent Movement assists and protects all types of victims of trafficking, including persons who have been trafficked without crossing international borders.

UNODC (2014) *Global Report on Trafficking in Persons*

## 2.2 CONTEXT

Although many cases of trafficking in persons do not involve the crossing of international borders there are some links between cross-border trafficking and regular migration flows. The complex nexus between migration and trafficking is also reflected in UNODC 2016 report by highlighting that certain trafficking flows resemble migration flows, and some sizable international migration flows are also reflected in cross-border trafficking flows.<sup>12</sup>

In general, destabilisation and displacement of populations increase individuals' vulnerability to exploitation and abuse through different forms of trafficking.<sup>13</sup> Just like (other) migrants, victims of trafficking may be subject to various forms of violence, fear of deportation and fear of public authorities, as well as discrimination throughout the referral process. However, victims of trafficking have specific fears and are subject to particular treatment that migrants are not, including permanent control and/or monitoring, fear of physical retaliation, death, or reprisal against or harm to one's loved ones. Many of the victims are exploited in the shadows and have little or no opportunities to seek assistance and protection. Among migrants, vulnerable groups such as unaccompanied minors, separated children and youth, people with disabilities, and women are particularly at risk to human trafficking.

Trafficked persons come from various backgrounds. According to UNODC, in 2014, children comprised 28 per cent of detected victims, and men, 21 per cent. The 2016 Global Report on Trafficking in Persons further indicates that vast majority of the victims detected globally are adult women or underage girls, but the overall profile of victims continues to be shifted: an increasing number of men, boys and girls are detected as victims. Also, with the increasing number of men and boys detected, the share of victims who are trafficked for forced labour has also increased. About four in 10 victims detected between 2012 and 2014 were trafficked for forced labour, and out of these victims, 63 per cent were men.<sup>14</sup>

<sup>12</sup> UNODC (2016) *Global report on trafficking in persons*, p. 57. Available at: <https://www.unodc.org/unodc/en/data-and-analysis/glotip.html>

<sup>13</sup> PERCO Position Paper on the Vulnerabilities along the Migratory Trails to the EU and to the Schengen area (2015) Available at: [http://www.redcross.eu/en/upload/documents/pdf/2015/Migration/PERCOHelsinki15\\_PositionPaper\\_Vulnerabilities\\_along\\_the\\_migratory\\_trails\\_the\\_EU\\_and\\_to\\_the\\_Schengen\\_area\\_FINAL.pdf](http://www.redcross.eu/en/upload/documents/pdf/2015/Migration/PERCOHelsinki15_PositionPaper_Vulnerabilities_along_the_migratory_trails_the_EU_and_to_the_Schengen_area_FINAL.pdf)

<sup>14</sup> UNODC (2016) *Global report on trafficking in persons*, p. 5. Available at: <https://www.unodc.org/unodc/en/data-and-analysis/glotip.html>

The identification, support and treatment of a trafficked person vary widely in quality and consistency between geographical areas. This is due to lack of adherence to existing laws (or domestic legislation), policy standards, available documentation from the victims, victims' legal and residency status. Their vulnerability increases where trafficked persons lack legal status as their rights in such circumstances will more likely be undermined. This is particularly so for individuals who are both potentially victims and asylum seekers or vulnerable migrants staying in one country without legal status.

## 2.3 HOW ARE SMUGGLING AND TRAFFICKING INTERCONNECTED?

It is crucial to distinguish trafficking in persons and smuggling of migrants. From a legal point of view, the key element of human trafficking is its purpose, namely exploitation. However, it is becoming increasingly more complex to distinguish the difference between the two in practice and its impact.

Even though smuggling of migrants is often understood as a "business transaction between two consenting parties"<sup>15</sup>, it is important to note that migrant smuggling also happens under often dangerous and degrading conditions and may, in some instances, imply means of coercion, fraud or force. At the same time, smuggled migrants can easily become victims of trafficking once they arrive in the country of destination or in transit.



