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UNHCR Handbook for the **Protection** of **Women and Girls**



Acknowledgments

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Nepal / Bhutanese refugee women participate in a micro-credit scheme, which offers loans to start small businesses / Timai camp, eastern Nepal / UNHCR / J. Pagonis / 2005

Zambia / Angolan refugee woman at rehabilitation centre run by UNHCR partner Jesuit Refugee Service to provide training and livelihoods to refugees injured by conflict, Nangweshi Camp / UNHCR / B. Neeleman / 2004

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Democratic Republic of the Congo / Returnee women learning hairdressing in a Women-to-Women International vocational training project in Baraka, South Kivu Province, which is currently benefiting 1,000 women / P. Mateu / 2007

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Kenya / "Empower a woman - Empower a nation" / Women's Support Group members discuss issues which women in the camp have been raising with them and how to go about dealing with these problems / Kakuma refugee camp / UNHCR / A. Webster / 2006

Syria / Iraqi refugees attend English lessons in Masaken Barzeh, Damascus, supported by UNHCR / UNHCR / J. Wreford / 2007

Foreword

Almost 60 years ago, the Universal Declaration of Human Rights proclaimed that “all human beings are born free and equal in dignity and rights...without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.

Today, women and girls everywhere still face greater obstacles claiming and enjoying their rights than do men and boys. Displacement generally exacerbates these inequalities, as does a tendency to focus on human rights abuses in public, rather than private, spheres. Gender inequality is at the heart of sexual and gender-based violence. To prevent SGBV we must therefore put an end to such inequalities.

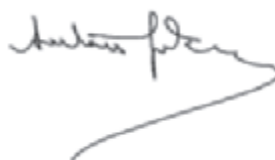
Too often, gender, displacement and other factors combine to amplify discrimination against women and girls. UNHCR's Executive Committee has acknowledged that “while forcibly displaced men and boys also face protection problems, women and girls can be exposed to particular protection problems related to their gender, their cultural and socio-economic position, and their legal status, which mean that they may be less likely than men and boys to be able to exercise their rights”.

There is also, even now, a massive culture of neglect and denial about violence against women and girls. That culture of neglect and denial exists everywhere, and we must face up to it. This means working to change our attitudes and actively promoting equality for women and men, girls and boys, and respect for women's and girls' rights.

The key issue, at the levels of the United Nations system, our organization and the displaced community, remains the empowerment of women and girls. UNHCR is working to promote gender equality by using a rights- and community-based approach, by mainstreaming age, gender and diversity, and through targeted actions to empower women and girls in civil, political and economic areas. The aim is to ensure that the rights of all persons of concern – whether male or female, young or old, or facing discrimination on account of disability, ethnicity, class, sexuality or other factors – are enjoyed equally.

This Handbook is a tool to help achieve this. It replaces the 1991 UNHCR Guidelines on the Protection of Refugee Women and incorporates comments on a provisional edition, issued in June 2006, from a range of partners and users in the field.

I expect all staff members to become familiar with the Handbook as I am confident it can help both UNHCR and partners enhance the protection of women and girls of concern.



António Guterres
United Nations High Commissioner for Refugees
January 2008

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Acronyms and abbreviations

1951 Refugee Convention	1951 Convention Relating to the Status of Refugees
1967 Protocol	1967 Protocol to the 1951 Geneva Convention
AGDM	Age, gender and diversity mainstreaming
ARC	Action for the Rights of Children
ARC	American Refugee Committee
C4C	Communication for Change
CCM	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	International Convention on the Elimination of all Forms of Racial Discrimination
CIDA	Canadian International Development Agency
CRC	Convention on the Rights of the Child
CRS	Convention on the Reduction of Statelessness
CSSP	Convention Related to the Status of Stateless Persons
CSW	Commission on the Status of Women
DANIDA	Danish International Development Agency
DEDAW	Declaration on the Elimination of All Forms of Discrimination Against Women
DEVAW	Declaration on the Elimination of Violence Against Women
DFID	Department for International Development (United Kingdom)
ECOSOC	Economic, Cultural and Social Council
ExCom	Executive Committee of the High Commissioner's Programme
FAO	Food and Agriculture Organization
FGM	Female genital mutilation
IASC	Inter-Agency Standing Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPD	International Conference on Population and Development
ICRC	International Committee of the Red Cross
ICVA	International Council of Voluntary Agencies
IDP	Internally displaced person
ILO	International Labor Organization
INEE	Inter-agency Network for Education in Emergencies, Chronic Crisis and Early Reconstruction
InterAction	American Council for Voluntary International Action
IOM	International Organization for Migration
IPU	Inter-Parliamentary Union
IRC	International Rescue Committee
IRC	Icelandic Red Cross
MDGs	Millennium Development Goals
MFTs	Multi-functional teams
MISP	Minimum initial service package

Continued on next page

Acronyms and abbreviations, Continued

NFI	Non-food item
NGO	Non-governmental organization
NORAD	Norwegian Agency for Development Cooperation
NRC	Norwegian Refugee Council
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSAGI	Office of the Special Adviser on Gender Issues and Advancement of Women, UN Department of Economic and Social Affairs
proGres	Profile Global Registration System
RSD	Refugee status determination
SCFUK	Save the Children UK
SCHR	Steering Committee for Humanitarian Response
SGBV	Sexual and gender-based violence
SIDA	Swedish International Development Agency
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDESA	United Nations Department of Economic and Social Affairs
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UN-HABITAT	United Nations Human Settlements Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
WFP	World Food Programme
WHO	World Health Organization

Introduction to the Handbook

Overview

Introduction

This Handbook describes some of the protection challenges faced by women and girls of concern to the Office of the United Nations High Commissioner for Refugees (UNHCR) and outlines various strategies we should adopt with our partners to tackle these challenges.

It sets out the legal standards and principles that guide our work to protect women and girls and outlines the different roles and responsibilities of States and other actors. UNHCR's own responsibilities in this respect are explained, both as part of its mandate to secure international protection and durable solutions and as a United Nations (UN) agency.

Suggestions for actions by UNHCR and partners to support women's and girls' enjoyment of their rights are also included. Examples of innovative practices from the field illustrate how these principles can be applied.¹

Who are women and girls of concern?

This Handbook refers to the protection of women and girls² with the understanding that we are referring to all women and girls of concern to UNHCR, namely women and girls who are:

- asylum-seekers,
 - refugees,
 - internally displaced,³
 - returnees,⁴
 - stateless,⁵ or
 - who have integrated into new communities.⁶
-

Purpose and intended audience

The primary purpose of the Handbook is to help UNHCR staff fulfil their responsibilities to protect these women and girls more effectively.

It is therefore intended for representatives, other managers, protection staff in the field and at headquarters, registration officers, eligibility officers, community services staff, field officers, and others. Protection partners will find it a useful source of information and guidance.

The Handbook is intended to be used in situations of asylum, internal displacement, return, integration, and statelessness. It is equally applicable in urban and rural contexts.

Continued on next page

¹ Further good practices relevant to the protection of women and girls can also be found in UNHCR, *Operational Protection in Camps and Settlements: a Reference Guide of Good Practices in the Protection of Refugees and Other Persons of Concern*, December 2005.

² In this Handbook, the term "girl" refers to any female human being below the age of eighteen years, just as Article 1 of the 1989 Convention on the Rights of the Child defines a child as "every human being below the age of eighteen years".

³ Internally displaced persons (IDPs) are individuals who have been forced to leave their homes as a result of armed conflict, internal strife, systematic violations of human rights, or natural or man-made disasters and who are within the territory of their own country. Individuals who have been displaced as a result of natural or man-made disasters are not normally of concern to UNHCR.

⁴ Returnees are former refugees or internally displaced persons who have returned to their countries or areas of origin.

⁵ UNHCR's mandate for stateless persons derives not only from its responsibility for refugees who may be stateless, but also as the supervisory body for the 1961 Convention on the Reduction of Statelessness, from UN General Assembly resolutions, Executive Committee (ExCom) Conclusions, and the UN Commission on Human Rights. UNHCR's activities in the field of statelessness fall under the following broad categories: identification of stateless populations, prevention and reduction of statelessness, and protection of stateless persons.

⁶ For refugees, this involves integration in situations of local integration in the country of asylum and, for IDPs, integration in the place of displacement or in a country of resettlement.

Overview, continued

Objectives

The objectives of the Handbook are to:

- improve understanding among UNHCR staff and partners of the challenges and barriers women and girls of concern confront in accessing and enjoying their rights during displacement, return, and (re)integration;
 - ensure all UNHCR staff are familiar with the international legal standards forming the normative framework for our work to protect women and girls;
 - ensure all UNHCR staff understand their responsibilities for the protection of women and girls;
 - improve knowledge of how discrimination against women and girls can lead to statelessness and what initiatives can be taken to prevent and reduce cases of statelessness;
 - provide guidance on ways of working and types of activities that can be carried out to fulfil our responsibilities; and
 - refer staff to additional resources, guidelines, and tools that may be used to enhance the protection of women and girls.
-

Guide to using this Handbook

The Handbook is divided into six chapters.

- **Chapter 1** describes how women and girls are affected by forced displacement and summarizes the efforts UNHCR and the UN have made to promote gender equality and protect women and girls.
- **Chapter 2** shows how we should use a combination of a “rights- and community-based approach” and “age, gender and diversity mainstreaming” (AGDM) to achieve gender equality. It suggests ways to strengthen women’s and girls’ participation and empowerment and stresses the importance of working with men and boys on this issue.
- **Chapter 3** looks at how to identify, prevent and respond to risks which individual women and girls may face and to risks in the wider protection environment. It explains how confidential individual case management systems and committees should be established in each operation to coordinate and monitor the response to the situation of all persons of concern at heightened risk and to support solutions for them.
- **Chapter 4** explains the importance of partnerships and outlines the key approaches we can adopt to ensure the protection of women and girls. This includes several tools of particular relevance to protecting women and girls and securing durable solutions for them.
- **Chapter 5**, the longest chapter, looks at key rights of women and girls that may be violated and makes suggestions as to how we can respond.
- **Chapter 6** describes the international legal framework that underpins our work to protect women and girls.

Each of these six chapters is further divided into sections. Each chapter and section is introduced by an overview and table of contents to help users find specific topics.

Continued on next page

Overview, continued

Other resources

A great deal of other information exists about the different themes and issues in this Handbook. It does not pretend to be comprehensive, but rather to point to some of these other resources, so that users can locate and use them when dealing with particular issues and themes in greater depth.

Many of these additional reference materials on particular issues, especially those relating to relevant international legal standards, are contained in the accompanying CD-Rom. These should also be used to complement the Handbook.

IASC Handbooks on gender and on IDPs

This Handbook should in particular be used in conjunction with the Inter-Agency Standing Committee (IASC) Gender Handbook in Humanitarian Action entitled *Women, Girls, Boys and Men: Different Needs – Equal Opportunities*,⁷ since it also provides practical guidance on a number of issues which have not been included here.

In addition, as indicated above, the present Handbook is intended to be applicable to the protection of internally displaced women and girls. This is especially so bearing in mind UNHCR's strengthened involvement in internal displacement situations within the UN system (see also chapter 4, section 1.1). The Office is in the process of strengthening its knowledge and capacities in such situations. Users are therefore especially referred to the provisional edition of the inter-agency *Handbook for the Protection of Internally Displaced Persons*, the provisional release of which is being issued in December 2007.⁸

⁷ Inter-Agency Standing Committee, *Women, Girls, Boys and Men: Different Needs – Equal Opportunities* Gender Handbook in Humanitarian Action, December 2006, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opensslpdf.pdf?docid=46978c842>.

⁸ Global Protection Cluster Working Group, *Handbook for the Protection of Internally Displaced Persons*, December 2007, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opensslpdf.pdf?docid=4790cbc02>.



Chad / A refugee mother and daughter carry their belongings away from the water after their makeshift shelter was flooded with the first heavy rains near Bahai. The flooded-out refugees were immediately transferred to a new camp which had just been opened to receive them / UNHCR / H. Caux / July 2004



Afghanistan / Displaced girls who have returned to Sheikh Mesri, near Jalalabad / UNHCR / S. Schulman / October 2006

Chapter 1: Introduction to Protecting Women and Girls

Overview

Introduction

The protection of women and girls of concern is a core activity and an organizational priority for UNHCR. Members of UNHCR's Executive Committee (ExCom) have specifically recognized the need to devote attention and resources to help ensure the protection of women since 1985¹ and of children since 1987.² They reaffirmed this in the Agenda for Protection in 2002.³

In order to ensure the protection of these women and girls, it is important for each of us to understand and to recognize the particular challenges they face. These include challenges related to their gender, their roles and position in society. In this way, we can work more effectively to secure their protection on an equal basis to that of men and boys of concern.

Purpose

The purpose of this chapter is to provide a brief overview of the

- changing dynamics of forced displacement since UNHCR first issued its Guidelines on women and on children in the early 1990s;
 - challenges displaced and returnee women and girls face today;
 - UN-wide and UNHCR steps to address them through activities to promote gender equality; and
 - challenges to implementation that have arisen.
-

UNHCR's Guidelines on women (1991)

UNHCR's *Guidelines on the Protection of Refugee Women*, issued in 1991, have been an important tool in raising the awareness of UNHCR staff and partners about the particular protection problems faced by refugee women, and setting out ways to resolve these problems. Innovative for their time, they recognized how assistance affects the protection of women and emphasized the importance of women participating in decision-making and planning processes.

UNHCR's Guidelines on children (1994)

UNHCR's *Refugee Children: Guidelines on Protection and Care* issued in 1994 follow the framework of the 1989 Convention on the Rights of the Child to help us move from thinking of children as having needs that should be met to recognizing them as having rights to which they are entitled.

These rights are underpinned by the three principles of non-discrimination, participation, and the child's "best interests" contained in the Convention, which together reinforce each other to reach the objective of the survival and development of the child.⁴ The Guidelines also stress the importance of community involvement in action to ensure refugee children's protection and care, including through direct interventions and support to their families and communities.

Continued on next page

¹ ExCom Conclusion No. 39 (XXXVI), 1985.

² ExCom Conclusion No. 47 (XXXVIII), 1987.

³ See Agenda for Protection, Goal 6, "Meeting the Protection Needs of Refugee Women and Children", at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=4714a1bf2>.

⁴ For further details see chapter 6, section 1.2.2.

Overview, continued

Changes since the early 1990s

Since both these Guidelines were issued in the early 1990s, the dynamics of forced displacement have changed radically, as is outlined in the following section. These changes have affected everyone fleeing violence and persecution, but they have affected women and girls in different ways from men and boys and have raised additional protection concerns.

At the same time, new standards, mechanisms, and approaches have been developed at the international level to promote gender equality and eliminate violence against women and girls. UNHCR has also taken steps at both the policy and operational levels to enhance the protection of women and girls.

The continuing challenge

As in all societies, women and girls of concern in every country and community in which UNHCR works are less likely than men and boys to have access to even the most fundamental of their rights. These include their right to food, health care, shelter, nationality, and documentation. Girls, for instance, are less likely than boys to attend school. Often, they must spend their time doing domestic chores or may be married off as children and become teenage mothers.

Armed conflict often serves to exacerbate discrimination and violence against women and girls.⁵ Such violence is endemic not only in conflict, but during its aftermath, as women and girls try to re-establish their daily lives.

These human rights violations are not only a result of forced displacement, they are directly related to the discrimination and violence women and girls endure in peace time,⁶ since women and girls do not enjoy equal status with men and boys in most societies.

Even when it becomes possible to return home, women and adolescent girls have fewer opportunities to participate in peace and reconstruction processes. Men are usually also better placed to be involved in, and benefit from, reconstruction initiatives because of their greater control over economic resources, access to education, and participation in public life before the conflict.⁷

In this chapter

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⁵ *Women, Peace and Security*, Study Submitted by the Secretary-General pursuant to Security Council Resolution 1325 (2000), 2002, at <http://www.un.org/womenwatch/daw/public/eWPS.pdf>, para. 6.

⁶ Ellen Johnson Sirleaf and Elisabeth Rehn, *Women, War and Peace: The Independent Experts' Assessment*, Progress of the World's Women, 2002, Vol. 1, p. 15.

⁷ *Women, Peace and Security*, Study Submitted by the Secretary-General pursuant to Security Council Resolution 1325 (2000), 2002, para. 338.

1.1 Displacement today

"My family and I were hiding in a room during an attack when a rebel broke in. My mother was asked to give one of her children up or else the entire family would be killed. My mother gave me up. The rebels took me with them, and on our way to their camp I was raped by seven of them. I was bleeding heavily and unable to walk any further. They threatened to kill me if I did not go with them. I was held by them for one year. I became pregnant and decided to escape. Upon my arrival in Freetown, I was rejected by my family and my community. I asked myself, 'Who will help me now?'"

Marion, Sierra Leonean internally displaced girl aged 17⁸

Introduction

Conflict, war, persecution, and forced displacement are devastating for individuals, families, communities, and countries. People are torn apart from their loved ones and often lose their livelihoods, their land, their entire way of life. Living in overcrowded camps and makeshift settlements, or hidden from view in cities and towns, those who have been forcibly displaced struggle to survive. When they return home, for instance, after a conflict has ended, they usually face still more obstacles to resuming a normal life.

Armed conflict today

The number of internal armed conflicts has increased dramatically since the early 1990s. Civilians have become the targets of the warring parties and have been subject to massive human rights violations. Many seek safety abroad, but may find it difficult to find a country that will admit and protect them. Even more are displaced within their own country. There, they often remain too close to the conflict and humanitarian access may be "anything but safe, certainly not timely, and far from unhindered".⁹ The number of internally displaced persons (IDPs) now outnumbers that of asylum-seekers and refugees.¹⁰

Impact on women and girls

No one is spared the violence, but women and girls are particularly affected because of their status in society and their sex. Sexual and gender-based violence (SGBV) – including rape, forced impregnation, forced abortion, trafficking, sexual slavery, and the intentional spread of sexually transmitted infections, including HIV/AIDS – is one of the defining characteristics of contemporary armed conflict. Its primary targets are women and girls.

Women and girls, like men and boys, also risk abduction and forced recruitment by armed groups, whether as fighters, for sexual exploitation or other tasks. The number of single- and/or child-headed households increases during conflict and female adolescent heads of household are particularly at risk of rights violations and marginalization.¹¹

Human rights violations

More generally, even where there is no armed conflict, women and girls continue to be subject to serious human rights violations resulting from discrimination and/or violence against them because of their gender, age and/or other factors. Where States are unable or unwilling to control such behaviour, this can result in impunity and oblige women and girls to flee in search of safety.

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⁸ UNHCR and Women's Commission for Refugee Women and Children, *Respect our Rights: Partnership for Equality*, Report on the Dialogue with Refugee Women, Geneva, 20–22 June 2001, p. 17.

⁹ "Report of the Secretary-General on the Protection of Civilians in Armed Conflict", S/2007/643, 28 October 2007, paras. 4–9 and 33.

¹⁰ See UNHCR Division of Operational Services, "2006 Global Trends: Refugees, Asylum-seekers, Returnees and Stateless Persons", 16 July 2007.

¹¹ *Women, Peace and Security*, Study Submitted by the Secretary-General pursuant to Security Council Resolution 1325 (2000), 2002, para. 87. See also, Dyan Mazurana and Christopher Carlson, "The Girl Child and Armed Conflict: Recognizing and Addressing Grave Violations of Girls' Human Rights", September 2006, at <http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/ExpertPapers/EP.12%20Mazurana.pdf>.

1.1 Displacement today, continued

Mixed movements of refugees and migrants

At the same time, accessing territory and finding protection in another country has become more and more difficult. Asylum-seekers and refugees fleeing persecution and human rights abuses now often flee as part of mixed movements of people along with economic migrants. Frequently, governments seeking to control illegal migration also impose visas or intercept individuals who do not have the correct documentation. Yet these people may well include refugees, who may as a result be prevented from reaching somewhere where they can safely claim asylum.

Increasingly, women and children, including unaccompanied and separated children, are part of these movements.¹² Nevertheless, the position of women and girls in society, their frequent lack of means to travel and/or knowledge about their rights and the particular risks they face during flight mean it is generally still more difficult for women than men to reach a country where they can safely seek asylum.

Without regular means of reaching a country where they can seek asylum, refugees now often have to resort to smugglers and perilous routes to reach safety. Women and adolescent girls in search of protection may also be forced to offer sex to border guards and others in return for permission to pass and are at greater risk of being trafficked into prostitution and other forced labour.

More restrictive asylum systems

Concerns that economic migrants are misusing asylum channels to gain regular admission are one factor resulting in more restrictive asylum systems. Some politicians and certain governments are also increasingly willing to make political capital out of a tough line towards foreigners, including refugees and asylum-seekers.

Restrictive measures affect everyone trying to seek asylum but women and girls face additional challenges securing asylum. This is so, if, for instance, they are victims/survivors of SGBV or are on their own, either as single women or as unaccompanied or separated girls. In collective reception centres, women and girls on their own may also be at risk of further abuse or violence, if they are not accommodated separately from men or if there is not sufficient privacy. Too often, unaccompanied or separated girls fall victim to traffickers and disappear in the course of the asylum procedure.

Asylum claims by women and girls

When women and girls seek asylum, awareness of how persecutory treatment may differ or may be experienced differently depending on age or gender may well be inadequate. Women and girls may also be reluctant to speak about their experiences in front of male interviewers or male interpreters and procedures may not take proper account of children's perspectives and experiences.

There have nevertheless been some advances. For example, a growing number of States do recognize that refugee status can be recognized in cases involving gender-related persecution, including that involving domestic violence and harmful traditional practices.

¹² UNFPA, *State of the World's Population 2006: A Passage to Hope: Women and International Migration*, 2006.

1.2 Impact of displacement on women and girls

Introduction

The impact of forced displacement on women and girls can be devastating. When families become separated this removes the support and protection the family used to provide. Family members may have to assume different roles and women and girls may become sole providers for their children/siblings. The situation is exacerbated by the lack of gender equality. Particular challenges can arise in the following situations:

- urban areas,
- camps,
- isolated non-camp areas,
- upon return,
- upon local integration, and
- upon resettlement.

Note: The impact on women and girls in each of these situations is discussed further below.

"We live in overcrowded, airless, single rooms. There is no fresh water, no kitchen, and many people share the toilet... We have to hide our shoes because if the landlord sees many shoes outside he will know how many people are living here and will kick us all out."

Refugee women at a UNHCR workshop on the identification and protection of women at risk, New Delhi, India, September 2005

Impact in urban areas

Forcibly displaced women and girls in urban areas often live in squalid conditions and lack access to fundamental services, such as education and health care. Without money to pay for rent or even food, women risk sexual exploitation by landlords and others. Some displaced women and girls are virtually imprisoned indoors, fearing arrest and deportation, or the wrath of their husband, father, male siblings or other relations, if they leave their homes. If they are employed as domestic workers, they often face violence and/or exploitation at the hands of their employers and may be less well equipped than their male counterparts to resist such treatment.

"I wanted to follow the law and get justice for my child, but the neighbour offered me money instead, and my husband accepted the money. I wanted to insist that we take the case to court for my daughter, but I feared my husband would beat me if I kept pushing. I am angry for what happened but by the grace of God my little girl did not get a fatal disease. This kind of thing happens all the time in the camp."

Refugee mother in Tanzania whose seven-year-old daughter was raped by her paternal uncle¹³

In camps

The situation of displaced women and girls living in camps – often for years on end – is not much better. At the end of 2003, 6.2 million refugees were living in protracted refugee situations in 38 countries in the world, mostly in Africa.¹⁴

Increasingly lengthy stays in camps, which are often located in insecure areas and may be subject to cross-border attacks, result in declining international attention and resources, lack of privacy and livelihood

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¹³ Human Rights Watch, "Seeking Protection: Addressing Sexual and Domestic Violence in Tanzania's Refugee Camps", 2000, p. 49.

¹⁴ UNHCR, "Protracted Refugee Situations", EC/54/SC/CRP.14, Standing Committee, 10 June 2004. "Refugees can be regarded as living in a protracted situation when they have lived in exile for more than five years, and when they still have no immediate prospect of finding a durable solution to their plight by means of voluntary repatriation, local integration or resettlement." From J. Crisp, "No Solutions in Sight: the Problem of Protracted Refugee Situations in Africa", New Issues in Refugee Research, Evaluation and Policy Analysis Unit, UNHCR, January 2003.

1.2 Impact of displacement on women and girls, continued

In camps (continued)

opportunities, limited participation in decision-making processes, and restricted access to fundamental rights lead to a host of protection risks for women and girls.

Sexual and gender-based violence (SGBV), including domestic violence and alcohol abuse, increases in such circumstances. Women and girls may be attacked as they look for firewood or water outside the camp. Lack of, or biases in, judicial systems and/or in traditional justice mechanisms often leave them with no redress or result in further stigmatization and discrimination. As financial resources are depleted, adolescent girls are married off at increasingly younger ages. For some women and girls, survival sex becomes the only way to support themselves and their families.

In addition, in situations of internal displacement, humanitarian access, including to women and girls, is often more limited. IDP women and girls are also more likely to be caught in the midst of ongoing conflict, with all its attendant risks, including of repeated raids, abduction, forced military recruitment, and SGBV.

In isolated non-camp areas

Displaced women and girls in non-camp rural areas can also face significant challenges. They may, for instance,

- be unable to find adequately paid jobs and therefore be at risk of exploitation, working, for instance, for extremely low wages on isolated farms, living in squalid conditions and being effectively trapped;
- have to pass through police or military road blocks, limiting their freedom of movement and exposing them to harassment and SGBV;
- have to obtain permission to travel or have to be accompanied by a male relative if they need medical or other assistance; and/or
- have to travel long distances, for instance, to obtain documentation or assistance, putting further strain on their meagre resources and reducing the chances of being able to access reproductive healthcare services and education.

Internally displaced women and girls living in remote areas are also more vulnerable to armed attack by raiders and are at heightened risk of abduction, rape and sexual abuse.

"The international community only cared about Kosovar women when they were being raped – and then only as some sort of exciting story. We see now that they really don't give a damn about us. What we see are men, men, men from Europe and America and even Asia, listening to men, men, men from Kosovo... But when it comes to real involvement in the planning of our country, our men tell the foreign men to ignore our ideas. And they are happy to do so under the notion of 'cultural sensitivity'".

Woman from Kosovo¹⁵

Upon return

In recent years, many refugees and internally displaced persons have returned home. Yet returning often entails new hardships for women and girls, many of whom are not given a real choice about the decision to return. The high level of violence during the conflict often becomes the new "norm" that continues into

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¹⁵ Elisabeth Rehn and Ellen Johnson Sirleaf, *Women, War, Peace: The Independent Experts' Assessment*, Progress of the World's Women, 2002, Vol. 2, p. 130.

1.2 Impact of displacement on women and girls, continued

Upon return (continued)

the post-conflict period, where chaos adds to the many frustrations that were not resolved by war.¹⁶

Frequently excluded from peace processes, women and girls often suffer continued violence and discrimination in reconstruction and rehabilitation activities.¹⁷ In the absence of male relatives, especially following conflict, women and girls may assume non-traditional roles and face discrimination and prejudice as a result. Once home, women and girls may face obstacles accessing their housing, land or property, education, and other essential services.

In some cases, they may find themselves face to face with their rapists and attackers and be forced to live in fear and silence, as cultural taboos and the absence of support have kept the crimes hidden and protected the perpetrators.

These challenges may, in turn, undermine the sustainability of their return.

Upon local integration

Refugee women and girls who are able to integrate locally in their country of asylum often have to adapt to very different roles and cultures. Girls may face additional pressures and may be obliged to assume roles as care-givers, where, for instance, their parents do not speak the local language, while older and/or single women may find themselves marginalized and without the support they enjoyed in their country of origin. Trauma and lengthy asylum procedures can further hamper the integration process.

Upon resettlement

In the resettlement context, UNHCR faces challenges ensuring the timely identification for resettlement of refugee women and girls who are most at risk. Problems may also arise regarding divorce, child custody, polygamous marriages and where children, including girls, are unaccompanied or separated. In addition, UNHCR may need to deal with situations where family members provide inaccurate information when seeking to qualify for resettlement.

After resettlement, refugee women often remain exposed to protection risks such as domestic violence, which can actually become worse in the new resettlement environment.

Note: For more on securing solutions for women and girls, see chapter 4, section 3.

Resilience of women and girls

At the same time, despite all these challenges, women and girls of concern show great resilience, resourcefulness and courage in adapting to and surmounting these problems. They may too often become victims of serious human rights violations, but they are also strong survivors whose active participation and empowerment we must support and secure if we are to protect their rights and those of their communities.

¹⁶ Elisabeth Rehn and Ellen Johnson Sirleaf, *Women, War, Peace: The Independent Experts' Assessment*, Progress of the World's Women, 2002, Vol. 2, p. 12.

¹⁷ Report of the Special Rapporteur on Violence against Women, "Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women", E/CN.4/2003/75, 6 January 2003.

1.3 Promoting gender equality to protect women and girls

"Sixty years have passed since the founders of the United Nations inscribed on the first page of our Charter the equal rights of women and men. Since then, study after study has taught us that there is no tool for development more effective than the empowerment of women. No other policy is as likely to raise economic productivity or to reduce infant and maternal mortality. No other policy is as sure to improve nutrition and promote health, including the prevention of HIV/AIDS. No other policy is as powerful in increasing the chances of education for the next generation. And I would venture that no policy is more important in preventing conflict, or in achieving reconciliation after a conflict has ended."

UN Secretary-General Kofi Annan at the Beijing +10 meeting in New York, March 2005

Introduction

Women and girls generally have fewer opportunities, fewer resources, lower status, and less power and influence than men and boys. Yet everyone is entitled to enjoy the human rights and fundamental freedoms set out in international law on an equal basis without distinction or discrimination, including as regards their gender and age.¹⁸ Gender equality is thus first and foremost a human right.

Definition: Gender

The term "gender" refers to "the social attributes and opportunities associated with being male and female and the relationships between women and men and girls and boys, as well as the relations between women and those between men. These attributes are socially constructed and are learned through socialization processes. They are context/time-specific and changeable. Gender determines what is expected, allowed and valued in a woman or a man in a given context. In most societies there are differences and inequalities between women and men in responsibilities assigned, activities undertaken, access to and control over resources, as well as decision-making opportunities. Gender is part of the broader socio-cultural context. Other important criteria for socio-cultural analysis include class, race, poverty level, ethnic group and age."¹⁹

Definition: Gender equality

Equality between women and men (gender equality) refers to "the equal rights, responsibilities and opportunities of women and men and girls and boys. Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration – recognizing the diversity of different groups of women and men. Gender equality is not a 'women's issue' but should concern and fully engage men as well as women."²⁰

Gender inequality is a cause of sexual and gender-based violence. As the IASC has affirmed, "[p]rotecting human rights and promoting gender equality must be seen as central to the humanitarian community's responsibility to protect and provide assistance to those affected by emergencies".²¹

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¹⁸ See 1948 Universal Declaration of Human Rights, Article 2; 1966 International Covenant on Civil and Political Rights, Article 3; 1979 Convention on the Elimination of all Forms of Discrimination against Women, Article 3; Human Rights Committee, "General Comment No. 28: Article 3 (The equality of rights between men and women)", 2000.

¹⁹ This is the definition given by the Office of the Special Adviser on Gender Issues and Advancement of Women (OSAGI), Department of Economic and Social Affairs of the UN and is at <http://www.un.org/womenwatch/osagi/conceptsanddefinitions.htm>.

²⁰ This definition also comes from OSAGI.

²¹ See, IASC, *Women, Girls, Boys and Men: Different Needs – Equal Opportunities* Gender Handbook in Humanitarian Action, December 2006, p. 1.

1.3 Promoting gender equality to protect women and girls, continued

Protection through gender equality

Promoting gender equality requires recognition that:

- current social, economic, cultural, and political systems are gendered;
- women's unequal status is systemic;
- this pattern is further affected by factors such as age, religion, race, ethnicity, and disability;²² and
- sexual and gender-based violence (SGBV) is a result of gender inequality.

We must therefore address gender inequality, if we are to protect women and girls of concern.

A UN-wide responsibility to mainstream gender

The UN system has adopted a policy of gender mainstreaming. This recognizes that gender equality is not simply a female issue and that supporting women's and girls' empowerment needs to be complemented by a wider strategy. By focusing also on men and boys, as well as institutions, policies, and programmes, it holds great potential for societal change. It clearly recognizes that gender equality can only be achieved through partnership between women and men.

All UN agencies, including UNHCR, are required to mainstream a gender perspective in their programmes, policies, and operations and to establish clear plans of action for doing so.²³

Definition: Gender mainstreaming

ECOSOC defines gender mainstreaming or mainstreaming a gender perspective as "the process of assessing the implication for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral part of the design, implementation, monitoring, and evaluation of policies and programmes in all political, economic, and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality."²⁴

Targeted action to empower women and girls

Mainstreaming age, gender and diversity concerns into our analysis will highlight inequalities. To achieve gender equality in such situations, targeted actions are required to empower women and girls and other groups of different ages and backgrounds who face discrimination.

Empowerment is a process of supporting women and girls to

- analyse their situation from an age, gender and diversity perspective,
 - access information on their rights,
 - define their own priorities, and
-

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²² See, Gender Equality at the Canadian International Development Agency (CIDA), at www.acdi-cida.gc.ca/equality.

²³ See, IASC, *Women, Girls, Boys and Men: Different Needs – Equal Opportunities* Gender Handbook in Humanitarian Action, December 2006.

²⁴ ECOSOC Resolution 1997/2, "Agreed Conclusions on Gender Mainstreaming", at <http://www.unhcr.org/cgi-bin/texis/vbx/refworld/rwmain?docid=4652c9fc2&page=search>.

1.3 Promoting gender equality to protect women and girls, continued

Targeted action to empower women and girls (continued)

- take action as they consider appropriate to address inequalities and realize their full capacities and skills, so that they can attain a level of control over their own environment and livelihood.
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UN-wide policy on gender equality and empowerment

Drawing these different elements together, the UN endorsed a “United Nations system-wide policy on gender equality and the empowerment of women and a strategy on gender mainstreaming” in December 2006.²⁵

This requires each UN entity, including UNHCR, to address gender equality in the concrete areas of development, peace and security and as a cross-cutting issue. This policy and strategy require us to

- strengthen accountability processes and mechanisms for gender mainstreaming;
 - strengthen results-based management for gender equality;
 - enhance oversight through monitoring, evaluation, audit and reporting;
 - allocate adequate human and financial resources to implementation of gender mainstreaming;
 - develop and/or strengthen all staff members’ capacity and competency in gender analysis, including that of senior management, to ensure that a gender perspective is reflected in our work at all times; and
 - reinforce coherence, coordination and knowledge and information management to ensure common goals and consistent working methods in promoting gender equality and the empowerment of women, especially at the country level.
-

Focus of UNHCR initiatives

As part of these wider developments, UNHCR has also worked to promote and protect the rights of women and girls of concern and achieve the goal of gender equality by adopting a two-pronged approach of:

- gender mainstreaming and
- targeted actions for empowerment in response to a gender analysis.²⁶

The Agenda for Protection commits UNHCR and States to preventing age-based and sexual and gender-based violence and to mainstreaming both gender equality and age-sensitivity.²⁷ This work is integral to achieving gender equality and to fulfilment of UNHCR’s protection mandate.

These goals have also been endorsed by UNHCR’s Executive Committee.²⁸ In 2007, for instance, it specifically recognized that “the active promotion of gender equality is essential to the protection of girls and boys, particularly those at heightened risk”.²⁹

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²⁵ The UN High Level Committee on Programmes and that on Management endorsed the policy and strategy in March 2006, as did the United Nations System Chief Executive Board (CEB) in December 2006. The Special Adviser on Gender Issues and the Advancement of Women in conjunction with the Inter-Agency Network were tasked with developing a system-wide action plan to operationalize the strategy. Within the UN system, the Commission the Status of Women (CSW), a functional Commission of the UN Economic and Social Council (ECOSOC) is also mandated to promote gender equality and the advancement of women.

²⁶ See also, IASC, *Women, Girls, Boys and Men: Different Needs – Equal Opportunities* Gender Handbook in Humanitarian Action, December 2006, p. 1.

²⁷ See Agenda for Protection, Goal 4, “Addressing security-related concerns more effectively” and Goal 6, “Meeting the protection needs of refugee women and children”.

²⁸ See ExCom Conclusions Nos. 92 (LIII) of 2002, 99 (LV) of 2004, 105 (LVII) of 2006 and 107 (LVIII) of 2007.

²⁹ ExCom Conclusion No. 107 (LVIII), 2007, children at risk, para. (b)(vii).

1.3 Promoting gender equality to protect women and girls, continued

UNHCR's AGDM strategy

UNHCR adopted a strategy to mainstream a gender perspective in all its programmes and reporting activities in 1999.³⁰ In 2004, it adopted and began implementing an age, gender, and diversity mainstreaming (AGDM) strategy throughout the organization. Multi-functional teams and participatory assessments are integral elements of this strategy.

Note: Further information on UNHCR's AGDM strategy and on accountability for AGDM can be found below in chapter 2, section 3.

UNHCR's empowerment activities

For many years, UNHCR has also implemented a range of activities and programmes aimed at empowering refugee and returnee women and girls. Activities have included:

- initiatives to prevent and respond to SGBV – the most widespread and serious protection problem facing women and girls of concern (see chapter 5, section 3.1.2);
 - creating a space for women and girls and strengthening their public voice so that they can participate meaningfully in and influence societal decision-making processes, including camp management or peace processes (see chapter 2, sections 4 and 5; chapter 4, section 3.1 and chapter 6, section 2.3 on Security Council resolution 1325 on women, peace, and security);
 - enhancing their equal access to education, health and other services and their economic empowerment (see chapter 5, sections 5, 6 and 7), and
 - working to achieve a shift in power relations between women and men, girls and boys towards equality, including in traditional roles inside the home (see also chapter 2, section 6).
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UNHCR's Five Commitments

Since 2001, UNHCR's "Five Commitments to Refugee Women"³¹ have been an important framework for refugee women's empowerment. These Commitments are generally equally relevant to other women of concern, including notably internally displaced women and girls, as UNHCR becomes increasingly involved in situations of internal displacement.

UNHCR's Five Commitments to Refugee Women relate to:

- women's and girls' membership and participation in decision-making (see chapter 2, sections 4 and 5; chapter 5, section 1);
 - registration and documentation (see chapter 4, section 2.1);
 - tackling SGBV, including domestic violence (see chapter 5, section 3.1.2);
 - participation in food distribution (see chapter 5, section 7.2); and
 - providing sanitary materials to women and girls of concern (see chapter 5, section 5.1 and photograph at start of chapter 2).
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³⁰ UNHCR, "Refugee Women and a Gender Perspective Approach", Standing Committee, EC/49/SC/CRP.22, 3 September 1999.

³¹ For further details, see "Report on the Dialogue with Refugee Women", UNHCR and Women's Commission for Refugee Women and Children, Geneva, 20–22 June 2001; UNHCR, "Report on the High Commissioner's Five Commitments to Refugee Women", EC/55/SC/CRP.17, 13 June 2005.

