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**Statement by UNHCR
at the interactive panel discussion on
“human rights of migrants in detention centres”
12th session of the Human Rights Council
17 September 2009**

Mr. President, Madame High Commissioner,

UNHCR appreciates this opportunity to contribute to the discussion given that many States routinely detain undocumented asylum-seekers and refugees, including children, alongside other migrants, sometimes for prolonged periods. Yet, the fact that people fleeing persecution, serious human rights violations and conflict cannot always comply with entry requirements is explicitly recognized in Article 31 of the 1951 Refugee Convention. This provision obliges States to exempt refugees from punishment for irregular entry. UNHCR would therefore like to see an explicit reference to Article 31 of the 1951 Refugee Convention, alongside references to relevant human rights law, in any future resolution or other outcome based on this panel.

The conditions in the detention centres often do not comply with basic human rights standards, including those specifically benefiting women, children and disabled persons. Humanitarian actors may not have access, and adequate mechanisms for identifying those who may have refugee protection needs, and facilitating their referral to asylum procedures, are too often not in place. It is therefore important that any future resolution, or other outcome, emphasizes the importance of providing information about the right to seek asylum to irregular migrants in detention, and the need to establish identification and referral systems in places of detention. Psycho-social counseling, legal aid and interpreters are other elements necessary for effectively exercising the right to seek and enjoy asylum.

Furthermore, when detention is used to prevent persons from absconding prior to deportation, it must be ensured that access to asylum procedures is guaranteed for those who claim to have international protection needs at the time of deportation. The risk of arbitrary detention of stateless persons also increases in a migration context. Some may end up in prolonged or even indefinite detention because their countries of habitual residence refuse to receive them back. The gravity of these cases justifies increased attention by the Council to the obligation of states to allow the return of their nationals and habitually residing stateless persons.

UNHCR looks forward to contributing to further discussions on this topic, which is highly relevant for many of the persons of concern to our Office.

Thank you.