Photo: Emiliano Albensi/Croce Rossa Italiana

<sup>15</sup> According to Smuggling of Migrants Protocol supplementing the United Nations Convention against Transnational Organized Crime, "smuggling of migrants" is: "procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident". (Article 3) Available at: <http://www.unodc.org/unodc/en/human-trafficking/smuggling-of-migrants.html>

## 2.4 KEY DIFFERENCES BETWEEN SMUGGLING OF MIGRANTS AND HUMAN TRAFFICKING:

	Smuggling	Trafficking
Special International Legal Framework	Legal Framework established at the United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air supplementing the United Nations Convention against Transnational Organized Crime.	Legal framework established at the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime.
The criminal act	Crossing borders without complying with the necessary requirements for legal entry into the receiving State.	Crime against person: violation of rights of trafficked persons.
The purpose	<p>“Procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.” (Article 3 of the UN Protocol)</p> <p>Smuggling ends once migrants arrive at their destination and the fee is paid.</p>	<p>The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction for the purpose of exploitation.</p> <p>Trafficking involves the ongoing exploitation of the victim: relationship between trafficker and victim continues after the recruitment, transportation, transfer, harbouring or receipt.</p>
Transnationality	Smuggling is always transnational: illegal border crossing is a defining element.	<p>Border crossing is not a defining element of the crime.</p> <p>Trafficking can occur regardless of whether trafficked persons are taken to another State or only moved from one place to another within the same State.</p>
Consent	While often undertaken in dangerous or degrading conditions, involves migrants consent to illegal border crossing.	<p>Persons consent is irrelevant when coercive, deceptive or abusive means have been used.</p> <p>In case of a child, the above means are not necessary: any child who is subject to exploitation is a victim and should be treated as such.</p>

## 3. Why is it Important for the Movement?

The Red Cross and Red Crescent Movement's work with and for vulnerable groups is rooted in its Fundamental Principles, universal character as well as in its volunteer and community basis. Our independence and neutrality places the Red Cross and Red Crescent National Societies in a privileged position to reach out to the most vulnerable in our communities and to build trust.

Present at countries of origin, transit and destination and working closely with local communities, National Societies as auxiliaries to government authorities may play a role in raising awareness of the risks of trafficking, in providing assistance and protection to victims of trafficking, and in promoting improved identification and protection initiatives. National Societies, respecting RCRC fundamental principles at all times while focusing on addressing humanitarian needs in the first place, could help victims in rebuilding their sense of self-worth.

The approaches to address the needs of vulnerable migrants along the migratory trails are laid down in the Policy on Migration of the IFRC. IFRC has also adopted the Strategy on Violence Prevention, Mitigation and Response that provides a useful tool to National Societies working with persons who may be subject to various forms of violence, including trafficking in human beings.

### IFRC Policy on Migration

“There are circumstances that expose migrants to heightened and acute risks to their physical integrity and well-being. This is the case when they are subject to refoulement, sexual and labour exploitation, and human trafficking. It may also be the case when migrants are in the hands of people smugglers.” (Article 5.2)

The IFRC Policy on Migration further clarifies IFRC's mandate to address the humanitarian concerns of migrants “living at the margins of conventional health, social and legal systems” throughout their journey. In this context, the Movement protects human dignity and works especially to meeting the needs of the most vulnerable people, including victims of human trafficking.

### IFRC Strategy on Violence Prevention, Mitigation and Response 2012-2020

IFRC Strategy on Violence Prevention, Mitigation and Response defines violence in the following terms: “use of force or power, either as an action or omission in any setting, threatened, perceived or actual against oneself, another person, a group, a community that either results in or has a high likelihood of resulting in death, physical injury, psychological or emotional harm, mal-development or deprivation”.(Page 5) It also raises awareness to the fact that “some groups of people are at higher risk to violence than others”.