1.4 Implementation challenges

"They put us through a gender training, but they don't apply what they are teaching... We were taught it is not good to insult a tribe or nationality, but the administration and camp workers do this all the time... We learned about rights in the training – that human beings have the right to eat – but they don't give us food for two months. ... If you go to the hospital, and you are seriously sick, the doctor can say "just go ... you look healthy". The way they treat people is dehumanizing."

Refugee leader, Dzaleka refugee camp, Malawi³²

"Today, there is still a widespread culture of neglect and denial of violence against women and girls. We must commit to change this. As members of the United Nations, each and every staff member is responsible not only for raising his or her voice to protest against sexual and gender-based violence, but also for taking action to respond and prevent it. We, especially men, are often reticent to speak out to condemn violence against women and girls. But this should not be viewed as a personal matter; it is an essential part of our work to promote international protection."

High Commissioner António Guterres launching the annual
16 Days of Activism to Eliminate Violence Against Women, November 2007³³

Introduction

Some of the challenges faced by UNHCR in consistently implementing its initiatives to secure the protection of women and girls of concern, include, as discussed briefly below, the

- sensitivity of topics;
- limited or poor quality interaction with women and girls;
- tendency to assume men are the "principal applicant" and/or "head of household";
- invisibility of violations against women's and girls' rights;
- focus on immediate response;
- inadequate coordination;
- lack of engagement with men and boys;
- personal values; and
- inadequate funding.

This Handbook seeks both to acknowledge and help address these challenges by setting out the legal standards and guidelines that apply, explaining how specific tools that can be used to identify women and girls at risk and ensure their protection (see chapters 3 and 4) and, in relation to specific rights, actions that can be taken to promote respect for them (see chapter 5).

Sensitivity of topics

Protection of women and girls often demands that we look at issues of sex and violence, as well as some traditional cultural practices. It can also be extremely difficult for women and girls to discuss these issues with us. We, too, may not feel comfortable talking about such matters. These issues can be perceived as taboo topics in public or private conversation. Yet human rights violations against persons of concern in the private domestic domain are our concern as much as violations in the public sphere.

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³² Refugee interview by Sharon Carlson in "Contesting and Enforcing Patriarchy: An Analysis of Domestic Violence in the Dzaleka Refugee Camp", RSC Working Paper No. 23, March 2005, p. 34.

³³ UNHCR, "Guterres Vows to Counter Violence against Women", 26 November 2007, at <http://www.unhcr.org/cgi-bin/text/vtx/print?tbl=NEWS&id=474ae9524>.

1.4 Implementation challenges, Continued

Interaction with women and girls

Because women and girls are often fully occupied in domestic and agricultural work and because they have often had less access to education and less opportunity to interact with authority, they may be less likely to seek out and interact with humanitarian workers. This is particularly the case with adolescent girls, who may not be part of any formal women's groups. They may as a result be excluded, for instance, from reproductive healthcare and awareness raising programmes.

Interaction with women and girls may be especially difficult in urban situations. A host of factors often make it difficult for refugee and other women and girls of concern to reach UNHCR. These include lack of access to money, the cost of transportation, refusal by husbands to let their wives or daughters leave the home, and a lack of familiarity with the asylum country and/or urban environment. Women and girls with disabilities face additional obstacles in urban, rural and camp settings. Protecting women and girls thus requires us to adopt an extremely proactive approach.

"Principal applicants" and "heads of household"

Men are typically seen as the "principal applicant" when a family claims asylum, as the "head of household" through whom assistance should be channelled, and/or as the spokesperson for the family. Women and girls may be viewed as dependants without rights or claims in their own right.³⁴ In fact, women and girls may well have their own – or even a stronger – claim to refugee status and can often represent the best way to ensure assistance reaches the whole family. They have their own equally valid perspective and views on their and their families' needs and priorities.

It is therefore vital to adopt an approach which recognizes both heads of household. Protection interventions should ensure that each member of the household is registered, that the risks each faces are identified, and that all family members can benefit.

Invisibility of violations

As violations of the rights of women and girls often occur within the family and the community, they remain invisible to us. This is even more so for adolescent girls, older women and for those with disabilities. Protecting women and girls requires us to work not only with authorities and State structures, but also with individuals and their communities.

Understanding the context and dynamics of communities of concern and working in partnership with them are critical if we are to enhance the protection of women and girls.

Immediate and longer-term response

In our efforts to protect women and girls, we often focus on the immediate response rather than also analysing its causes and looking at longer-term solutions or trying to address protection risks in the wider environment. Yet efforts to support a woman or girl who has been raped may, for instance, founder, if wider efforts are not also made to strengthen the administration of justice³⁵ during displacement and at the stage of solutions.

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³⁴ See also chapter 4, section 2.1, on registration and identity documentation under challenges.

³⁵ See also chapter 5, section 4.

1.4 Implementation challenges, Continued

Immediate and longer-term response (continued)

UNHCR's recent focus, through ExCom Conclusions Nos. 105 and 107, as outlined in greater detail in chapter 3, sections 1 and 2, seeks to re-emphasize the importance and interconnectedness of both approaches.

Coordination

In carrying out our mandate we often do not coordinate adequately among ourselves and/or with our partners. The absence of a coordinated and integrated approach, involving protection, programme, community-services and field staff, and partners, is a serious impediment to our efforts to protect women and girls. These challenges become even greater in internal displacement contexts where there is additionally the imperative to coordinate even more closely at the inter-agency level.

Strengthening coordination and partnerships within UNHCR, with partners, including at inter-agency level, as outlined in greater detail in chapter 4, section 1, is critical to the success of initiatives to protect women and girls.

Engagement with men and boys

We have often failed to work in partnership with men and boys in promoting gender equality. Many have focused on "projects for women" with no gender analysis of their impact on men as well as women.

Yet change will only occur by also working with men and boys in the communities with whom and for whom we are working. Male humanitarian workers have an important role to play in promoting and protecting women's and girl's rights and are as responsible as female workers for taking action.

Personal values

In addition, as UNHCR has noted: "Refugee workers, community leaders or officials may avoid confronting, remedying, and preventing acts of sexual violence because of personal discomfort with the subject... Sexual violence is an intrinsically disturbing subject, which often provokes strong emotional responses. It is essential to overcome the resistance, whether of ourselves or our counterparts, to discuss the problem openly and frankly."³⁶

Protecting women and girls therefore demands that we look at our own values and attitudes towards the roles and identities of women and girls, and towards gender and power relations. Our own socially constructed identity affects how we respond to the individuals with whom we work, both in the office and in operations. It is important to recognize and understand that we bring our experiences, values, and expectations, including gender biases, with us to the workplace. Greater self awareness is required to be sure that we adopt an open attitude towards others, including in particular people of concern, and are able to learn from them and build mutual trust.

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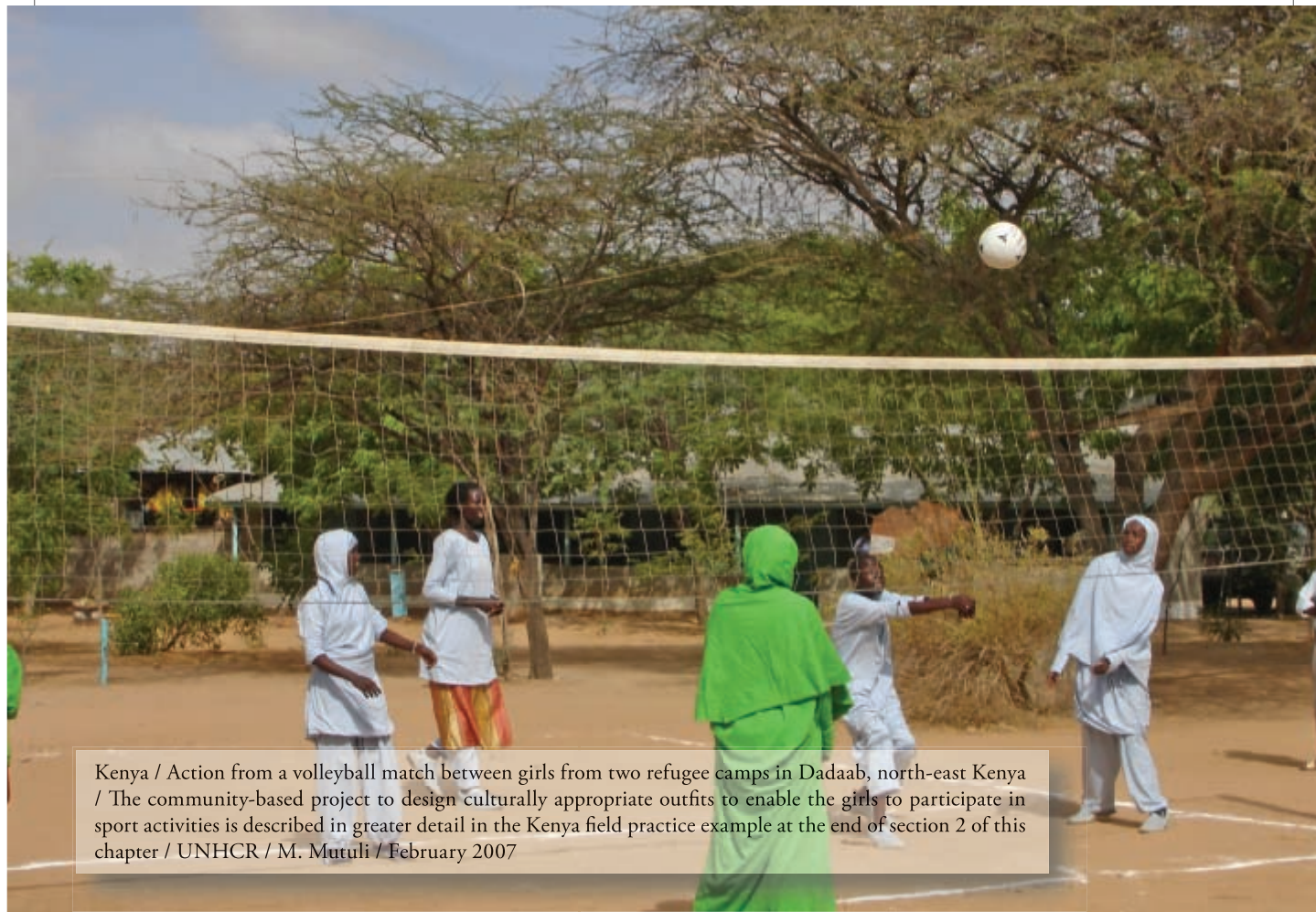
³⁶ UNHCR, *Sexual Violence against Refugees: Guidelines on Prevention and Response*, 1995, p. 5.

1.4 Implementation challenges, Continued

Funding

Too often, when there are funding shortfalls, it is community services, education and other programmes, which can most benefit women and girls that are cut as “non-essential” services. Where even most essential assistance, including food rations, are cut back below minimum levels, it is women and girls without community support, particularly those who are older, sick or with disabilities, who are isolated and most at risk as a result.

Awareness of the gender, age and diversity dimensions of our work, the importance of promoting gender equality and the consequences for women and girls of inadequate funding are therefore vital in our programming, budgeting, fund-raising initiatives, and in our interactions with donor States.



Chapter 2: Principles and Practices for Gender Equality

Overview

Introduction

This chapter outlines the various principles and practices that have been developed in recent years to help achieve gender equality.

It starts with a brief summary of the international legal standards which protect women's and girls' rights. Then, it goes on to show how a rights- and community-based approach and age, gender and diversity mainstreaming (AGDM) operate in a complementary and mutually reinforcing way to enhance the protection of women and girls who are displaced, returnee, (re)integrating and stateless and to ensure that they are able to enjoy their rights on an equal basis with men and boys. Finally, it describes particular strategies which can be adopted to strengthen the participation and empowerment of women and of girls and to work with men and boys on this issue.

Note: Specific international legal principles relating to particular rights and responsibilities are also discussed in Chapter 5. For a more detailed overview of the international legal framework, please see Chapter 6.

Purpose

This purpose of this chapter is to discuss the concepts outlined briefly in chapter 1 in more detail and show how we can use a rights- and community-based approach to mainstream age, gender and diversity, to take targeted actions to empower women and girls and thereby achieve gender equality.

In this chapter

This chapter has the following sections:

Section	See Page
2.1 International legal standards to protect women's and girls' rights	22
2.2 A rights- and community-based approach	26
2.3 UNHCR's age, gender and diversity mainstreaming strategy (AGDM)	34
2.4 Strengthening participation and empowerment of women	39
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2.6 Working with men and boys	55

2.1 International legal standards to protect women's and girls' rights

"The human rights of women and girls are an inalienable, integral, and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social, and cultural life, at the national, regional, and international levels, and the eradication of all forms of discrimination on the grounds of sex, are priority objectives for the international community."

Vienna Declaration and Programme of Action, July 1993

Introduction

One of the most significant developments in international law since the early 1990s has been the further elaboration of international and regional legal standards aimed at better promoting and protecting the rights of all women and girls.

These standards are expressed in international treaties, resolutions, declarations and decisions of the Security Council, the United Nations General Assembly, and the Economic and Social Council (ECOSOC).¹ They can also be found in judgments of international courts and tribunals and in declarations made by States. They are also discussed briefly in chapter 6.

Applying legal standards to women and girls

The strengthened application of international legal standards to the situation of women and girls has been underpinned by the recognition that

- women's and girls' rights are human rights;²
 - gender equality and the empowerment of women and girls are essential preconditions for development, peace, and security;
 - violence against women and girls, whether in private or public life, is a grievous violation of human rights and a serious impediment to enjoyment of other rights;
 - rape and other forms of violence against women and girls can constitute war crimes and crimes against humanity; and
 - women's and girls' enjoyment of specific rights, such as their rights to education, health or land and housing, require targeted action to ensure their realization on an equal basis to men and boys.
-

Responsibility: States

The protection of women and girls, like that of men and boys, is first and foremost a State responsibility. International law establishes the responsibilities of host States to protect asylum-seekers and refugees and of governments to protect their own citizens, including returnees and those who are internally displaced, without discrimination, including on the basis of their gender or age.

Responsibility: UNHCR

UNHCR's mandate, as set out in its Statute,³ is to provide international protection to refugees on a non-political and humanitarian basis and to seek permanent solutions for them. Under its Statute and subsequent General Assembly and ECOSOC Resolutions, UNHCR's protection responsibilities

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¹ For further details see chapter 6 of this Handbook.

² See 1995 Beijing Declaration, para. 14. Chapter 6 of the Handbook provides more information on the Declaration and resulting Platform of Action.

³ UNHCR's Statute was adopted by the General Assembly in 1950 and is included as an Annex to GA Resolution 428(V) of 1950.

2.1 International legal standards to protect women's and girls' rights, continued

Responsibility: UNHCR (continued)

also extend to asylum-seekers, returnees, (re)integrating and stateless persons, as well as, increasingly, internally displaced persons.⁴

Although UNHCR's Statute does not specify any particular responsibilities in relation to the protection of refugee women and girls, numerous Conclusions adopted by the Executive Committee of the High Commissioner's Programme (ExCom) articulate principles to be followed and measures to be taken by UNHCR in this respect.⁵ The Agenda for Protection, adopted by ExCom in 2002, has a special focus in Goal 6 on meeting the protection needs of refugee women and refugee children.

In addition, in carrying out our work, we are bound not only by ExCom Conclusions but also by resolutions and decisions of the General Assembly, ECOSOC, and the Security Council that relate to our activities and mandate.

Such decisions and resolutions have given **UNHCR the responsibility to promote gender equality and work towards the elimination of violence against women and girls of concern as integral parts of our protection mandate.**

International legal principles guiding UNHCR's work

UNHCR's protection work is also guided by international law, including international refugee law, international human rights law, and international humanitarian law. **These international principles set out the basic normative framework for our work.**

In all of our work – from setting operational objectives to advocating with States and building capacities within communities – we should respect and promote the following general international legal principles, each of which is discussed further below:

- equality and non-discrimination;
- participation and empowerment of women and girls;
- best interests of the child, and
- elimination of violence against women and girls.

This approach is reflected in UNHCR's *Code of Conduct*. This affirms we must, “actively promote adherence to the principles of international refugee law, international human rights law, and international humanitarian law”.⁶

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⁴ Paragraph 8 of the Statute describes the activities UNHCR should undertake to protect asylum-seekers and refugees. These have been expanded by subsequent General Assembly and ECOSOC Resolutions. Paragraph 9 of the Statute entitles the High Commissioner to “engage in such activities, including repatriation and resettlement, as the General Assembly may determine, within the limits of the resources placed at his disposal”. A series of General Assembly Resolutions have acknowledged UNHCR's particular humanitarian expertise and encouraged its involvement in protection and assistance activities in situations of internal displacement. UNHCR's role in any particular internal displacement situation is subject to the agency's criteria for operational involvement. These include a request from the Secretary-General or competent UN organs, the consent of the State and the agency's ability to operate without undue political or military influence. In complex emergencies, i.e. situations of conflict, primary responsibility and accountability for the protection of the internally displaced and affected populations as a rule should be assumed by UNHCR in line with its role as lead agency for the global protection cluster. See generally the inter-agency *Handbook for the Protection of Internally Displaced Persons*. For more on partnerships in situations of internal displacement, see chapter 4, section 1.1. UNHCR's mandate for stateless persons derives not only from its responsibility for refugees who may be stateless, but also as the supervisory body for the 1961 Convention on the Reduction of Statelessness, from UN General Assembly resolutions, ExCom Conclusions, and the UN Commission on Human Rights. UNHCR's activities in the field of statelessness fall under the following broad categories: identification of stateless populations, prevention and reduction of statelessness, and protection of stateless persons.

⁵ UNHCR ExCom Conclusions also articulate the responsibilities of, and action to be taken by, Member States in relation to the protection of women and girls. Although not legally binding on ExCom Member States, the Conclusions are adopted unanimously and form an important source of guidance for States as “soft law” (see chapter 6). ExCom Conclusions are binding, however, on UNHCR.

⁶ UNHCR, *Code of Conduct and Explanatory Notes*, June 2004, p. 3.

2.1 International legal standards to protect women's and girls' rights, continued

Principle: Equality and non- discrimination

The standards of equality among women, men, girls and boys, and of non-discrimination on the basis of gender, sex, age or other grounds are guiding principles for our work to protect persons of concern. We must therefore:

- aim to ensure that women and girls are able to access and enjoy, equally with men and boys, their civil, political, economic, social, and cultural rights;
 - respect the diversity of women and girls and recognize that factors such as age, language, ethnicity, race, caste, culture, religion, disability, family and socio-economic status, and rural or urban background can create additional barriers to gender equality;
 - ensure that our operations, policies, and programmes promote the equal rights of all individuals of concern and do not directly or indirectly discriminate against women and girls;
 - undertaken age, gender and diversity analysis in all our operations, policies, protection strategies, programmes and activities and take appropriate targeted action in order to achieve gender equality;
 - work to ensure gender equity in UNHCR staffing, including in the field;⁷
 - work to ensure that the rights of women and girls are incorporated into peace processes, peace agreements, and all policies and programmes for disarmament and demobilization; and
 - work in cooperation with partners to ensure that a gender perspective is mainstreamed in UN peacekeeping operations, post-conflict processes and UN reporting activities.
-

Principle: Participation and empowerment

Participation and empowerment of women and girls are essential to ensuring gender equality and to enhancing their protection.⁸ This means we must undertake targeted actions to:

- ensure the meaningful participation of women in the design, implementation, monitoring, and evaluation of all our operations, policies, and programmes;⁹
 - promote the right of girls to participate in decision-making in a meaningful way and to express their views in all matters that affect their lives;
 - when necessary, implement specific programmes and policies to support the empowerment of women and girls so that they can access and enjoy their rights; and
 - support the participation of women and adolescent girls in all levels of conflict-prevention, management, and solutions, including in relation to peace processes.
-

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⁷ IOM/18/2007 FOM/19/2007, "Policy on Achieving Gender Equity in UNHCR Staffing", 8 March 2007. See also chapter 4, section 1.2 of this Handbook on "Balanced presence a precondition".

⁸ See also this chapter, sections 4 and 5, for more on participation and empowerment, section 3 for more on targeted action and chapter 4, section 3.1, for more on participation in peacebuilding processes.

⁹ The first of UNHCR's Five Commitments to Refugee Women commits all UNHCR offices to encouraging the active participation of women in all management and leadership committees of refugees in urban, rural and camp settings, including return areas.

2.1 International legal standards to protect women's and girls' rights, continued

**Principle:
Best interests of
the child**

The best interests of the child shall be a primary consideration in all child protection and care situations and issues involving UNHCR. This principle should be applied systematically in all planning and policy-making that affect a child of concern.¹⁰

This principle applies to decisions affecting individual children, as well as to broader policy matters, decisions, and activities affecting children generally. Sex, age, diversity, and the particular protection risks faced by girls must be considered and taken into account in this regard.

**Principle:
Elimination of
violence against
women and girls**

Violence against women and girls, including violence that occurs in the family or the community or that is perpetrated or condoned by the State, is a serious human rights violation.¹¹ Customs, traditions and practices cannot be accepted as justification for such violence.

We must work towards the elimination of all forms of violence against women and girls of concern. A broad range of activities should be carried out to do so. These include, but are not limited to, awareness-raising, capacity building, technical support, training, monitoring, reporting and follow-up action, as shown in the many field practice examples in this Handbook. As part of this work, we must also

- work in close collaboration with governments, other actors such as the International Committee of the Red Cross (ICRC), civil society groups and local communities to establish coherent inter-agency strategies and standard operating procedures,¹² which operate to eliminate violence against women and girls;
 - ensure that none of our activities, including programming and funding decisions, contribute to violence against women and girls;
 - work to prevent and respond to sexual exploitation and abuse committed by UN staff, related personnel, and partners, including in large peacekeeping operations, as UNHCR has a responsibility, including under the Secretary-General's Bulletin of 2003,¹³ and to report and follow-up if there are reports of abuses against women and girls of concern;
 - work to prevent and respond to sexual and gender-based violence (SGBV), including, as outlined in Security Council resolution 1325 (2000),¹⁴ in conflict and post-conflict situations; and
 - participate in UN efforts,¹⁵ including in implementation of Security Council resolution 1612 (2005), to monitor and report on grave abuses against girls and boys in armed conflict, including rape and other grave sexual violence against children.
-

¹⁰ See, UNHCR, *Policy on Refugee Children*, 1993; UNHCR, *Refugee Children: Guidelines on Protection and Care*, 1994; UNHCR, *Guidelines on Formal Determination of the Best Interests of the Child*, provisional release, May 2006; and chapter 4, section 2.5 of this Handbook, which covers individual best interests assessment and determination procedures.

¹¹ See generally, "In-depth Study on All Forms of Violence against Women, Report of the Secretary-General", A/61/122/Add.1, 6 July 2006, available in all UN languages at <http://www.un.org/womenwatch/daw/vaw/SGstudyvaw.htm>; "Elimination of All Forms of Discrimination and Violence against the Girl Child, Report of the Secretary-General", E/CN.6/2007/2, 12 December 2006, available in all UN languages at <http://www.un.org/womenwatch/daw/csw/csw51/OfficialDocuments.html>; "Report of the Independent Expert for the United Nations Study on Violence against Children", A/61/299, 29 August 2006, available in 10 languages at <http://www.violencestudy.org/a555>.

¹² See UNHCR/IOM/62/2006 UNHCR/FOM/62/2006, 28 July 2006.

¹³ Secretary-General, "Bulletin on Special Measures for Protection from Sexual Exploitation and Sexual Abuse", ST/SGB/2003/13, 9 October 2003, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=451bb6764> and circulated in IOM/FOM/77/2003 of 13 November 2003.

¹⁴ See chapter 6, section 2.3 of this Handbook below.

¹⁵ See chapter 6, section 2.4 of this Handbook below.

2.2 A rights- and community-based approach

"The rights-based approach ... means describing situations not in terms of human needs, or areas for development, but in terms of the obligation to respond to the rights of individuals. This empowers people to demand justice as a right, and not as charity. And legitimizing those demands provides balance against other, less positive forces. This also implies the direct involvement of people in decisions relating to their own development. Internationally, a rights-based approach provides the community with a sound moral basis on which to claim assistance and to advocate a world economic order respectful of human rights."

Mary Robinson, former United Nations High Commissioner for Human Rights¹⁶

Introduction

A rights-based and a community-based approach are both founded on the international legal framework for protection as outlined briefly in the previous section. While the rights-based and community-based approaches have developed separately, many of the principles that underlie the two are the same.

This section outlines the development of these approaches and then details the essential elements of a rights- and community-based approach that should be applied to our work. More generally, the whole Handbook also seeks to show how a rights- and community-based approach should be applied in practice in our work.

What is a rights-based approach?

A rights-based approach is a conceptual framework¹⁷ that integrates the norms, standards and principles of the international human rights system into the policies, programmes and processes of development and humanitarian actors. It therefore focuses on both outcomes and processes.

It is, however, more than a framework as it is founded on the principles of participation and empowering individuals and communities to promote change and respect for rights. Given the inequalities and discrimination that women and girls face, their participation and empowerment are essential aspects of a rights-based approach. This involves raising women's and girls' awareness of the rights to which they are entitled and supporting them to claim these rights and to enjoy and exercise them.

Adoption of a rights-based approach

UNHCR's mandate for international protection means that international law has always formed the conceptual framework for our work, including our assistance activities. It is only recently, however, that UNHCR has explicitly recognized a rights-based approach as the framework for programming.¹⁸ ExCom has now also endorsed the adoption of a rights-based approach by both States and UNHCR.¹⁹

These developments build on the thinking and conceptual development related to a rights-based approach carried out in the development context. They are reflected in the United Nations Common Understanding of a Rights-Based Approach to Development.²⁰

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¹⁶ Guy Cave, "Where Are We Now: An Overview of Rights-based Programming", Save the Children UK, Children's Rights Information Newsletter no. 18, March 2005, p. 4.

¹⁷ The concept of a rights-based approach has featured prominently on the international agenda and in inter-agency dialogues since the Secretary-General, in the 1997 UN Programme for Reform, called on all agencies of the United Nations to integrate human rights into their activities within the framework of their respective mandates.

¹⁸ This recognition is clearly articulated in UNHCR's *Practical Guide to the Systematic Use of Standards and Indicators in UNHCR's Operations*, February 2006. See also the goals set out in UNHCR's "Promoting Age, Gender and Diversity Mainstreaming in UNHCR Operations 2005–2007".

¹⁹ ExCom Conclusion No. 107 (LVIII), 2007, children at risk, para. (b)(x).

²⁰ This Common Understanding was developed at an inter-agency workshop in May 2003 and later endorsed by the UN Development Group.

2.2 A rights- and community-based approach, continued

Adoption of a rights-based approach (continued)

A rights-based approach has been adopted by several UN agencies,²¹ NGOs, and donor agencies.²² It can also greatly enhance our protection efforts.

What is a community-based approach?

A community-based approach is a way of working that is based on an inclusive partnership with communities of persons of concern that recognizes their resilience, capacities and resources. It mobilizes and builds on these to deliver protection, assistance and solutions while supporting community processes and goals.

A community-based approach requires us and our partners to build an equal and active partnership with women, men, girls and boys of diverse ages and backgrounds in all areas of our work. It demands that we understand and consider the prevailing context, the receiving population, gender roles, community dynamics, protection risks, community concerns and priorities, and that we work with people of concern during the various stages of UNHCR's programme cycle. It requires us to recognize our facilitation role as external actors, our limitations in terms of capacities, resources, and the temporary nature of our presence, as well as the longer-term impact of our interventions.

The community-based approach reinforces the dignity and self-esteem of people of concern and seeks to empower all actors to work together to support the different members of the community in exercising and enjoying their human rights.

Note: For further details see the forthcoming UNHCR publication *A Community-Based Approach to UNHCR Operations* to be published in early 2008. UNHCR's *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines on Prevention and Response*, 2003, also suggests how to involve the community in promoting gender equality and preventing and responding to SGBV.

Combining these approaches

These two approaches are complementary and mutually reinforcing. This is why we must adopt a rights- and community-based approach to our work.

"Rights holders" and "duty bearers"

It requires an attitudinal shift in how we work with and for persons of concern. They are not passive recipients of humanitarian aid but "rights-holders" with legal entitlements.

States are the primary "duty bearers", who are responsible for respecting, protecting, and fulfilling the rights of persons within their jurisdiction. So we must work with States to help them to develop their capacity to meet their international obligations.

As a UN agency with a protection mandate, we are also responsible for working with communities to strengthen the protection, and promote respect

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²¹ FAO, ILO, OHCHR, UNAIDS, UNDP, UNFPA, UNICEF, UNIFEM and WHO have explicitly adopted a rights-based approach. See, for instance, UNIFEM's "CEDAW and the Human Rights Based Approach to Programming, A UNIFEM Guide", May 2007, available in English and Russian at http://www.unifem.org/resources/item_detail.php?ProductID=94.

²² CIDA, DANIDA, DFID, SIDA and NORAD refer to a rights-based approach and use it as a normative reference point for their cooperation activities.

2.2 A rights- and community-based approach, continued

“Rights holders” and “duty bearers” (continued)

for the rights, of all their members equally, including women and girls. As has been recognized, one of the most important roles of organizations is “to support rights-holders to claim their rights. This requires major shifts in the way many agencies are working. Rather than delivering services and doing advocacy work on behalf of poor and disadvantaged people, a rights-based approach requires organizations to support people to demand what they are entitled to.”²³

Adopting a rights- and community-based approach also “demands that agencies work together to support broad processes of change in society. Supporting participatory processes that bring together government and civil society is one of the most effective ways to change relationships between rights holders and duty bearers”.²⁴

Summary of challenges

Among the challenges to implementing a rights- and community-based approach and achieving this attitudinal shift are:

- community values that can foster violence against women and girls, and
 - cultural relativism.
-

Challenge: Community values that violate rights

Community values and traditions, including religious practices and traditions, may condone, foster or even facilitate gender inequalities and violence against women and girls and may violate their rights.

As the Special Rapporteur on freedom of religion or belief has noted, such practices may sometimes be presented as having their origins in religion, but have in fact evolved as a particular cultural interpretation of religious precepts and may in some cases even go against these precepts. Cultural and religious practices which violate women's and girls' rights tend also to be underpinned by low literacy levels, limited female presence in public life, lack of information and a certain cultural fatalism surrounding such practices.²⁵ Sometimes different practices result from different perceptions of what constitutes violence, since most societies are seeking to contain violence and protect their members.

Challenge: Cultural relativism

These differences can lead members of the community to challenge the universality of human rights on the grounds that local culture and tradition should take precedence. As the Special Rapporteur on violence against women has noted: “This is particularly the case when it comes to women's [and girls'] human rights, which become compromised, if not totally sacrificed, by assertions of specific cultural practices and claims in many parts of the world.”²⁶

Some UNHCR staff have also resisted taking action to promote and protect the rights of women and girls on the grounds that it would interfere with local

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²³ Joachim Theis, “Challenges for a Rights-based Approach”, Children's Rights Information Newsletter No. 18, March 2005, p. 28.

²⁴ Ibid.

²⁵ Rapporteur spécial sur la liberté de religion ou de conviction, “Etude sur la liberté de religion ou de conviction et la condition de la femme au regard de la religion et des traditions”, 5 avril 2002, E/CN.4/2002/73/Add.2, para. 190 (available only in French).

²⁶ Special Rapporteur on Violence against Women, its Causes and Consequences, Yakin Ertürk, “Intersections between Culture and Violence against Women”, A/HRC/4/434, 17 January 2007, para. 19.

2.2 A rights- and community-based approach, continued

Cultural relativism (continued)

culture. As highlighted by the Special Rapporteur on violence against women, cultural relativism is the greatest challenge to women's and girls' rights and the largest obstacle to eliminating harmful traditional practices.²⁷

Responsibility: States

States are obliged under international law to ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women's and girls' right to equal enjoyment of human rights.²⁸ This includes a responsibility to "take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women".²⁹

The 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions, which entered into force in March 2007, also provides some insight on this issue. Article 2 states: "Cultural diversity can be protected and promoted only if human rights and fundamental freedoms ... as well as the ability of individuals to choose cultural expressions are guaranteed. No one may invoke the provisions of this Convention in order to infringe human rights and fundamental freedoms ... or to limit the scope thereof."

Responsibility: UNHCR

UNHCR has a responsibility to build or rebuild and strengthen the capacity of the communities with which it works to make decisions regarding their present situation and future. This is why the Agenda for Protection emphasizes the importance of establishing community-based systems for protection and for empowering refugees so they can help to protect themselves and their community.³⁰ To do this we must understand the cultural and socio-economic situation and gender roles within a particular community.

"We will respect the cultures, customs, traditions of all peoples, and will avoid behaving in ways that are not acceptable in a particular cultural context. However, when the tradition or practice is considered by the relevant organ of the United Nations to be directly contrary to an international human rights instrument or standard, we will be guided by the applicable human rights instrument or standard."

UNHCR Code of Conduct³¹

Responsibility: UNHCR staff

UNHCR staff have a responsibility in this context to:

- uphold the rights enshrined in international instruments, as these are universally applicable, in all our contacts with persons of concern and use them to guide our work;
 - raise awareness of women's and girls' rights among community leaders, such as religious leaders and village elders, who have power and influence over the community;
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²⁷ Commission on Human Rights, Special Rapporteur on Violence against Women, its Cause and Consequences, "Integration of the Human Rights of Women and the Gender Perspective, Violence Against Women", E/CN.4/2003/75 6 January 2003, para. 70.

²⁸ Human Rights Committee, General Comment No. 28, Equality of rights between men and women (Article 3), 2000, para. 5.

²⁹ Convention on the Elimination of all forms of Discrimination against Women, Article 5; Declaration on the Elimination of Violence against Women, Article 4(j); ExCom Conclusion No. 105 (LVII), 2006, preambular para. 8.

³⁰ Agenda for Protection, Goal 3, Objective 4.

³¹ UNHCR, *Code of Conduct and Explanatory Notes*, June 2004, Core Values and Guiding Principles, p. 4.

2.2 A rights- and community-based approach, continued

Responsibility: UNHCR staff (continued)

- work towards the prevention and elimination of practices which violate those rights at the individual and community levels; and
 - take action to promote gender equality and ensure that individual women and girls whose rights have been, or are at risk of being, violated are protected.
-

Working with States

Adopting a rights- and community-based approach to protecting women and girls of concern involves working with governments in support of legislation which upholds the rights of women and girls of concern and capacity building to promote its effective implementation in practice.

Especially, but by no means only, in post-conflict situations, where the rule of law has broken down, our work with governments may involve lobbying for legislation to protect, uphold and fulfil women's and girls' rights, whether this relates to domestic violence, inheritance rights to enable sustainable return, or protection from forced marriage, including of the girl child. A recent example was in Sierra Leone, where legislation on each of these issues was passed in June 2007. Another example, from Austria concerning legislation on domestic violence and UNHCR's interventions, is given in chapter 5, section 3.1.2.

National capacity building efforts are an integral part of our work with States, as outlined in the "how to respond" sections in relation to specific rights throughout chapter 5.

Working with communities

At the same time, it is only by working with communities that we will be able to achieve gender equality and the protection of women and girls on an equal basis to that of men and boys. This is because many of the rights violations against women and girls occur within the family and the community and because women and girls may be stigmatized and isolated by their communities because of the violations they have endured.

Working to ensure that cultural and religious practices respect women's and girl's rights to dignity and respect in line with international standards involves engaging communities at many levels. It includes working with parents, health workers, teachers, religious leaders, and those involved in implementing traditional justice mechanisms in the community. It also involves working with individuals of different sexes, ages, social status, and backgrounds, in both larger and small groups, amongst other things to

- understand the cultural and religious origins of practices violating women's and girls' rights;
 - raise awareness of each person's right to dignity and respect, and of the health and other consequences of harmful practices;
 - identify advocates for change within the community itself; and
 - empower women and girls as outlined in sections 4 and 5 of this chapter and elsewhere in the Handbook.
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2.2 A rights- and community-based approach, continued

Why we should work with communities

Adopting a community-based approach is critical for our work to protect women and girls. As the Special Rapporteur on violence against women has emphasized: “In fighting for equality and justice in this sphere, outsiders might do more harm than good by provoking a backlash that may make future advances impossible. It is important to consult and work with women in the countries concerned to ensure that the most effective strategy is adopted. It is imperative to re-engage and take direction from the local people in a given context.”³²

She continues: “Working in partnership with women and men in the societies concerned will ... guarantee that any amendment or change receives the full endorsement of the local population. Without their participation and endorsement, no strategy to advance women's rights will succeed. Moreover, any strategy that imposes hard choices from above may only strengthen the polarization in the world today between and within regions. A consultative participatory effort is needed to ensure that cultural practices that are harmful to women are eradicated from all societies which have endorsed the Charter of the United Nations as the basic social contract governing the community of nations.”³³

ExCom also recommends that States, UNHCR, other relevant agencies and partners “work with the displaced community, including men and boys, to rebuild family and community support systems undermined by conflict and flight and to raise awareness of the rights of women and girls and understanding of gender roles”.³⁴

Cultures are neither homogeneous nor static

In undertaking this work, it is useful to remember that social and cultural beliefs, including those about the roles of women and girls, are not homogenous. Views about the role of women and gender equality that are held by one person or group within a community will not be held by others. Attitudes will also differ among girls, women, boys and men. Other factors, such as age, class, religion, socio-economic status, or rural or urban orientation can also play a role.³⁵

Moreover, cultures are not static; they are continually being renewed and reshaped. Cultural change implies changes in gender identities and gender relations. Change is shaped by many factors, particularly conflict and displacement, as well as by deliberate efforts to influence values through revisions of law, government policy or education systems.

Note: UNFPA provides useful advice on using culturally sensitive approaches to achieve universal goals at <http://www.unfpa.org/culture/>. This includes a *Guide to Working from Within: 24 Tips for Culturally Sensitive Programming*, 2004.

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³² Commission on Human Rights, Special Rapporteur on Violence against Women, its Cause and Consequences, “Integration of the Human Rights of Women and the Gender Perspective, Violence against Women”, E/CN.4/2003/75 6 January 2003, para. 70.

³³ Ibid.

³⁴ ExCom Conclusion No. 105 (LVII), 2006, para. (k)(iii).

³⁵ See “Addressing Cultural Relativism in Relation to Gender Equality and Women's Rights: An Approach by CIDA” contained in UNHCR, *Gender Training Kit on Refugee Protection*, 2002, pp. 175–180; Special Rapporteur on Violence against Women, its Causes and Consequences, Yakin Ertürk, “Intersections between Culture and Violence against Women”, A/HRC/4/434, 17 January 2007, paras. 57–66.

2.2 A rights- and community-based approach, continued

Elements of a rights- and community-based approach

Adopting a rights-based and community-based approach is critical for our work to protect women and girls. The table below sets out a number of elements for a rights- and community-based approach. Beside each element are examples of how they can be realized through actions to shift from a needs-based approach to one that is focused on rights and on community involvement and empowerment.

Element	Action to realize a rights- and community-based approach
Focus on rights rather than needs	• Ensure all UNHCR's programmes, policies, and operations, including in the inter-agency context, further the realization of the equal rights of women, men, girls, and boys of concern of diverse backgrounds, as set out in international law. • Use international legal instruments and standards as the framework for UNHCR's protection strategies and programme assessments, analyses, planning, design (including setting goals, objectives, and strategies), implementation, monitoring, and evaluation. • Base programme planning on protection objectives.
Ensure community participation	• Work in partnership with persons of concern of all ages and diverse backgrounds in order to understand the community's priorities, capacities, and resources and to build on them in order to ensure that all members of the community are protected. • Work with women, men, girls, and boys as partners in implementing, monitoring and evaluating protection and programming activities. • Work closely with individual community members and different groups within the community, in order to identify, prevent and eliminate cultural or religious practices that violate the rights of women and girls.
Duty bearers and rights holders	• Help develop the capacity of States and their agents, as duty-bearers, to meet their obligations. • Treat women, men, girls, and boys of concern as rights-holders, not "beneficiaries", and support them to strengthen their own capacity to claim their rights. • Support participatory processes that bring together government and civil society to discuss, establish common ground and agree solutions to challenges. • Do not tolerate or overlook practices within a community, including traditional, cultural or religious practices, that violate the rights of women and girls, but rather engage communities on these issues as outlined above.
Empowerment	• Build the capacities and skills of the members of the community and ensure programmes are designed in partnership with them and reinforce their dignity and self-esteem. • Ensure targeted action to support the empowerment of those who might be excluded so that they can claim their rights and participate meaningfully in the community. • Help empower the community as a whole and individuals within the community, particularly women and girls, to access and enjoy their rights.

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2.2 A rights- and community-based approach, continued

Field practice: Kenya

In 2004, UNHCR implemented a pilot project in partnership with Nike in Dadaab in northern Kenya, where some 127,000 mostly Somali refugees live in three camps. Focusing on female education, the “Together for Girls Initiative” uses sports as a tool to promote girls’ and young women’s integration in the educational system.³⁶

Among the rights supported by the initiative were the girls’ rights:

- to education on the basis of equality (Convention on the Rights of the Child (CRC) Article 28);
- to develop their talents and physical abilities and to the development of respect for their own cultural identity and values (CRC Article 29);
- to rest, leisure, play and recreational activities and to equal opportunities for recreation and leisure activity (CRC Article 31); and
- to freely express their views (CRC Articles 12 and 13)

One of the obstacles to implementing this project was the traditional hijab dress worn by the Somali refugee girls. The clothing made it difficult to participate in sports. UNHCR and community representatives therefore met and decided that a women’s group would design and produce clothes that were culturally appropriate but that allowed the girls to participate more freely in sports. Nike sent a team of female designers to work with the refugees on a volley ball uniform that would respect traditional norms but give greater freedom of movement.

Despite initial condemnation of the idea of girls and young women participating in sports, in the end the views of people like Zainab Hassan Mohammed, an older woman who supports the girls, prevailed. She told them that girls’ bodies need exercise and there was nothing wrong with that. In the end, more conservative designs were passed over in favour of one the girls preferred. It still covers them from head to toe but uses less fabric and therefore allowed them to move more freely.

As part of the Initiative, Nike has also contributed funds for the employment of more teachers, the construction of more classrooms, the installation of more desks, and the construction of separate girls’ latrines in all of the camps’ schools.

Girls now make up 39 per cent of the pupils enrolled in the 18 primary schools in the three camps. Classroom sizes have also been significantly reduced, with a ratio of one teacher to 49 pupils at primary school level. Ongoing challenges include the fact that only 21 per cent of teachers in primary schools are female and that girls’ enrolment at secondary level is much lower. The system has also been strained by new arrivals from Somalia since late 2006 due to the renewed intensity of the conflict there and by serious flooding at that time.

The “Together for Girls” initiative has nevertheless involved both the community and donors to enable more girls to participate in sports for the first time and has helped raise their education, their confidence, leadership and their peacebuilding skills.

³⁶ See photograph at the start of this chapter and also UNHCR, “International Women’s Day: UNHCR and Nike Encourage Somali Refugee Girls to Play sports”, 8 March 2007, at <http://www.unhcr.org/cgi-bin/texis/vtx/print?tbl=NEWS&id=45efd1154> and UNHCR, “Designers on a Mission: Dressing Refugee Girls for Sports”, 6 July 2005, at <http://www.unhcr.org/cgi-bin/texis/vtx/print?tbl=PARTNERS&id=4405b2a32>.

2.3 UNHCR's age, gender and diversity mainstreaming strategy (AGDM)

"I had a FANTASTIC day today ... the kind of day that makes this job the best in the world ... We did participatory assessment work with Tibetan mothers identifying areas of concern to them, and especially using their knowledge to build better protection mechanisms for boys and girls. They were great: forthcoming, creative, honest, thoughtful, and unified in reaching several very helpful conclusions. We are going to get that place in great shape, just wait and see. This participatory approach is ... a lot of work, but rewarding and, I hope, effective."

UNHCR staff member, Nepal

Introduction

UNHCR's age, gender and diversity mainstreaming (AGDM) strategy supports the meaningful participation of girls, boys, women and men of all ages and backgrounds, who are of concern to the Office. AGDM operates to make their participation integral to the design, implementation, monitoring and evaluation of all UNHCR policies and operations so that these impact equitably on everyone of concern.

Its overall goals are gender equality and the enjoyment by everyone of concern of their rights regardless of their age, sex, gender or background. Their attainment is the responsibility of all staff.³⁷ A rights- and community-based approach, as outlined in the previous section, is fundamental to the strategy and should underpin all activities.

UNHCR's AGDM strategy

UNHCR's AGDM strategy involves:

- promoting a **multi-functional team (MFT) approach** to bring together the expertise and skills of all UNHCR staff and partners to enhance our protection and effectiveness;
- undertaking regular **participatory assessments** with women, girls, boys and men of all ages and diverse backgrounds to analyse their protection risks, concerns, priorities, capacities and proposed solutions and evaluating the outcomes in partnership with them;
- putting **persons of concern at the heart of operational planning** by ensuring that findings from participatory assessments are analysed from an age, gender and diversity perspective and form the basis of protection strategies and programming for solutions;³⁸
- identifying through age, gender and diversity analysis where **targeted actions** are required to address inequalities and support the empowerment and protection of discriminated groups, in particular women and girls at risk;
- mainstreaming age, gender and diversity analysis into all activities such as policy development, manuals and guidelines, **capacity building** and training and in the design and delivery of programme assistance and sharing lessons learned;³⁹ and
- holding staff accountable for mainstreaming and targeted action through an AGDM **accountability framework**.

Note: The elements of this strategy are discussed further below.

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³⁷ See ExCom Conclusion No. 102 (LVI), 2005, para. (p).

³⁸ ExCom Conclusion No. 105 (LVII), 2006, para. (i)(iii).

³⁹ ExCom Conclusion No. 105 (LVII), 2006, para. (i)(iv).

2.3 UNHCR's age, gender and diversity mainstreaming strategy (AGDM), continued

Multi-functional team approach

A multi-functional team is led by the Representative and, at a minimum, composed of protection, programme, community service and field staff. Ideally, it should include female and male staff, both national and international, as well as staff of different levels. Offices should ensure that multi-functional teams include the wider circle of actors on the ground, such as partners, government counterparts, NGOs, and, where relevant and appropriate, other UN agencies, donors and the community of concern.

Multi-functional teams play an important role in promoting gender equality and eliminating violence against women and girls. They are responsible for guiding the implementation of UNHCR's AGDM strategy and ensuring community mobilization, participation by all, and feedback on outcomes to the community. A successful multi-functional team approach requires the involvement and commitment of management, especially Representatives and Heads of Office, and the engagement of all staff.

Participatory assessment

Participatory assessment is a process of building partnerships with persons of concern of all ages and backgrounds by promoting their participation through regular structured dialogue and feedback. While there are many different types of assessment tools available, UNHCR has developed *The UNHCR Tool for Participatory Assessment in Operations* which should be used throughout the operations management cycle.⁴⁰ Participatory assessment:

- involves holding separate discussions with women, girls, boys, and men, including adolescents, to gather information on the specific protection risks they face and the underlying causes of those risks, to identify their capacities and resources, and to listen to their proposed solutions;
 - builds on what communities are doing to enhance their own protection and when necessary mobilizes the community to take collective action;
 - is a critical tool to ensure everyone of concern is protected, in particular it gives women and girls of different ages and backgrounds the opportunity to identify and voice the protection risks they face, their priorities, and proposed solutions;
 - helps design the annual country operation plan to ensure all community members benefit to the greatest extent possible and improves ownership by the community of proposed solutions;
 - provides a basis for building trust and transparency through regular dialogue and feedback; and
 - is a critical part of situation analysis, as well as a principle of a rights- and community-based approach.
-

Targeted action

Age, gender and diversity analysis enables us to identify who is particularly discriminated against or excluded from exercising their rights, and the factors causing this. Discrimination against women and girls occurs in most societies and reduces their opportunity to participate meaningfully, to voice the protection risks they face, identify their priorities, and for their capacities to be taken into account. This means their protection needs often go unaddressed and their potential to exercise their rights is severely limited.

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⁴⁰ For guidance on how to undertake participatory assessment refer to UNHCR, *The UNHCR Tool for Participatory Assessment in Operations*, 2006, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=462df4232>.

2.3 UNHCR's age, gender and diversity mainstreaming strategy (AGDM), Continued

Targeted action (continued)

The protection of women and girls of concern therefore requires us to undertake targeted action to address their specific needs. This includes:

- supporting girl's education and the provision of sanitary materials;⁴¹
- complementing short-term assistance by programmes to support women's and girls' empowerment in the economic and public decision-making domain, by training in mobilization, leadership and organizational skills, women's and girls' rights, and Security Council Resolution 1325, by capacity building for entrepreneurship, and by micro-credit support;⁴²
- strengthening women's community-based organizations as a key activity to facilitate women's empowerment; and
- working with men and boys to sensitize them and create space for women's and girls' empowerment (see section 6 of this chapter below).

Mainstreaming and capacity building

UNHCR headquarters is working to mainstream age, gender and diversity into its policies and the development of all guidance for staff, including in training manuals, learning programmes, and emergency training. The operations and protection learning programmes have increased the focus on age, gender and diversity analysis and the need for targeted action to ensure protection. Regional and national offices also have a responsibility to ensure age, gender and diversity are mainstreamed in all the capacity building activities they deliver, both within UNHCR and with partners.

Evaluations, sharing knowledge, information, ideas and lessons learned within UNHCR and with partners are an important part of the AGDM strategy. Thus, regular evaluations with women and girls of concern to obtain their views and feedback are essential to enhance our capacity and to learn. These should be encouraged regionally and globally. Information on the importance of, and responsibility for, ensuring women and girls of concern are able to access information can be found in chapter 5, section 1.

"This [Accountability Framework] is a good tool for giving concrete examples of what we need to do... It asks the right questions.... It is a useful discussion tool." "It really helps you focus on age, gender and diversity and focus on priorities." "... A brilliant exercise. It was extremely useful ... to know what we are doing right or wrong and what needs to be rectified."

Feedback from participants in the pilot project for the Accountability Framework in 21 countries, April 2007

"This initiative has been welcomed by participants as a crucial first step towards enhanced accountability within UNHCR. It is also an exciting innovation in ensuring equitable outcomes for those in whose name so many international organizations are working. UNHCR has shown a clear commitment to moving beyond rhetoric and into sustainable impact in terms of improving the lives of all its people of concern, regardless of their age, sex and background."

Evaluation of Accountability Framework pilot project, April 2007

Accountability for mainstreaming

A key objective of UNHCR's AGDM strategy is to promote accountability at the individual, team, and country office level.

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⁴¹ A framework for targeted action and empowerment is provided by UNHCR's Five Commitments to Refugee Women, as outlined in chapter 1, section 3, and by UNHCR's Five Priorities for Girls and Boys of Concern to UNHCR, at <http://www.unhcr.org/protect/PROTECTION/4398146f2.pdf>.

⁴² For a more detailed explanation, see IASC, *Women, Girls, Boys and Men: Different Needs – Equal Opportunities: Gender Handbook in Humanitarian Action*, December 2006, chapter 1 "The Basics on Gender in Emergencies", p. 3. For more on Security Council resolution 1325 see chapter 6, section 2.3 and for a field practice example concerning courses run by the Galkayo Education Centre for Peace and Development in Puntland, Somalia, see section 4 of this chapter below.

2.3 UNHCR's age, gender and diversity mainstreaming strategy (AGDM), Continued

Accountability for mainstreaming (continued)

To do so, in 2007, UNHCR introduced an "Accountability Framework for Age, Gender and Diversity Mainstreaming and Targeted Action to Promote the Rights of Discriminated Groups".⁴³ In particular, senior managers' strong commitment is integral to the fulfilment of UNHCR's age, gender and diversity mainstreaming responsibilities.

At the same time, tools such as UNHCR's *Code of Conduct*,⁴⁴ the Secretary-General's Bulletin on Sexual Exploitation and Abuse,⁴⁵ and results-based management also act as performance and accountability mechanisms for the organization.

Accountability Framework

The Accountability Framework sets out a methodology for ensuring we are able to implement UNHCR's obligations concerning age, gender and diversity mainstreaming using a rights- and community-based approach and targeted action for women, children and other discriminated groups. These obligations are derived from ExCom Conclusions and existing UN and UNHCR policies.

The Framework establishes a system of self reporting for Representatives and senior managers based on a set of simple, measurable and clear actions. It is not in itself a full reporting mechanism but follow-up is integrated within the framework. Each accountable person reports on progress to their senior manager, while the Assistant High Commissioner (Protection) has an oversight role and provides annual global analysis and follow-up.

Purpose of the Framework

The purpose of the Framework is to:

- establish minimum standards for office practice to create an enabling organizational and operational environment conducive to achieving equitable outcomes and gender equality for everyone of concern to UNHCR, regardless of sex, age or background;
 - support staff, especially managers, in meeting their commitments by laying down clear responsibilities and commitments/activities for the mainstreaming and targeted action in all UNHCR activities;
 - encourage transparency and be seen as a process for organizational learning and improving the impact of work with people of concern;
 - identify global and regional trends over time and areas where further support, be it financial or technical, is needed; and
 - demonstrate organizational leadership by placing accountability with senior management and to show a commitment to go beyond rhetoric.
-

Responsibility: Representative and senior managers

Representatives and senior managers in each operation have a core responsibility and are accountable for the mainstreaming of age, gender and diversity and targeted action. Their commitment is a prerequisite to achieving the overall goals.

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⁴³ See IOM/36/2007, FOM/38/2007, "Accountability Framework for Age, Gender and Diversity Mainstreaming – Roll Out", 24 May 2007. For more on humanitarian accountability generally see the Glossary and the Humanitarian Accountability Partnership website at <http://www.hapinternational.org/>.

⁴⁴ See UNHCR, *Code of Conduct and Explanatory Notes*, June 2004.

⁴⁵ See Secretary-General's Bulletin "Special Measures for Protection from Sexual Exploitation and Sexual Abuse", S/SGB/2003/13, October 2003, as circulated in IOM/FOM/77/2003 of 13 November 2003, as well as chapter 5, section 3.1.2 of this Handbook.

2.3 UNHCR's age, gender and diversity mainstreaming strategy (AGDM), continued

Representative and senior managers (continued)

Direct oversight and management of the process by the Representative is necessary to ensure staff fully understand and incorporate age, gender and diversity perspectives into their daily work.

In order to support Representatives, Regional Bureaux Directors, Directors of Operational Support Services, Protection Services and External Relations, Assistant High Commissioners, the Deputy High Commissioner and the High Commissioner are also required to report on this issue.

Responsibility: All staff and others

Accountability imposes responsibilities beyond leadership and the multi-functional teams. All staff – be they at headquarters or in the field, be they supervisors or others – as well as partners and donors need to be accountable for ensuring the protection of **all** persons of concern. The accountability framework assumes that senior managers will involve all staff in its implementation. Otherwise, they will not be able to fulfil the responsibilities highlighted in the Framework.

UNHCR's accountability as a UN agency

As a UN agency, UNHCR also has a responsibility to report to relevant UN bodies on progress by the Office in gender mainstreaming and women's empowerment. This includes reporting on our implementation of gender mainstreaming to ECOSOC, on Security Council resolution 1325 on women peace and security, and on the Security Council's resolutions on children and armed conflict (for more on which see chapter 6, sections 2.2, 2.3 and 2.4 respectively).

While preparation of such reports is generally coordinated at headquarters, input from the field, including through Annual Protection Reports and Country Reports, is vital to fulfilment of these responsibilities.

2.4 Strengthening participation and empowerment of women

"I found that, apart from being a wife and a mother, I could contribute to making things better for the community as a leader. I feel so proud because this is a society that prefers men... In the end, it is us, women, who drive the process forward."

Olga Lucia Rodriguez, community leader, twice displaced within Colombia⁴⁶

"All UNHCR offices will encourage the active participation of women in all management and leadership committees of refugees in urban, rural and camp settings, including return areas."

First of UNHCR's Five Commitments to Refugee Women

Introduction

Men generally have more power than women. As the 1993 Declaration on the Elimination of Violence against Women recognizes: "Historically unequal power relations between women and men ... have led to the domination over and discrimination against women by men and to the prevention of the full advancement of women." It also recognizes that violence against women is "one of the crucial social mechanisms by which women are forced into a subordinate position compared with men".⁴⁷

UNHCR has worked with women of concern for many years to raise their awareness of their rights, support their empowerment and thereby strengthen their protection. To achieve this goal, we must work in partnership with all individuals and with different groups within the community. It also requires the full participation of women of concern in all decisions affecting their lives and in the planning, implementation, evaluation, and monitoring of all UNHCR's programmes.⁴⁸

Note: Section 5 of this chapter which follows is on strengthening participation and empowerment of **girls**.

Challenges to displaced women's empowerment

Forced displacement and return can present both challenges and opportunities for women's empowerment.⁴⁹

On the one hand, forced displacement can be a **disempowering** experience for women. Traditionally responsible for children, older people, and domestic work, women are often overburdened during displacement.

When they are excluded from decision-making processes, whether in camp contexts or as a result of social isolation in urban areas, they are unable to voice their opinions about decisions affecting their lives, including whether and when to return, or take control of their environment.

Relegated to the domestic sphere, they must often depend on male relatives for access to the basic necessities provided in camps. They may be too busy surviving and protecting their dependants and have little time to attend meetings or training sessions.

An increase in violence against women, including domestic violence, and the absence of policing or judicial mechanisms mean that violence against women is often undetected, unreported, or is not addressed.

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⁴⁶ UNHCR, "Forced Displacement in Colombia: A Woman's Story", 8 March 2006, at <http://www.unhcr.org/news/NEWS/440f04774.html>.

⁴⁷ For more on the Declaration see chapter 6, section 2.1.

⁴⁸ UNHCR, *Guidelines on the Protection of Refugee Women*, July 1991, including paras. 11–12, 44; ExCom Conclusions Nos. 54 (XXXIX), 1988, and 64 (XLI), 1990.

⁴⁹ The following paragraphs are based on UNHCR, "Good Practices on Gender-equality Mainstreaming: A Practical Guide to Empowerment", 2001.

2.4 Strengthening participation and empowerment of women, continued

Opportunities for displaced women's empowerment

On the other hand, forced displacement and return can be an **empowering** experience for women. Their experience and the changes in gender roles brought about by displacement may enable them actively to challenge traditional gender roles that hinder their participation in the political, economic, and social realms. Where they have organized, they may be able to claim their right to participate in different aspects of camp or urban life and in return communities.

The inclusion of women in camp management, economic life, peace negotiations, and return and (re)integration processes can widen the range of choices available to women, give them greater control over their futures, and enhance the quality of their lives and those of their families and communities. Particularly in protracted displacement situations, women's involvement in income generation and vocational training programmes can increase their economic independence, their capacity to provide for themselves and their families, and their empowerment.

"The free communication of thoughts and opinions is one of the most precious rights of woman ..."
Article XI, Declaration of the Rights of Woman and the Female Citizen, France, 1791⁵⁰

Definition: Participation

Participation refers to the full and equal involvement of persons of concern in all decision-making processes and activities in the public and private spheres that affect their lives and the life of their community. Women's participation is a key aspect of their empowerment. It enables them to achieve other rights and change their status in society.⁵¹ Participation is essential to achieving empowerment, but it is not, in itself, empowerment.

Women's equal participation in decision-making

In 2001, UNHCR committed itself to supporting women's equal participation in decision-making structures.⁵² This was an important step forward in the organization's strategy to protect women and girls.

Failure to include women and girls in decision-making processes often means that their concerns and protection risks are not addressed in the community's overall response and in their negotiations with external stakeholders, such as UNHCR and its partners. As a result, resources may be inaccurately targeted and the protection problems women and girls face regarding their security and their access to services may be exacerbated.

In June 2005,⁵³ many field offices reported that women's participation in camp committees was limited by cultural practices related to gender roles. Consequently, it is essential to adopt a rights- and community-based approach, as outlined in section 2 of this chapter above, to overcome such obstacles.

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⁵⁰ The Declaration of the Rights of Woman and the Female Citizen was written by French revolutionary Olympe de Gouges. Her direct challenge to the inferiority presumed of women by the 1789 Declaration of the Rights of Man and of the Citizen and her attempts to promote this idea led to her being charged with treason, arrested, tried, and executed by the guillotine on 3 November 1793.

⁵¹ Guy Cave, "Where are We Now? An Overview of Rights-based Programming", Save the Children UK, Children's Rights Information Newsletter No. 18, March 2005, p. 28.

⁵² See the first of UNHCR's Five Commitments to Refugee Women quoted at the start of this section and, generally, chapter 1, section 3.

⁵³ UNHCR, "Report on the High Commissioner's Five Commitments to Refugee Women", EC/55/SC/CRP.17, 13 June 2005.

2.4 Strengthening participation and empowerment of women, continued

Women's equal participation in decision-making (continued)

Women's participation in situations of internal displacement is equally important. As the Representative of the Secretary-General on the human rights of internally displaced persons has noted: "Special attention should be paid to ensuring the participation of internally displaced women in IDP consultations and in any formal decision-making structures. As primary care-givers for their families, displaced women have the best sense of what is needed to ensure their own and their family's welfare and security. Consultation with women and girls also enables them to raise particular protection concerns they may face, such as sexual violence and exploitation, as well as reproductive health issues, which likely will go overlooked if only men speak for the group."⁵⁴

Definition: Empowerment

Empowerment is not something that is done to women. Rather, it is a participatory process that engages women in reflection, inquiry, and action. By sharing life stories and doing a basic analysis of common problems, such as domestic violence, unemployment or inadequate health services, women can gain a clearer understanding of power relations in a given community. They can begin to question the world and their place in it, affirm their own sources of power, and discover how other forms of power affect their lives.⁵⁵

Empowerment requires an understanding of power relations in a given community. Power relations between women and men, as well as among different classes, races, ethnicities, and age groups influence how groups within a given community behave. Within a community, individuals are likely to be part of more powerful and less powerful groups at the same time.

The term empowerment thus "refers to a range of activities, from individual self-assertion to collective resistance, protest, and mobilization, which challenge basic power relations. For individuals and groups where class, caste, ethnicity, and gender determine their access to resources and power, their empowerment begins when they not only recognize the systemic forces that oppress them, but act to change existing power relationships. Empowerment therefore is a process aimed at changing the nature and direction of systemic forces that marginalize women and other disadvantaged sectors in a given context."⁵⁶

Principles of empowerment

Principles underpinning women's empowerment are listed in the table below.

Principle	refers to the ...
Awareness	understanding that gender roles and unequal relations are not part of a natural order nor are they determined by biology. It entails the recognition by women that their subordination is imposed by a system of discrimination that is socially constructed and can be altered. It also includes awareness of the rights to which they are entitled through legal literacy programmes and building their capacity through leadership training.

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⁵⁴ Commission on Human Rights, "Specific Groups and Individuals: Mass Exoduses and Displaced Persons, Report of the Representative of the Secretary-General on the human rights of internally displaced persons", Addendum, Framework for National Responsibility, 23 December 2005, E/CN.4/2006/71/add.1.

⁵⁵ Adapted from Lisa Vene Klasen, Valerie Miller, Cindy Clark, and Molly Reilly, "Rights-based Approaches and Beyond: Challenges of linking rights and participation", Just Associates, Washington DC, IDS Working Paper 235, December 2004, p. 9.

⁵⁶ Srilatha Batiwala, quoted in Vene Klasen, Miller, Clark, and Reilly, *ibid.*, p. 9.

2.4 Strengthening participation and empowerment of women, continued

Principles of empowerment (continued)

Principle	refers to the ...
Participation	full, equal and meaningful involvement of women in all decision-making processes and activities in the public and private spheres that affect their lives and the life of their community. ⁵⁷ It also includes working with the community, especially men, to open the space for women to participate and support their participation. ⁵⁸
Mobilization	process of bringing women together to discuss common problems. Very often this leads to the formation of women's groups, organizations and networks, and to public lobbying for the recognition of women's rights. Through mobilization, women identify gender inequalities, recognize the elements of discrimination and oppression, and devise collective strategies to solve problems. ⁵⁹
Access and control	capacity of women to be able to have access to, and control over, services, resources, and the distribution of benefits, including the benefits of their own produce. This requires use to review our own distribution systems and refugee status determination to examine and ensure that obstacles to access by women and girls are removed and that benefits are enjoyed on an equal basis with men and boys. ⁶⁰

How to respond

In order to strengthen the participation and empowerment of women of concern, UNHCR, together with local, national and international partners, should carry out the following actions:

Response ⁶¹	Actions
Coordinate	• Work with the national ministry responsible for women's rights and review how the concerns of displaced, returnee, (re)integrating and stateless women are incorporated into their agenda. • Check with other UN agencies, especially UNFPA, UNIFEM and UNICEF, what programmes they have and to what extent women of concern are accessing these organizations' empowerment and other programmes. • Identify women's groups in the displaced/returnee community, local women's associations, as well as NGOs which have experience in gender analysis and women's leadership training. • If necessary, foster the creation of a group within the community to support the work to promote women's empowerment.

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⁵⁷ The themes of participation and equal rights in decision-making run through the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW), which refers to the right of women to participate in the political and public spheres (Articles 7, 8); to participate in recreation, sports and all aspects of cultural life (Articles 10(g) and 13(e)), to participate in all community activities, and in decision-making in relation to marriage (Article 16) and family life (Article 5(b)).

⁵⁸ See also the first of UNHCR's Five Commitments to Refugee Women cited at the start of this section.

⁵⁹ See, for example, the Guatemala field practice example in chapter 4, section 3.2.

⁶⁰ For more on refugee status determination, see chapter 4, section 2.6; on livelihoods and food security, see chapter 5, section 7.1; and on food distribution, see chapter 5, section 7.2.

⁶¹ For more on the different types of protection response see chapter 4, section 1.2. This Handbook divides them into coordinate; assess, analyse and design; intervene to protection; strengthen national capacity; strengthen community capacity to support solutions; and monitor, report and evaluate. This is the framework adopted to group types of actions in each of the "how to respond" sections in the Handbook.

2.4 Strengthening participation and empowerment of women, continued

How to respond (continued)

Response	Actions
Assess, analyse and design	• Undertake participatory assessments with women and men in the community to analyse the degree of participation by women and any obstacles they might face. • Analyse with women and girls their capacities and skills and identify with them any gaps where additional support is required. • Agree with the community and partners on the targeted actions which may be necessary to enhance women's meaningful participation. • Develop a programme to support women's empowerment. This could include activities such as leadership training, information on rights and Security Council Resolution 1325.⁶² • Ensure that activities with men and boys to create a supportive environment, such as those outlined in section 6 of this chapter below, are included in the empowerment programme. • When designing empowerment programmes, such as training workshops, take account of women's gender roles to ensure they will be able to participate e.g. by providing childcare and establishing schedules which take account of domestic chores and distance, in case women need to return home during the day.
Intervene to protect	• Develop with the community, areas where specific actions can be taken to support women's meaningful participation in community meetings. This can include having preparatory meetings with women first, allotting a specific time in a meeting where only women will present their views, etc. • As far as possible, avoid placing women in situations where the community is simply responding to the expectations of external actors and there is no real, genuine support for their participation. • Be proactive about informing women about forthcoming meetings, training sessions, etc. and support them in preparing well in advance for the topics. • Ensure that women at heightened risk have a mechanism to raise their concerns and participate in decisions, while guaranteeing confidentiality regarding their personal situation and without exposing them to further harm or trauma.
Strengthen national capacity	• If required, work with other agencies to lobby and increase the capacity of the national ministry responsible for women's rights through the provision of training, gender expertise, etc. • When working with other ministries on issues related to women's participation, include the ministry responsible for women's rights. • Work with the structures that are negotiating return to ensure women participate and are fully represented in peace negotiation processes and reconciliation and reconstruction bodies as required by Security Council Resolution 1325, as discussed in greater detail in chapter 4, section 3.1.
Strengthen community capacity to support solutions	• Work with community leaders (women and men) to sensitize the community about the value of women's participation. • Agree on representation quotas for women with the community prior to any process for elections to camp committees etc. • Encourage and support women's community-based organizations.

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⁶² For more on the latter, see chapter 6, section 2.3 below. The UNIFEM Regional Project "Women in Conflict Prevention and Peace-Building in the Southern Caucasus" has also developed a training module for gender equality advocates entitled *Advancing Gender Equality using CEDAW and UN Security Council Resolution 1325*, available in English at http://www.unifem.org/attachments/products/AdvancingGenderEqualityManual_eng.pdf and in Russian, Armenian, Azeri and Georgian.

2.4 Strengthening participation and empowerment of women, continued

How to respond (continued)

Response	Actions
Strengthen community capacity to support solutions, contd.	• Develop strategies with the community before any internal or local elections to increase women's participation in voting and to facilitate greater support for female candidates, as outlined in greater detail in the Nepal field practice at the end of this section. • Support women to enable them to build their negotiating skills and strategies and support them to become role models within their communities by working with them and encouraging them to take on leadership roles. • Work with women and men to prepare men for the changes. • Promote men's role in the domestic sphere, especially in support of women's participation, such as in caring for children, preparation of food for events.
Monitor, report and evaluate	• Monitor with women in the community how information about decisions on assistance, livelihood projects, security mechanisms, return, etc. is transmitted. (For more on access to information see chapter 5, section 1.) • Work with male and female leaders to monitor and prevent any backlash against those women who do speak up and participate. • Evaluate the process with women regularly and draw on the lessons learned to improve programme design.

Field practice: Nepal

As part of the annual elections held in the seven Bhutanese refugee camps in Nepal, UNHCR worked during the run-up to the elections in May 2006 to get more women involved in the process and ensure greater diversity among the candidates. This resulted in just over 50 per cent female candidates standing in the elections, the first time that women were equally represented as candidates for the Camp Management Committees (CMC).

Changes made in the CMC Election Guidelines in 2005 included the introduction of secret balloting to ensure better representation in the CMC of the interests of all segments of the refugee community. Core groups comprising both men and women were also formed in the camps and worked throughout the camp to increase the representation of women and support for them in taking up leadership roles.

Men won the camp secretary or the heads of the committees posts in most of the camps. Nevertheless, after a gap of several years, this time a female candidate won the elections as camp secretary in one camp. Cumulatively, women held 61 per cent of the executive CMC posts in all seven camps and women there were pleased at being better represented. As one female voter said: "It is always easier to relate to female representatives as they understand our problems and issues better."

The results also showed increased representation of women in food and non-food distribution committees and of younger, educated refugees. In an effort to promote greater social diversity of those elected, election focal points also recorded for the first time the caste of those elected, so that progress on this controversial and sensitive issue could be better monitored. Records showed that although all castes were represented, lower castes were relatively less well represented.⁶³

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⁶³ UNHCR, "The Other Election: Bhutanese Refugees in Nepal Vote to Elect their Camp Management Representatives", 5 May 2006, at <http://www.unhcr.org/news/NEWS/445b63954.html>; UNHCR Sub-office, Damak, Nepal, "CMC Election 2006 Report", May 2006.

2.4 Strengthening participation and empowerment of women, continued

Field practice: Guinea/ Sierra Leone

Women's associations have a particularly important role to play in skills development, especially through teaching women new and non-traditional skills. Women who learn new skills acquire enormous potential for enhancing their lives, that of their families and of other women.

This was so for Josephine, for instance, who has a physical disability. She was in her home when soldiers attacked in Sierra Leone. They led her husband to the gate and cut his throat. They took her to the federal camp where they gang raped her several times. After two months in the camp, one rebel commander took her as his "wife", from her junior captors. He left her children behind. She managed to escape. On arrival in a refugee camp in Guinea, she received medical attention, shelter and non-food items, as well as counselling from UNHCR's implementing partner there, the Organisation Catholique pour la Promotion Humaine (OCPH).

Josephine later received a scholarship as a widow with a disability to learn a new skill. She studied nursing for one and a half years and now works as a nurse for Action for the Rights of Children (ARC) in Kountaya, Guinea. She also joined the Association of Disabled People, for which she now serves as a chair person. Through the association she met and married a blind man. Although she has not managed to trace her family, Josephine says she has decided to put her past behind her and use her experience to help other refugees to move forward, especially those with disabilities. Josephine is living proof that "disability is not inability".⁶⁴

Field practice: Somalia

In the Puntland region of Somalia, UNHCR supports the Galkayo Education Centre for Peace and Development (GECPD). The Centre runs a three-month course for a dozen women in Galkayo, a city hosting an estimated 50,000 people who are displaced within their own country.⁶⁵

The course is intended to give them the skills to run a non-governmental organization (NGO) effectively and efficiently. This includes learning how to define an NGO's mandate, request funding and ensure accountability. The course also supports their empowerment, so they can have an impact on their own lives and on society.

One participant runs a small NGO dedicated to peacebuilding. Another recently completed her secondary education and joined a women's NGO as a counsellor for female victims of sexual abuse.

For Farhia, 36, who runs a small NGO caring for street children, nothing is more important than empowering women in a conflict-ravaged country where females raise the children and are often the sole breadwinner. "I was able to survive only because I had skills as a teacher", said the mother of nine, whose husband divorced her. "Now I am sending all my [seven] daughters to school because I want them to have an easier life", she added.

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⁶⁴ Kountaya Camp, Guinea, 19 May 2001, in UNHCR and Women's Commission for Refugee Women and Children, *Respect our Rights: Partnership for Equality*, Report on the Dialogue with Refugee Women, Geneva, Switzerland, June 2001, pp. 29–30.

⁶⁵ For further details see. UNHCR, "UNHCR Helps Women Raise their Voice in Somalia's Puntland", 15 October 2007, at <http://www.unhcr.org/news/NEWS/471377e44.html>.

2.4 Strengthening participation and empowerment of women, continued

**Field practice:
Somalia
(continued)**

Hawa Aden, chair of the GECPD, also runs a primary and a secondary school for girls in Galkayo. She said that when she was young Somali girls were encouraged to study, "but after years and years of war, all that a girl is asked [now] is why she is not married yet."

"Mothers believe their daughter will have a better life if she finds a husband fast", Aden said, although in reality divorce often followed. "If the girl has not acquired enough skills to have a decent job, she will be unable to feed her own children and she will end up living in squalid settlements outside town", added Aden.

The GECPD tries to keep its girls in school by letting them spend half their time studying and the rest working. The NGO also teaches them about issues such as violence against women and children, HIV/AIDs, peace-building and female genital mutilation. "Each time a little girl dies in town because of that harmful practice, we tell all our students", Aden said, adding that most of the girls in her schools had undergone genital mutilation.

Field practice: “Through our Eyes” participatory video, Guinea and Liberia

Introduction

A participatory, community-based video project called “Through Our Eyes” has worked to help members of conflict-affected communities broaden their awareness of sexual and gender-based violence (SGBV), its consequences and prevention and response. The American Refugee Committee (ARC) and Communication for Change (C4C) implemented the initiative both in Liberian refugee camps in Guinea and with returnees in eight districts in Liberia.⁶⁶

Rights promoted

Among the rights promoted by this initiative were the right to:

- life, liberty and security of the person;
 - freedom from torture, or cruel, inhuman or degrading treatment or punishment;
 - freedom of information, opinion and expression;
 - equality and freedom from all forms of discrimination;
 - equality in the family; and
 - the highest attainable standard of physical and mental health.
-

Steps to implementation

In early 2006 at Lainé refugee camp, in Guinea, C4C conducted a two-week training workshop in participatory video for ARC field staff and camp committee members responsible for referring SGBV cases to ARC. Participants learned how to use the equipment, engage community members in project goals, carry out interviews and develop team skills in programme planning and filming. At the end of the course, they made a documentary on early/forced marriage and short dramas on rape and community response to domestic abuse.

The Liberia-based ARC staff then returned home with their video equipment to share their skills with community peers who had been trained in SGBV prevention and response. The new team soon produced their first video.

Community screenings are usually attended by 30–100 people, after which members of the audience are encouraged to discuss the issues raised. Some share personal stories or offer suggestions on how to tackle problems.

Refugees and returnees viewing the videos regularly seek help for problems depicted in the videos they have seen and there has been an increase in reporting of rape as a result.

AGDM and empowerment

The project involved a dynamic process of engagement and dialogue with the refugee/returnee community on issues of local concern, including highly sensitive topics. Among these issues were gender, human rights, reproductive health, early/forced marriage, rape, alcoholism, and domestic abuse, as well as the consequences of settling rape the “family way” and of not treating sexually transmitted diseases.

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⁶⁶ For further information, see Tegan Molony, Zeze Konie and Lauren Goodsmith, “Through our Eyes: Participatory Video in West Africa”, *Forced Migration Review*, issue 27, 2007, pp. 37–38, at <http://www.fmreview.org/FMRpdfs/FMR27/contents.pdf>, as well as more generally at <http://www.c4c.org/about.html> and <http://www.archg.org>.

Field practice: “Through our Eyes” participatory video, Guinea and Liberia, continued

AGDM and empowerment (continued)

It was made clear that survivors of SGBV should never be pressured into sharing their stories. For those who did wish to speak out several options were developed. Many who did found it deeply empowering – a step in the gradual process of healing.

Community involvement

From conception through to production and local screening, the process was driven by individual community members. Themes and topics are relevant to local audiences and presented in culturally appropriate ways. People are always keen to see their own community members on screen. Video helps amplify voices for change from within the community and fosters peer-to-peer outreach.

Partners involved

The American Refugee Committee (ARC) and Communication for Change (C4C) were the primary organizations working on and promoting the project. UNHCR was not directly involved, although it was kept informed, including through regular meetings of the GBV Coordination Group.

Impact

The “Through Our Eyes” community video project:

- helps SGBV survivors, who are involved in the production process, to tell their own stories, to shed some of the stigma associated with their experience and to help others;
- allows participants to benefit from learning new technical, interpersonal and team skills;
- works as a participatory process to strengthen a sense of community;
- is easily incorporated into existing SGBV programmes;
- is an effective tool for awareness raising, promoting community dialogue and community mobilization and encouraging the reporting of incidents;
- is accessible to all regardless of educational level;
- motivates field staff; and
- motivates the refugee video team, who plan to use their new-found skills to produce films about evolving conditions for returnees in Liberia.