The Strategy further defines IFRC's crucial role in reducing the level and impact of violence, which is rooted in its global network in diverse communities and National Societies unique position to support governments through their auxiliary role.

## 4. What do we do?

### 4.1 PRINCIPLES AND GUIDANCE TO IDENTIFY, ASSIST AND PROTECT (POTENTIAL) TRAFFICKED PERSONS

When working with potential or identified trafficked persons, National Societies must always respect RCRC fundamental principles. Appropriate assistance and support should be extended to all trafficked persons without discrimination and irrespective of legal status. National Societies need to make sure that they steer clear of prosecution of and/or criminal proceedings against traffickers.

When working to respond to the humanitarian consequences of trafficking in human beings and to assist trafficked persons, National Societies should seek to ensure that the following general programming principles are respected:

- 1. Approach to assisting trafficked persons:** In order to enable trafficked persons to overcome abuses and pressures, National Societies may provide various forms of assistance, including physical care, health care support, psychosocial support; material, social and legal assistance; and participate in effective referral mechanisms. However, and as mentioned above, National Societies should never engage in any form of judicial cooperation in criminal investigations. Assistance provided by National Societies shall aim at protecting trafficked persons against further abuse, violence, exploitation, and the denial of their rights. National Societies may strengthen efforts in ensuring potential and actual victims are identified and have access to information and support, irrespective of their legal status. This information can help a trafficked person to make informed decisions and these be enhanced through facilitating cooperation with stakeholders. Trafficked persons may face several barriers to accessing humanitarian assistance. Factors affecting their ability to make an informed choice include, but not limited to, the fact many are fearful of the authorities for their lack of secure immigration status and of their traffickers, they lack post identification support, and they feel shame and have been inhumanly treated.
- 2. Person centred approach and care:** A response to assist and protect trafficked persons should aim to promote person centred support that takes into account individuals' needs, their own interests and wishes, as well as the imperative of doing them (and the host communities) no harm. Assistance and support should only be provided with the trafficked persons consent on an informed basis. However, based on domestic and international legislations, in cases of safeguarding a child, National Societies may assist and protect them from exploitation and abuse without the prior consent of the child.<sup>16</sup> The rights of trafficked persons should be promoted at all times. Clear and consistent information to victims of

<sup>16</sup> States Parties shall protect the child from all forms of physical or mental violence, injury or abuse, neglect, maltreatment or exploitation, including sexual abuse. UN Convention on the Rights of the Child, 1989, Article 19 (UNCRC). Safeguarding children's legislation, context and practice in countries the Movement work in varies greatly, however the UNCRC 1989 should inform all National Societies work with children.

trafficking in human beings on their rights is essential. In accordance to internal and domestic legislation, whilst there is a variance, the general principle is that assistance and support should not be conditional to individual's cooperation in the criminal investigation.

- 3. Gender- and child-sensitive approach and care:** There are similarities and differences in the forms, patterns, humanitarian consequences and vulnerabilities of the trafficking experience of women and men that should be addressed. National Societies should not make assumptions about women's, men's, girls' and boys' different needs but enhance its work to make it more responsive to their needs. A gender-sensitive approach includes ensuring that assistance and support address gender-based discrimination and violence, and promote gender equality and the realisation of human rights for men, women, boys and girls.<sup>17</sup>

The best interests of the child should guide all decisions regarding children. RCRC activities for child victims should be carried out in a manner that is age, gender and culturally sensitive. In case of doubt, a person claiming to be a child needs to be treated as such and benefit from all the protection measures granted to children. Support programmes targeting child victims need to be child-focused and take special account of child-specific needs, including but not exclusively access to school and education, psychosocial support and social inclusion.

- 4. Strengthen partnerships with key stakeholders** engaged in assistance and protection to trafficked persons, including representatives of international organisations, civil society organisations and state authorities. The respect of the rights of victims of trafficking should remain at the heart of these partnerships.
- 5. Confidentiality:** National Society staff engaged in work with trafficked persons will come across facts and details that need to be kept confidential. Every effort should be made to ensure that information obtained in an atmosphere of confidentiality should remain protected and this protection should be recognised in origin, transit and countries. Confidentiality should be respected in any engagement with partners during the assistance and protection.

### 4.2 ISSUES TO BE CONSIDERED FOR NATIONAL SOCIETIES PROVIDING DIRECT ASSISTANCE AND PROTECTION TO TRAFFICKED PERSONS

- 1. Integration assistance:** The aim of integration is to foster and strengthen the social inclusion of the trafficked persons into the society. Integration as a rule may take place domestically where trafficked persons have been identified. Their integration into the society is essential, and the recognition of their rights is implicit in achieving integration. Trafficked persons' integration needs may vary greatly, largely due to personal circumstances, but also due to factors such as their legal status in the country and their migration history.
- 2. Further risks** to trafficked persons: National Societies need to be aware of the dangers of reprisals, re-trafficking or victims becoming perpetrators. When considering what programmes to implement, it is important that National Societies critically assess trafficked persons' actual needs in the national and local context, and should act towards preventing risks and protecting former victims.

<sup>17</sup> UNODC (2009) International Framework for Action to Implement the Trafficking in Persons Protocol.



photo: NLRC©Mart Bron



**3. Safety and wellbeing of RCRC staff/volunteers:** Work related to trafficking involves security risks for National Society staff and volunteers engaged, mostly due to its link to organised crime. Every effort must be made to ensure security of staff and volunteers through proper training, confidentiality, and clear distance and distinction from law enforcement authorities – focusing on the humanitarian aspect and the maintenance of strict independence and neutrality. Specially designated ‘safe houses’ for trafficked persons also expose staff delivering assistance in these shelters to heightened risk. Special training, including training on personal security, should be mandatory for RCRC staff or volunteers working in these circumstances. Offering support services to help staff and volunteers deal with the impact of working and supporting vulnerable individuals should be integral part of a National Societies’ response.

**4. Restoring Family Links and the danger of being re-trafficked:** Sometimes the traffickers are parents/relatives. Reasons leading family members to let their relatives be trafficked are multiple. Although family members may prompt the process of trafficking (recommending their relative to someone else), they may not be aware that their loved ones will be trafficked. Before launching a restoring family links procedure, it is crucial to assess the individual needs of the victim, and take into account the possible relationship to and/or dependence on the offender.

#### 4.3 TYPES OF ACTION<sup>18</sup>

The physical and psychological effect of trafficking on victims requires special attention and specialised support services. Even though National Societies are in a privileged position to reach out to trafficked persons, they may not always be best placed to initiate action in this field. RC/RC programmes need to be assessed according to the local context and activities of relevant stakeholders and partners. Government policies/strategies on action in relation to trafficking in human beings may limit the scope of action that National Societies can or may be willing to take, and this guidance should be implemented according to the local context. Cooperation with external partners is essential when planning and implementing programmes. Duplication of work carried out by respective partners may be avoided with continuous dialogues<sup>19</sup>.

**1. Raising awareness:** National Societies are in a good position to implement awareness-raising initiatives and actions in order to educate and inform about the risks of trafficking and to protect specific groups at risk from further abuse.

Awareness-raising initiatives may include organising education events, and campaigns among the front-line responders, general public or developing messages for the specific groups at risk of trafficking including but not limited to children, indigenous populations, refugees and asylum seekers, persons considering engaging in labour migration, migrant workers, undocumented migrants. Any awareness-raising activities should be assessed very carefully according to the situation in country, including security as well as perception risks.

**2. Assistance and protection:** Human trafficking causes serious damage to the life and well-being of trafficked persons. Appropriate assistance should be provided to trafficked persons without discrimination. When National Societies engage in direct assistance or counselling with potential and identified victims of trafficking, they need to make sure that their role as

<sup>18</sup> The list below provides some examples of potential activities but is not considered to be an exhaustive list of available means or activities. As a general rule, actions taken with regard to victims of trafficking should be based on an individual assessment to identify their specific protection and other needs.