Note: Many other field practice examples in this Handbook work to strengthen women’s participation and empowerment. They include:

- Angola field practice example in chapter 4, section 3.2, on empowerment initiatives in the return context;
- Mexico field practice example in chapter 4, section 3.3, on the experience of empowerment in the context of local integration; and
- Sierra Leone field practice example in chapter 5, section 7.1 on Liberian refugee women mobilizing to become drivers.

2.5 Strengthening participation and empowerment of girls

"Developing better methods of working with children and enabling their participation is beneficial not only to children. ... If we are unaware of the problems and issues that concern children and young people, we cannot hope to devise strategies and solutions that will address their concerns, and we will constantly be struggling to make sense of the world without some of the vital information we need."

Ivar Smith and V. Johnson, "The Way Forward in UNHCR" ⁶⁷

Introduction

Child participation, including that of girls, is integral to a rights- and community-based approach and to age, gender and diversity mainstreaming. Children participate to different degrees, but the deeper the level of participation, the more children are able to influence what happens to them and the greater the opportunity for personal development and empowerment.

Note: See the preceding section for information on strengthening the participation and empowerment of **women**.

Challenges of displacement for girls

The consequences for children of forced displacement and the loss of their normal social and cultural environment are devastating. Girls may be particularly affected. They are often required to assume more adult responsibilities, including domestic chores and caring for younger children, and may not be able to go to school. Many girls suffer sexual exploitation and violence during flight. Further abuse often takes place in displacement. They may, for instance, be abducted and/or forcibly recruited by armed groups. Adolescent girls, many of them mothers and heads-of-households, are at particular risk of social marginalization and isolation, and are often overlooked within conflict-affected populations.⁶⁸

Definition: Child participation

Child participation – including that of girls – involves encouraging and enabling children to make their views known on the issues that affect them. Put into practice, participation is adults listening to children – to all their multiple and varied ways of communicating. It ensures their freedom to express themselves and takes their views into account when coming to decisions that affect them. Engaging children in dialogue and exchange allows them to learn constructive ways of influencing the world around them.⁶⁹

The core purpose of children's, including girls', participation is to empower them as individuals and members of civil society, giving them the opportunity to influence the actions and decisions that affect their lives.⁷⁰

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⁶⁷ Ivar Smith and V. Johnson, "The Way Forward in UNHCR", 1998; Glynis Clacherty, "Refugee and Returnee Children in Southern Africa: Perceptions and Experiences of Violence", 2005, p. 2.

⁶⁸ See "Adolescent Girls Affected by Armed Conflict: Why Should We Care", a fact sheet issued by the Gender and Peace Working Group of the Canadian Peace-building Coordination Unit and the Women's Commission for Refugee Women and Children.

⁶⁹ UNICEF, *The State of the World's Children*, 2003. ExCom has also affirmed in Conclusion No. 107 (LVIII), 2007, on children at risk that "States, UNHCR and other relevant agencies and partners shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of child and that mechanisms exist to inform children and adults alike of children's rights and options".

⁷⁰ See Save the Children Sweden, *Creating an Enabling Environment: Capacity-building in Children's Participation*, Save the Children Sweden, Viet Nam, 2002–2004, available at http://www.crin.org/docs/seap_vietnam_environ.pdf, pp. 15–16.

2.5 Strengthening participation and empowerment of girls, continued

What participation can do

Ensuring the meaningful participation of girls, particularly adolescent girls, in decisions and activities that affect their lives is essential. Participation:

- helps ensure girls have some control over their lives and enables them to take action to improve their circumstances and their futures;
- enhances their protection – as girls are given the opportunity to express their views, in safety and in confidence, protection problems and solutions can be identified and responded to;
- is essential, as it helps to ensure that our programmes and operations address the problems faced by girls and that we build on their resources and capacities; and
- is a theme running through the 1989 Convention on the Rights of the Child⁷¹ which is central to the access and enjoyment of other fundamental rights, including for instance the right to education.

It is not only important for girls to participate as individuals or as a group of girls, but also for them to engage in participatory, consultative processes with boys in a way that promotes gender equality.

Challenges for UNHCR

In practice, it has been difficult to ensure that children participate in UNHCR's protection and programme activities. We often lack an appropriate methodology and skills for working with children, even though we know that it is important to use media appropriate to their culture and age, such as drawing, mapping, singing, drama and play, to allow them to express themselves, process their experiences, develop and realize their potential.⁷²

Resistance from adults in the community can also hinder meaningful participation. Parents and others in the community may resist children's participation because they see it as undermining their authority within the family and society. Objections are often strongest against the participation of girls. It is therefore essential that we adopt a rights- and community-based approach (see chapter 2, section 2 above) and work with experienced partners.

Ethical issues

A number of ethical issues are also involved in ensuring the participation of children. The principles of consent and confidentiality must be respected at all times and children must not be put at risk. At the same time, if individual protection problems are identified, they must be addressed.

Annex II to the *UNHCR Tool for Participatory Assessment in Operations*⁷³ for more detailed information on this issue, as does chapter 3 of this Handbook, including section 3 on individual case management systems for prevention and response.

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⁷¹ CRC, Article 12 requires States Parties to "assure to the child who is capable of forming his or her views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child". Among the forms of participation provided for in the CRC are social participation in family life (Articles 7(1) and 10) and in community life (Articles 15, 17) and the participation of children with specific needs, such as children with disabilities (Article 23).

⁷² G. Mann and D. Tolfree (2003) cited in Glynis Clacherty, "Refugee and Returnee Children in Southern Africa: Perceptions and Experiences of Violence", UNHCR, 2005, p. 2.

⁷³ See UNHCR, *The UNHCR Tool for Participatory Assessment in Operations*, 2006, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=462df4232>.

2.5 Strengthening participation and empowerment of girls, continued

Processes for participation

Participation by children can be achieved in three ways⁷⁴ – all of which are relevant and should be used in combination – through the following processes:

Process	Description
Consultative	These processes are initiated and led by adults. Although limited in scope for real engagement, they do help to incorporate children's views into agendas that are adult-dominated and may lead to greater participation by children. UNHCR's participatory assessment ⁷⁵ is an example of a consultative process with children.
Participatory	These give children opportunities to be actively involved in developing, implementing, monitoring, and evaluating programmes, research or activities. They provide an opportunity for children to share power with adults and to play a significant role in shaping the activities in which they are engaged.
Self-initiated	These are processes where children are empowered to take action and are not merely responding to an adult-defined agenda. Children identify issues of concern themselves and control the process, with adults playing a facilitating role.

How to respond

In order to strengthen the participation and empowerment of girls of concern, UNHCR, together with local, national and international partners, should carry out the following actions:⁷⁶

Response	Actions
Coordinate	• Work with the national ministry responsible for children's rights and review how the concerns of displaced, returnee, (re)integrating and stateless girls are incorporated into their agenda. • Check with other UN agencies, especially UNFPA, UNIFEM and UNICEF, on their current programmes, the access of girls of concern to these programmes, and empowerment strategies for girls within the programmes. • Identify women's and adolescent girls' groups in the displaced/returnee community, local associations and NGOs which have experience in working with children of different ages, especially girls. • If necessary, work to create a group within the community to support the work to promote girls' empowerment. • Coordinate with schools, teachers, parent-teachers' associations, health centres, and adolescents' groups to identify the most appropriate channels to enable girls' participation and empowerment.

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⁷⁴ Adapted from Gerison Lansdown, "Can You Hear Me? The Right of Young Children to Participate in Decisions Affecting Them", Working Papers in Early Childhood Development, May 2005, pp. 14–15, at http://www.bernardvanleer.org/publication_store/publication_store_publications/can_you_hear_me_the_right_of_young_children_to_participate_in_decisions_affecting_them/file.

⁷⁵ See Chapter 2, section 3.

⁷⁶ Many of these suggested actions are drawn from "The Elimination of All Forms of Discrimination and Violence against the Girl Child: Report of the Secretary-General", E/CN.6/2007/2, 12 December 2006; Division for the Advancement of Women, Department of Economic and Social Affairs, "Elimination of All Forms of Discrimination and Violence against the Girl Child: Report of the Expert Group Meeting", Florence, Italy, 25–28 September 2006, at http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report_FINAL.pdf, section VII; Gerison Lansdown,, above footnote 74; Save the Children: "So You Want to Consult Children: A Toolkit of Good Practice", November 2003.

2.5 Strengthening participation and empowerment of girls, continued

How to respond (continued)

Response	Actions
Assess, analyse and design	• Ensure that disaggregated data on girls and boys of different ages is collected and updated systematically to ensure that decisions can be made which take girls into account and thereby avoid the risk of making them invisible in regards to planning, implementation, monitoring and evaluation. • Do not necessarily assume that adults have the knowledge and insight into what is important for girls (or boys). • Create opportunities for girls to articulate their own concerns, priorities and interests, whether through consultation, participatory or self-initiated processes as outlined above. • Use child-friendly and age-appropriate strategies, for instance, through games, role plays, drama or drawing, to enable girls (and boys) to express their concerns and ideas. • Ensure that planning takes account of the views expressed by girls (and boys) and involves them in contributing to programmes they have identified as priorities. • Take a life cycle approach to assessment, identifying with girls the discrimination they face from birth until adulthood. In this way, each form of discrimination can be identified and tackled. This helps identify points of vulnerability in girls' lives and enable appropriate responses to be designed.
Intervene to protect	• Create safe and supportive girl-friendly spaces and environments where girls can express themselves, learn about their rights, develop strategies to protect their safety and their health, practise team building, develop leadership and play. • Build girls' social assets including by – informing them about their rights and helping them build the skills to exercise these rights; – helping them build connections with other girls, develop safe spaces to meet friends, have adults in their lives to whom they can turn in times of need, and mentors who help them aspire to their future goals; – giving girls opportunities to experience being part of a team and developing leadership skills; – enabling them to find their own voice and recognize their ability to identify their own needs and act on them as full members of society; and – encouraging them during later childhood/early adolescence, to identify themselves as economic actors and acquire basic financial literacy and thereby enable them to find decent work.⁷⁷ • Around the time of puberty, work with girls to teach them about the changes in their bodies, raise their awareness of their rights, and enable them to choose when and how they wish to become sexually active, including whether and when they may eventually wish to enter into marital partnerships and have children. (See, for instance, the Tanzania field practice example on youth-friendly adolescent sexual and reproductive health, in chapter 5, section 5.1.) • Give girls and boys of all ages the space to participate. Younger children have concerns which are different from those of older children and girls have different concerns from boys. To do so, it can be more effective to conduct separate consultations and/or training sessions for different age groups and different sexes.

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⁷⁷ Division for the Advancement of Women, Department of Economic and Social Affairs, "Elimination of All Forms of Discrimination and Violence against the Girl Child: Report of the Expert Group Meeting", Florence, Italy, 25–28 September 2006, available at http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report_FINAL.pdf, paras. 114–116.

2.5 Strengthening participation and empowerment of girls, continued

How to respond (continued)

Response	Actions
Intervene to protect, contd.	• Encourage girls' involvement in sports, including through after school clubs and recreational activities. (See, for instance, Kenya field practice example in section 2 of this chapter above.) • Provide care arrangements for the children of teenage mothers and support the latter so they can continue/return to their education.
Strengthen national capacity	• Work with government authorities, such as education authorities, departments responsible for the reception of asylum-seekers or refugee status determination, to raise awareness of the value of girls' and boys' participation in projects and programmes affecting them and thereby reduce any opposition to such participation. • Support the training of government and other officials, such as health professionals or social workers, working with girls and boys of concern to ensure their commitment to the principle of listening to children, their awareness of children's rights, and their understanding of the various factors which may lead to girl children being invisible.
Strengthen community capacity to support solutions	• Work with different groups in the community to raise their awareness of the value of gender equality and of girls' rights and potential. Agree on strategies to realize both, including in relation to continuing education and access to sports, play, and health care. • Support parents in promoting and protecting their children's rights. • Engage parents, guardians, teachers, elders, and other community members in raising awareness of the value of girls' and boys' involvement and meaningful participation in the design, implementation and evaluation of programmes and projects that affect them. • Ensure processes are transparent and honest, that children understand what a given programme or project is about, and the boundaries of what they are able to influence. • Engage female teachers, health workers, and young women in secondary or further education and encourage them to become role models and mentors for girls' empowerment and participation.
Monitor, report and evaluate	• Agree on criteria for monitoring participation with girls (and boys) at the outset of a programme. • Solicit girls' (and boys') views on what should be evaluated and ensure they play a part in evaluation programmes. • Give feedback on the results of monitoring and evaluations to girls and boys and discuss the results with them in child sensitive and accessible ways.

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2.5 Strengthening participation and empowerment of girls, continued

Field practice: South Africa

During 2005, UNHCR in South Africa conducted a research project with refugee and returnee children in Angola, South Africa, and Zambia. This study was submitted to the United Nations Secretary-General's Study on Violence against Children.⁷⁸ The methodology developed for the project, which used art as a medium to engage children, was found to be an effective way of understanding children's thoughts and feelings, particularly regarding SGBV.

The methodology was then used again as part of the participatory assessment in other countries in the region. Information gathered was reflected in the formal participatory assessment reporting and integrated into programme and protection planning.

A child-friendly version of the report was produced for the children who took part in the workshops. One of the refugee girls who participated in the study was chosen to be a representative in a children's and young people's consultation in New York on the draft report on the United Nations Study on Violence against Children.

Field practice: Australia

In 2003, UNHCR's office in Australia organized a high school writing competition in which school children were invited to interview child and older refugees living in their community, write a story about the person interviewed, and reflect on their own responses to the story.⁷⁹

The exercise promoted dialogue between refugee children and their classmates and proved empowering for the refugee children involved. The winners, Sophie Weldon and Adut Dau Atem (who is resettled from Sudan),⁸⁰ went on to become Special Youth Representatives for UNHCR's national association in Australia. By interviewing refugees, Australian children became more aware of the situation of refugees.

In the second year of the competition, a large number of refugee children, many of them Afghan girls who had arrived in Australia by boat and had been subject to mandatory detention, submitted entries themselves, eager to tell their own stories.

The idea of listening with compassion and writing with respect has emerged as a strong theme in the competitions. In 2006, thousands of copies of the publication "Refugees Telling their Stories: 2005" were distributed to Australian high schools and a similar competition was undertaken in New Zealand.

Note: Many other field practice examples in this Handbook work to strengthen girls' participation and empowerment. Examples include in this chapter above, section 2, that for Kenya on the "Together for Girls" initiative; in this chapter below, section 6, that for Namibia on the girls' and boys' clubs established in Osire refugee camp; and chapter 5, section 5.1 on adolescent sexual and reproductive health initiatives in Tanzania.

⁷⁸ See <http://www.unhcr.org/doclist/protect/43994c3d2.html> and, for the United Nations Secretary-General's Study on Violence against Children, A/61/299, 29 August 2006, presented to the Third Committee of the General Assembly on 11 October 2006, see <http://www.violencestudy.org/r25>.

⁷⁹ See <http://www.unhcr.org.au/writingcomp.shtml> and for the publication see <http://www.unhcr.org.au/pdfs/WritingComp05.pdf>.

⁸⁰ For more on Adut Dau Atem's story see chapter 4, quote at the start of section 2.4.

2.6 Working with men and boys

"We need to bring men and boys front and centre, in line and in place with women and girls, in the promotion of gender mainstreaming and in the march for gender equality. We need to stress that promoting gender equality is not about granting privileges to women while disempowering men. It is about creating integrated approaches that benefit all. It is about creating a more socially just world."

Women's Commission for Refugee Women and Children, "Masculinities: Male Roles and Male Involvement in the Promotion of Gender Equality, A Resource Packet", September 2005⁸¹

Introduction

To date, UNHCR's activities to enhance the protection of women and girls have primarily focused on working with women. Yet gender equality and the elimination of violence against women and girls cannot be achieved without the active participation of men. It is also critical to reach out to boys and young men, as our beliefs about gender roles are formed at an early age.

This section explores some of the concepts underlying our work with men and boys to achieve gender equality and to prevent and respond to sexual and gender-based violence (SGBV). It provides examples of such programmes from the field and suggests actions that can be taken.

What women's empowerment means for men

Even though protecting women and girls is an organizational priority for UNHCR, there is considerable misunderstanding among staff members, persons of concern, and partners as to how such a priority affects our mandate to protect all persons of concern, including men and boys.

For instance, at a workshop on gender equality and the prevention of SGBV for refugee men in Sierra Leone, many men said that they believed that the goal of such activities is to empower women to dominate men and to discriminate against men.⁸²

"The principle which regulates the existing social relations between the two sexes – the legal subordination of one sex to another – is wrong in itself, and now one of the chief hindrances to human improvement; ... it ought to be replaced by a principle of perfect equality, admitting no power or privilege on the one side, nor disability on the other."

John Stuart Mill (English philosopher), *On the Subjection of Women*, 1869

Goal is equality not dominance of either sex

Prioritizing the protection of women and girls does not mean doing so at the expense of the protection of men and boys. The goal of UNHCR's age, gender, and diversity mainstreaming strategy is not to ensure that women and girls have greater access to and enjoyment of their rights than men and boys, but that they have **equal access and enjoyment**.

Similarly, the goal of empowering women is not to enable them to have power over men, but rather to be **equally empowered**, without one being dominant over the other. This requires a transformation in

- both men's and women's attitudes about their own gender roles;
- how we understand the use of power; and
- power relations between men and women.

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⁸¹ Available at http://www.womenscommission.org/pdf/masc_res.pdf and as a six-page brief "Redefining Manhood, Rebuilding Nations: How Men Can Empower Women to Lift Post-Conflict Communities" at http://www.womenscommission.org/pdf/masc_brief.pdf.

⁸² UNHCR Field Office, Bo, Sierra Leone, Training and Mobilization of Men's Groups for Gender Equality and the Prevention of SGBV, Final Report, 25 April 2004.

2.6 Working with men and boys, continued

Summary of challenges

Some of the challenges faced by UNHCR in working with and engaging men and boys are discussed further below and include:

- socialized male roles;
- SGBV, an extreme manifestation of unequal power relations;
- the impact of forced displacement on men and boys; and
- resistance to changing male privilege.

"In Chechnya, I couldn't, for example, cradle or kiss my baby in front of my father, uncle, or any other family elder. It is a kind of shame, according to our laws. But here we are alone and I feel that I have to help her [referring to his wife] with the kids. And I am OK with it; I feel closer to them than before."

Aslamabek, 26-year-old male refugee from the Russian Federation living in a refugee camp in the Czech Republic⁸³

Challenge: Socialized male roles

Like women, men are socialized into their gender roles. Masculinity is widely associated with bravery, strength, authority, independence, and sexual activity. Men are often expected to be in control, authoritative, and successful providers and protectors. These expectations influence the way men relate to their wives and children, as well as other women and children.⁸⁴

These socialized roles also influence the way men and boys relate to members of their own sex. They can result in homophobia towards men and boys who do not conform to stereotypically male values, as well as towards women and girls who do not conform to socially expected female roles.

Women play an important role in this socialization process, too. The privileging of boys begins early. Different expectations for boys and girls and child-rearing practices are fostered by their mothers, fathers and other family members.⁸⁵ Women's attitudes and behaviours may also inadvertently maintain gender inequalities. Consequently, gender equality requires a change in the attitudes of women *and* men toward male identities and roles, as well as female ones.

Gender roles are also influenced by prevailing cultural and religious norms, although, as already pointed out in section 2 of this chapter above, cultures are neither homogenous nor static and can and do change.

Challenge: SGBV an extreme manifestation of unequal power relations

As the Inter-Agency Standing Committee (IASC) has noted: "Gender-based violence is a manifestation of the difference in power relations at its most extreme. For this reason, it is important to recognize that sexual and gender-based violence is made up of a perpetrator, almost always male, a victim, usually female (sometimes there are boys and men) and an act or acts of violence. Yet very often our responses to sexual and gender-based violence are designed as 'women's programmes'. To see rape and other forms of violence as a women's issue ignores gender analysis entirely."⁸⁶

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⁸³ Quoted in Alice Szczepanikova, "Gender Relations in a Refugee Camp: A Case of Chechens Seeking Asylum in the Czech Republic", *Journal of Refugee Studies*, 2005, vol. 18, no. 3, pp. 281–298.

⁸⁴ Women's Commission for Refugee Women and Children, "Masculinities: Male Roles and Male Involvement in the Promotion of Gender Equality, A Resource Packet", September 2005, pp. 8, 11.

⁸⁵ Women's Commission for Refugee Women and Children, *ibid.*, p. 8.

⁸⁶ Inter-Agency Standing Committee, "Inter-Agency Lessons Learned Conference Proceedings on Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations, Geneva, 27–29 March 2001, p. 6.

2.6 Working with men and boys, continued

SGBV an extreme manifestation of unequal power relations (continued)

The IASC continues: “One of the goals of looking at violence from a gender perspective is to see both women and men as agents of change in a collaborative partnership... A comprehensive response includes focusing on the role of both women and men and generating new knowledge on how this partnership can end violence and work towards gender equality.”⁸⁷

“One of the worst things about living in the camp is that a man loses his self respect. He is not worth anything. You are supposed to be the head of the household – and here you do not have enough money to give your children to buy bread. This creates a conflict and problems in the home. ... it seems that you have lost your role and you were supposed to be the key provider.”

Justin, 30-year-old Burundian male living in a refugee camp in Kasulu, Tanzania⁸⁸

Challenge: Impact of forced displacement on men and boys

Gender inequities and unequal power relations can affect men and boys negatively too. This particularly affects their physical and mental health, as they strive to live up to the male “norm”.

Forced displacement and violence can have a devastating impact on men and boys.⁸⁹ When men lose their traditional role as provider and protector as a result of displacement, this loss of status, especially when combined with boredom, frustration, and a sense of powerlessness, can lead to increased violence, including domestic violence. It can also lead to alcohol abuse – a major problem contributing to violence against women and girls.

Challenge: Resistance to changing male privilege

Because men wield greater power in all spheres of public and private life, “the dividends of male privilege can make it very difficult for men to see the benefits of working towards gender equality. Some men fear that others will think that they are not living up to the demands of manhood; others will resist changing their ideas, behaviours, and beliefs – much as we all resist change.”⁹⁰

As in other contexts, it is often powerful refugee and displaced men who feel most threatened by strategies to empower women in the community, as they see this as a direct challenge to the power and privilege (even if limited) which they enjoy.

Other challenges

Other barriers to men's and boys' involvement include:⁹¹

- lack of opportunities for them to engage in open discussion about gender roles, their fears and expectations;
- fear of being derided and ridiculed by other men and boys;
- lack of opportunities to report on how they can support change, including by addressing SGBV;
- humanitarian actors' failure to engage men and boys on these issues; and
- women's and girls' lack of understanding of the strategic importance of male engagement.

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⁸⁷ Ibid.

⁸⁸ UNHCR film, “Living within the Limit”.

⁸⁹ Women's Commission for Refugee Women and Children, “Masculinities: Male Roles and Male Involvement in the Promotion of Gender Equality, A Resource Packet”, September 2005, p. 16.

⁹⁰ Ibid., p. 8.

⁹¹ Ibid., p. 13.

2.6 Working with men and boys, continued

"The question is not 'Can men change?', but 'How do we promote change?'"

Dean Peacock, Sonke Gender Justice Network, UNHCR workshop, Geneva, December 2006⁹²

Promoting change Engaging men and boys in the process of achieving gender equality requires us to raise awareness about the positive effects that gender equality can have for them. It also involves reinforcing masculine roles, norms and behaviours that are positive and non-violent.⁹³ This must be done in a way that appeals to men and boys, enables them to empathize with women and girls, builds on their skills and capacities, and empowers them. It is also critical to reach out to boys and young men.

Approach to adopt In our work with men and boys we should adopt the following approaches:

- understand male gender roles and identities in the society and context in which we are operating and the impact of forced displacement on those roles and identities;
- develop programmes and projects that appeal to men;
- emphasize the positive norms and values that are part of masculine identities in the cultures and communities concerned;
- develop programmes that involve men and women working together and that build on men's skills and capacities to help redress the disempowerment felt by men as a result of displacement, and mitigate male resentment over an apparent focus on women, while bringing about positive change for women and girls;
- involve respected male community leaders in promoting gender equality and eliminating violence against women and girls, and
- engage boys of all ages, particularly adolescents, in efforts to promote gender equality and the rights of women and girls.

Suggested approaches

As outlined in greater detail below, some suggested approaches for engaging men and boys include:

- reaching out to boys and young men early;
- helping men and boys realize the advantages of gender equality through their own displacement experiences; and
- finding different entry points for discussion.

**Approach:
Reach out to boys
and young men**

Reaching out to boys and young men early is critical in our work to achieve gender equality and eliminate violence against women and girls.⁹⁴

It can be useful to identify boys and young men exhibiting positive male roles, whether during workshops or in public life, and encourage them to act as role models for their peers. Boys who grow up around positive male role

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⁹² Sonke Gender Justice (SGJ) strives to create a Southern African region in which men, women, youth and children can enjoy equitable, healthy, and happy relationships that contribute to the development of a just and democratic society. To achieve this, it works to build the capacity of government, civil society organizations and citizens to achieve gender equality, prevent gender-based violence and reduce the spread of HIV and the impact of AIDS. See <http://www.genderjustice.org.za/>.

⁹³ Women's Commission for Refugee Women and Children, "Masculinities: Male Roles and Male Involvement in the Promotion of Gender Equality, A Resource Packet", September 2005, pp. 8, 11.

⁹⁴ See, for instance, the "Learning Circle" encouraging young internally displaced Colombians to re-enter education, UNHCR, "Clinton Global Initiative: From Angry Young Man to Model Student", 20 September 2007, at <http://www.unhcr.org/news/NEWS/46f2695f4.html>.

2.6 Working with men and boys, continued

Reach out to boys and young men (continued)

models are more likely to question gender inequalities and harmful stereotypes and are less likely to become perpetrators of SGBV.

Young males aged between 15 and 24 generally exhibit the riskiest behaviours related to HIV transmission, including having intercourse with multiple partners.⁹⁵ So it is essential to engage boys and young men at an early age if this issue is to be tackled.

Approach: The advantages of gender equality

The experience of displacement can provide an opportunity for men to realize the advantages and benefits gender equality may hold for them. It may result in a better understanding of, and empathy for, women's and girls' experience of violence and discrimination.

For instance, at a workshop for men on gender equality held by UNHCR, "several participants were able to link the empowerment and vulnerability which they themselves felt as refugees to the existing rights disequilibrium between men and women in the household. Establishing this link enabled many of the participants to empathize with the position of many women and view domestic violence in a different way. Subsequent discussions highlighted how domestic violence negatively affects children, the survivor, the perpetrator, and the community."⁹⁶

In addition, during displacement, some men share household responsibilities more equitably with their wives, thereby recognizing, for instance, the benefits of closer contact with their children. Others support their wives' employment outside the home, recognizing the benefits for the family as a whole.

"... Innovative projects have reached out to men in bars and brothels, in barbershops and truck stops, at sports fields and youth centres, in military barracks and police academies, in mosques and churches, and in classrooms and clinics. ... They have addressed men in their roles as sons, fathers, husbands, sexual partners, elders, educators, health providers, journalists, policy makers. They have used comic strips and rap music, internet sites and hotlines, peer educators and group counselors, games and theatre productions, radio and talk shows."⁹⁷

Approach: Entry points for discussion

Men and/or boys may provide an entry point for discussions on certain types of rights violations against women and girls which the latter may not be willing to discuss because they have internalized a perception of their own inequality. (See field example relating to Sierra Leone below.)

More generally, where men and boys have a family member or close friend, such as a sister or classmate, who has suffered domestic violence or been attacked, awareness of and empathy regarding this experience can provide an opening to understanding the wider problem and make the man or boy concerned an ally in raising awareness among his peers.

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⁹⁵ UNFPA, *State of the World's Population*, 2005, Chapter 6, www.unfpa.org.

⁹⁶ UNHCR, "Training and Mobilization of Men's Groups for Gender Equality and the Prevention of SGBV-Final Report", 25 April 2004.

⁹⁷ UNFPA, *State of the World's Population*, 2005, chapter 6, www.unfpa.org.

2.6 Working with men and boys, Continued

Entry points for discussion (continued)

Often discussions with men focus on negative behaviour and SGBV. Alternative positive entry points include themes such as fatherhood, the benefits of close relations with children or of being married, their expectations, and what makes a good relationship.

How to respond

In order to engage men and boys more effectively, UNHCR, together with local, national and international partners, should carry out the following actions:⁹⁸

Response	Actions
Coordinate	• Network with human rights and women's rights organizations and with men's groups and invite them to work with UNHCR to address gender-based violence against women and children of concern and to implement programmes involving their male counterparts. • Work with partners and the authorities to devise and promote educational materials for men and boys and for women and girls on gender, reproductive health issues, and on the unacceptability of violence and abuse. • Share and analyse good practices of working with boys and men to promote gender equality and prevent gender-based violence and abuse.
Assess, analyse and design	• Adopt a rights- and community-based approach to tackling violence and include power and gender analysis in the design of programmes. • Identify role models – men or boys who already behave in ways in which we want more men and boys to behave – and persuade them to take part in programmes addressing violence and abuse. • Ensure a gender perspective in protection strategy and programme design by analysing the situation of women, men, girls and boys and the impact of measures on each.
Intervene to protect	• Recognize that boys and occasionally men can also be victims of SGBV, that they may fear great stigma if this were to be found out. Work with these men and boys not only to provide support and bring cases to justice but also to use this experience to raise awareness of how unequal power relations in a community can affect all members of a community, whether male or female, young or old.
Strengthen national capacity	• Lobby governments to persuade them to draft and implement laws against sexual and gender-based violence and provide support in doing so. • Raise awareness about gender issues among professionals (e.g. health workers and teachers) and support their inclusion in school curricula. • Stress the benefits to society of men, especially fathers, playing a more active role in nurturing their children and abandoning a culture of violence as a proof of masculinity.
Strengthen community capacity to support solutions	• Work with groups of men and boys in the displaced/returnee community to – determine and understand how they are socialized, – identify men and boys who question resulting rigid and discriminatory gender socialization, and – train them in critical thinking skills to help people question inequitable views and practices.⁹⁹

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⁹⁸ Many of these suggestions have been adapted from Child Rights Information Network, CRIN Newsletter, No. 19, May 2006.

⁹⁹ Gary Barker, "Engaging Boys and Men to Empower Girls: Reflections from Practice and Evidence of Impact", expert paper prepared for the Expert Group Meeting on Elimination of All Forms of Discrimination and Violence Against the Girl Child, organized by the UN Division for the Advancement of Women in collaboration with UNICEF, Florence, Italy, September 2006, EGM/DVGC/2006/EP.3, at http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/ExpertPapers/EP_3%20%20%20Barker.pdf.

2.6 Working with men and boys, continued

How to respond (continued)

Response	Actions
Strengthen community capacity to support solutions, contd.	• Identify with them ways to question narrow definitions and perceptions of gender roles and relations, including the concept of masculinity, showing how this can encompass concepts such as engaged parenting, supportive roles vis-à-vis family members, authority based on listening and taking account of others, sharing of domestic tasks. • Support street theatre, radio programmes and other “edutainment” to raise the awareness of the “man in the street” about how male roles are formed and establish positive male roles and behaviours. • Call on and organize boys and men to protest against violence and abuse and to take initiatives promoting more equal gender roles and relationships. • Promote programmes on parenting and responsible sexual behaviour for men and adolescent boys. • Create focus groups, for instance, of married men, to raise awareness of issues such as domestic violence and agree on approaches to tackle them.
Monitor, report and evaluate	• Agree with the community how monitoring will take place. • Reconvene groups of men and boys six months after awareness raising initiatives have been undertaken to see how participants may have changed their attitudes and behaviours and how the situation may have changed in the community more widely. Ask them what their concerns and priorities now are. • Hold focus group discussions with women and girls to monitor and evaluate changes in male attitudes and behaviour. • Report back to governments on their progress in reforming legislation against SGBV and implementing it and work with them to enhance this.

Field practice: Namibia

In the Osire refugee camp in Namibia, the Jesuit Refugee Service team found an inventive way of not only promoting girls' education, but also reducing violence against them.

A girls' club was established in 2002 with the aim of keeping girls in school. Soon afterwards, male teachers suggested that boys should be educated in non-violent behaviour and respect towards women.

The teachers felt that by raising awareness on issues such as teenage pregnancies, sexually transmitted diseases, violence, and conflict-resolution, the programme would help to change the patterns of life in the camp.

Ten mentors were identified and the expanded club opened in 2003. Some 2,700 young males and females, aged between 10 and 20 years, are now members of the club.

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2.6 Working with men and boys, continued

**Field practice:
Sierra Leone**

UNHCR in Sierra Leone worked with men's groups to promote gender equality and prevent SGBV. The project used talking drums and dramatizations to raise awareness and encouraged men to engage with women with the aim of empowering women. Men taught women how to read and were involved in seed and tool distribution for agricultural projects through which half the harvest was donated to families with specific needs. Community leaders acted as peer counsellors on questions concerning domestic violence. On the issue of harmful traditional practices, including female genital mutilation, UNHCR and its partners were not able to engage women's groups, because of the women's strongly held beliefs. It was men who appeared more open and willing to discuss and confront this issue.

**Field practice:
Egypt**

In 2005, UNHCR Cairo and Musa'adeen (Refugees Helping Refugees) held a series of sessions with refugees and others of concern to raise awareness about sexual and gender-based violence (SGBV). Building on this work in 2006, a number of participants decided to work together on key SGBV problems in their communities, as part of a working group on involving men in sexual and reproductive health.

The group comprised refugee and migrant men from countries including Burundi, Eritrea, Ethiopia and Sudan who were ready to take up the challenge of working as agents of change in their communities and as men standing against violence. Many had been appalled at seeing their mothers badly beaten and wanted to treat their own wives and families differently.

At some 10 sessions in 2006, the men brainstormed on different types of violence in their communities, including domestic violence, forced marriage and son preference. Using resource materials provided by UNHCR, the Inter-Agency Gender Working Group and others, they asked themselves why men behave the way they do. This allowed them to identify the root causes, gender assumptions, and attitudes behind such behaviour. These came from prevailing cultural attitudes, which said a man was a wimp if he did not control his wife and family by force. They were also linked to the problems of exile, such as alcoholism, sexual exploitation abuse of women and girls by peacekeeping forces, and their own experience of discrimination.

This process of "deconstructing" social norms and "unlearning masculinity" allowed them to work together to identify healthier gender roles, including as derived from the teachings of different religions. This provided a basis for a different approach: masculinity can also be a power for care, support and constructive companionship with women as fellow human beings on the basis of equality, dignity and respect. The process of working together enabled each member of the group to strengthen his resolve to speak out against such practices in his own community.

One participant said, "Gender-based violence has long been a hidden problem in my community, but I do not want it to be hidden any more and want to work against it." Another stated: "Masculinity in my community represses women's and girls' expression of their rights and their involvement in making and taking decisions." A third recalled: "When I was a young boy, I remember that I used to stand up to my father when he used to beat my mother. I want to stand today against all men who beat their wives."

Continued on next page

2.6 Working with men and boys, Continued

**Field practice:
Chad**

In one refugee camp in Chad, the elder (local administrator) speaking at celebrations on International Women's Day was dismayed to find that the men had left all the preparations and family responsibilities to the women, who served the men during the celebration. He said that International Women's Day was a day for men to think about the difficulties women encounter, to thank them for their hard work, and to respect and support them.

The next day at similar celebrations in a neighbouring camp, he discovered that his words had not been wasted. The men had organized the celebration and the women sat in the front instead of the back as before. The men served the women drinks and performed sketches supporting women and gender equality.



Chad / An internally displaced girl and her siblings seek shelter beneath a tree / She is one of several thousand people on the outskirts of Goz Beida, southeastern Chad, who have sought safety from inter-communal fighting / Living in such conditions often exposes women and girls to multiple protection risks / UNHCR / H. Caux / November 2006



Colombia / The mother of an internally displaced family talks to a UNHCR protection officer in Los Altos de la Florida, near the capital Bogotá / Living conditions for the internally displaced in the shanty town are often very poor and if they cannot secure registration with the authorities they are unable to access essential services / UNHCR / B. Heger / January 2006

Chapter 3: Identification, Prevention and Response to Risks Faced by Women and Girls

Overview

Introduction

ExCom has acknowledged that, “while forcibly displaced men and boys also face protection problems, women and girls can be exposed to particular protection problems related to their gender, their cultural and socio-economic position, and their legal status, which mean that they may be less likely than men and boys to be able to exercise their rights”. ExCom has also recognized therefore that “specific action in favour of women and girls may be necessary to ensure they can enjoy protection and assistance on an equal basis with men and boys”.¹

Identifying risks to enhance protection

Greater awareness of the particular protection risks to which displaced, returnee, (re)integrating or stateless women and girls are exposed means UNHCR is working to move away from a perception of women and girls as being inherently vulnerable. Rather, the Office advocates an approach which identifies risk factors present in the wider protection environment and/or resulting from individual circumstances.

By identifying and assessing these different and often multiple risks early and on a continuing basis, we can identify women and girls at heightened risk, strengthen prevention, response and solutions strategies to tackle these risks, and thereby enhance the protection of women and girls of concern both individually and more generally.

Purpose

The purpose of this chapter is to show how to

- identify risks faced by women and girls, whether these be in the wider protection environment or individual risks;
- tackle risks in the wider protection environment and respond to individual risks arising and secure solutions; and
- establish individual case management systems to monitor and follow-up on interventions to protect women and girls at heightened risk.

Note: Chapter 4 describes UNHCR's protection response. Chapter 5 outlines specific rights and how to respond to violations of these rights.

In this Chapter

This Chapter has the following sections:

Section	See Page
3.1 Risk factors faced by women and girls	66
3.2 Prevention and response to risks in the wider protection environment	74
3.3 Individual case management systems for protection and response	82

¹ ExCom Conclusion, No. 105 (LVII), 2006, pre-ambular para. 3, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=printdoc&docid=45339d922>. For more background information see also, UNHCR, “Proposed Executive Committee Conclusion on Women at Risk, Follow-up Paper”, 4 May 2006, at <http://www.unhcr.org/excom/EXCOM/45082362c.pdf>.

3.1 Risk factors faced by women and girls

"The identification of women and girls at risk is problematic and labor intensive. It requires a thorough knowledge of both the community and an assessment of protection risks and gaps. If not undertaken appropriately, the identification process can also exacerbate the situation for women and girls due to lack of confidentiality, suspicion and time lags between assessment and intervention – issues that can give rise to greater abuse, marginalization and trauma. All displaced women and girls may be at risk of gender-based violence and exploitation and, hence, it is not easy to delineate those at higher risk who require specific follow-up and urgent protection interventions."

Women's Commission for Refugee Women and Children, *Displaced Women and Girls at Risk*²

Introduction

In the past, the concept of "women at risk" was primarily seen in UNHCR practice as a resettlement criterion to be used to protect individual refugee women and girls. It has now been recognized that the concept has potential as a protection tool in a wider range of situations where forced displacement exposes women and girls to a range of factors which may put them at risk of violations of their rights.³

UNHCR has therefore built on work undertaken by partners and developed a framework to identify and respond to the situation of women and girls of concern who are at heightened risk.⁴

This approach is set out in ExCom Conclusion No. 105 (LVII) of 2006 on women and girls at risk and informs the ExCom Conclusion No. 107 (LVIII) of 2007 on children at risk. It is described in greater detail below.

Purpose

Identification and assessment of the presence and severity of the risk factors, to which women and girls of concern may be exposed, help determine who is at heightened risk. This then enables targeted responses to be devised and implemented. This process is critical if we are to respond effectively, to avoid (further) violations of women's and girls' rights and to fulfil our mandate to secure their protection.

Summary of risk factors

Identifying women and girls at risk in a given situation requires us to identify the "risk factors" that threaten their rights. Some of the risk factors that can arise as a result of, and after, women and girls flee their homes include:

Risk factors in the wider protection environment resulting from

- security problems threatening or exposing them to sexual and gender-based violence (SGBV) or other forms of violence;
- problems accessing and enjoying assistance and services;
- position of women and girls in society leading to inequalities;
- legal systems which do not adequately respect, protect and fulfil their rights;
- protection mechanisms which do not adequately respect, protect and fulfil their rights; and
- absence of solutions.

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² Women's Commission for Refugee Women and Children, *Displaced Women and Girls at Risk: Risk Factors, Protection Solutions and Resource Tools*, February 2006, p. 19, at <http://www.womenscommission.org/pdf/WomRisk.pdf>.

³ See generally, UNHCR, *Sexual and Gender-based Violence against Refugees, Returnees, and Internally Displaced Persons: Guidelines for Prevention and Response*, May 2003, at <http://www.unhcr.org/protect/PROTECTION/3f696bcc4.pdf>, pp. 22 and 71.

⁴ See, UNHCR, "Proposed Executive Committee Conclusion on Women at Risk, Follow-up Paper", 4 May 2006, and also, for example, the research by the Women at Risk Programme of the Centre for Refugee Research, University of New South Wales, Australia, at <http://www.crr.unsw.edu.au/> and by the Women's Commission for Refugee Women and Children cited at the start of this section.

3.1 Risk factors faced by women and girls, continued

Summary of risk factors (continued)

Individual risk factors resulting from

- civil status or situation in society;
- previous exposure, or risk of exposure, to SGBV and other forms of violence; and
- need for specific health care or other support.

Risk factors in the wider protection environment

Risk factors in the wider protection environment that can arise include but are not limited to those listed in the table below.

Risk factor	Resulting from...
Security problems threatening or exposing them to SGBV	• inadequate housing • the need to collect fuel and water and to tend to crops/animals in unsafe locations • isolation in urban settings, as well as risks resulting from problems with housing/landlords and/or with harassment/arrest by the authorities • children being displaced, especially where they are unaccompanied or separated and/or are forced to live on the streets or in unsafe institutions • intolerance and xenophobia
Problems accessing and enjoying assistance and services	• inadequate food and/or material assistance • inadequate health care, especially given women's and girls' sexual and reproductive roles and disproportionate vulnerability to HIV/AIDS • lack of access to education; unsafe or poor educational opportunities • child labour • abuse by those in positions of authority controlling access to assistance and services • poverty and lack of livelihood or income-generating opportunities, leading, for instance, to exposure to survival sex
Position of women and girls in society	• discrimination and marginalization • community and leadership structures, including camp management, which do not include them in a meaningful manner • unequal gender and power relations • changes in gender roles • prevalence of traditional practices harmful to women and girls • breakdown of family, community support structures and values
Legal systems which do not adequately uphold their rights	• justice systems that do not fully address harmful practices or domestic violence or restrict women's rights to marriage, divorce, child custody, housing, land, property and inheritance • traditional justice systems that do not respect international norms • national registration systems that do not provide refugee or asylum-seeking women with individual documentation • legal systems which discriminate against non-nationals, including asylum-seekers, refugees and stateless persons • asylum systems which are not sensitive to the situation and claims of female asylum-seekers, including girls
Protection systems which do not adequately uphold their rights	• failure to register asylum-seeking and refugee women and girls individually and/or the specific needs of women and girls with disabilities or older women • lack of disaggregated data on women and girls of concern • lack of awareness about women's and girls' rights • lack of confidence in community complaints mechanisms

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3.1 Risk factors faced by women and girls, continued

Risk factors in the wider protection environment (continued)

Risk factor	Resulting from...
Protection systems which do not adequately uphold their rights, contd.	• weak or unclear reporting systems with inadequate resources to monitor and follow-up on cases involving, for instance, unaccompanied and separated girls and other women with specific needs • systems to identify, monitor and support women and girls at risk which do not respond adequately or promptly • lack of standard operating procedures to report on, and respond to, SGBV • lack of confidential, individual case management systems/committees • lack of best interests assessments and determinations for girls • weak or unsatisfactory relations between staff and displaced communities • insufficient presence of female and international staff or female law enforcement or security officers • lack of sustainable durable solutions, particularly in protracted situations

Individual risk factors

These more general risk factors may be combined with risk factors which put individual women and girls at risk. These can be grouped non-exhaustively as in the table below.

Risk factor	Resulting from ...
Civil status or situation in society	Their status or situation in society because they are • alone or unaccompanied, including women and girls with disabilities • single heads-of-household including grandmothers • in mixed and/or polygamous marriages • without documentation • older women, including widows, without family or community support • stateless • girls, including adolescents, who are unaccompanied or separated, heads of household, mothers, or out of school • women and girls who oppose social norms, which violate their individual rights, including in relation to their sexual orientation, their opposition to female genital mutilation (FGM), under age or forced marriage, polygamy etc. • indigenous or have a particular religious or other minority status • unable to access assistance or asylum procedures, including child-friendly procedures, and/or are in detention
Exposure or risk of exposure to SGBV or other violence	Their exposure, or risk of exposure, to • rape, torture, domestic violence or other serious physical harm • detention • abduction • trafficking • female genital mutilation • early or forced marriage • forced contraception, abortion or sterilization • maltreatment by foster families, relatives, or caregivers in institutions • forced recruitment by armed factions, whether as combatants or sex and labour slaves • sexual exploitation or abuse, for instance, by individuals in positions of authority, including humanitarian workers and peacekeepers

Continued on next page

3.1 Risk factors faced by women and girls, continued

Individual risk factors (continued)

Risk factor	Resulting from ...
Specific support needs	Specific support needs, including as a result of • youth or old age • physical or mental disability • trauma • pregnancy and motherhood, including as teenage mothers • lack of access to safe reproductive health care, including in cases of sexual assault, rape, and incest • being affected by HIV/AIDS, whether because they are HIV positive or because other family members are or have died as a result of AIDS • other medical conditions particular to their sex or gender

More on individual risk factors

Many of these individual risk factors are referred to at relevant points throughout this Handbook. Three cross-cutting individual risk factors are in addition mentioned here and relate to women and girls:

- with disabilities,⁵
- who are older, and
- who oppose social norms which violate their individual rights.

Individual risk factor: Disability

Disability is part of human life. People with disabilities can be found in every society, culture and community. Attitudes towards them vary in different cultures, as does the notion of what is a disability. These determine the level to which people with disabilities are included or excluded from society.

Women and girls with disabilities may suffer multiple discrimination on account of their sex, age and gender, as well as their disability. Girls with a disability may be less likely to have their birth registered (see chapter 4, section 2.2). Women and girls with disabilities are more likely to be excluded from shelter, education, and opportunities such as skills training. They may be neglected, isolated, exploited, abandoned, or physically or sexually abused. This puts them at greater risk of HIV/AIDS infection.⁶

Examples: Disability, conflict and flight

If women and girls with disabilities are also caught up in conflict and/or forced to flee, their situation becomes much harder. As the Committee on the Rights of the Child has noted: "Refugee and internally displaced children with disabilities are vulnerable to multiple forms of discrimination, particularly refugee and internally displaced girls with disabilities, who are more often than boys subject to abuse, including sexual abuse, neglect and exploitation."⁷ They may need help seeking safety, while the disruption of support networks may lead to increased isolation and neglect. Even if they can flee, reduced mobility may limit their access to services.⁸

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⁵ See generally, UNHCR, "The Protection of Older Persons and Persons with Disabilities", EC/58/SC/CRP.14, 6 June 2007, at <http://www.unhcr.org/excom/EXCOM/4666d9602.pdf>.

⁶ Drawn from Report of the Expert Group Meeting, "Elimination of All Forms of Discrimination and Violence against the Girl Child", 25–28 September 2006, at http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report_FINAL.pdf, paras. 98–10.

⁷ Committee on the Rights of the Child, General Comment No. 9 (2006), the rights of children with disabilities, September 2006, para. 79.

⁸ "Report of the Secretary-General on the Protection of Civilians in Armed Conflict", S/2007/643, 28 October 2007, para. 27.

3.1 Risk factors faced by women and girls, continued

**Examples:
Disability, conflict
and flight
(continued)**

The 1996 Machel Study on the impact of armed conflict on children has also reported that armed conflict in the previous decade had caused over a million deaths of children in poor countries. For each dead child, it found that three more had been injured or physically disabled, for instance, by stepping on landmines, while many more had been psychologically damaged.⁹ Exposure to SGBV can also result in disability, including, for instance, where mutilation is used as a weapon of war.

**Individual risk
factor: Older
women**

On average, women live longer than men. Older women of concern can face particular protection problems when:

- they are widows, on their own or otherwise isolated or marginalized;
 - social support networks have disintegrated as a result of conflict and/or flight;
 - they are left behind, as younger, fitter members of the community integrate into the society around them or return home;
 - they become chronically dependent upon assistance; and
 - these challenges are compounded by a lifetime of disadvantage and discrimination because of their gender, which means for instance, that they may not be literate.¹⁰
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**Examples: Older
women**

Older women who are frail may have difficulties moving around, communicating, concentrating, or understanding and may therefore be unable to flee or access essential protection services. Accommodation may not be designed with their specific needs in mind. Food and non-food items may be inadequate and/or inappropriate and distribution points may be located far from their homes. They may be forced to exchange or sell their rations to pay for someone to help them collect assistance, including water and fuel.

Older women may suffer from chronically debilitating and untreated health conditions. Yet they may not be able to access health services or these may be inadequate, for instance, because treatments for physical and mental disabilities and/or female-to-female medical services are lacking.

Sometimes, the community may see older members as a community or family resource, as people who can provide child care or traditional birth services, mediate in conflicts and continue culture and wisdom. In other situations, however, they may be seen as a burden, thereby increasing a sense of stigma and isolation, especially if there are no social services to provide support. Older women may have to care for their adult children who have AIDS and/or may become single heads of household caring for their grandchildren if their own children die.

Where older people are ostracized or marginalized by their families and communities, this can exacerbate protection problems and result in depression, alcoholism, isolation and failure to attend to their specific needs.

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⁹ See generally, Action for the Rights of Children (ARC), "Critical Issues: Disability", 2001.

¹⁰ See generally, UNHCR, "The Protection of Older Persons and Persons with Disabilities", EC/58/SC/14, 6 June 2007.

3.1 Risk factors faced by women and girls, continued

Individual risk factor: Opposing social norms

Women and girls may oppose social norms which violate their rights in numerous ways depending on the society in which they live. They may, for instance, wish

- to continue their education;
- not to marry, including not wishing to enter into a polygamous marriage;
- to divorce or leave their husband;
- not to conform to traditional dress codes;
- not to submit to traditional practices, such as female genital mutilation or early or forced marriage;
- to prevent their daughters from being subjected to violations of their rights; or
- to have a relationship with someone of the same sex.

Adopting such positions and taking such action can call into question stereotypes about gender roles in a particular society. As a result women and girls asserting their right to make such choices may face discrimination, ostracism, persecution, including exposure to SGBV, and even death.

Examples: Opposing social norms

This is true, for instance, for a woman exposed to domestic violence, who seeks to separate from or divorce her violent husband. In doing so, she may challenge prevailing social customs or she may be forced to remain in this violent situation.

Similarly, if a woman or girl does not wish to enter a polygamous marriage or to enter into a forced or under-age marriage, her position in the society in which she lives may mean this raises serious protection concerns. She may feel she has no choice but to do so, if a single woman in her society has no protection. Alternatively, if she refuses, she may be ostracized and rejected by her family and/or society and face further protection problems as a result. (See also chapter 5, section 2.2 for more on marriage, civil status and family relations.)

Lesbian women and girls may also be exposed to serious violations of their rights, particularly in societies where homosexuality is a punishable offence, where legislation discriminates against them, and/or where homosexuality is not accepted by certain or many sections of society. Lesbians may therefore be exposed to multiple forms of discrimination on account of both their gender and their sexual orientation, which may, in some cases, result in persecution, rape, and threats and attacks on their life.

Legal standards and guidelines

Legal standards and guidelines relating to these cross-cutting individual risk factors are outlined below. International and regional legal standards and guidelines regarding specific rights are outlined in greater detail in chapter 5, while the international and regional legal framework is outlined in chapter 6.

Legal standards and guidelines: Disability

With regard to disability, the 2006 Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities recognizes that women and girls with disabilities are often at greater risk, both within and outside the home, of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation and that they are subject to multiple

Continued on next page

3.1 Risk factors faced by women and girls, continued

Legal standards and guidelines: Disability (continued)

discrimination. It also emphasizes the need to incorporate a gender perspective in all efforts promote the full enjoyment of human rights and fundamental freedoms by everyone with disabilities.¹¹ At the regional level, the Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities of 1999 came into force in 2001.¹²

States are required to take measures to ensure the full and equal enjoyment by women and girls with disabilities of all human rights and fundamental freedoms and to combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life.¹³

The Committee on the Rights of the Child has strongly emphasized “that refugee and internally displaced children with disabilities should be given high priority for special assistance, including preventative assistance, access to adequate health and social services, including psychosocial recovery and social reintegration”.¹⁴

Further guidance can be found in the OHCHR, Inter-Parliamentary Union and United Nations Department for Economic and Social Affairs (UNDESA) *Handbook on the Convention on the Rights of Persons with Disabilities and its Optional Protocol* of October 2007.

Legal standards and guidelines: Older women

With regard to older women, the 1991 UN Principles for Older Persons¹⁵ establish five principles for incorporation of the rights of older persons into programmes: independence, participation, care, self-fulfilment and dignity. UNHCR has incorporated these into its “Policy on Older Refugees” endorsed by the Standing Committee in March 2000.

Legal standards and guidelines: Sexual orientation

With regard to sexual orientation, the 2007 Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity affirm the binding international legal standards on this issue as derived from key fundamental human rights instruments.¹⁶

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¹¹ See preamble and Article 6. As of September 2007, over 100 States had signed the Convention. See also Committee on Economic, Social and Cultural Rights, General Comment No. 5 (1994) on persons with disabilities; OHCHR, IPU and UNDESA, *Handbook on the Convention on the Rights of Persons with Disabilities and its Optional Protocol*, at <http://www.ohchr.org/english/about/publications/docs/ExclusionEqualityDisabilities.pdf>.

¹² Relevant provisions in other regional instruments include African Charter of Human and Peoples' Rights, Article 18(4); Protocol to the African Charter on the Rights of Women in Africa, Article 23; African Charter on the Rights and Welfare of the Child, Article 13; African Youth Charter, Article 24; Protocol of San Salvador, Articles 6 and 9; European Social Charter (revised), Article 15; Andean Charter for the Promotion and Protection of Human Rights, Articles 48 and 49; and 2005 Organization of Islamic States Covenant on the Rights of the Child in Islam, Article 16.

¹³ See Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities, Articles 6–8; CRC Committee, General Comment No. 9 (2006) on the rights of children with disabilities, September 2006, especially paras. 78–80.

¹⁴ See CRC, Article 23, and Committee on the Rights of the Child, General Comment No. 9 (2006), the rights of children with disabilities, para. 79.

¹⁵ These were adopted by the General Assembly in A/RES/46/91, December 1991. Provisions in regional instruments relevant to the protection of older persons include African Charter on Human and Peoples' Rights, Article 18(4); Protocol to the African Charter on the Rights of Women in Africa, Articles 20 and 21; Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador), Article 17; European Social Charter (revised), Article 23; Charter on Fundamental Rights of the European Union, Article 25.

¹⁶ These principles were drafted by eminent human rights experts and approved in Yogyakarta, Indonesia, in 2007. They reflect binding legal standards with which all States must comply and are at <http://www.yogyakartaprinciples.org/>. At the regional level, see also 2002 Andean Charter for the Promotion and Protection of Human Rights, Articles 52 and 53.

3.1 Risk factors faced by women and girls, continued

How risk factors may combine

The existence of one of the various risk factors outlined above, whether in the wider protection environment or at an individual level, does not automatically place someone at heightened risk. They may, however, combine in the following ways depending on the circumstances:¹⁷

- the presence of one risk factor alone may be sufficient to require an urgent protection intervention, including in response to SGBV;
 - the presence of a combination of individual and wider-environment factors can be expected to result in heightened protection risks;
 - women and girls may have been subjected to SGBV in the place of origin or during flight, which may place them at heightened risk in the area of displacement or return; or
 - threat levels may change and may thereby expose women and girls to heightened (or reduced) risk, for example, during the crisis or emergency phase, if the situation stabilizes or if it becomes protracted.
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Distinguishing risk and heightened risk

The distinction between risk and heightened risk is important, especially since not all members of groups with specific needs are at heightened risk and vice versa.¹⁸

For instance, a young woman with a disability in a supportive family set up will not necessarily be at heightened risk, although she may become so if she is later displaced and separated from her family. By contrast, a married woman or girl subject to domestic violence is likely to be at heightened risk, depending on what protection mechanisms may be available in her family, community or from government authorities.

¹⁷ ExCom Conclusion No. 105 (LVII), 2006, para. (d).

¹⁸ UNHCR, "The Protection of Older Persons and Persons with Disabilities", EC/58/SC/CRP.14, 7 June 2007, at <http://www.unhcr.org/excom/EXCOM/4666d9602.pdf>, para. 23; UNHCR, "Note on International Protection", A/AC.96/1038, 29 June 2007, para. 65.

3.2 Prevention and response to risks in the wider protection environment

"Responding more effectively to protection problems faced by women and girls at risk requires a holistic approach that combines preventive strategies and individual responses and solutions. It involves collaboration between, and the involvement of, all relevant actors, including men and boys, to enhance understanding and promote respect for women's and girls' rights."

UNHCR Executive Committee, Conclusion No. 105 (LVII), 2006, women and girls at risk, para. (g)

Introduction

The previous section outlines how risk factors present in the wider protection environment and individual risk factors may combine to place women and girls of concern at heightened risk of violations of their rights.

This section sets out a framework for tackling risks arising in the wider protection environment. Section 3 of this chapter outlines how individual confidential case management systems and committees should be established and implemented to ensure a holistic response to protection risks faced by women and girls.

Purpose

The purpose of this section is to:

- set out the international legal standards and responsibilities, which underpin States' and our response to risks in the wider protection environment; and
- describe briefly how to respond to these risks through measures to identify, assess and monitor risks, establish and strengthen secure environments, and empower women and girls.

There is also a field practice example for Afghanistan, showing how UNHCR has worked with partners to set up a national strategy to identify and respond to protection risks faced by women and girls of concern.

International legal standards and guidelines

Everyone is entitled to enjoy their human rights and fundamental freedoms without distinction or discrimination, including as regards age, sex or gender.¹⁹

ExCom Conclusions No. 105 (LVII), 2006, on women and girls at risk and No. 107 (LVIII), 2007, on children at risk provide guidance on how to establish and implement mechanisms to respond to the situation of women and girls at risk. They are reproduced in Annexes 1 and 2 of this Handbook.

Responsibility: States

The protection of women and girls is primarily the responsibility of States. They have an obligation to:

- respect women's and girls' rights and refrain from discriminatory actions which directly or indirectly deny their rights;
 - protect their rights, including by taking steps to eliminate prejudices, customary and other practices that perpetuate the notion of the inferiority or superiority of either sex and stereotyped roles for men and women; and
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¹⁹ UDHR, Articles 1 and 2; ICCPR, Article 2; ICESCR, Article 2; CEDAW Article 3; CRC, Article 2; 1951 Refugee Convention, Article 3. International and regional legal standards and guidelines regarding specific rights are outlined in greater detail in chapter 5. The international and regional legal framework is outlined in chapter 6.

3.2 Prevention and response to risks in the wider protection environment, Continued

Responsibility: States (continued)

- fulfil their rights by taking steps to ensure that in practice, these rights are respected, including through ensuring access to national legal systems so that these rights can be enforced.²⁰

States are responsible not only for acts by their authorities but also for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence. They are also responsible for providing compensation.²¹

Responsibility: UNHCR

If UNHCR is to fulfil its mandate to protect women and girls of concern and secure durable solutions for them, it has a responsibility both to support States build their capacities to fulfil their responsibilities to protect women and girls and to ensure that the Office's own initiatives prevent and respond effectively to risks in the wider protection environment.

How to respond

Responding more effectively to the protection risks faced by women and girls requires a holistic approach that combines preventive strategies, individual responses and solutions. It involves collaboration among, and the involvement of, all relevant actors, and should include working with men and boys to understand and promote respect for the rights of women and girls.

A framework for identifying, assessing, responding to and preventing these risks is set out in ExCom Conclusion No. 105 (LVII), 2006, on women and girls at risk.

This Conclusion outlines actions to be undertaken by States, UNHCR, other relevant agencies and partners. The more specific actions listed there are placed in their relevant location in the Handbook, so that only a summarized listing relating to risks in the wider protection environment is given below.

Note: Section 3 of this chapter which follows explains how individual case management systems should be established to respond to the situation of individual women, girls, boys and men at heightened risk.

How to respond: Risks in the wider protection environment

As outlined in ExCom Conclusion No. 105, strategies to tackle protection risks in the wider protection environment should include each of the following non-exhaustively listed steps and actions to

Step	Action
1	Identify, assess and monitor risks faced by women and girls in the wider protection environment;
2	Establish and strengthen secure environments; and
3	Support the empowerment of women and girls of concern.

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²⁰ See Committee on Economic, Social and Cultural Rights, General Comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, specially paras. 18–21; Human Rights Committee, General Comment No. 28 (2000), equality of rights between men and women.

²¹ Committee for the Elimination of Discrimination Against Women, General Recommendation No. 19 (1992), violence against women, para. 9.

3.2 Prevention and response to risks in the wider protection environment, continued

1. Identifying, assessing and monitoring

Effective identification of these risks involves gathering information, including through participatory assessments, on

- legislation which is discriminatory or persecutory either in its substance or in the manner in which it is implemented;
- abusers/perpetrators who may place women and girls at risk, which can be done by analysing the institutions and people committing abuses, sources of power and influence, dissecting their chains of command, motivations, objectives and the interests driving their decisions;²²
- circumstances, such as armed conflict, which place women and girls at risk, either generally or specifically, for instance, if they are of a particular ethnic background or religion; and
- prevailing norms and practices, which may discriminate against certain individuals and which the State is either unwilling or unable to control.

The process can be strengthened by incorporating gender issues into early warning mechanisms, alerts and contingency plans, conducting a rapid situation analysis at the start of a new emergency and integrating gender-based risk analysis into inter-agency assessments.²³

Ongoing assessment and monitoring of protection risks, including with women, men, girls and boys in the community, is essential to review risk levels and how these elements may combine and affect each other.

Note: For more on participatory assessment, see chapter 2, section 3. For more on situational analysis and the Strengthening Protection Capacity Project (SPCP) framework, see chapter 4, section 1.2. Each represents an important basis for identifying, assessing and monitoring protection risks. For information regarding identification of individual cases, see section 3 of this chapter which follows, under “identify women and girls at risk”.

2. Establishing and strengthening secure environments

Secure environments should be established and strengthened, including by

- partnerships and actions to prevent and respond to SGBV (for more on which see chapter 5, sections 3.1.1 and 3.1.2);
- maintaining the civilian and humanitarian character of asylum (see below “protection interventions to ensure physical safety”);
- enhancing timely registration and documentation (see chapter 4, section 2.1);
- ensuring adequate design of accommodation in camps, reception centres etc. (see below “protection interventions to secure physical security”);
- monitoring access to, distribution and control of assistance;
- establishing confidential community complaints mechanisms;
- strengthening dispute resolution and justice systems (see chapter 5, section 4);
- ensuring access to safe learning environments (see chapter 5, section 6.1);

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²² Centre for Humanitarian Dialogue, “Proactive Presence: Field Strategies for Civilian Protection”, Summary, 2006, at <http://www.hdcentre.org/Proactive+Presence>, p. 3.

²³ ExCom Conclusion No. 105 (LVII), 2006, para. (i)(ii).

3.2 Prevention and response to risks in the wider protection environment, continued

2. Establishing and strengthening secure environments (continued)

- ensuring all staff are presented and introduced to the community and use identity cards;
- raising community awareness of their rights, UNHCR's mandate, policies, codes of conduct and the Secretary-General's Bulletin; and
- establishing and/or implementing codes of conduct, including on the elimination of sexual exploitation and abuse (see chapter 5, section 3.1.2).

Interventions to strengthen secure environments in camps

Ensuring physical security and safety in camps involves maintaining the civilian and humanitarian character of camps and settlements. Our advocacy work on this with governments is critical, since States have primary responsibility for maintaining the civilian and humanitarian character of asylum.²⁴ In some situations where States may be unable or unwilling to address this issue, dialogue with non-state armed groups who may have influence in refugee camps may also be necessary.

In camp settings, UNHCR support to States can include:

- deploying camp security personnel, including to escort women and girls collecting firewood outside camps;
- providing alternative fuel sources where firewood collection may lead to tensions and violations of rights;
- ensuring camp layout and design take account of women's and girls' concerns regarding the safe and accessible placement of water and distribution points and provide separate latrines for males and females;
- ensuring camps are well lit to enhance protection after dark;
- establishing safe houses for women and children only, so that women and girls who are survivors of domestic violence or at risk of abduction can find immediate security in the short term;²⁵ and
- establishing "child friendly spaces" in emergencies which can go on to become a school or play area where educational, health and social support can be provided.²⁶

Interventions to strengthen secure environments in non-camp settings

In non-camp settings, promoting physical security for women and girls can involve ensuring that reception centres for asylum-seekers provide separate well lit accommodation for single females, which they can lock. It can include lobbying to ensure asylum procedures provide for the appointment of a female guardian for unaccompanied and separated girls to accompany them through the procedure and assure their well being and safety.

3. Supporting empowerment

The empowerment of women and girls of concern should be supported and enhanced including by partnerships and actions to strengthen and build on women's and girl's leadership and capacities. Awareness raising on gender roles and women's rights is crucial to their empowerment and its part of our protection work. (For further details, see chapter 2, sections 4, 5 and 6.)

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²⁴ ExCom Conclusion No. 94 (LIII) of 2004, para. (a). See also UNHCR, *Operational Guidelines on Maintaining the Civilian Character of Asylum* September 2006, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=452b9bca2>.

²⁵ For further details on these issues see also chapter 5, sections 3 on personal liberty and security and 8 on housing, land and property, as well as Women's Commission for Refugee Women and Children, *Displaced Women and Girls at Risk: Risk Factors, Protection Solutions and Resource Tools*, February 2006, p. 22.

²⁶ These have been promoted by UNICEF and are also supported by ExCom in Conclusion No. 107 (LVIII), 2007, para. (h)(viii).

3.2 Prevention and response to risks in the wider protection environment, continued

Individual response and wider prevention

In carrying out our work to protect women and girls, our choice of activities needs both to respond to individual violations and to tackle risks present in the wider protection environment.

We may focus on responding to particular problems or rights violations, such as an individual case of SGBV or ensuring that a returnee woman can access her property, as is also outlined at relevant points elsewhere in the Handbook.

We also need to spend time on prevention and working to change the wider protection environment itself, so that some of the underlying causes of protection risks for women and girls can be reduced. Changing the wider protection environment is often a more complex and difficult task. It involves working to change attitudes, laws, structures, and institutions within communities and countries.

Yet the protection of women and girls cannot be achieved unless we look at the factors in the wider environment that contribute to discrimination and inequalities against women and girls, as well as responding to the protection risks faced by individual women and girls.

Field practice: Afghan protection strategy for women and girls at risk

Introduction

The UNHCR Office in Kabul has worked in recent years to establish an integrated strategy for Afghanistan to respond to the situation of women and girls at risk.²⁷ This work is set against a general situation for women and girls which “remains dramatic” and where “severe violence against them is all-pervasive”.²⁸ In addition, government capacity concretely to tackle violence against women is very limited.

At first, the initiative supported safe houses to protect unaccompanied women returning to Afghanistan who were at risk. Since then, the Office has worked with UNIFEM, government and other partners to establish a practical, functioning protection mechanism to respond to the situation of women and girls at risk.

Rights promoted

Among the rights promoted by this initiative are the right to:

- personal integrity;
 - freedom from torture, cruel, inhuman or degrading treatment or punishment;
 - return in safety and dignity;
 - highest attainable standard of health, including reproductive health; and
 - education and information (as a part of empowerment).
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Steps to implementation

UNHCR's involvement with women and girls at risk in Afghanistan originated from a need to provide immediate protection responses to the situation of unaccompanied women returning to Afghanistan from countries of asylum. The initial focus was thus primarily on supporting safe houses, established and managed by Afghan women's NGOs in Kabul and Herat.

This has expanded to include a number of interlinked components to strengthen the response and management capacity of national institutions and of civil society, and the accountability of local authorities to work towards solutions for individual women and girls.

Activities supported and (partially or fully) funded by UNHCR and UNIFEM over the last three years have focused on Kabul, Herat and Mazar-i-Sharif. They have aimed to

- provide immediate protection and solutions through women's resource centres and, as a last resort, safe houses/shelters;
 - develop and strengthen local and national capacity to address violence against women, including through Coordination and Cooperation Commissions (initiated by the Ministry of Women's Affairs (MoWA) to set up a regulatory framework for managing and monitoring safe houses and ensure coordination of referrals and solutions) and a Network of Women's Rights Defenders (to exchange experiences, discuss and develop immediate protection responses and longer-term capacity building priorities); and
 - create awareness, sensitization and action to address violence against women and girls in the institutions and society at large.
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²⁷ UNIFEM and UNHCR, “Progress Note on Protection Responses to Women-at-risk: ‘Moving Towards an Integrated Strategy for Afghanistan’”, August 2006.

²⁸ Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Yakin Ertürk, “Mission to Afghanistan (9 to 19 July 2005)”, E/CN.4/2006/61/Add.5, 15 February 2006, para. 74.

Field practice: Afghan protection strategy for women and girls at risk, continued

Steps to implementation (continued)

At the same time, UNHCR and UNIFEM have worked with national and international civil society organizations, particularly those providing protection and assistance to women at risk or victims of violence, to establish and secure funding for a Trust Fund for the elimination of violence against women. This Fund has sought funding for an initial period of three years and aims to:

- allow the expansion and continuation of direct services to women and girls at risk of violence or who are victims of violence,
- provide a flexible, predictable, coordinated and participatory funding mechanism for organizations/institutions involved in protecting such women and girls; and
- contribute to developing a national and multi-sectoral approach to the elimination of violence against women in Afghanistan, by promoting networks and linkages and documenting best practices/lessons learned.

As such, the initiative seeks to move beyond a focus on sensitization and overall national planning initiatives to offer more concrete protection responses to women in need. The Trust Fund seeks to bridge this gap by bringing together all relevant actors to ensure not only the sustainability of funds allocated to women at risk activities, but also to provide more coherence at the national level in the types of interventions carried out.

It is now well under way. An Advisory Board met for the first time in mid-2007 and the initiative has received the support of all relevant actors. It is hoped the Trust Fund can be fully up and running by the end of 2007.

AGDM and empowerment

Efforts to sensitize Afghan institutions and society at large about the rights of women and girls and raise awareness that violence against women and girls is a human rights violation form an essential element of UNHCR's AGDM strategy in Afghanistan.

Afghan women's involvement in the provision of advice and assistance to women and girls who are victims/survivors of violence contributes to their empowerment, as does the provision of advice and support to victims/survivors of such violence.

Community involvement

The actual work with women and girls at risk has been, and can only be undertaken, by Afghan women and women's NGOs. They manage the safe houses and resource centres providing advice, counselling and mediation, peer support, legal and health services, and undertake outreach work.

Partners involved

UNIFEM has been a key partner. All activities have been carried out with the collaboration and support of MoWA and its provincial departments. UNHCR's international NGO partner, Medica Mondiale, provides support and expertise in psychosocial, legal and management matters. Afghan women and women's NGOs are critical partners, as mentioned above.

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Field practice: Afghan protection strategy for women and girls at risk, continued

Constraints

Constraints have included the complexity of discussions on a policy and regulatory framework under MoWA's auspices, given the sensitivity of the issue in Afghanistan and lack of capacity across the board. There is a lack of awareness or acceptance that violence against women and girls is a public health and human rights issue.

Impact

As a result of these initiatives, 213 women were able to seek refuge and assistance in safe houses funded by UNHCR in 2006.

MoWA and the NGOs running safe houses in Afghanistan signed a protocol in May 2007, as UNHCR and others have advocated for some time. This establishes an initial regulatory framework for the management of the safe houses and a framework for accountability of all parties concerned. It also sets out terms of reference for the Cooperation and Coordination Commissions (CCC) of the safe houses in Kabul, Herat and Mazar-i-Sharif, for MoWA and for its provincial departments, as well as a framework for coordination among participants and other relevant actors at national and provincial level.

Lessons learned

The focus of efforts to tackle violence against women has been on sensitization and overall national planning initiatives. Much more needs to be done to offer concrete protection responses to women in need.

It is important to work to ensure the financial sustainability of initiatives, increase the quality and effectiveness of ongoing projects (including for instance relating to psychosocial support), strengthen overall coordination and devise long term sustainable strategies.

3.3 Individual case management systems for protection and response

"States should promote the establishment and implementation of child protection systems, in accordance with international obligations of States concerned, and to which children under their jurisdiction should have non-discriminatory access. The support provided by UNHCR and other relevant agencies and partners in helping States fulfil their obligations should supplement and strengthen the national child protection system in areas where gaps exist, and be delivered in a spirit of partnership by building on each actor's comparative advantages to reinforce the beneficial impact on the protection of children."

UNHCR Executive Committee, Conclusion No. 107 (LVIII), 2007, children at risk, paras. (b)(ii) and (iii)

"UNHCR offices must ensure confidential individual case management systems and committees are established with partners to provide a system to follow up, monitor and find solutions for those individual persons who are at heightened risk. The system needs to be coordinated with the community. Any individuals at heightened risk should be regularly visited by UNHCR and partner staff, with due consideration to confidentiality and the potential for placing such persons at greater risk."

UNHCR, *A Community-based Approach in UNHCR Operations*, 2008, section 3.2.7

Introduction

Section 1 of this chapter outlines how risk factors present in the wider protection environment and individual risk factors may combine to place women and girls of concern at heightened risk of violations of their rights. Section 2 summarizes strategies for prevention and response to risks in the wider protection environment.

This section builds on ExCom's recognition that States should promote the establishment and implementation of child protection systems. It outlines briefly how confidential individual case management systems and committees should be established in each operation to coordinate and monitor the response to the situation of **all** women, girls, men and boys of concern who are at heightened risk, and to support solutions for them.

The establishment of a confidential individual case management committee, involving government, UNHCR, partners and, where appropriate, the community, is integral to achieving a holistic response.

The goal is to capacitate States to assume their responsibilities and empower individuals at risk to protect themselves as much as possible.

Purpose

This section:

- sets out the applicable international and regional legal standards, guidelines and responsibilities, which underpin States' and our response to individual risk factors;
- describes briefly how to respond to individual protection risks through prevention and response measures in the immediate, medium and longer term; and
- provides field practice examples for Romania and India, showing how confidential individual case management mechanisms have been set up to identify and respond to protection risks faced by women and girls.

Continued on next page

3.3 Individual case management systems for protection and response, continued

International legal standards and guidelines

Everyone is entitled to enjoy their human rights and fundamental freedoms without distinction or discrimination, including as regards age, sex or gender.²⁹

ExCom Conclusions No. 105 (LVII), 2006, on women and girls at risk and No. 107 (LVIII), 2007, on children at risk provide guidance on how to establish and implement mechanisms to respond to the situation of women and girls at risk. They are reproduced in Annexes 1 and 2 to this Handbook.

Responsibility

Section 2 of this chapter above affirms the responsibilities of States and UNHCR for the protection of women and girls. Other responsibilities related to specific rights are set out at relevant points elsewhere in the Handbook.

If States and UNHCR are to fulfil these responsibilities, they have a responsibility to work together and with relevant agencies and partners to establish protection individual case management systems to:

- identify women and girls at risk and assess their situation;
- agree and coordinate immediate responses by relevant actors;
- agree and coordinate medium-term responses by relevant actors;
- agree and coordinate longer-term responses to achieve solutions; and
- monitor action taken throughout, adapting responses as required.

With regard to children at risk, for instance, ExCom has called on States, UNHCR and other relevant agencies and partners to collaborate closely to establish comprehensive child protection systems.³⁰ This Conclusion sets out the different components that may form part of such a system to identify children at risk and implement prevention, response and solutions measures to secure their protection.

Confidentiality

At all times, it is vital that we and our partners respect the right to privacy of individuals at heightened risk and their families and the confidential nature of personal data and information.³¹ Failure to do so, for instance regarding someone's health status, including HIV status, may expose them to even greater risk. Respecting confidentiality means we must:

- only share information with actors involved in providing assistance, where this has been requested and agreed with the individual at risk concerned;
 - only share information about individuals at risk with third parties after seeking and obtaining their explicit consent in writing (or that of their parents in the case of young children);
 - respect the confidentiality of any perpetrator;
 - maintain all written information in secure, locked files;
-

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²⁹ UDHR, Articles 1 and 2; ICCPR, Article 2; ICESCR, Article 2; CEDAW Article 3; CRC, Article 2; 1951 Refugee Convention, Article 3. International and regional legal standards and guidelines regarding specific rights are outlined in greater detail in chapter 5. The international and regional legal framework is outlined in chapter 6.

³⁰ ExCom Conclusion No. 107 (LVIII), 2007, on children at risk.

³¹ This section draws on UNHCR, *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response*, May 2003, p. 29. For further guidance, see UNHCR, "Confidentiality Guidelines", UNHCR/IOM/71/2001, UNHCR/FOM/68/2001, 24 August 2001; UNHCR, "Note on HIV/AIDS and the Protection of Refugees, IDPs and Other Persons of Concern", 5 April 2006, especially paras. 31–36.

3.3 Individual case management systems for protection and response, continued

Confidentiality (continued)

- ensure that, if any reports or statistics are to be made public,
 - only one officer in the organization has the authority to release the information;
 - she or he only discloses general information about individuals at risk,
 - any identifying information, such as name or address, should be removed; and
 - ensure staff and partners on individual case management committees sign UNHCR's *Code of Conduct*.³²
-

Individual case management system

ExCom "recommends that States, UNHCR and other relevant agencies and partners work in close collaboration to ... establish confidential, accessible and child- and gender-friendly complaints and referral systems, in coordination with national authorities when necessary, with clear roles for receiving, referring and addressing complaints from or about a child while ensuring the safety of the child, and for managing case files."³³ While this Conclusion relates specifically to children, the establishment of a confidential individual case management system in each setting is also relevant to women and men.