<sup>19</sup> See Annex II for the checklist *Developing Human Trafficking Responses* on page 21.

independent from state authorities is respected. National Societies can also have an important role in empowering identified victims and promoting social inclusion in host communities while staying away from any form of judicial cooperation in criminal investigations

- Provide access to information on risks and protection mechanisms among potential and identified victims of trafficking, including via translation and interpretation services where appropriate, and legal advice.
- Strengthen efforts in ensuring victims are identified, participate in effective referral mechanisms; while never engage in any form of judicial cooperation in criminal investigations.
- Ensure and promote that victims of trafficking have access to or can contact health and other social and/or special services providers (related to specific needs for victims of sexual violence and victims of gender-based violence).
- Provide psychosocial (emotional) support or social counselling for victims.
- Integration assistance such as language courses, job skills and volunteer buddy programmes.

**3. Humanitarian diplomacy:** National Societies have a responsibility to persuade decision-makers to act in the interest of the most vulnerable people. In the case of human trafficking, they should consider promoting effective state mechanisms in place to protect the rights and dignity of all trafficked victims. They also need to make sure that these policies have a person centred approach and measures adopted by respective governments do not adversely affect the dignity and the rights of victims and their families.

Humanitarian diplomacy on human trafficking is most effective when evidenced by experiences from the National Society's humanitarian work for (potential) trafficked persons and when messages are linked to the mandate and role of the NS in the country. Building an evidence-base on (for example) own reports or (anonymized) cases can support humanitarian diplomacy efforts. The focus of the humanitarian diplomacy should be on protection and assistance of those who are vulnerable to become trafficked, and NOT on prosecution of perpetrators

Humanitarian diplomacy efforts to promote access to protection and assistance for individual trafficked persons may lead to contacts with law enforcement, as protection of victims in many countries is connected to the authorities starting an investigation into the trafficking case. In line with the auxiliary role, with the trafficked person's consent, the case can be discussed in confidential dialogue with public authorities. The National Society as a neutral humanitarian actor shall refrain from any form of judicial cooperation in the criminal investigation.

**National Societies may call on National Authorities to:**

- Respect and implement the international, regional and interregional legal framework related to the protection of victims of human trafficking.
- Protect victims of trafficking from prosecution and punishment for criminal activities such as the use of false documents, or offences under legislation on prostitution or immigration, that they have been compelled to commit as a direct consequence of being subject to trafficking.<sup>20</sup>

<sup>20</sup> EUR Directive 2011/36/EU, recital 14

- Ensure that victims are not held in immigration detention facilities or other forms of custody because of their (lack of) legal status.<sup>21</sup>
- Implement assistance programmes that guarantee the safety of the victims and their families.
- Assist and protect victims independent of their legal or administrative status.
- Protect the rights of victims irrespective of the result of or whether they cooperate in criminal investigation and procedures.
- Ensure that before victims give their testimonies they are informed of their right of access to assistance and protection, but also about their right to remain silent in the investigation process and procedures.
- Ensure that victims are provided with information in a language they understand.
- Avoid mandatory medical testing, including HIV/AIDS. Such testing should be conducted with full and informed consent of the concerned person and discretion and confidentiality must be ensured.

<sup>21</sup> For further information, please consult: OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (2013) Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking. Available at: <http://www.osce.org/secretariat/101002?download=true>

## 5. Support for National Societies

European National Societies have been responding to Human Trafficking, in varying ways, for a number of years. Throughout the European Red Cross National Societies there is experience of providing awareness raising programmes, identification and referral, direct support and assistance to trafficked people as well as Humanitarian Diplomacy. In order to provide mutual support, share learning and develop partnership opportunities, the Action for Trafficked Persons Network (ATN) (previously called the Anti-Trafficking Network) was established in 2004. This network, supported by IFRC, actively gathers and disseminates training materials, tools and documents from National Societies, and provides opportunities for National Societies to share practices and learning through online seminars and an Annual Meeting. The ATN can also promote peer to peer support and collaboration between National Societies.