The system needs to be clear and accessible, so that those at heightened risk know where to go to receive protection assistance and this can be provided promptly. All relevant actors, including the community, should be involved in its development, so that it is familiar to all members of the community and other actors involved.

Specific outreach may be required to ensure women and girls are aware of the referral system. Reporting and referral procedures should be translated into appropriate local languages and presented in ways that are accessible to all members of the community of different ages and backgrounds.³⁴

Individual case management committee

As a central element in this system, UNHCR should ensure the establishment and proper functioning of a confidential individual case management committee.

This should include UNHCR, government, other relevant partners and, where appropriate, the community. To ensure confidentiality, membership of the committee should be kept to a minimum. It may not be appropriate, in some circumstances, for communities to participate.

Functions of the committee

The regular and ongoing functions of the committee should in all heightened risk cases be to:

- initiate and document responses and action;
 - monitor, review and assess their impact;
-

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³² UNHCR, *Code of Conduct and Explanatory Notes*, June 2004. See also chapter 2, section 3 and chapter 5, section 3.1.2.

³³ ExCom Conclusion No. 107 (LVIII), 2007, para. (g)(iv).

³⁴ See also, in relation to SGBV, UNHCR, *Sexual and Gender-based Violence against Refugees, Returnees and Internally displaced Persons: Guidelines for Prevention and Response*, May 2003, pp. 56–67.

3.3 Individual case management systems for protection and response, continued

Functions of the committee (continued)

- adapt actions to address any shortcomings through timely remedial action to provide ongoing security;
- prevent different response mechanisms from operating in isolation;
- ensure they are linked and form part of a holistic protection strategy;
- coordinate responses to all needs identified; and
- work with the individual to identify and implement solutions.

Ensuring a holistic protection response

Depending on the circumstances (for instance relating to the size and profile of those at risk, the size of the UNHCR operation or, in situations of internal displacement, which agency has the relevant cluster lead), it may be that

- multi-functional teams (see chapter 2, section 3) can provide the appropriate framework for individual case management;
- the committee can be tasked, for instance, with undertaking both best interest assessments and determinations and responses to sexual and gender-based violence to avoid parallel systems; or
- the committee can oversee actions undertaken by separate committees involving different sets of actors and focusing on specific types of cases.

If separate committees are established, they should cooperate closely to:

- avoid duplication of effort or gaps in the protection response;
- coordinate responses as part of a holistic protection strategy;
- ensure there is a response to all heightened risks identified; and
- monitor the situation of everyone at heightened risk closely.

How to respond: Individual risks

Strategies to respond to the situation of individual women and girls at risk include each of the following steps and actions to

Step	Action
1	Identify women and girls at risk and assess their situation
2	Agree and initiate immediate responses by relevant actors
3	Agree and coordinate medium-term responses by relevant actors
4	Agree and coordinate longer-term responses to achieve solutions

Throughout, the confidential individual case management committee should review, monitor, evaluate and, as necessary, adapt actions taken in all heightened risk cases.

Note: More specific suggestions for actions, at each of these stages, to respond to individual risks and ensure respect for corresponding rights are outlined in relevant sections of chapter 5.

1. Identifying women and girls at risk

Ensuring early identification of women and girls at risk involves working in partnership with States, NGOs, community-based organizations, and other actors to establish mechanisms, based on an analysis of the risk factors outlined in the previous section, to identify individual women and girls at heightened risk of violations of their rights and to determine and implement appropriate immediate responses and subsequent solutions.

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3.3 Individual case management systems for protection and response, continued

1. Identifying women and girls at risk (continued)

Identification of individual women and girls who are at heightened risk often presents challenges, as such individuals may be less visible to us and less ready to come forward, particularly if they have disabilities and/or are older. Mechanisms include:

- border monitoring in partnership with civil society and NGOs;
- registration systems, especially proGres, which identify groups with specific protection and assistance needs and can highlight individuals at heightened risk;
- participatory assessments with women and girls, as well as with men and boys (see chapter 2, section 3);
- identification of those at heightened risk by field staff using the UNHCR heightened risk identification tool (see below);
- community mapping, including through refugee volunteer and community-based home visit systems;
- monitoring visits to host or foster families;
- establishing and/or expanding camp or neighbourhood information centres to provide legal and social advice; and
- self identification by the woman or girl concerned or her family who approach UNHCR or partners;
- best interests assessment and determination systems for refugee children (see chapter 4, section 2.5);
- refugee status determination procedures (see chapter 4, section 2.6); and
- reporting and referral systems established under SGBV standard operating procedures (see chapter 5, section 3.1.2).

UNHCR risk identification tool

Building on ExCom Conclusion No. 105 of 2006, UNHCR and partners are testing an individual Heightened Risk Identification Tool for identifying persons at heightened risk, taking into account age, gender, disability and other factors.³⁵ This tool provides a framework to identify those whose circumstances place them at heightened risk. When combined with individual registration systems, it can facilitate effective monitoring, follow-up and identification of solutions for individuals at heightened risk.

Other tools for response

Tools especially relevant for responding to the situation of women and girls at heightened risk are discussed in chapter 4, sections 2 and 3. These include registration and identity documentation; birth registration and certification; family tracing and reunification; best interests assessments and determinations; refugee status determination; and resettlement.

In order to address incidents of SGBV, it is essential to establish standard operating procedures to prevent and respond to SGBV.³⁶

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³⁵ See, UNHCR, "Heightened Risk Identification Tool", version of 20 June 2007, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=46f7c0cd2> and the Victorian Foundation for Survivors of Torture, University of New South Wales, UNHCR, *Refugee Consultations, Bangladesh*, March 2007, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=46f0ec002>.

³⁶ See UNHCR, "Standard Operating Procedures for Prevention of and Response to SGBV", IOM/62/2006, FOM/62/2006, 28 July 2006 and chapter 5, section 3.1.2.

3.3 Individual case management systems for protection and response, continued

Examples: Identifying women and girls at risk

Examples showing how UNHCR has worked with partners to secure access to and identify women and girls who are at heightened risk, are contained elsewhere in the Handbook in the field examples regarding:

- involvement of government authorities in determining the best interests of the children in a family suffering domestic violence, as a first step towards their regular involvement in such cases, in chapter 4, section 2.5;
 - Ecuador and Kenya in relation to resettlement in chapter 4, section 3.4; and
 - Slovenia and Albania in relation to trafficking and separated and unaccompanied children, in chapter 5, section 3.2.
-

2. Immediate responses

In order to ensure immediate responses for women and girls at risk the individual case management committee should coordinate the provision of “information, counselling, medical and psychosocial care, as well as access to safe houses if they face domestic violence and abuse or attack by other members of the community, especially where there are no mechanisms to remove perpetrators; provid[ing] emergency voluntary relocation, e.g. to another town or camp, or emergency resettlement”.³⁷

These different responses are discussed in greater detail in relevant sections of the Handbook, especially in chapter 5 on exercising rights and ensuring protection.

3. Medium-term responses

In order to develop medium-term responses for women and girls at risk, action by the committee should include:³⁸

- monitoring initiatives implemented to ensure needs are met and accountability is strengthened;
 - helping secure the access of women and girls at risk to justice and reducing impunity (see chapter 5, section 4);
 - strengthening identified individuals' access to education and livelihood initiatives (see chapter 5, sections 6 and 7);
 - providing skills training and support for women's income generation projects (see chapter 5, section 7.1); and
 - intervening to secure women's access to and enjoyment of their right to housing, land and property (see chapter 5, section 8).
-

4. Longer-term responses and solutions

Longer-term responses and solutions³⁹ for women and girls at risk which the committee may examine, initiate and monitor include:

- focusing on women's and girls' empowerment through livelihood and leadership strategies to increase their capacity to protect themselves;
 - promoting women's and girls' equal rights to make a free and informed choice to return voluntarily and to reclaim their housing, land and property;
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³⁷ ExCom Conclusion No. 105 (LVII), 2006, para. (n)(ii).

³⁸ See ExCom Conclusion No. 105 (LVII), 2006, para. (o).

³⁹ See ExCom Conclusion No. 105 (LVII), 2006, para. (p).

3.3 Individual case management systems for protection and response, continued

4. Longer-term responses and solutions (continued)

- strengthening the use of resettlement as a protection tool for women and girls at risk;
 - considering using special evacuation programmes for internally displaced women and girls at risk, if necessary, given that resettlement is very rarely available to them; and
 - establishing mechanisms, where voluntary repatriation for individual refugee women and girls at risk is not a safe option and resettlement is not available, to enable them to integrate locally and safely in the country of asylum, including by examining possibilities for voluntary relocation elsewhere in the country and by ensuring ongoing support for them; for internally displaced women and girls at risk, examining possibilities for allowing them to relocate elsewhere in their own country if they wish and if their safety cannot be ensured where they are.
-

Field practice examples

The following field practice examples show how:

- a Task Force to coordinate prevention and response to protection risks faced by unaccompanied and separated children of concern in Romania was expanded to include all persons of concern with specific needs, including women and girls at risk; and
 - the establishment of a Women's Protection Clinic in New Delhi, India, formed part of a wider strategy to improve access to women and girls of concern and establish a more effective individual protection system.
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Field practice: Romania

In Romania, a Task Force for persons of concern with specific needs was established in December 2004 to coordinate prevention and response activities in relation to all asylum-seeking and refugee groups at risk. The Task Force thus assumed expanded functions as compared with an earlier one which focused on the situation of separated girls and boys, so that responses to the situation of women and men at heightened risk were also covered.

The Task Force continues to monitor closely the situation of unaccompanied and separated children seeking asylum in Romania and to seek practical solutions which comply with national legislation and international standards. It has also become the framework for the more effective use of resources and expertise in addressing the situation of people with disabilities, victims/survivors of torture and victims/survivors of sexual and gender-based violence.

Its members comprise UNHCR, the National Refugee Office (the central authority responsible for implementation of asylum policies in Romania), asylum judges, the national Authority for Child Protection and Adoptions, the Aliens' Authority, border police, four partner NGOs, and the International Organization for Migration (IOM). The National Refugee Office now chairs the Task Force, as part of a process of taking over its responsibilities for asylum-seekers and refugees from UNHCR.

Field practice: Women's Protection Clinic, India

Introduction

A Women's Protection Clinic was opened in late 2005 in New Delhi, India. It is a place where urban refugee women and girls from Myanmar living in New Delhi can approach UNHCR confidentially with specific problems and for UNHCR to conduct profiling interviews with all refugee women and girls, the findings of which are referred directly to a Protection Panel for assessment and action.

The Clinic thus provides not only a meeting and listening space for women. It also ensures UNHCR does much more, as it enables UNHCR to identify issues and needs and match these needs proactively to short and longer-term solutions. The initiative has helped broaden approaches to protection challenges generally, particularly given the hard urban realities faced, increasing resource constraints, and phasing out of subsistence allowances.⁴⁰

Rights promoted

Among the rights promoted by this initiative are the right to:

- personal integrity;
 - freedom from torture, cruel, inhuman or degrading treatment or punishment;
 - highest attainable standard of health, including reproductive health;
 - work and an adequate standard of living;
 - education;
 - an identity (in addition to refugee certificate/registration with UNHCR);
 - family unity (through follow-up measures); and
 - information (as a part of empowerment – previously information shared through other channels was not always conveyed within the community to women and girls).
-

Steps to implementation

The following steps were taken to identify and respond to protection needs:

- Before the Clinic was opened, a community-wide survey highlighted general protection challenges faced by the Myanmar refugee community in New Delhi and the need for more specific measures for women and girls. "Protection community days" were introduced to complement existing mechanisms for liaising with refugees. "Drop-ins" by protection staff also helped identify additional protection concerns, particularly of those who might be marginalized within the community itself, and improve understanding within the community of the nature of protection problems and the need for inclusive approaches.
 - The Clinic opening provided a specialized venue for general discussion between staff and women, as well as for profiling interviews in a safe and confidential environment with all women and girls from the refugee community to help identify the interlinked problems faced by them and/or their families, including domestic and communal SGBV.
 - The individual profiling or structured interview exercise was initiated with all the women and girls and completed over the course of one year. Many wept during the interviews, as it was the first time they had had the chance to tell their full story, not only of initial flight, but also of the problems faced over years in exile. The opportunity to be heard was deeply appreciated by, and cathartic for, the women and girls, who finally felt safe enough to share these problems. The exercise helped identify and prioritize needs and necessary responses to be implemented by refugees, partners and UNHCR.
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⁴⁰ See generally, UNHCR, "New Lease of Life for Refugee Women's Protection Clinic in India", 23 March 2006, at <http://www.unhcr.org/cgi-bin/texis/vtx/print?tbl=NEWS&id=442280914>.

Field practice: Women's Protection Clinic, India continued

Steps to implementation (continued)

- A Protection Panel comprising senior staff was created to review protection risks faced by individuals identified in the exercise and address their immediate needs while steps were underway to secure durable solutions. The Panel includes protection and programme staff, as well as community services and others as needed, which helps assure a comprehensive, decisive, and focused response by UNHCR. Women and girls now seek out profiling interviews, trust UNHCR to protect their privacy while responding to their needs, and see the benefits of measures taken. They proactively bring to UNHCR's attention emerging problems and advocate closer cooperation between their community and UNHCR.

AGDM and empowerment

Rolling out AGDM in 2004 and increased training, monitoring and prevention efforts to combat SGBV, identified protection problems including increased levels of school dropouts combined with early pregnancies, some domestic violence, increased instances of local harassment and SGBV, and declining standards of health.

The Clinic is designed specifically for women. It helps empower them within their community. Previously, their interaction with UNHCR was largely absorbed in the platform of refugee men and, to some extent, refugee women with specific political agendas. It also increased trust and participation by men who see responses are holistic and help families and communities, as well as women.

Community involvement in implementation

At an early stage, direct consultations with the refugees highlighted the emergence of interlinked protection problems. Meetings and personal visits by UNHCR staff played a key role in garnering support for a broad spectrum of follow-up mechanisms, including both short and long-term initiatives to enhance the protection environment. The introduction of regular bi-weekly "protection community days" increased entry points into the community and enabled the Office to identify early warning signs for individuals and the community.

Partners and their involvement

Implementing partners and NGOs involved were consulted as part of the process of identifying the nature and extent of refugees' problems. All partners – embassies of potential resettlement countries, the Indian government, NGOs, and others – were included in the consultative process and in proposed mechanisms to address protection problems identified. Dissemination efforts included all partners to ensure consistency of information, enhancing the openness and engagement of partners in solutions. The Governments of the United States and of Australia provided funding for the Clinic.

Constraints

Initially, some members of the refugee community were distrustful of the profiling process but were consulted and encouraged to participate. There was some disagreement as to what a Clinic might do in the long term and who in particular would have "control". These problems have dissolved through enhanced engagement and protection responses.

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Field practice: Women's Protection Clinic, India continued

Constraints continued

Women could have been at risk of being stigmatized as "SGBV cases" by virtue of visiting the Clinic had this been the only focus. This problem was avoided from the start by holding different types of meetings at the Clinic in a variety of settings, by using a profiling exercise which addressed many issues including SGBV, and by inviting all women and girls for a profiling interview, rather than only those who had SGBV-related problems. Locating the clinic next to the crèche made it easily accessible to mothers.

Impact

Emerging protection concerns were identified by engaging the refugee community, specifically women and girls, in the consultative process. Short and long-term solutions built on the input received from refugees. Combined with UNHCR's active response measures to assist, the process established a platform of trust with the refugee women and community overall.

It is hoped the Clinic can, with continued funding, become a broader base for activities including income generation based on traditional skills, provision of meals for community members, meeting and training. Partners can relate to the Clinic as a concept and can see concrete results, helping garner interest and engage partners, such as resettlement countries, in participating in providing long-term solutions.

Lessons learned

Many of the problems faced by the refugees are linked. Identifying and recognizing these links is critical to ensuring effective follow-up action.

Concrete steps are needed to identify all protection problems, their inter-linkages, and the best holistic solutions in the individual circumstances. The most crucial step is implementation of the response.

Once an individual has opened up to UNHCR with the full spectrum of their problems, it is essential to introduce immediate, medium- and long-term steps to reassure refugees that it is worth approaching UNHCR, that together the situation can be improved, and to demonstrate real options for solutions.

For every problem identified, some response is required. Even if it cannot always be the response the refugee had hoped for, the sincerity of UNHCR's efforts helps refugees focus on realistic and concrete opportunities to improve the situation.



Pakistan / A woman, who has survived the earthquake near Balakot, in northwest Pakistan, and moved to a camp explains her plight to a UNHCR community services worker / Participatory consultations with women and girls of concern are essential to the effective identification of, and response to, protection challenges they may face / UNHCR / V. Tan / 2006



Czech Republic / A girl asylum-seeker from Afghanistan talks to a UNHCR officer at the reception centre in Brno, which was set up by a local NGO / NGO partners play a vital role in the protection of women and girls / UNHCR / L. Taylor / 2001

Chapter 4: UNHCR's Protection Response

Overview

Introduction

Protection is first and foremost the responsibility of States. Each State is responsible for respecting, protecting and fulfilling the rights of its citizens, including in situations of internal displacement and return.

International protection is only needed when this national protection is denied or is otherwise unavailable. All States have a general duty to provide international protection under international law, while the 1951 Refugee Convention and its 1967 Protocol set out specific obligations for States which are party to these instruments. At this point, primary responsibility for providing international protection lies with the country in which the individual has sought asylum.¹

At the same time, UNHCR also has a responsibility to provide international protection under its Statute, subsequent ECOSOC and General Assembly Resolutions, and ExCom Conclusions. These authorize UNHCR to carry out a wide range of activities to protect asylum-seekers, refugees, returnees, (re)integrating, stateless and internally displaced persons.²

Purpose

This Chapter:

- explains the vital importance of partnerships in ensuring the protection of persons of concern, including women and girls of concern;
 - outlines key elements of UNHCR's generic protection response, showing how they relate to the particular situation of women and girls;
 - describes a number of specific protection responses which are especially relevant to strengthening the protection of women and girls; and
 - sets out challenges to securing solutions for women and girls and suggests how to respond to them.
-

In this Chapter

This Chapter has the following sections:

Section	See Page
4.1 Partnerships and UNHCR's protection response	94
4.2 Tools to protect women and girls	111
4.3 Securing solutions for women and girls	145

¹ See generally chapter 6 of this Handbook and UNHCR, *An Introduction to International Protection: Protecting Persons of Concern to UNHCR*, Self-study module 1, August 2005, p. 12.

² For further details see chapter 2, section 1, International legal standards to protect women's and girls' rights

4.1 Partnerships and UNHCR's protection response

Overview

Protection is not an abstract concept. It is a dynamic and action-oriented function. It encompasses a range of activities, covering both policy and operational concerns and is carried out, in cooperation with States and other partners, with the goal of enhancing respect for the rights of women, men, boys, and girls and resolving their problems.

Adapted from the 2000 UNHCR Note on International Protection¹

Introduction

Establishing and sustaining partnerships and coordinating the various elements of our protection response and that of the different actors involved are critical to ensuring the protection of everyone of concern, including women and girls. They are overarching activities at all stages of UNHCR's protection response.



Chad/ A volunteer from the Chadian Red Cross escorts a Sudanese refugee woman and her daughter to a UNHCR tent allocated to them in Farachana camp / UNHCR / H. Caux / 2004

Purpose

Used on their own and/or in combination depending on the particular situation, these partnerships and protection responses can help to

- enhance our interventions to respond to violations of the rights of individual women and girls of concern, and
- change the wider protection environment to alleviate the risks to which women and girls are exposed and prevent further violations.

Together they combine to help establish a more effective protection system to ensure that the rights of individual women and girls are upheld.

In this section

This section covers the following topics:

Topic	See Page
4.1.1 Partnerships	95
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4.1.1 Partnerships

"Partnership is at the foundation of the way international protection is envisaged in the 1951 Convention and the 1967 Protocol, and in UNHCR's Mandate. ... Accordingly, partnerships in various forms and with a wide range of actors have been a pivotal aspect of UNHCR's modus operandi over the years, enhancing protection in all its dimensions."

UNHCR, "Annual Theme: Strengthening Partnership to Ensure Protection, also in Relation to Security", A/AC.96/923, 14 September 1999, para. 7

Introduction

UNHCR has always recognized the importance of protection partners. With the Reach-Out Consultations in 1997 and then the Global Consultations on International Protection in 2000–02, UNHCR has worked to engage a diverse range of actors in protection, as is also reflected in the Agenda for Protection.³

It is critical to build strong protection partnerships with a diverse range of actors, if we are to ensure protection to women and girls throughout the displacement cycle.

Partners

All our partners have a vital role to play in protection. They include:

- governments, including to share burdens and responsibilities;
 - United Nations and other international agencies;
 - civil society, including national and international non-governmental organizations (NGOs);
 - the displaced/returnee community, including particularly women and girls themselves,
 - the host/receiving community;
 - partners in the context of internal displacement; and
 - in the context of return.
-

Three interlinked issues

Three interlinked issues influencing how we work with our partners have also emerged in recent years:

- the UN reform process and "delivering as one";
- the Global Humanitarian Platform, which brings together NGOs, the Red Cross and Red Crescent Movement and UN agencies; and
- the humanitarian reform process initiated by the UN Emergency Relief Coordinator in December 2005, which links particularly also with the concept of "cluster leadership" and is especially relevant for UNHCR in internal displacement situations.

Note: Each of these partnerships and issues is discussed further below.

Partnerships with governments

Given States' obligations to protect their own citizens and those within their jurisdiction who are in need of international protection, to promote gender equality, and to eliminate violence against women and girls, governments are critical partners in our efforts to protect women and girls.

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³ Goal 3, Objective 3 of the Agenda requires UNHCR to "continue to strengthen partnerships for protection and awareness raising, not only with host and donor governments ... but also NGOs, other actors of civil society, as well as refugee men, women and children".

4.1.1 Partnerships, continued

Partnerships with governments (continued)

States are obliged to cooperate with UNHCR in carrying out its protection activities in situations of asylum, internal displacement, return, (re)integration and statelessness.⁴

Working together with governments involves engaging with national and local level actors, from ministries and the judiciary to education and health services. It includes advocating respect for international standards and providing governments with technical advice and operational assistance.

Where women and children may be stateless or at risk of it, it is essential for UNHCR to work in partnership with governments, which have primary responsibility for the governance of the acquisition, enjoyment and loss of nationality, to address the problems such women and children encounter.

Partnerships to share burdens and responsibilities

In asylum situations, international protection responsibilities do not lie only with the host government. As affirmed in the 2001 Declaration of States Parties and reflected in the Agenda for Protection, there must be committed international cooperation in a spirit of solidarity to ensure that burdens and responsibilities for refugee protection can be shared more equitably.⁵

A variety of mechanisms can be put in place to enhance the protection of women and girls through cooperation and burden- and responsibility-sharing arrangements, including through resettlement of refugee women and girls at risk. In addition, ExCom explicitly recognizes the importance of international solidarity, cooperation, and burden- and responsibility-sharing in order to prevent sexual abuse and exploitation.⁶

With UN and other international and regional agencies

UNHCR also works in cooperation with a wide variety of international and regional agencies to enhance protection. These include both UN agencies, which, like UNHCR, are required to mainstream gender equality into their policies, programmes and operations, and non-UN agencies.

These partnerships include UN Country Teams (UNCTs), for which the UN Development Group's (UNDG) "Guidance Note on Durable Solutions for Displaced Persons (Refugees, Internally Displaced Persons, and Returnees)" of October 2004 provides useful guidance. The Note is intended for UNCTs which identify forced population displacement (whether of refugees, internally displaced persons and/or returnees) as a key challenge facing the country. It sets out how strategic policies and programmes can be included, in line with the national priorities, into the UN Development Assistance Framework (UNDAF) and its results-based matrix.

Regional agencies, whether formal organizations or more informal regional networks, are also important protection partners.

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⁴ See UN Charter, Article 56; UNHCR Statute, para. 8; 1951 Refugee Convention, Article 35; and 1967 Protocol, Article II.

⁵ Declaration of States Parties adopted at the Ministerial Meeting in Geneva, December 2001, preambular para. 8 and operative para. 12; and the Agenda for Protection, Goal 3.

⁶ See ExCom Conclusions Nos. 22 (XXXII), 1981, section (IV), and 98 (LV), 2003, para. (g).

4.1.1 Partnerships, continued

“Delivering as one” The vital importance of more effective partnerships and enhanced coordination within the United Nations is recognized by the 2006 High Level Panel report to the Secretary-General.⁷ This makes wide-ranging recommendations as to how the UN can “deliver as one” in the areas of development, humanitarian assistance and the environment.

Among the cross-cutting issues affirmed by the Panel are gender equality and women’s empowerment. Indeed, it states that “the importance of achieving gender equality cannot be overstated”. Amongst its recommendations for greater UN coherence and effectiveness on the issue, is not only the creation of a new gender entity within the UN, but also that the promotion of gender-equality must remain the mandate of all UN entities.

Our approach to NGOs, the most invigorating and essential members of the [humanitarian] community, should be clear. We see you as strategic partners, not implementing ones. UNHCR wants to think, plan and act together with you, needs you to be involved in our policy reviews, and asks for your help in improving our accountability.”

António Guterres, High Commissioner for Refugees, opening statement, 58th session ExCom, October 2007

Partnerships with civil society and NGOs

Civil society, including national and international NGOs, ombudspersons, and religious organizations, plays a vital role in the protection of women and girls as affirmed in the Agenda for Protection.⁸ This can be both as advocates and as partners carrying out protection activities, such as running SGBV programmes, providing legal advice to women and girls, and offering rights-awareness training.

In industrialized countries of asylum, where government resources are generally greater and civil society is well developed and vocal, UNHCR’s presence is more limited. Thus, our contacts and networks with NGOs and civil society, including those with a special focus on women and girls, are all the more important. They enable us to be more aware of women’s and girls’ concerns, even where we do not have regular, direct contact with them. It is often these NGOs which can bring individual cases and issues to our attention.

In all operations, NGOs working specifically with women and girls in both displaced and host communities are especially important protection partners in our efforts to strengthen the protection of women and girls. Local women’s associations can be a source of guidance and support when seeking entry points on women’s and girls’ rights.

IOM/FOM on partnerships with NGOs

In this context, all staff should be familiar with IOM/FOM on “Partnerships for Protection – the importance of regular dialogue and cooperation with our NGO partners”.⁹ This stresses the importance of establishing mechanisms to facilitate regular dialogue and cooperation on protection issues with all NGO partners, including but not limited to implementing partners.

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⁷ See report of the High-Level Panel on United Nations System-wide Coherence contained in “Note by the Secretary-General”, A/61/583, 20 November 2006.

⁸ See Agenda for Protection, Goal 3, Item 3.

⁹ See IOM/57/2004 FOM/59/2004, 24 September 2004.

4.1.1 Partnerships, continued

Global Humanitarian Platform

Emphasizing the importance of such partnerships, a forum known as the Global Humanitarian Platform was launched in July 2006. This seeks to bring together on an equal footing the three main families of the wider humanitarian community: NGOs, the Red Cross and Red Crescent Movement, and the UN and related international organizations.¹⁰ The aim is to enhance the effectiveness of humanitarian action.

In July 2007, 40 leaders of these three humanitarian families agreed in a Statement of Commitment to base their partnerships on the principles of equality, transparency, a result-orientated approach, responsibility, and complementarity. The initiative has been strongly supported by the High Commissioner.

It views the diversity of the humanitarian community as an asset that can be harnessed to respond more effectively to protect the diverse members of the displaced/returnee community concerned. Establishing strong partnerships with local women's NGOs is, for instance, vital to our ability to protect women and girls.

Partnerships with displaced/ returnee community

Refugees and other persons of concern, including women and girls, are not merely passive recipients of humanitarian assistance. Through camp committees and groups such as women's and adolescent girls' associations, displaced and returnee communities can be actively involved in many initiatives promoting respect for their rights. For instance, women and girls:

- are key sources of information on protection problems and camp security;
 - provide valuable insights needed to design effective assistance and protection measures;
 - offer significant support in the delivery and distribution of humanitarian assistance;
 - play important roles in the delivery of protection and durable solutions, particularly in camp settings;
 - can help ensure protection concerns are properly addressed in the management of refugee camps and settlements;
 - play a key role in preventive measures designed to diminish the risk of violence and insecurity to which they are exposed;¹¹
 - are important partners in our efforts to monitor a given situation; and
 - have an essential role in evaluating project implementation, service delivery and the attitudes of humanitarian workers
-

Partnerships with the host/receiving community

Partnerships with the host/receiving community have an important role to play in assuring the protection of women and girls. They are necessary in order to raise understanding of the situation of the displaced/returnee community. This in turn helps promote receptiveness to, and tolerance of, their situation and the design of comprehensive solutions which also benefit the host/receiving community.

For instance, where displaced women and girls are at risk of discrimination, harassment, abduction or attack by members of the surrounding community,

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¹⁰ Further information about the Global Humanitarian Platform can be found at <http://globalhumanitarianplatform.org>.

¹¹ See "Annual Theme: Strengthening Partnership to Ensure Protection, also in Relation to Security", UNHCR, A/AC.96/923, 14 September 1999, paras. 27–28.

4.1.1 Partnerships, continued

Partnerships with the host/receiving community (continued)

where they must search for firewood and water, or where they work as servants or farm hands and may be at risk of exploitation and abuse, the host community's involvement in, and commitment to, tackling these risks is critical.

"I cannot over-emphasize the need [in situations of internal displacement] to build effective partnerships with governments, with UN agencies, inter-governmental organizations, and especially with NGOs and affected populations... NGOs should be engaged at the strategic level and are partners who can significantly multiply response capacity and mobilize additional resources within the clusters. Relationships with agencies and NGOs working in the three UNHCR-led clusters require particular effort and attention. The new arrangements provide an opportunity to strengthen these partnerships and explore new ones. Our added value, in all cases, will be our strategic and operational leadership in the clusters we lead."

António Guterres, High Commissioner for Refugees, "UNHCR Involvement with New IDP Situations", IOM/FOM 035/06, 6 April 2006, para. 10

"The most important lesson learned by UNHCR Colombia has been that by strengthening various interlocutors involved in the response to displacement (all of whom have different mandates and different points of view) UNHCR can create and/or maintain a healthy equilibrium between the parties whereby they can operate as a self-regulating system. This allows UNHCR Colombia to maximize its impact with its limited resources, whilst respecting the primacy of national actors in responding to a national problem."

UNHCR Colombia, "Best Practices and Lessons Learned", 2007, p. 6.

Partnerships in internal displacement situations

Partnerships are important in all our work, but there are considerable differences in partnership arrangements in asylum and refugee situations and in internal displacement. In the former, UNHCR is the lead and coordinating humanitarian agency and has always worked with partners.¹²

In the context of internal displacement, partnership arrangements are different. Since no single UN agency has a mandate to protect and assist internally displaced persons, it is essential that agencies work in partnership in such situations to help ensure the protection of the internally displaced.

Inter-agency Standing Committee (IASC)

The Inter-Agency Standing Committee (IASC), which was established in 1992, is the primary mechanism for inter-agency coordination, policy development and decision-making in relation to humanitarian response. Under the leadership of the Emergency Relief Coordinator, the IASC develops humanitarian policies, agrees on a division of responsibilities for the various aspects of humanitarian assistance, identifies and addresses gaps in response, and promotes the effective application of humanitarian principles.

IASC members

The following agencies are members of the IASC: Food and Agriculture Organization (FAO), Office for the Coordination of Humanitarian Affairs (OCHA), UN Development Programmes (UNDP), UN Population Fund (UNFPA), UNHCR, UN Children's Fund (UNICEF), World Food Programme (WFP), and World Health Organization (WHO).

Standing invitees are the International Committee of the Red Cross (ICRC), International Council of Voluntary Agencies (ICVA), International Federation

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¹² For more detailed information see the forthcoming *Inter-Agency Handbook on the Protection of IDPs* and UNHCR, "The Protection of Internally Displaced Persons and the Role of UNHCR", 27 February 2007, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=45ddc5c04>.

4.1.1 Partnerships, continued

IASC members (continued)

of Red Cross and Red Crescent Societies (IFRC), American Council for Voluntary International Action (Inter-Action), International Organization for Migration (IOM), Office of the High Commissioner for Human Rights (OHCHR), the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, and the World Bank.

Gender and the IASC

This more complex framework for our work in internal displacement situations means that additional considerations relating to institutional collaboration arise, when we seek to mainstream age, gender and diversity and to protect internally displaced women and girls. IASC members have committed themselves to ensuring that gender issues are mainstreamed into their humanitarian activities since 1999.¹³

In December 2006, the IASC issued a Gender Handbook for Humanitarian Action entitled *Women, Girls, Boys & Men, Different Needs – Equal Opportunities*. This provides a sector-by-sector guide on how to ensure gender equality programming in humanitarian situations, practical tips on how to mainstream gender, and checklists to measure progress in meeting the needs and ensuring the equal participation of women, girls, boys and men in all aspects of humanitarian response.¹⁴

Cluster leadership

In 2005, the “collaborative approach”¹⁵ initially developed through the IASC was strengthened when the IASC adopted the concept of “cluster leadership” with the aim of achieving more predictable, timely and effective responses to humanitarian crises.

The cluster leadership approach aims to bridge identified gaps in response and enhance the quality of humanitarian action by strengthening partnerships among UN agencies, the Red Cross movement, international agencies and NGOs.

Clusters established are agriculture; camp coordination and camp management; early recovery; education; emergency telecommunications; health; emergency shelter; logistics; nutrition; protection; and water, sanitation and hygiene. Camp coordination and management and protection are considered to be cross-cutting clusters. Cluster leads are established at the global and country levels.

Gender is a cross-cutting issue in all cluster sectors. Gender mainstreaming guidelines are therefore being developed for each cluster.

UNHCR’s cluster leadership

During conflict-generated internal displacement, UNHCR has assumed the cluster lead in relation to internally displaced persons and affected populations for:

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¹³ IASC, “Policy Statement for the Integration of a Gender Perspective in Humanitarian Assistance”, 31 May 1999.

¹⁴ See <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=46978c842>. For other IASC publications relating to gender-based violence, see below, chapter 5, section 3, on personal liberty and security.

¹⁵ The collaborative approach calls for all available agencies to contribute, within their means and according to their mandates and expertise, to the resolution of situations of internal displacement under the coordination of the Emergency Response Coordinator at the Headquarters level, and at the field level by the Humanitarian Coordinator (or, in the absence thereof, the UN Resident Coordinator). Implementation of the collaborative approach failed to match expectations. There were gaps in delivery of essential goods and services, some duplicated efforts, and, too often, an ad hoc approach. In addition, there were systematic gaps in protection.

4.1.1 Partnerships, continued

UNHCR's cluster leadership (continued)

- protection,¹⁶
- camp coordination and camp management (CCCM),¹⁷ and
- emergency shelter.¹⁸

Where UNHCR has the “cluster lead”, this requires us to place more emphasis on our responsibility to coordinate among UN and other humanitarian agencies. This is especially so where the Office, as cluster lead, becomes the “provider of last resort”.

Age, gender, and diversity must be mainstreamed in all the cluster activities which UNHCR leads.¹⁹ In particular, participatory assessment must be at the core of needs assessments and analyses.²⁰

As cluster lead for protection, UNHCR is in the process of finalizing an inter-agency *Handbook on the Protection of Internally Displaced Persons*, which provides more detailed guidance, including in relation to the protection of internally displaced women and girls.

Focal-point responsibilities within protection cluster

In the protection cluster, a responsibility-sharing arrangement has been established whereby different agencies in the cluster are designated as focal points for ensuring an effective response in specific areas, under the overall coordination of the cluster lead.

Focal-point responsibilities within the protection cluster include that of UNICEF for child protection, of UNFPA for SGBV, and of HABITAT for land, housing and property. This does not in any way diminish UNHCR's responsibility and accountability for ensuring that the work of the cluster promotes gender equality and prevents and responds to SGBV. It does, however, require close coordination and cooperation with UNICEF, UNFPA and HABITAT and joint capacity-building with all cluster members.

Partnerships with governments in IDP situations

In situations of internal displacement, partnerships with the government concerned are more complex than in refugee situations, particularly when the government may be responsible for the persecution, including grave human rights violations, and the displacement of the individuals and communities which they are responsible for protecting. Advocacy and capacity building are particularly important in these situations.

Building partnerships with governments in countries of internal displacement is often difficult. Factors such as the political climate, the impact our actions might have on our access to internally displaced persons, on their security

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¹⁶ In this respect, a distinction should be made between UNHCR's approach and that of other agencies. For other agencies, responsibilities under the cluster approach cover both conflict-related humanitarian emergencies and situations involving natural disasters. UNHCR has assumed cluster lead responsibilities for protection in conflict-generated situations of internal displacement. In natural disaster situations, the Office does, however, have an option to take the lead on the basis of agreements with other protection-mandated agencies, namely UNICEF and OHCHR, and should in any case participate in the Country Team's needs assessment, planning, and strategy formulation process in such situations. See the IASC Principals' Outcome Statement, discussed at the IASC Principals' meeting in September 2005 and endorsed in December 2005 and the subsequent IASC "Guidance Note on Using the Cluster Approach to Strengthen Humanitarian Response", 24 November 2006, available in English, French and Arabic at <http://www.humanitarianreform.org/Default.aspx?tabid=420>.

¹⁷ The CCCM cluster is co-chaired by UNHCR and the International Organization for Migration (IOM). UNHCR takes the lead in conflict-related humanitarian emergencies and IOM the lead in disaster situations.

¹⁸ UNHCR co-chairs the emergency shelter cluster with the International Federation of Red Cross and Red Crescent Societies (IFRC). UNHCR takes the lead in conflict-related humanitarian emergencies and IFRC the lead in disaster situations.

¹⁹ António Guterres, High Commissioner for Refugees, "UNHCR's Involvement with New IDP Situations", IOM/FOM 035/06, 6 April 2006, para. 6.

²⁰ See IASC Protection Cluster Working Group/Early Recovery Cluster Working Group, *Protection of Conflict-Induced IDPs: Assessment for Action*, November 2007, at <http://www.humanitarianreform.org/humanitarianreform/Default.aspx?tabid=159>.

4.1.1 Partnerships, continued

Partnerships with governments in IDP situations (continued)

and safety and on our own must be considered when determining how to best engage governments.

Donor governments and the diplomatic community can play an important advocacy role in promoting the rights of the displaced, particularly displaced women and girls. We must therefore also work to enhance such partnerships.

Partnerships in return situations

Partnership is critically important in return situations, whether these involve refugees or internally displaced persons. It requires the engagement of the UN Country Team and bilateral and multilateral donors, especially in the context of the transition from relief to development, with the government assuming ownership of the entire process.

Sections 3.1 and 3.2 of this chapter outline the protection challenges during returns and suggest actions to be taken with our partners to ensure that women and girls participate in peace processes and that their rights and needs are considered during repatriation and reintegration.

Partnerships with non-state actors in IDP and return

Partnerships with civil society, including NGOs, and with communities themselves are of course as important in situations of internal displacement and return as they are in refugee situations.

4.1.2 UNHCR's protection response

"Catalysing the doing of protection by others and actually undertaking protection interventions ourselves are complementary activities, both of which are inherent in our mandate. The proper balance needs to be struck, in a manner which does not exclude either."