Where National Societies would like to discuss issues or any matters relating to trafficking in human beings the European Red Cross Action for Trafficked Persons Network (ATN) can be contacted by emailing [europeanATN@redcross.nl](mailto:europeanATN@redcross.nl)



Photo: Emiliano Albensi/Croce Rossa Italiana

## ANNEX I

### IFRC TERMINOLOGY GUIDE ON ASSISTANCE AND PROTECTION TO VICTIMS OF HUMAN TRAFFICKING

#### 1. Objective

- Support IFRC and National Societies in using coherent terminology when they make reference to RCRC action in addressing the humanitarian consequences of human trafficking.
- Support clarity in our communication on the role of RCRC in addressing the vulnerabilities of trafficked persons and the limits of such action.
- Ensure we are applying our fundamental principles when talking about human trafficking.

#### 2. Terminology

##### i. General guidance on terminology

The role of the Movement in addressing the humanitarian consequences of trafficking in human beings is:

- Assistance and protection to victims of human trafficking
- Raising awareness on the risks of human trafficking
- Humanitarian diplomacy action

From our fundamental principles, and especially neutrality and impartiality, it flows that National Societies never engage and cooperate in criminal investigation, prosecution or judicial cooperation. Red Cross action always focuses on humanitarian assistance to the victim, not on prosecution of the perpetrator.

To ensure that the boundaries of RC action in the field of human trafficking are clear to all stakeholders, including authorities and victims, it is important to use language and terminology that accurately reflects this role of the IFRC and NSs.

### Role of public authorities

It is important to highlight that it is the role primarily of responsible authorities to address trafficking in human beings. It is also their responsibility to develop policies and action plans for the domestic context to address trafficking that are coherent with international legal frameworks. The scope of such action is broad and also includes: ensure offences are punishable, jurisdiction, sanctions, prosecution and criminal investigation.

It is advised to consider avoiding, where possible, the expressions mentioned below when reference to RCRC action is made. The reason is that in Europe these expressions are widely used to include actions related to crime-fighting (criminal investigations, prosecution and judiciary cooperation) and can give a false impression that RCRC might also be involved in these activities.

**Some guiding principles:**

- Consider terminology that clearly separates what the RC offers from what can be seen as what the police or authorities offer. Terms like Identification, Prevention, Anti-, Contra are often used by various authorities. This will vary depending on the country context.
- Consider terminology that is either empowering for the trafficked person, or neutral. Terms such as 'rescue' and 'victim' may have disempowering connotations in different contexts. Suitable alternatives could be: 'trafficked persons', 'persons who experienced human trafficking/ exploitation', 'persons subjected to human trafficking/ exploitation', 'persons that were forced into prostitution' or 'survivors'.

Instead of:	Consider using:
Prevention of human trafficking	Awareness-raising on risks of human trafficking
Fighting / Combatting human trafficking	Protecting vulnerable groups from human trafficking/ reducing risks of human trafficking
The fight against human trafficking	Action to protect vulnerable groups from human trafficking
Anti-trafficking activities	Activities to protect against human trafficking

Depending on national context and experiences, National Societies might choose to use different terminology.

## ANNEX II

### IFRC CHECKLIST FOR DEVELOPING HUMAN TRAFFICKING RESPONSES

#### Introduction

Increasingly more Red Cross and Red Crescent personnel and volunteers are becoming aware of the signs of human trafficking and are starting to recognise these signs among the people we are assisting. There are training programmes available on the IFRC learning platform to train personnel to understand trafficking and spot these signs (e.g.: PROTECT e-learning module).