Assistant High Commissioner – Protection, Erika Feller, mission to Colombia, 2006²¹

Introduction

Protection is, fundamentally, about rights. This is clearly reflected in the widely accepted definition of protection agreed upon by the Inter-Agency Standing Committee (IASC)²² in 2000.

This defines protection as encompassing "all activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law, i.e. human rights law, international humanitarian law and refugee law. Human rights and humanitarian organizations must conduct these activities in an impartial manner (not on the basis of race, national or ethnic origin, language or gender)."²³

Protection an objective, a legal responsibility, and an activity

Three different dimensions to protection can be distinguished. Protection is an **objective** because it aims to ensure that individuals enjoy full respect for their rights as provided for in national and international law. Protection therefore is ultimately about solutions, that is, their full enjoyment of rights.

Protection is a **legal responsibility**, principally of the government concerned but also of international human rights, humanitarian and development actors, as outlined at the start of this chapter and in more detail in the text blocks on "responsibility" in relation to specific rights throughout this Handbook.

Protection is an **activity**, which may be responsive – preventing or putting a stop to violations of rights; remedial – ensuring a remedy to violations, including through access to justice and reparations; and/or environmental building – promoting respect for rights and the rule of law.

No protection response is gender neutral

While protection responses and activities are often couched in gender-neutral terms, none is, in fact, gender neutral. We must ensure that, whatever we do, we consider the impact of our action on women, men, girls, and boys of diverse backgrounds.

We must also work to ensure that all individuals can benefit equally from our response without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status²⁴ and that gender inequality is not directly or indirectly perpetuated by our actions.

In other words, we must ensure that the impact of our activities on gender, age and diversity is analysed in each situation and that the protection of women and girls is an integral part of our protection response.

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²¹ UNHCR Colombia, "Best Practices and Lessons Learned", 2007, p. 32.

²² For further information on the IASC, see section 1.1 of this chapter.

²³ This definition was developed over a series of ICRC-sponsored workshops involving some 50 humanitarian and human rights agencies and is available at <http://www.humanitarianinfo.org/iasc/content/products/docs/FAQs.pdf>. See also A. Bonwick and H. Slim, *Protection: An ALNAP Guide for Humanitarian Agencies*, 2005, pp. 42–43; Sylvie Giossi Caverzasio (ed.), *Strengthening Protection in War – A Search for Professional Standards*, ICRC, Geneva, 2001. It was subsequently adopted by the IASC and specifically applied to the protection of internally displaced persons.

²⁴ These various categories are taken from ICCPR, Article 2(1) and ICESCR, Article 2(2).

4.1.2 UNHCR's protection response, continued

Types of protection response

Within the broad framework outlined above, the specific protection responses and activities UNHCR and its partners carry out normally consist of activities that can be defined as falling within the following broad types:

1. coordinating;
2. assessing, analysing and designing;
3. intervening to protect;
4. strengthening national protection capacity;
5. strengthening community capacity to support solutions; and
6. monitoring, reporting and evaluating.

Together these different elements of UNHCR's protection response form part of an inter-linked whole and are mutually reinforcing.

Note: These different types of responses and activities are outlined in more detail below with particular reference to their relevance to women and girls of concern. Suggested responses and actions in the "how to respond" blocks in chapters 3 and 5 also follow this framework.

1. Coordinating

Coordination between the different actors involved in a given situation is an overarching requirement for effective protection responses and is critical to their success. Mainstreaming age, gender and diversity into coordination activities means that all stakeholders are responsible for promoting adequate analysis and targeted action to achieve gender equality and uphold the rights of women and girls.

Coordination must be done in a participatory manner which facilitates the active participation of all members of a community, including women and girls of different ages and diverse backgrounds, and takes account of their views and perspectives. It also involves promoting gender balance on all coordinating bodies.

Coordination on gender equality

Coordination on gender equality and related issues is as essential as it is for other aspects of our protection and programming response.

In large-scale or complex emergencies, for instance, one way of improving coordination on gender issues in the Inter-Agency context can be to establish a Gender Support Network (GenNet), particularly where there are designated gender advisers and organizations that have specific expertise.

Like multi-functional teams²⁵ in the UNHCR context, its main purpose is to facilitate dialogue, making sure that people are informed of key issues and developments in terms of the changing roles, protection risks, and conditions for women, girls, boys and men in the affected community. It is a way to encourage greater integration of gender perspectives into all programmes.

A GenNet comprises representatives from the government, civil society, NGOs and UN agencies both at the national and local levels. Whenever possible, it should also include the displaced/returnee community and the

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²⁵ See chapter 2, section 3.

4.1.2 UNHCR's protection response, continued

Coordination on gender equality (continued)

host community. A GenNet is, however, only as effective as its members and if the participants are not at a senior enough level or do not have experience in gender-related issues they cannot be fully effective.²⁶

It is also important to ensure that the network does not function in isolation from other coordination bodies and that it focuses on mainstreaming in the work of these groups. Gender balance is important in any GenNet.

The appointment of a gender expert or adviser to the Humanitarian Coordinator can be another way to enhance coordination on gender-related issues.²⁷ Gender remains a cross-cutting theme integral to all aspects of UNHCR's and partners' protection and programming response.²⁸

2. Assessing, analysing and designing

Assessing and analysing protection risks faced by women and girls in a given situation are essential to the design of our protection activities and our programming response. This involves:

- conducting a situational analysis, including through participatory assessments, and
- designing integrated, age-, gender- and diversity-sensitive protection strategies.

Situational analysis

A situational analysis should then be conducted to assess displacement situations in their wider social, economic, political, legal, and cultural context. An analysis of the age and gender dimensions of a particular situation must inform all aspects of such an analysis. Participatory assessments are an integral part of this process.²⁹

Situational analysis should include:

- participatory assessments (for more on which see chapter 2, section 3);
- analysing the human rights/protection situations of women, men, girls and boys of concern, including an analysis of protection risks/rights violations and by whom, as well as the immediate and root causes of such protection risks/rights violations;
- use of the Profile Global Registration System (proGres) of Project Profile to establish and analyse age- and sex-disaggregated data to inform this analysis;
- use of standards and indicators to review how women's and girls' protection and assistance needs are being met, including as regards UNHCR's Five Commitments to Refugee Women;³⁰

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²⁶ For further details see IASC, *Women, Girls, Boys and Men, Different Needs – Equal Opportunities*, IASC, December 2006, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opensslpdf.pdf?docid=46978c842>, section on coordination on gender equality in emergencies, pp. 27–29, including a checklist to assess gender coordination efforts in emergencies and terms of reference for a gender network in humanitarian situations.

²⁷ Additional time-bound deployments of staff with a gender specialization are also available, for instance, through the UNHCR protection "Surge" capacity deployment scheme administered by the International Rescue Committee/UNHCR, see http://www.theirc.org/what/surge_protection_project.html, and through the IASC Gender Capacity Standby Project ("GenCap") established in late 2006 and administered by the Norwegian Refugee Council, see <http://www.nrc.no/?aid=9160724>.

²⁸ For more on coordination in situations on internal displacement, see section 1.1 of this chapter above.

²⁹ Participatory assessment is described in detail in chapter 2, section 3 under "mainstreaming age, gender and diversity".

³⁰ In this respect, UNHCR's *Practical Guide to the Systematic Use of Standards and Indicators in UNHCR Operations*, 2nd edn February 2006, provides an important tool, which is also critical for reporting on progress achieved.

4.1.2 UNHCR's protection response, continued

Situational analysis (continued)

- taking into account the views of persons of concern – the “rights holders” – in relation to the protection risks and rights violations, their analysis of the causes and recommended priority action; and
- analysing the responsibilities of the “duty bearers” for upholding rights and preventing violations, and the extent to which they have the resources and capacity to do so.

Adopting a rights- and community-based approach to situational analysis requires us to:

- use international legal standards as our framework for analysis and assessment, matching the information obtained during the participatory assessments with the relevant respective rights and standards; and
 - carry out this analysis and assessment with the full participation of women, men, girls and boys of concern.
-

SPCP framework

A useful and comprehensive framework for analysis to assist the process of determining protection gaps in the protection of refugees has been issued by UNHCR's Strengthening Protection Capacity Project (SPCP).³¹ A similar publication is being drafted to help identify protection gaps in situations of internal displacement.

This framework uses a collaborative approach involving all stakeholders concerned in a given situation to identify protection gaps and develop strategies and projects to remedy them. Its gaps analysis is intended to be used after participatory assessments with groups of refugees and asylum-seekers. The results of focussed discussions with different such groups (including women, girls, adolescents, older persons and groups with specific protection needs) are then included in the gaps analysis report to ensure full and complete coverage and the identification of appropriate solutions to remedy the gaps identified.

Designing protection strategies and programmes

The information obtained during the situational analysis and accompanying participatory assessments can then be used to develop integrated protection strategies that are sensitive to age, gender and diversity. These should then inform and guide the systematic planning and design of programmes to tackle risks arising in the wider protection environment and to respond to, and remedy, individual risks. This involves:

- developing a protection strategy at the local, national and regional levels, including by determining the appropriate balance between public advocacy and/or more discrete contacts with relevant actors in any given situation to maximize effectiveness;
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³¹ UNHCR, Strengthening Protection Capacity Project (SPCP), *Protection Gaps Framework for Analysis: Enhancing Protection of Refugees*, 2006, and accompanying CD-Rom.

4.1.2 UNHCR's protection response, continued

Designing protection strategies and programmes (continued)

- developing a long-term comprehensive plan of action, which mainstreams age, gender and diversity and includes empowerment and targeted actions as outlined in chapter 1, section 3 and chapter 2, section 3, aimed at achieving specific operational goals and objectives, taking into account internal and external capacity and constraints; and
 - ensuring the perspectives of women and girls and particular groups with specific needs are reflected in these strategies and programmes.
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3. Intervening to protect

Action to protect persons of concern encompasses all activities aimed at ensuring the equal access to and enjoyment of the rights of women, men, girls and boys in accordance with the letter and the spirit of relevant bodies of law.

Each of the six types of actions outlined in this section can be seen as interventions to protect. The activities described under "intervening to protect" here and in the "how to respond" tables in chapters 3 and 5, therefore refer primarily to interventions to prevent and respond to protection risks faced by individual women and girls of concern. (For further information on establishing confidential individual case management systems, see chapter 3, section 3.)

Balanced presence a precondition

UNHCR and partners' proactive presence – including that of female personnel – in camps, towns or other areas where there are persons of concern is a precondition for an effective protection response. Recognising the value of female staff being present for the protection of women and girls, ExCom has called for gender balance in staff recruitment to be promoted, including through active measures to increase the number of female professionals working in the field.³²

Our and our partners' presence can in itself deter abuse, bear witness to it where it occurs and enable women and girls and their communities to develop and take protective measures themselves.³³

Assistance a component of protection

Protection interventions often include action with an assistance component, including providing food and non-food items, building infrastructure, schools and other facilities, and providing services such as education and healthcare, whether directly or by supporting relevant authorities or partners.

Such assistance is often essential to the reestablishment of community life in displaced communities and to respect for the rights of women and girls. Careful monitoring is required to ensure their access to, and enjoyment of, the benefits.

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³² ExCom Conclusion No. 105 (LVII), 2006, para. (i)(v).

³³ See also, Liam Mahony, *Proactive Presence: Field Strategies for Civilian Protection*, Centre for Humanitarian Dialogue, 2006, at <http://www.hdcentre.org/Proactive%20Presence>.

4.1.2 UNHCR's protection response, continued

Examples of protection interventions

Some examples of protection interventions include:

- making representations to ensure women and girls of concern are not refouled or returned to a threat to life or freedom or to ensure their release if illegally detained;
 - taking targeted action to empower them and contribute to ensuring their protection (chapter 2, sections 4 and 5), including by advocating for legislative changes to protect their rights;
 - adopting preventive strategies and approaches to tackle risks arising in the wider protection environment (see chapter 3, section 2);
 - intervening to prevent and respond to potential or actual abuse or violations of individual women's and girls' rights (see chapter 3, section 3);
 - ensuring women and girls have equal access to asylum procedures (see this chapter, section 2.6) and to assistance and services, thereby reducing the risk of sexual abuse and exploitation (see chapter 5, section 7.1);
 - providing counselling and legal advice, whether through legal or other expert clinics/centres or less formally, which can be both preventive and remedial, particularly when aimed at empowering women and girls;
 - referring women and girls to relevant agencies, institutions or partners for treatment, remedy and redress e.g. to health or legal clinics, police or other authorities, or to justice mechanisms;
 - advocating and intervening with the authorities to ensure female-to-female services, appropriate treatment of victims/survivors and redress; and
 - ensuring physical security and safety (see chapter 3, section 2 above).
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4. Strengthening national protection capacity

Capacity building aims to strengthen the capacity of governments, including ministries responsible for gender issues and family welfare, NGOs and civil society, so as to enhance the protection of displaced/returnee communities and of stateless persons.³⁴ It seeks to reinforce human and institutional performance, strengthen skills and promote positive attitudes.

As outlined under "identifying, analysing and designing" above, the SPCP framework provides a useful basis for working with governments and other partners to establish and agree strategies to strengthen national capacity.

Examples of activities to strengthen national protection capacity

Many activities are involved when seeking to strengthen national protection capacity, including:

- ongoing analysis and comparison of national laws and regulations, policies and procedures, institutional frameworks, and practices with international standards from a gender perspective, for instance, in relation to marriage or citizenship, property rights and criminal law;
 - reinforcing human, institutional and community performance, e.g. by providing technical support, training, advisory services, specialized expertise, and/or material and financial assistance to enable governments to assume their responsibilities (see, for example, chapter 4, section 2.5 for field example of best interests determinations and Ecuador field example in chapter 5, section 4.2);
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³⁴ For a good overview of capacity-building activities, see UNHCR, "Strengthening Protection Capacities in Host Countries", Global Consultations on International Protection, EC/GC/01/19, 19 April 2002.

4.1.2 UNHCR's protection response, continued

Examples of activities to strengthen national protection capacity (continued)

- contributing to the development of jurisprudence, e.g. by submitting legal and *amicus curiae* briefs which promote recognition that gender-related forms of persecution in the context of the refugee definition can constitute grounds for refugee status;³⁵
- promoting legislative changes that enhance respect for the rights of women and girls of concern through a combination of direct contacts with ministries, parliaments and other UN agencies, and public information campaigns to support reform (see Austria field example in chapter 5, section 3.1.2);
- ongoing initiatives to bring about change in abusive or discriminatory actions, law, policies and practices e.g. in relation to SGBV or statelessness;
- sharing and promoting good practices with partners;
- advocacy with governments, NGOs, civil society, host communities, and displaced and returnee communities for the enhanced protection of women, men, girls, and boys, which can take many forms from awareness raising and persuasion to denunciation;³⁶
- mobilizing networks to promote change (see Sri Lanka field example in chapter 5, section 3.1.2); and
- engaging human rights supervisory mechanisms, such as the Committee on the Rights of the Child or the Committee on the Elimination of Discrimination against Women, and regional supervisory mechanisms to ensure issues of concern are raised and incorporated in their concluding observations in country reports and in General Comments.

5. Strengthening community capacity to support solutions

A participatory process and community mobilization are necessary to empower displaced/returnee communities, including women and girls, and help them to identify, understand and express their own rights, needs and interests, to enable them to take collective action to ensure that these are met, and to work towards solutions. Chapter 2, especially section 2 on a rights- and community-based approach describes this process in greater detail.

Promoting and facilitating durable solutions include activities to enable refugees to repatriate voluntarily, integrate locally or be resettled in a third country, and to enable internally displaced persons to return to their places of origin or settle in another location. See section 3 of this chapter for more on durable solutions for women and girls of concern.

Examples of activities to strengthen community capacity to support solutions

Activities to mainstream a gender perspective in our work with targeted community groups and organizations, include:

- presenting, communicating and disseminating information on protection risks faced by women and girls, including, in particular, warnings regarding dangers such as abduction or trafficking, awareness raising messages or campaigns, and information about available services (see chapter 3, section 3 for field example on women's protection clinic in India);

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³⁵ ExCom Conclusions Nos. 77 (XLVI), 1995, para. (g) and 105 (LVII), 2006, para. (n)(iv).

³⁶ For further discussions on these types of advocacy, see A. Bonwick and H. Slim, *Protection: An ALNAP Guide for Humanitarian Agencies*, 2005, pp. 84–87.

4.1.2 UNHCR's protection response, continued

Examples of activities to strengthen community capacity to support solutions (continued)

- training, using diverse methods and means, to raise awareness of rights and UNHCR policies and introduce or promote existing confidential complaints mechanisms in the community (see chapter 2, section 4, field example of Liberia/Guinea on community video as an empowerment tool and chapter 5, section 1 for field example on refugee domestic workers in Nairobi, Kenya);
- mediation, reconciliation and sometimes even deciding or “adjudicating” disputes in line with international standards;
- identifying people who may support change and can have influence;
- working with traditional dispute-resolution mechanisms to strengthen their respect for the rights of women and girls (see chapter 5, section 4.3); and
- support for income-generating activities to strengthen self reliance, reduce dependence on assistance and thereby remove exposure to survival sex (see chapter 5, section 7.1).

Note: Section 3.4 of this chapter below outlines some of the particular protection challenges refugee women and girls may face when resettled. Chapter 5, section 1, outlines actions to be taken to ensure that women and girls have access to adequate information.

6. Monitoring, reporting and evaluating

Protection monitoring, reporting, and evaluation refer to the systematic and ongoing collection and analysis of information relating to the protection, rights, and well-being of women, men, girls, and boys of concern.

Monitoring, reporting and evaluation is necessary to:

- ensure follow-up to individual protection risks and rights violations or abuses during all phases of forced displacement and return;
- assess the impact of our activities and programmes using participatory methods; and
- to modify or change those activities or programmes in order to prevent and address protection risks and rights violations and their underlying causes more effectively.

Protection monitoring must be carried out with independence and neutrality, and with a comprehensive respect for the concept of “do no harm”. Monitors must respect the confidentiality of information, protect their sources, be sensitive to the feelings of victims/survivors and witnesses, and not make undue promises.³⁷

Examples of activities to monitor, report and evaluate

Examples of actions to monitor, report and evaluate our protection response include:

- establish a follow-up mechanism as part of standard operating procedures for reporting on and responding to SGBV to ensure effective implementation; and
 - work with the displaced/returnee community to monitor and evaluate staff attitudes towards women and girls and their response to SGBV and other concerns, so that staff training needs or gaps in protection responses can be identified and addressed.
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³⁷ For more on protection monitoring see *Inter-agency Handbook for the Protection of Internally Displaced Persons*, December 2007, part IV.

4.2 Tools to protect women and girls

Overview

Introduction

This section outlines a number of protection tools which are particularly important for addressing the individual protection concerns of women and girls of concern and for improving the wider protection environment.

Thailand / Refugees from Myanmar / Burmese refugee in Tham Hin camp signs her new ID card issued by the Thai government under a UNHCR-funded programme / UNHCR / S. Siritheerajesd / April 2007



Purpose

The purpose of this section is to set out for each tool:

- the purpose of the tool,
- the key challenges,
- the applicable international legal standards and guidelines,
- who is responsible for using the tool effectively,
- what we and our partners should do to respond to these challenges and help strengthen the protection of women and girls, and
- how the tool has been used in specific operations.

Note: The applicable international standards use abbreviations to refer to key human rights treaties and conventions. These are listed in full in the List of Abbreviations at the start of the Handbook. Additional information on applicable legal standards and guidelines can be found in chapter 6.

Age assessments

A number of these tools may require an adolescent girl's age to be assessed. On this issue, ExCom has recommended that

- “States, UNHCR and other relevant agencies and partners work in close collaboration to ... ensure that age assessments are only carried out in cases when a child's age is in doubt, and take into account both the physical appearance and the psychological maturity of the individual; ...
- they are conducted in a scientific, safe, child- and gender-sensitive and fair manner with due respect for human dignity; and ...
- they consider the individual as a child in the event of uncertainty”.³⁸

In this section

This section covers the following tools:

Tool	See Page
4.2.1 Registration and identity documentation	112
4.2.2 Birth registration and certification	118
4.2.3 Registration and certification of marriage	123
4.2.4 Family tracing and reunification	125
4.2.5 Best interests assessments and best interests determinations	130
4.2.6 Refugee status determination	137

³⁸ ExCom Conclusion No. 107 (LVIII), 2007, children at risk, para. (g)(ix).

4.2.1 Registration and identity documentation

"Sometimes I was beaten so badly I bled. My husband took a second wife. I didn't agree ... He said, "If you don't allow me to take a second wife, then the registration card is in my name, and I'll take everything." I have asked my husband for the health card and ration card and they don't give it to me ... I have not gotten approval to get a second registration card."

Refugee woman in Nepal³⁹

"UNHCR commits to the individual registration of all refugee men and women and to provide them with relevant documentation ensuring their individual security, freedom of movement and access to essential services."

Second of UNHCR's Five Commitments to Refugee Women

Introduction

Registration and the provision of documentation are critical tools for protecting everyone of concern to UNHCR. If women and girls, like men and boys, have identity documentation, it is much easier for them to access other rights. Even if they do not, this should not prevent them from enjoying those rights.

Registration (or profiling in situations of internal displacement as outlined in greater detail below) is also essential for determining resource allocations, planning programmes, and finding durable solutions.

Purpose

Registration and identification documentation function as important protection tools. Amongst other things, they help:

- ensure women, men, girls and boys can access and enjoy their human rights, including, for instance, their right to food, health care and education;
 - provide refugees and asylum-seekers with protection against *refoulement*;
 - foster freedom of movement and minimize dependence;
 - identify groups and individuals with specific needs;
 - maintain family unity and reunify families, including by assisting identification, tracing, and reunification of unaccompanied and separated children with their families, and
 - identify the protection problems and risks faced by individuals of concern, including those at heightened risk.⁴⁰
-

Summary of challenges

Challenges and obstacles related to ensuring women and girls have access to registration and identity documentation are discussed further below and include:

- practice of registering only the "head of the family";
 - registering female asylum-seekers in urban areas;
 - risk of exclusion of refugee girls from the registration process;
 - difficulties refugee girls face obtaining birth registration documentation;
 - difficulties older women face obtaining identity documentation; and
 - internally displaced women and girls who encounter obstacles obtaining government-issued documentation in their own names.
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³⁹ Human Rights Watch, "Trapped by Inequality: Bhutanese Refugee Women in Nepal", 2003, p. 8.

⁴⁰ See generally, *UNHCR Handbook for Registration*, provisional release, September 2003, pp. 6–7.

4.2.1 Registration and identity documentation, continued

Challenge: Registering only the “head of the family”

For a long time, many UNHCR offices have only registered and documented the “head of the family” – usually the eldest male. This has meant that female family members have too often been interviewed for registration as part of a “case” and not individually heard. There is then no space for them to express their specific needs, especially when it comes to SGBV (including domestic violence), exploitation and abuse.

This creates a host of protection problems for women and girls. It means that refugee women, especially those separated from their husbands, who are not registered and/or have no individual identity documents, are either dependent on male family members for access to food, assistance or essential services or have no such access. They are therefore unable, for instance, to seek support for their children or to claim or inherit property when they return home.

Challenge: Reaching female asylum-seekers in urban areas

In urban areas, asylum-seeking and refugee women and girls may be virtually imprisoned indoors by male family members or exploitative employers and so cannot come to UNHCR offices. If we do not find ways to reach, register, and document them, they are likely to be at risk of abuse and, where they are able to go out, to be arrested, detained, and/or deported because they do not have documentation.⁴¹

Challenge: Girls’ exclusion from registration process

Asylum-seeking and refugee girls may be at risk of being excluded from the registration process because

- parents or caretakers do not want to register girls to avoid interference when marrying them at a young age for dowries;
- adults do not want to declare girls who are separated from their parents or normal caretakers and are living with them, working as unpaid servants;
- registration is organized in such a way that it is impossible to bring all children to the registration centre and parents leave girls (or older women) at home to take care of infants, cook or look after family belongings; and
- fear that registration may be linked with sexual exploitation.

Girls who are not registered are at greater risk of sexual exploitation, early and forced marriage, slavery, trafficking, permanent separation from their families, unauthorized and illicit adoption, and other human rights abuses.

Challenge: Birth registration

Children born in exile who are not registered as refugees may not be able to obtain birth registration documentation when they return to their countries of origin. Given the gender discrimination girls face, they are particularly likely not to be registered and/or not have birth certificates. Without birth registration and certification, many children face statelessness and an uncertain future.

Note: For more information on this issue, see section 2.2 of this chapter on birth registration and certification which follows and also chapter 5, section 2 on nationality, civil status and family relations.

Continued on next page

⁴¹ See also, chapter 1, section 2 above and chapter 5, section 3.3 below.

4.2.1 Registration and identity documentation, continued

Challenge: Older women

Older women may also face challenges gaining access to registration and documentation. They may never have had documents, male family members may have had charge of their documents, they may have lost them during flight, and/or may no longer be able to remember their date of birth or other relevant information.

Challenge: Documentation for IDP women and girls

Internally displaced women and girls often face obstacles obtaining government-issued documentation in their own names.⁴² These include fees, requirements to return to their places of origin, and lack of knowledge about their rights. In some cases, internally displaced women and girls may be among populations targeted by governments or other groups for ethnic, cultural or other reasons with the result that trying to obtain documentation would place them at risk.

International legal standards and guidelines

Refugees have a right to documentation, including identity papers and travel documents.⁴³ Returnee and internally displaced women have equal rights with men to obtain necessary documents as well as the right for these to be issued in their own names.⁴⁴ All children, including those who are displaced, have the right to be registered immediately after birth and to preserve their identity, including nationality, name and family relations.⁴⁵

ExCom Conclusion No. 91 (LII) of 2001 on registration reaffirms the importance of registration as a refugee protection tool and sets out certain basic guidelines for all registration processes. These include the principle of **individual** registration; respect for confidentiality and the safety and dignity of the refugee; accessibility of registration; and the inclusion of female staff in registration teams.

UNHCR's *Handbook for Registration* (provisional release of September 2003) reflects the new standards for registration established by ExCom Conclusion No. 91 and highlights the renewed importance of registration as a tool of legal and physical protection, including for the protection of individual women and children.

Responsibility

In situations of asylum and return, it is the State's responsibility to register individuals and provide them with identity documents.⁴⁶ In situations of asylum, this responsibility lies with the country of asylum. When refugees return, it lies with the country of origin.

In many countries, however, UNHCR has registered asylum-seekers and refugees. The commitment to ensure the individual registration and documentation of all refugee women and men is one of UNHCR's Five Commitments to Refugee Women and is emphasized in the Agenda for

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⁴² This paragraph is adapted from the Women's Commission for Refugee Women and Children, UN Commission on the Status of Women 48th Session, "Women's Equal Participation in Conflict Prevention, Management and Conflict Resolution and in Post-conflict Peace-building", 2004, at <http://www.womenscommission.org/archive/04/statements/CSW.shtml>.

⁴³ 1951 Refugee Convention, Articles 25, 27, 28.

⁴⁴ CEDAW Article 2(c); Guiding Principles on Internal Displacement, Principle 20(3).

⁴⁵ ICCPR, Article 24; CRC, Articles 7 and 8.

⁴⁶ ExCom Conclusion No. 35 (XXXV) of 1984 recognizes that States have the primary responsibility to register and document refugees.

4.2.1 Registration and identity documentation, continued

Responsibility (continued)

Protection, as outlined in chapter 1, section 3. The Office is now implementing these standards through Project Profile and the registration database application, proGres.

In situations of internal displacement, **profiling** rather than registration may be appropriate, as outlined below, but may be more difficult to undertake, for instance, where the situation is very volatile due to ongoing conflict.

Age and gender-sensitive registration

The *Handbook for Registration* provides detailed and accessible information on how to set up registration activities, what data should be collected, and how to manage the information gathered.

Registration must be conducted in an age- and gender-sensitive manner, which respects the rights of displaced women and girls at all times. The process must not directly or indirectly discriminate against women and girls. All women and girls, regardless of their age or background, must be able to participate. A proactive approach is required to register all women and girls who may be housebound, particularly if they are frail, older and/or have disabilities.

Profiling in internal displacement

In internal displacement situations, profiling refers to the collaborative process of identifying internally displaced groups or individuals, through data collection, including counting, and analysis, in order to determine interventions to advocate on their behalf, to protect and assist them and, eventually, to help bring about a solution to their displacement.⁴⁷

At a minimum, the core data includes the number of internally displaced persons, disaggregated by age and sex and their location(s). This helps minimize the risk of overlooking the specific needs related to age and sex. Wherever possible, additional information should include groups with specific protection concerns, so that planning can respond to those at risk.

How to respond

Actions to strengthen the protection of women and girls through registration or profiling include actions to:

- ensure registration and profiling data are disaggregated by sex and age;
 - ensure registration on an individual and ongoing basis for refugees, recognizing the need to protect the confidential nature of personal data;⁴⁸
 - ensure all adult members of a refugee household are registered and given documentation to avoid problems resulting from registration of only male heads of household;
 - ensure all groups with specific needs are registered and that individuals in these groups are given documentation, including
 - unaccompanied and separated refugee girls,
 - lone and/or older women,
-

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⁴⁷ Registration is one of several IDP profiling methodologies, but it should be remembered that IDPs are citizens and residents equal to others in their country. The potential benefits of registering an IDP population of concern therefore need to be weighed against various other factors, including the concern that profiling exercises should not result in the creation of a *de facto* IDP "status" which may create a perception that IDPs are being singled out through profiling for preferential treatment which may in turn create tensions and place IDPs at risk. See IASC, "Guidance on Profiling of Internally Displaced Persons", forthcoming 2008.

⁴⁸ See UNHCR, "Confidentiality Guidelines", IOM/71/2001, FOM/68/2001, 24 August 2001; UNHCR, *Handbook for Registration*, provisional release, September 2003, pp. 14–15.

4.2.1 Registration and identity documentation, continued

How to respond (continued)

- girl-headed and grandmother-headed households, and
- women and girls with disabilities;
- ensure that, in operations where proGres is used, the specific needs of every individual are registered to facilitate the identification of those at heightened risk and regular monitoring of their individual situation;
- build contacts with local displaced communities, including schools, religious organizations and IDP associations, to locate women, girls, men and boys living in urban environments as a first step to registering them;
- organize regular visits by registration teams in detention centres where persons of concern may otherwise risk deportation;
- establish protection monitoring systems to help identify refugees and internally displaced persons at risk, including women and girls;
- work through an individual case management system, as outlined in chapter 3, section 3, to review responses to the situation of all individuals at heightened risk; and
- strengthen protection monitoring of individuals, including by working with the community and monitoring of access to, and enjoyment of, protection, assistance and services by women and girls.⁴⁹

Field practice: Colombia

The UNHCR Office in Colombia initiated a project in 2000 in partnership with the National Registry Office to register and provide identity documents to the many Colombians, who were internally displaced or at risk of displacement and who did not have documents, whether because they had never had them or because they had lost them during flight. The initiative targeted in particular women, children, indigenous, afro-Colombians and those in remote rural areas.⁵⁰

Without documents, they face serious protection problems, including

- when armed groups demand their identity documents at check points, since these groups may presume that undocumented individuals belong to another armed group and may kill them; and
- because identity documents are required to access vital State services such as health and education.

Under the joint project with the National Registry Office, documentation campaigns are carried out in areas where many people are internally displaced and where they may be at risk of displacement. Mobile Registry Office units go to the areas concerned to issue the population with documentation. The unit is connected by satellite to the national Registry Office databases and is equipped to print identity documents on the spot.

The exercise has provided grandmothers with documentation for the first time in their lives, allowed mothers to access reproductive health care, and has meant that girls have been able to go to school.⁵¹

Although UNHCR initiated the project in 2000, it became fully operational only in 2002 following the creation of an office (the Unit for Attention to the Vulnerable Population) physically located in the State Registry Office. Later the Unit also increased the number of mobile units from one to three.

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⁴⁹ See, ExCom Conclusion No. 105 (LVII) of 2006, paras. (j)(i) and (j)iii).

⁵⁰ For further information, see UNHCR Colombia, "Best Practices and Lessons Learned", 2007, pp. 20–21; UNHCR, "Update on the Americas", No 5, fall 2003, p. 4. Registration of IDPs is required by law in Colombia, but in other internal displacement situations, this may not be the appropriate course of action, as explained above in the text at footnote 47.

⁵¹ UNHCR, "Emergency Campaign Brings Sense of Identity for Hundreds of Colombians Forced to Flee", 15 May 2006.

4.2.1 Registration and identity documentation, Continued

Field practice: Colombia (continued)

Among the achievements of the project so far were:

- internally displaced women, men, girls and boys have been empowered and enabled to secure respect for their rights and access services;
- the State has assumed responsibility for providing its citizens with identity documents and enabling individuals to obtain a copy of their birth certificate in locations other than their place of birth;
- even though the geographical coverage and the numbers being documented have increased from year to year, the cost of the project to UNHCR has decreased, because
 - of the National Registry Office's increased commitment in terms of both funding and personnel;
 - mayors and governors in areas where the campaigns were carried out have also contributed to the costs of the registration process;
 - use of equipment and materials has been optimized; and
 - support has been provided by international organizations such as UNICEF, the International Organization for Migration and Plan International.

By December 2007, almost 500,000 people had been registered and issued identity documents in over 300 municipalities since the start of the project. Some 30 per cent of those registered received birth certificates. Another 35 per cent were children aged 7 to 17 years, who received children's identification documentation, while the remaining 35 per cent were adults who received identity cards.

The project achieved equity in distributing registration and identification documentation to males and females, with slightly over 50 per cent of those registered in 2007 being female. In addition, the Office used proactive approaches, including for instance through schools, to identify and register individuals with disabilities. The exercise is continuing in 2008.

Field practice: Malaysia

In Malaysia, UNHCR has adopted innovative approaches to registration that have resulted in improved protection for all asylum-seekers and refugees, but particularly for women and girls.

Mobile registration teams were deployed to detention centres and lock-ups in jungle areas and in the highlands in the northeast of the country to register persons of concern. In this way, individuals with urgent protection needs who were not able to reach UNHCR's office were identified and assisted. Survivors of sexual and gender-based violence, female heads-of-household, and unaccompanied women and children were identified early and targeted for refugee status determination and assistance.

As part of this initiative, all women received individual documentation and are re-interviewed when this documentation is reviewed so that protection concerns that arise can be urgently addressed.

4.2.2 Birth registration and certification

"I was raped. The problem is that the child is not registered in the camps because she doesn't have a father. She doesn't get clothes. I have submitted a number of applications to the camp management committees. I even went to Chandragadhi... The Chief District Officer said they would reply, but they haven't replied. It was last year that I visited."

Refugee woman in Nepal⁵²

Introduction

Birth registration is a fundamental right. It not only establishes a child's identity, but also confers rights and privileges. Individuals whose birth has not been registered and/or who cannot present a birth certificate may be denied access to education, food, and health care on the basis of their nationality and civil status. Without birth registration many children face an uncertain future and may become stateless.

Girls with a disability are less likely to have their birth registered, as the stigma of having a child with a disability remains high in many cultures. This limits their access to key rights, including nationality, and to care and services they may need.

Purpose

In situations of forced displacement, birth registration and certification are important tools for preventing human rights abuses, such as forced military recruitment, early/forced marriage and child labour, and for enabling access to education, health and other services. Birth registration and certification are essential for documenting the relationship between a child and her or his parents and her or his place of birth. This may be indispensable for establishing nationality by descent or birth on the territory (what is known as *jus sanguinis* or *jus soli*).

Birth registration and certification are also important for girls who:

- are claiming asylum e.g. to ensure proper care arrangements are put in place or in the context of the status determination procedure itself;
- have been subjected to sexual and gender-based violence and it is necessary to prove they were minors at the time;
- are seeking resettlement and need to prove parental links; and
- upon return, need to prove parental links, for instance, for nationality, inheritance or property ownership.

Summary of challenges

Displaced and returnee women may face challenges registering the births of their children and securing certification, including because:⁵³

- they face gender discrimination;
- they do not themselves have documents and may fear arrest or detention if they approach the authorities to register the births of their children;
- they lack physical access to registration facilities, including as a result of long distances or a perilous journey and high transport costs involved;
- they face linguistic, financial, legal and administrative barriers;
- they lack awareness about the importance of birth registration among displaced communities;

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⁵² Human Rights Watch, "Trapped by Inequality: Bhutanese Refugee Women in Nepal", 2003, pp. 29–30.

⁵³ T. Thonhauser, "Birth Registration of Refugee Children", internal UNHCR paper, 2003, pp.15–25.

4.2.2 Birth registration and certification, continued

Summary of challenges (continued)

- many women deliver their babies at home and not in hospitals; and
 - governments are opposed to this, particularly governments in countries of asylum which fear that birth registration would provide additional rights to refugee children.
-

Challenge: Gender discrimination

Because some nationality laws discriminate against women,⁵⁴ some women may not be able to pass on their nationality to their children and so may not be able to register the birth of their children.

Sometimes, women face other forms of gender discrimination that prevent them from registering the birth of their children. For example, some countries require women to produce a marriage certificate before permitting birth registration. In others, a birth must be registered by the child's father, regardless of any nationality issues or whether he is not known, as can be the case in rape cases.

Challenge: Conflict and displacement

Conflict, during which civil registers may be destroyed, and forced displacement exacerbate these challenges.

In Bosnia-Herzegovina, for instance, a Roma woman who had fled conflict in the region had no identity documents and was unable to obtain them due to difficulties in determining her origins. She was forced to use the health card of her neighbour in order to access health services and deliver her baby. As a result, the baby was registered in her neighbour's name and the mother is in danger of losing her child.

International legal standards and guidelines

Every child has the right to a name and an identity, a right to be registered and the right to acquire a nationality. All children should be registered at birth without discrimination of any kind.⁵⁵

Note: Other guidance can be found in

- UNHCR's *Registration Handbook* (provisional release, September 2003), especially pp. 61–63;
 - UNHCR, *Refugee Children: Guidelines on Protection and Care*, 1994, chapter 8;
 - UNICEF, *Birth Registration: Right from the Start*, Innocenti Digest No. 9, March 2002; and
 - Action for the Rights of Children (ARC) CD-Rom, International legal Standards, Topic 3 Legal Status – Birth Registration, Nationality and Refugee Status Determination.
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Responsibility

States are responsible for the timely registration of the births and deaths of people who have been forcibly displaced or have returned and for providing them with the appropriate certification.⁵⁶

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⁵⁴ See Chapter 5, section 2 on nationality, civil status and family relations.

⁵⁵ ICCPR, Article 24; CRC, Articles 7, 8; Committee on the Rights of the Child, General Comment No. 7, 2006, implementing child rights in early childhood, para. 25.

⁵⁶ ICCPR, Article 24; CRC, Articles 7 and 8; Committee on the Rights of the Child, General Comment No. 7, 2006, implementing child rights in early childhood, para. 25. See also, Agenda for Protection, Goal 1, Objective 11; ExCom Conclusion No. 105 (LVII) of 2006, para. j)(iii).

4.2.2 Birth registration and certification, continued

Responsibility (continued)

In asylum situations, this is the responsibility of the host country.