This document deals with the next step, after we have recognised the signs, it is important that we then handle the situation in an appropriate manner, ensuring the principle of 'do no harm'. Therefore, it is important that, at the most basic level, National Societies develop a procedure for referral of these cases to the appropriate service. National Societies may, depending on capacity and resources, also consider developing their own follow up activities to provide assistance and support to people who have experienced human trafficking.

What follows are some points and considerations to assist National Societies to develop the Referral Procedures, and the Follow Up activities. This list, that was developed by participants at the annual ATN conference in 2016, is not designed to be exhaustive, and is only meant to guide the initial discussions. Many National Societies have been through this process already, therefore there is much learning available through the movement, and National Societies can ask IFRC or the Action for Trafficked Persons Network for advice or support when doing this.

#### Referral Procedures

A referral procedure for (potential) victims of human trafficking should include information on:

- **Adequate training of staff and volunteers.** Which staff and volunteers need to be informed and what do they need to know? How do we disseminate knowledge?
  - Consider what are the local indicators of THB? Indicators are different depending on how much time you can be with a victim, or how long the victim is staying: need for short term and long term indicators.
- **Appointment of contact person in NS to handle reports of suspicious cases.** If there are other reporting lines, if you are working in a centre that is run by an external organisation and you are supposed to report to that director, then first discuss internally what to do.
  - To what internal procedure, policies guidelines, and already existing training do we refer? Include THB in safeguarding procedures (if NS has) and code of conduct/ ethical principles.
- **An extensive mapping to understand legal and institutional framework.** This also gives us the opportunity to provide clear information to those that need such services.
  - Consider: which institutions we can cooperate with safely and in line with our mandate? Do we need to create referral procedures to other organisations?

- **Considerations on the risks and dangers:** How do you determine risks to the safety and well-being of the person involved and the volunteers/staff? How can you mitigate these risks? Think about the potential need for a.o.:
  - Safety instructions;
  - Psychosocial support for volunteers/staff;
- **Considerations on how to follow the fundamental principles and basic principles:** data protection, informed consent, neutrality, not making promises, do not discriminate, gender approach, staying away from prosecution.
  - Which actors are suitable for the Red Cross to cooperate with and refer (potential) victims of human trafficking to?
  - How do you handle the information that you have acquired in an environment of safety and trust?
  - How can we report cases and create an evidence base while protecting the privacy and safety of the persons involved?
  - How to approach a potential victim?
  - How to do a holistic needs assessment?
  - How to deal with informed consent?

## Follow-up Activities

A procedure for a follow-up activity to support potential victims of THB should include information on:

- **A mapping exercise of the local context** to avoid duplications and reinventions of the wheel, and ensure added value. Include scan of access to services by different groups (eg. minors, male victims, victims of labour exploitation). Find out what the gaps are - what is missing?
  - Include a review of the legal context and relationships to formal structures in the country.
  - Consider gender protection, age, etc.
  - Review access to accommodation/shelter? Independent accommodation?
  - Develop partnerships externally and define what is role of RC.
- **Considerations on capacity, skills and mandate of your NS:** Is it up to RC to fill the gap or is there another organisation that should take the lead? We need to acknowledge that we cannot do everything ourselves. Focus on boundaries/ perimeters: what can you do and who can you cooperate with? Avoid politicization and involvement in law enforcement.
- **Security and safety planning** for victims and RC staff/volunteers.
- **Financial aspect:** is there funding for activity? Self-funded? Can we afford it? Can we sustain it?
- **Clear definition of the service:** Set clear objectives on what you are doing with clear indicators.

- **Service User engagement:** An empowering tool to ensure the activities are based on humanitarian needs. One idea could be to organise focus groups with the target group.
- **Training and Capacity Building:** How to build capacity, increase internal awareness and train staff and volunteers?
- **Wellbeing of staff and volunteers:** How to take care of ourselves, PSS for staff and volunteers?
- **Considerations on suitability for volunteers** to be working with victims, who can be very vulnerable. However, they can also be very strong people rather than vulnerable.
- **Keeping a record of responses and cases:** What reporting tools do we use? How to safely collect and store personal and sensitive data? How much of this data are we willing to share externally?
- **Standard operating procedures** to describe who within RC does what and how?
- **If exploring links with the countries of origin** avoid risks of re-trafficking. Approach possible activities on voluntary return with extreme caution.

## Annex III

### INTERNATIONAL LEGAL FRAMEWORK AGAINST TRAFFICKING IN HUMAN BEINGS

#### 1. Global instruments

- United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons
- United Nations Global Plan of Action against Trafficking in Persons (Resolution a/64/L.64)
- United Nations Convention on the Rights of the Child (Resolution 44/25)
- The optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
- International Labour Organisation Protocol to the Forced Labour Convention

#### 2. European Union/Council of Europe instruments

- European Union Directive on Trafficking in Human Beings
- Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse
- Council of Europe Convention on Action against Trafficking in Human Beings

#### 3. Further regional instruments:

- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
- American Convention on Human Rights
- Arab Charter on Human Rights
- South Asian Association for Regional Cooperation Convention on Preventing and Combating Trafficking in Women and Children for Prostitution
- African Charter on the Rights and Welfare of the Child
- Bangkok Declaration on Irregular/Undocumented Migration

For further information, please consult:

United Nations (2010, 64th Session) Global Plan of Action against Trafficking in Persons (Resolution a/64/L.64) Available at: <http://www.un.org/ga/president/64/letters/trafficking290710.pdf>

United Nations (1989, 61st Plenary Session) Convention on the Rights of the Child (Resolution a/44/25). Available at: <http://www.un.org/documents/ga/res/44/a44r025.htm>

United Nations (2000, 54th Session) Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (Resolution A/54/263). Available at: [https://treaties.un.org/doc/source/docs/A\\_Res\\_54\\_263-E.pdf](https://treaties.un.org/doc/source/docs/A_Res_54_263-E.pdf)

United Nations Office on Drugs and Crime. Regional and interregional instruments against trafficking in persons. Available at: [https://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296\\_tool\\_1-8.pdf](https://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_1-8.pdf)

Council of Europe (2007) Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No.: 201). Available at: <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?CL=ENG&NT=201>

Council of Europe (2005) Convention on Action against Trafficking in Human Beings Available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/197.htm>

International Labour Organisation (2014) Protocol to the Forced Labour Convention Available at: [http://www.ilo.org/wcmsp5/groups/public/--ed\\_norm/--relconf/documents/meetingdocument/wcms\\_246615.pdf](http://www.ilo.org/wcmsp5/groups/public/--ed_norm/--relconf/documents/meetingdocument/wcms_246615.pdf)

South Asian Association for Regional Cooperation: Convention on Preventing and Combating Trafficking in Women And Children for Prostitution. Available at: <http://www.saarc-sec.org/userfiles/conv-trafficking.pdf>

African Union (1990) African Charter On The Rights And Welfare of the Child. Available at: [http://www.au.int/en/sites/default/files/Charter\\_En\\_African\\_Charter\\_on\\_the\\_Rights\\_and\\_Welfare\\_of\\_the\\_Child\\_AddisAbaba\\_July1990.pdf](http://www.au.int/en/sites/default/files/Charter_En_African_Charter_on_the_Rights_and_Welfare_of_the_Child_AddisAbaba_July1990.pdf)

African union: Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Available at: [http://www.achpr.org/files/instruments/women-protocol/achpr\\_instr\\_proto\\_women\\_eng.pdf](http://www.achpr.org/files/instruments/women-protocol/achpr_instr_proto_women_eng.pdf)

League of Arab States (2004) Arab Charter on Human Rights. Available at: <https://www1.umn.edu/humanrts/instree/loas2005.html>

# 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.