In those of internal displacement, Principle 20 of the Guiding Principles on Internal Displacement requires State authorities in the country to issue new documents to the internally displaced or to replace existing documents that have been lost as a result of displacement, including identity documents and birth certificates. This principle emphasizes the equal rights of women and men to obtain such documents and to have them issued in their own names.

How to respond

While most, if not all, States' legislation respects the principle of equality between boys and girls regarding birth registration, in situations of forced displacement and return, births are often not registered or certified.

When it is not possible for this vital event to be recognized and recorded in the normal national registers, or when States fail to assume this responsibility, UNHCR should promote this, including by actions to

- work with the community, if necessary, to raise awareness about the importance of birth registration and certificates for girls and boys and to identify any logistical and financial problems parents may face securing registration and documentation for their children;
- work closely with UNICEF, which also has an important role to play in promoting birth registration and supporting governments in establishing birth registration programmes for the general population, as a way also to ensure the birth registration and thereby the protection of asylum-seekers, refugees, returnees, (re)integrating and stateless persons;
- provide funding, training, equipment, and other support for programmes to register the birth of refugee children and children at risk of statelessness in States without adequate resources, so as to enable authorities to assume their responsibilities in this respect and ensure refugee children at least have their births registered and have a certificate;
- support the despatch of mobile birth registration teams to isolated areas which register births in both the displaced and host community;
- work with governments, including local authorities, to help them understand the importance of facilitating late registration of births and of ensuring that children who have not been registered have equal access to health care, protection, education and other social services;⁵⁷ and
- to the extent possible, maintain a record of all births for refugees and asylum-seekers, and provide the individuals concerned with birth certificates, if the authorities are unable or unwilling to do so, since a UNHCR attestation can sometimes be essential to assuring protection and solutions.⁵⁸

Note: For more information on how discriminatory nationality laws can result in statelessness, including for the children of refugees, see Chapter 5 section 2.

⁵⁷ Committee on the Rights of the Child, General Comment No. 7, 2006, implementing child rights in early childhood, para. 25.

⁵⁸ UNHCR, *Handbook for Registration*, 2003, p. 61; Agenda for Protection, goal 1, Objective 11. UNHCR's *Practical Guide to the Systematic Use of Standards and Indicators in UNHCR Operations*, 2nd edition, February 2006, defines as birth certificates not only documents issued by the government, but also "documents issued by UNHCR or other organizations, when these have been given the authority by the host government to issue them through a legal or sub-legal act or when the UNHCR issued document bears the signature of the competent authority of the state. Hospital records and records from midwives or traditional birth attendants shall not be considered as birth certificates."

Field practice: Birth registration and certification campaign, Papua New Guinea

Introduction

This initiative involved a campaign to register the births of refugee children born in exile in the remote and inaccessible Western Province of Papua New Guinea. Their parents had fled Indonesia almost 20 years before and by 2003 more than half the refugee population had been born in Papua New Guinea. It involved working with government authorities to persuade them to assume their responsibilities and with the refugee community to help them understand what birth registration was about.⁵⁹

The campaign has so far succeeded in registering the births of nearly 3,000 refugee children born in exile in Papua New Guinea and in giving them birth certificates acknowledging their Papuan citizenship.

Rights promoted

Rights promoted include the right:

- to a name, legal identity and nationality;
- not to be discriminated against;
- to education; and
- to the highest attainable standard of health.

As the UNHCR representative in Papua New Guinea notes: "Registration of births is the first legal acknowledgement of a child's existence and a crucial first step in attaining rights – from enrolling in school to later opening a bank account, finding a job or obtaining credit. A birth certificate to prove a child's correct age is also an important tool for preventing child labour, under-age military service or conscription, and forced marriage for girls."

AGDM and empowerment

The campaign has mainstreamed age into UNHCR's protection interventions. It has helped ensure young refugees are able to enjoy their rights more fully, thus empowering and enabling them to go to school, continue their studies, get a job, and strengthen their local integration. Now that refugee girls have their own individual birth documentation this gives them greater independence.

Community involvement in implementation

UNHCR and the Diocese of Daru-Kiunga (see partners below) worked through community leaders to help people understand what the registration was about and reassure those who were concerned. They also worked with the local communities in the border area which helped improve relations between local communities and the refugees. Both sides now recognize the importance of having birth certificates.

Partners and their involvement

The campaign involved the Civil Registry Office of the Department for Community Development, the Departments of Provisional and Local Government Affairs and of Border Affairs in Papua New Guinea. This helped ensure their commitment to register these births and thereby comply with the country's obligations under the 1951 Refugee Convention and the 1989 Convention on the Rights of the Child.

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⁵⁹ For further details see, UNHCR news stories, "Papua New Guinea Grants Legal Identity to Young Refugees", 20 May 2004, at <http://www.unhcr.org/cgi-bin/texis/vtx/print?tbl=NEWS&id=409f81ae4> and "Birth Certificates Help Cement Rights for Young Refugees in Papua New Guinea", 2 December 2005, at <http://www.unhcr.org/cgi-bin/texis/vtx/print?tbl=NEWS&id=439457eb4>.

Field practice: Birth registration and certification campaign, Papua New Guinea, continued

Partners and their involvement (continued)

The exercise is part of a broader campaign by the UN Children's Fund (UNICEF) and the Civil Registry Office launched in March 2004 to have 100 per cent of all births in Papua New Guinea registered by December 2007. Staff of the Catholic Diocese of Daru-Kiunga, trained by government officials, acted as partners to implement the project.

Steps to implementation

When a November 2003 population census in East Awin established that over 50 per cent of the total refugee population had been born in Papua New Guinea, UNHCR facilitated a mission by the Department for Community Development, the Department of Provincial and Local Government Affairs and UNHCR to the area to initiate a procedure to enable birth certificates to be issued to all children registered there and born in the country. Birth information forms were completed and sent to the Civil Registry Office Department in Port Moresby, the capital, for analysis and recording in a central database.

As part of a second phase of the campaign, staff of the Diocese of Daru-Kiunga went to 17 refugee settlements along the border with Indonesia. They explained to each community the importance of birth registration and certification, gathered the data needed and later delivered the certificates which had been issued in Port Moresby.

In early 2006, UNHCR funded the training by the Civil Registry of adults from the refugee settlements to ensure they are able to continue registering newly born refugee children. UNHCR also funded the full cost of issuing and distributing birth certificates to all the refugee children.

Constraints

The inaccessibility of the refugee settlements along the border with Indonesia made it a logistical challenge to reach the refugees. Diocese staff sometimes had to walk for a full day, take a long dinghy ride or scramble up steep escarpments to reach them.

Impact

By April 2005, certificates had been distributed to 1,217 refugee girls and boys born in Papua New Guinea and living in East Awin. By the end of that year, a further 1,736 birth certificates had also been issued and distributed to the refugee children born in Papua New Guinea and living in 17 settlements along the border with Indonesia.

The campaign marked the first time that birth certificates were issued to refugees born in Papua New Guinea. It will help the integration of these children and adolescents.

"It is a good thing that the children are receiving birth certificates from the PNG government. This will help them with their future life in this country. They can continue their studies here." (Matias Korodi, the grandfather and guardian of Doris Korodi, a 14-year-old refugee girl who now has her own birth certificate.)

4.2.3 Registration and certification of marriage and divorce

Introduction

Registration and certification of marriages, particularly traditional and customary marriages, and of divorces, are important tools for ensuring the protection of women and girls and for their enjoyment of their rights during displacement and in the context of durable solutions.

Note: See section 3.4 of this chapter below, for more information on marriage/divorce and resettlement, as well as Chapter 5, section 2.2 for more on challenges arising in relation to marriage and divorce, applicable legal standards, guidelines and responsibilities, and how to respond to them.

Purpose

Marriage registration and certification ensure that family unity can be legally respected and preserved and that property and other rights can be properly transferred. In cases of couples of mixed nationality, registration of the marriage is necessary for naturalization of a spouse who is not a national of the country of residence (or eventual voluntary repatriation). Depending on the domestic nationality law, registration of marriage may also affect whether a spouse may confer nationality on her or his children. In many countries, children born out of wedlock may, for example, be unable to acquire the nationality of the father.

Certification of divorce and custody arrangements can be vital both for spouses and children, particularly if the durable solutions for husband and wife are different.

For stateless persons, a marriage certificate or other official documents may be used at a later date to prove residence for the purpose of naturalization.

Summary of challenges

Women often face challenges and obstacles obtaining registration and certification for marriage and/or divorce. In many cases, women may not even have the option of divorcing or may be denied custody of their children, because of the traditions or laws in their countries.

These challenges may, for instance, be because of practical obstacles, such as cost, as a result of exile (where, for example, divorce is only possible in the country of origin), lack of awareness of their rights, or because records have been destroyed in conflict.

Lack of marriage registration and certification and of divorce, can interfere with the legal rights accorded under national law through marriage, including those related to:

- nationality and civil status of both spouses and their children;
 - lawful residence;
 - inheritance and property rights; and
 - the legal status of, and custody of, children born during the marriage.
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4.2.3 Registration and certification of marriage and divorce, continued

International legal standards and guidelines

Under international law, women have equal rights to men during marriage and at its dissolution.⁶⁰ Women and men have equal rights to obtain registration and certification of both marriage and divorce and to have it issued in their own names.

Responsibility

States are responsible for the timely registration of marriages and divorces of everyone within their jurisdiction, including displaced and returnee persons and for providing them with the appropriate certification.⁶¹

In asylum situations, this is the responsibility of the host country. In those of internal displacement, it is that of the country concerned and the State authorities are obliged to issue new documents to those who are internally displaced or replace existing ones that have been lost as a result of displacement, including identity documents and birth certificates.⁶² State responsibility extends to protecting individuals from interference by third persons, including husbands and fathers, which would inhibit the ability of women to register such civil acts.

When States fail to assume this responsibility, UNHCR should to the extent possible record such events for refugees, asylum-seekers, returnees and stateless persons. A UNHCR attestation can sometimes be essential to assuring protection and solutions.

How to respond

Ensuring that all marriages are registered and that the names of all spouses are included in the registration certificate when UNHCR is registering asylum-seekers and refugees, can help prevent statelessness and assists voluntary repatriation and resettlement.

Information campaigns can be used to encourage registration of marriages and divorces.

UNHCR can work with other UN agencies, such as UNICEF and UNFPA, and with development actors to assist States in developing more effective civil registration systems.

We must ensure that a lack of documentation does not hinder decisions on durable solutions that respect the rights of the women concerned and the best interests of their children.

Note: For more on international legal standards, responsibilities, and how to respond see chapter 5, section 2.2.

⁶⁰ CEDAW, Article 16(1).

⁶¹ 1951 Refugee Convention, Articles 12 and 25; CEDAW, Article 16(2); Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, Article 3; Agenda for Protection, Goal 1, Objective 11; ExCom Conclusion No. 105 (LVII), 2006, para. (j)(iii).

⁶² Guiding Principles on Internal Displacement, Principle 20.

4.2.4 Family tracing and reunification

"I don't know if my parents and my four brothers are even alive. This makes me sad. I worry about where my family is and what happened to them."

14-year-old separated girl in Chad, living with her grandmother and great grandmother⁶³

"Growing up in the camp changed me a lot. For a 10-year-old child to be without her parents is a lot to cope with. But then, one day, when we had been in the camp for four years, my father appeared out of nowhere. He had been released from prison and had searched on foot for two years to find us. Having a father again was just wonderful."

Adut Dau Atem, a Sudanese girl who fled conflict at the age of eight. After seven years in Kakuma camp, Kenya, she was resettled with her father in Australia, where, at the age of 18, she was reunited with her mother and brother. She is now studying medical science.⁶⁴

Introduction

Family separation, caused by the chaos of conflict and flight, as well as pressures in displacement, increases the protection risks faced by women and girls.

Being part of an intact family is particularly important during displacement, when all other aspects of a normal life have disappeared. When a family is under stress or split apart, girls often shoulder significant additional burdens, as they assume additional household responsibilities. This, in turn, makes it more difficult for them to attend school. Under these stressful living conditions, girls are at greater risk of domestic violence and exploitation, whether within their own depleted family or within a foster family.

Purpose

Family tracing and reunification represents a vital tool to assist the reestablishment of normal life, not only for children who are separated from their parents and/or have to assume additional responsibilities, but also for mothers and fathers seeking their children. It is also important for grandparents, especially widows, who may otherwise risk isolation, neglect and other protection problems.

Challenges: As a result of separation

Women and girls who face particular challenges as a result of separation from their families include:

- single women and girls, including those who head families, who are at increased risk of exploitation and abuse, such as abduction, trafficking, forced labour, and SGBV, including early and/or forced marriage and polygamy;
- older women without family support who have difficulty accessing many of their basic rights, including food, shelter and health care; and
- women and girls exposed to domestic violence and/or those with disabilities, who have left or become separated from their immediate family and/or who have lost the support of their extended families.

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⁶³ Refugees International, "Inadequate Response to Child Protection for Refugees", 14 April 2005, at www.refugeesinternational.org.

⁶⁴ Adut Dau Atem, interview in Australian magazine, *Dolly*, 2006. See also the Australian field practice in chapter 2, section 5, for more on Adut Dau Atem's story.

4.2.4 Family tracing and reunification, continued

**Challenge:
When family
reunification is not
appropriate**

While family unity and family reunification should generally be upheld and promoted, it is not always appropriate. For example, some women and girls may not want to be reunited with their family members if they face violence or are at risk of violence, including domestic violence and harmful practices, such as forced marriage or female genital mutilation, at the hands of family members. (For more information on how to respond in such situations, see section 2.5 below on best interests assessments and determinations.)

**International legal
standards and
guidelines**

The right to family unity and family life is inherent in the universal recognition of the family as the fundamental unit of society entitled to protection and assistance.⁶⁵ The equal rights and responsibilities of women and men to care for and raise their children⁶⁶ are essential components of the principle of family unity.

Key standards applicable to family tracing and reunification are set out in the *Inter-Agency Guiding Principles on Unaccompanied and Separated Children* of 2004 and General Comment No. 6 of the Committee on the Rights of the Child on the treatment of unaccompanied and separated children outside their country of origin (2005), especially paras. 79–94.⁶⁷

**Responsibility:
States**

During the UNHCR Global Consultations on International Protection, an expert roundtable on family unity agreed: “Protection of the right to family unity requires not only that States take action to prevent family separations, but also that they take positive steps to maintain the unity of the family, including by reuniting family members. Refusal to allow family reunification may be considered as an interference with the right to family life or to family unity, especially where the family has no realistic possibilities for enjoying that right elsewhere. Equally, deportation or expulsion could constitute an interference with the right to family unity unless justified in accordance with international standards.”⁶⁸

In order to ensure that a child is not separated from her or his parents against her or his will, States have a responsibility to make all efforts to return an unaccompanied or separated child to her or his parents except where further separation is necessary for the best interests of the child, taking full account of the right of the child to express her or his views.⁶⁹

**Responsibility:
UNHCR**

UNHCR, working in partnership with other organizations, including particularly UNICEF, ICRC, and NGOs, should support efforts to maintain family unity and reunify families.

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⁶⁵ For a discussion of the relevant legal principles as provided for in international refugee law, international human rights law, and international humanitarian law, see UNHCR, “Summary Conclusions on Family Unity”, Global Consultations on International Protection, Geneva Expert Roundtable, 8–9 November 2001. Various ExCom Conclusions provide guidance on family unity and reunification, including Conclusions Nos. 9 (XXVIII), 1977; 24 (XXXII), 1981; 88 (L), 1999; and, most recently, 107 (LVIII), 2007, para. (h)(iii).

⁶⁶ CEDAW, Article 5; CRC, Articles 5, 7, 8 and 9.

⁶⁷ Marie de la Soudière, Jan Williamson and Jaqueline Botte, *The Lost Ones: Emergency Care And Family Tracing for Children from Birth to Five Years*, 2005, at <http://www.crin.org/bcn/details.asp?id=9250&themeID=1005&topicID=1031>, describes both how to care for the youngest children, newborns to five years old, who are separated from their families in emergencies and to trace their families.

⁶⁸ See “Summary Conclusions on Family Unity”, Global Consultations on International Protection, Geneva Expert Roundtable, 8–9 November 2001, para. 5. Article 22 of the CRC provides that in asylum situations, host governments must cooperate with the United Nations and other competent organizations in family-tracing and -reunification activities.

⁶⁹ Committee on the Rights of the Child, General Comment No. 6, 2005, on the Treatment of Unaccompanied and Separated Children Outside their Country of Origin, para. 80.

4.2.4 Family tracing and reunification, continued

**Responsibility:
UNHCR (continued)**

UNHCR Offices have a responsibility, as part of their mandate to protect refugees,⁷⁰ to promote and facilitate the reunification of refugee families.

This means they should assist family members of someone who has been recognized as a refugee, to join her or him in the country of asylum. This applies whether or not the family members are still in their country of origin. UNHCR's assistance and support may be requested by the family member(s), by the refugee her- or himself, and/or by the UNHCR Office where the refugee or her or his family is living. This may involve:

- helping refugees or their family members to submit applications for family reunification and/or for entry or exit permission, through official procedures and in accordance with UNHCR guidelines to protect the integrity of the process, and/or
- assisting the refugee in applying for resettlement based upon family reunification.

In this context, the concept of family is to be interpreted broadly and includes "non-traditional" family members who are economically or emotionally dependent upon the refugee.

**How to respond:
Securing
reunification**

We should work in partnership with other relevant organizations, including notably the International Committee of the Red Cross (ICRC), and initiate actions to maintain family unity and reunify families as early as possible after displacement. We must also ensure that our own actions do not result in the unintentional separation of family members.

Upholding the principle of family unity and ensuring family reunification requires a process of assessment, identification, registration, documentation, tracing, verification, reunification and follow-up to assure reintegration.⁷¹

As part of this process, tracing is an essential component of any search for a durable solution and should be prioritized except where the act of tracing, or the way in which tracing is conducted, would be contrary to the best interests of the child or jeopardize fundamental rights of those being traced. For asylum-seeking and refugee women and girls, family reunification in the country of origin should not be pursued where there is a reasonable risk that such a return would lead to the violation of their fundamental human rights.⁷²

**How to respond:
When reunification
is not appropriate**

In situations where family reunification is not appropriate, whether because domestic violence or abuse is involved or because reunification would involve return to the violation of their fundamental rights in the country of origin as outlined above, we should work to ensure the immediate safety and security of the women and girls involved, and find a solution that respects their rights.

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⁷⁰ Various ExCom Conclusions affirm the principle of family unity and urge UNHCR and partners to continue their efforts to seek prompt family tracing and reunion, including Conclusions No. 24 (XXXII), 1981; No. 74 (XLV), 1994, para. (gg); and No. 107 (LVIII), 2007, para. (h)(iii).

⁷¹ For more information, see Inter-Agency Guiding Principles on Unaccompanied and Separated Children, January 2004, chapter 2.

⁷² Committee on the Rights of the Child, General Comment No. 6, 2005, Treatment of Unaccompanied and Separated Children Outside their Country of Origin, paras. 80–81.

4.2.4 Family tracing and reunification, Continued

**How to respond:
When reunification
is not appropriate
(continued)**

In such cases, where women are involved, the individual rights of the woman, including her right to life, liberty and security, the highest attainable standard of health, and freedom from torture, cruel or inhuman or degrading treatment take precedence over family unity – subject always to the wishes of the woman concerned.

Where girls are involved, a best interests determination must be made immediately to decide on the appropriate solution for the girl concerned (see section 2.5 of this chapter which follows chapter 4, section 3).

**Field practice:
Various countries**

A number of examples of State practice permitting family members to join refugees in the country of asylum that can be promoted by UNHCR in other operations are listed below.

Family reunification of cohabiting partners: In *Ecuador*, legislation recognizes for the purposes of family reunification a common law marriage of a man and a woman in a stable relationship of at least two years, as well as common law partnerships of shorter duration where the couple has children. In *Finland*, unmarried partners must demonstrate that they have lived together for two years in order to obtain family reunification, while same sex partners can be granted family reunification on the same basis as unmarried partners. *Sweden* extends family reunification to the cohabitating partner, including same-sex partner, of an individual who has been granted permanent residence, as long as the partner is over 18 years of age.

Family reunification with refugee children: *Finland* permits a resident refugee child to reunify not only with her or his parents but also with individuals who acted as guardians in the country of origin, as well as with unmarried siblings if the latter are under 18 years of age.

Reunification with children: In *Ecuador*, applications for family reunification with refugees already in Ecuador can be made not only by children whose biological parents are refugees, but also by step-children and adopted children.

Family reunification with adult children: In *Ecuador*, family reunification with adult children is accepted where there is emotional, psychological, physical or economic dependence on the parent and there are strong ties between the respective family members. In such cases, persecution and other factors causing the separation of the family and the customs of family life in the country of origin are taken into account. *The Netherlands* permits adult children to reunify with parents who have asylum, if they can demonstrate they have the same nationality as the asylum holder and are dependent upon her or him.

Reunification of parents: In *Bulgaria*, elderly parents of recognized refugees, who are not able to take care of themselves and need to live in the same household with their children may benefit from family reunification. In *Ecuador*, parents, who are over 65 years old and come to Ecuador seeking to stay with their refugee children, are themselves recognized as refugees on the basis of family unity. Where one or both parents have not yet reached

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4.2.4 Family tracing and reunification, continued

Field practice: Various countries (continued)

that age, reunification is granted if there is emotional and/or economic dependence. In the *United Kingdom*, elderly parents of refugees may be allowed to come to the UK if there are compelling compassionate circumstances.

Family reunification beyond nuclear family in cases of dependency: In *Brazil*, family reunification is extended not only to the spouse and unmarried offspring under the age of 21, whether natural or adopted, of the refugee, but also to children with disabilities who are over 21 years of age who depend economically on the refugee; to elderly parents; and to brothers, sisters, grandchildren, great-grandchildren, nephews and nieces who are orphans, unmarried, under the age of 21 or have disabilities and depend economically on the refugee. In *Ecuador*, there have been a few cases of children over 18 or elderly parents and other relatives who are financially or emotionally dependent on the recognized refugee on the basis of an extensive interview and only if the dependency can be established. In *Sweden*, family members of aliens who have obtained a residence permit in Sweden may also be granted a residence permit, where they are dependent on that person and were previously sharing the same household. Exceptions can be made on strong humanitarian grounds.

Family reunification in complementary protection contexts: In *Sweden*, the right to family reunification applies to individuals who have been permitted to stay because they are “in need of protection” or on grounds of exceptionally distressing circumstances. *Switzerland* extends family reunification to other dependent family members of individuals with complementary forms of protection on an exceptional basis. In the *United Kingdom*, family members of individuals granted humanitarian protection after August 2005 have the same rights to family reunification as recognized refugees.

4.2.5 Best interests assessments and best interests determinations

"I don't want to go live with my aunt [her caretaker], because [she] said if I try to leave she will beat me. She doesn't want me to leave because I do the domestic work ... what I really want is to stay with my sister. I'm afraid that man [the caretaker's husband] will try to touch me again if I stay with the caretaker."

10-year-old refugee girl in Massakundou camp, Guinea⁷³

Best interests assessments and determinations

An individual best interests assessment and a more formal best interests determination both involve considering what is best for the individual child in all decisions and actions that affect her or him.⁷⁴ Both can be important for ensuring that girls and boys are protected and able to enjoy their rights.

Purpose

The purpose of a best interests assessment, which is a continuous process and has particular relevance for unaccompanied and separated children, is to ensure that all decisions and actions affecting a child are based on an assessment of what option is in her or his best interest.

The purpose of a best interests determination (BID) is to ensure that decisions fundamentally impacting on a child's life are assessed and documented in a formal procedure and that sufficient attention is given to determining what is in her or his best interests in each individual case.

Summary of challenges

UNHCR has thus far primarily undertaken individual BIDs before decisions on durable solutions for refugee children, including in particular resettlement to a third country. Particular challenges arise where:

- UNHCR has to become involved in separating children from their parents;
- UNHCR must make custody decisions before resettlement;
- unaccompanied and separated refugee children face return to their country of origin; and
- girls at risk are difficult to identify, for instance because they are in foster families and/or are at risk of domestic abuse.

Each of these issues is discussed further below.

Challenge: Separation from parents

Separating a child from her or his parents is a complex and delicate task. UNHCR staff should normally approach competent authorities, which have primary responsibility for decisions concerning separation. UNHCR has, however, been required to intervene where national authorities have been non-existent or lacked the required competence in extremely serious child abuse or neglect, and where the child's physical security or survival has been threatened by the conduct of her or his parents.

Challenge: Custody and resettlement

Sensitive decisions regarding custody before resettlement may arise where a refugee child and only one of her or his parents qualify for resettlement (for instance, due to domestic violence under the women-at-risk resettlement criterion or following a divorce) and a decision on legal custody of the child is required before resettlement. Often there are legal or practical

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⁷³ Human Rights Watch, "Forgotten Children of War: Sierra Leonean Refugee Children in Guinea", 1999, p. 31.

⁷⁴ For more detailed information on best interests assessments and formal best interests determination, see UNHCR, "UNHCR Guidelines on Formal Determination of the Best Interests of the Child", provisional release, May 2006, pp. 7 and 8.

4.2.5 Best interests assessments and best interests determinations, continued

Custody and resettlement (continued)

obstacles to obtaining a custody decision by the competent judicial or administrative authorities of the host country, which may prevent the child and parent from enjoying international protection in a resettlement country.

Challenge: Unaccompanied and separated children

Challenges can also arise where unaccompanied or separated girls or boys are at the border seeking asylum and may otherwise face return to their country of origin or to another country. This may, for instance, be under “safe third country” provisions or if they are rejected asylum-seekers. In the European context, this dilemma also arises among European States under the “Dublin II” Regulation,⁷⁵ which allocates responsibility to different European States for determining asylum claims.

Challenge: Girls at risk

Identifying girls at risk, especially those in foster families, presents particular challenges. Families may view them as an asset exchangeable for goods or money through a dowry paid for their early marriage or may be forced to do so by harsh circumstances.⁷⁶ They may be kept at home for domestic tasks and not be allowed to go to school, even where sons do attend.

Such girls may thus be virtually invisible to us. One sign that we are not reaching them may be if best interests assessments or determinations are primarily being undertaken for boys.

International legal standards and guidelines

The principle of best interests of the child⁷⁷ is a fundamental principle of protection. It applies to children and adolescents up to the age of 18.

It should guide all actions concerning children and, in the case of displaced children, must be respected during all stages of the displacement cycle. “At any of these stages, a best interests determination must be documented in preparation of any decision fundamentally impacting on the unaccompanied or separated child’s life.”⁷⁸

The provisional edition of UNHCR’s *Guidelines on Formal Determination of the Best Interests of the Child* of May 2006 should guide the process.⁷⁹ A new edition of the Guidelines is expected in 2008.

Responsibility: States

States have a responsibility in all actions concerning children within their jurisdiction to have the best interest of the child as a primary consideration. This includes action undertaken by public or private social welfare institutions, courts of law, administrative authorities and legislative bodies.

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⁷⁵ Council Regulation (EC) NO. 343/2003, 18 February 2003, establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third country national. See also, UNHCR, “The Dublin II Regulation: A UNHCR Discussion Paper”, April 2006, especially pp. 57–58.

⁷⁶ See, for instance, Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Yakin Ertürk, “Integration of the Human Rights of Women and a Gender Perspective: Violence Against Women: Addendum, Mission to Afghanistan (9 to 19 July 2005)”, E/CN.4/2006/61/Add.5, 15 February 2006, especially paras. 23–27.

⁷⁷ The principle of the best interests of the child is contained in Article 3 of the CRC. For more information, see Chapter 6 of this Handbook.

⁷⁸ CRC Committee General Comment No. 6 (2005), Treatment of Unaccompanied and Separated Children Outside their Country of Origin, para. 19. See also generally, the *Inter-Agency Guiding Principles on Unaccompanied and Separated Children*, January 2004.

⁷⁹ A two-page overview and introduction to these Guidelines was also issued in June 2007 and is available on the UNHCR intranet.

4.2.5 Best interests assessments and best interests determinations, continued

**Responsibility:
Parents and
guardians**

Parents have responsibilities, rights and duties to provide children with appropriate direction and guidance in the exercise of their rights. Where applicable, this also applies to extended family members or community, legal guardians and other others legally responsible for the child.⁸⁰

**Responsibility:
UNHCR**

The best interests principle requires not only that UNHCR assess what is best for each child during every phase of displacement, but also that it conduct formal best interests determinations for some children. The best interest principle should be applied systematically by UNHCR in all its planning and policy-making that affects children of concern to the Office.⁸¹ This principle applies to decisions affecting individual children and to broader policies and activities that affect children generally.

ExCom has recognized UNHCR's responsibility to conduct best interest determinations "respecting child protection systems of States in cooperation with other relevant agencies and partners" and its "role in the determination of the best interests of the child which should inform resettlement decisions including in situations where only one parent is being resettled and custody disputes remain unresolved ...".⁸²

Best interests assessments and formal best interests determinations must be conducted by staff with appropriate knowledge, skills, and expertise. Although not every UNHCR staff member will be involved in such assessments and procedures, all should have a general understanding of these procedures, be able to identify when they may be required and know how to make the necessary referrals.

How to respond:

Identifying women and girls at risk may require specific strategies including, for instance, involving:

- discreet home visits and interviews in the home or in health clinics, as outlined in the India field practice example in chapter 3, section 3;
 - discreet and systematic interviews, as in the field example about the Sudanese "lost girls" in Kenya in chapter 4, section 3.4, which enabled the identification of girls in foster families in Kakuma refugee camp who were at risk, so that responses in their best interests could be determined; and
 - other approaches as listed in chapter 3, section 3 under "Identify women and girls at risk".
-

**How to respond:
Best interests
assessment**

Best interests assessment involves ongoing consideration and monitoring of what is best for the individual child in all decisions and actions that affect her or him. It is particularly important when working with separated or unaccompanied children and is appropriate including in situations involving:

- identification and registration;
 - family tracing;
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⁸⁰ See Convention on the Rights of the Child, Articles 2–5.

⁸¹ UNHCR, "UNHCR Guidelines on Formal Determination of the Best Interests of the Child", provisional release, May 2006.

⁸² ExCom Conclusion, No. 107 (LVIII), 2007, paras. (g)(ii), (h)(xviii).

4.2.5 Best interests assessments and best interests determinations, continued

Best interests assessment (continued)

- deciding on the most appropriate temporary care arrangements, including interim foster care;
- appointing a guardian;
- monitoring temporary care arrangements; and
- family reunification.⁸³

How to respond: Best interests determination

In some cases, a best interests assessment is not sufficient, and so a formal best interests determination must be carried out for individual girls and boys of concern to:

- identify durable solutions for unaccompanied and separated refugee or internally displaced children;
- decide on temporary-care arrangements for unaccompanied and separated children in particularly complex situations; and
- decide whether or not to separate a child from her or his parents against the parents' will.

A best interests determination may thus be required for girls who are being exploited in foster families, who are at risk of domestic violence or whose parents are separated. It may be appropriate, for example, when a decision by a traditional justice mechanism clearly violates a girl's rights.⁸⁴ It is also important in relation to resettlement when, for example, a girl or her mother are victims of domestic violence and are applying for resettlement, as described in the field practice example below.

Field practice: Tanzania

When UNHCR was confronted in northwestern Tanzania, with a situation where many separated children were abandoned by foster families when they repatriated to the Democratic Republic of Congo and Burundi, the Office there took measures to reduce such risks in 2006. These involved:

- conducting best interests determinations (BID) for foster children registered for voluntary repatriation;
- assessing their situation upon return;
- studying cultural and customary norms causing separation; and
- introducing a final physical check of all children on departure day to ensure agreed child protection measures were adhered to.

The BID process assessed the intentions and ability of foster families to provide the child concerned with sufficient care upon return. The family was also sensitized about their responsibilities as foster parents.

Since most primary caregivers were women, they were directly involved in the BID process. Girls and boys were also systematically able to express their views on their preferred option for their future. Community leaders were involved in explaining the BID process and its advantages to refugees.

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⁸³ See "UNHCR Guidelines on Formal Determination of the Best Interests of the Child", provisional release, May 2006; ExCom Conclusions No.105 (LVII) of 2006, paras. (n)(iii) and (o)(i) and No. 107 (LVIII), 2007, on children at risk.

⁸⁴ For further information on traditional justice systems, see Chapter 5, section 4.3.

4.2.5 Best interests assessments and best interests determinations, continued

**Field practice:
Tanzania
(continued)**

Other specific groups such as teachers, religious leaders, (child protection) social workers, and health workers provided additional information on individual children or caregivers. Where separation between caregiver and separated child was inevitable, community members were involved in identifying viable alternative foster care.

Following the institution of a BID procedure, the number of children abandoned upon return was drastically reduced. More children were also able to reunify with their biological parents in areas of return. More generally, the BID enhanced perceptions of the value of children in the community.

The study of cultural and customary norms increased UNHCR's awareness of traditional community foster care and custody arrangements (e.g. the fate of children born out of wedlock or provision of a girl child to compensate for a deceased wife). This has enabled a more targeted response.

This example illustrates the positive impact BIDs can have in voluntary repatriation operations where there are many unaccompanied and separated children. If we implement the BID Guidelines systematically from early in the displacement cycle, this will reduce such risks in future.

Field practice: BID for children in a family suffering domestic violence

Introduction

This initiative shows how one UNHCR Office used the need to determine the best interests and solution for a family in a particularly severe case of domestic violence as an opportunity to involve the local authorities in undertaking a best interests determination (BID) for the first time. This enabled UNHCR and the authorities together to establish formally which solution was in the best interests of the eight children involved, i.e. whether separating them from their father and staying with their mother was in their best interest.

Rights promoted

Among rights promoted in this initiative were the right of the child

- to have her or his best interests taken as a primary consideration in all actions concerning her or him;
 - to express her or his views freely;
 - not to be separated from her or his parents against her or his will, except where competent authorities determine that this is in her or his best interests;
 - not to be subject to torture, inhuman or degrading treatment; and
 - to freedom of movement and to education.
-

Steps to implementation

The case concerned a refugee mother, who along with her eight children had suffered severe and sustained domestic violence at the hands of her husband. Fearing further violence, she took her children, left her husband and sought refuge, saying she was determined not to live with him again. The father complained to the authorities, both in the country of asylum and origin, about this separation, but the wife did not accept any mediation.

The Office found them an apartment and arranged for it to be protected 24 hours a day by two female guards. The threat of the husband finding them in the town was nevertheless quite high. Fearing further violence targeting both the children and the mother, UNHCR submitted the case for resettlement.

UNHCR also asked the government migration service to help find a national body specializing in children's issues, which referred UNHCR to a commission on minors' affairs. UNHCR met with the head of this commission, explained the Office's role, the purpose of, and need to, undertake a BID, shared UNHCR's BID Guidelines, and explained the Office's desire to involve national experts in the BID. The head of the commission appointed two staff for the exercise.

Of the eight children in the family, a daughter and two sons (i.e. those above 11 years old) were interviewed. They stated clearly that they had often been beaten, that the daughter had been kept at home and was not allowed to go to school, and that they wished to stay with their mother. The situation of the younger children was observed by UNHCR during home visits.

Taking into account that divorce could, in this case, only be secured in the country of origin, the BID Panel agreed this option was not feasible. To continue to stay in the country did not seem possible, as the children could not go out into the street or to school because they feared their father would find them. The Panel confirmed that resettlement with the mother was in the children's best interests. This, also in light of the possibility for the mother to request family reunification once resettled, which would therefore not preclude the children's eventual reunification with their father, if this were in their best interests.

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Field practice: BID for children in a family suffering domestic violence, continued

AGDM and empowerment

The BID gave the children a voice in the process of deciding what solution was in their best interest. It meant their views were heard and taken into account.

Community involvement

In a society where domestic violence is very much regarded as a family matter and international standards on children's rights are not widely known, UNHCR also worked more generally with the refugee community and the social service authorities to raise awareness of these issues and to establish reporting mechanisms for SGBV, including domestic violence.

Partners involved

The migration service and commission on minors' affairs were the government departments most closely involved. The authorities in the country of resettlement were later also involved as part of the usual resettlement process.

Constraints

In this particular case, due to the urgency of their situation and the initial assessment at that time, a formal BID was not done before resettlement had been identified as the best solution and before the case was submitted for resettlement. The Office therefore decided at least to do the BID at a later stage, hoping to confirm that the initial assessment more formally and prevent possible reprisals by the husband.

The usual BID procedure requires interviews with both parents. In this case, specific BID interviews took place only with the children, as UNHCR and the migration service had already had regular meetings and interviews with both parents and were fully aware of their positions and situations, but had little independent information from the children.

The final report was prepared in the form of a Note for the File (rather than the forms contained in the BID Guidelines), to make it more comprehensible to officials of the national authorities. The BID report was signed by the two officials who participated in the determination. Since it was the first time such a joint exercise had been undertaken and bearing in mind the prevailing traditional attitudes, UNHCR maintained "ownership" of the process in this case.

Impact

Following the BID, the family was resettled and has since sent messages back stating that they were doing very well. The father has remarried.

The two local participants in the BID process confirmed their willingness to work with UNHCR again and their readiness to assist when required. Doing the BID jointly with the authorities opened the door for a more systematic future involvement.

Lessons learned

The involvement of the national authorities was crucial, especially given the prevailing traditions and attitudes in that society, which tended to mean the authorities did not necessarily see the consequences of domestic violence for the mother and children involved but rather saw solutions only from the perspective of the husband.

4.2.6 Refugee status determination

"The world has woken up to the fact that women as a sex may be persecuted in ways which are different from the ways in which men are persecuted and that they may be persecuted because of the inferior status accorded to their gender in their home society. States parties to the Refugee Convention, at least if they are also parties to the International Covenant on Civil and Political Rights and to the Convention on the Elimination of All Forms of Discrimination against Women, are obliged to interpret and apply the Refugee Convention compatibly with the commitment to gender equality in those two instruments."

Baroness Hale in the UK House of Lords judgment in *Fornah*⁸⁵

Introduction

Refugee status determination (RSD) is a core protection function. Ensuring that age-related and gender-related forms of persecution are recognized as able to fall within the refugee definition, that women and girls are able to access procedures, and that the latter are implemented in an age- and gender-sensitive manner are key issues to enabling women and girls to enjoy their right to seek and enjoy asylum.

Purpose

The determination of refugee status defines the obligations and responsibilities of States and UNHCR towards the individuals concerned. It thus has profound implications for the life and security of the women, men, girls, and boys concerned.

Summary of challenges

Challenges faced by women and girls in accessing asylum procedures and securing a fair and efficient assessment of their claim include, as also outlined in greater detail below:

- a tendency only to consider the claim of the "principal applicant";
- difficulties discussing their experiences and establishing the credibility of their claim;
- decision-makers' reluctance to accept gender-related forms of persecution as falling within the refugee definition;
- particular challenges faced by unaccompanied or separated girls;
- procedural challenges.

Challenge: Consideration of "principal applicant's" claim

Women's and girls' claims may in some situations be more likely to be considered only in relation to the claims of their husband/father or other male family members, who may be viewed as the "principal applicant".

This has been, and continues to be, the case in many UNHCR refugee status determination (RSD) operations, even where the female family members have experienced the same or other forms of persecution. They therefore continue to have difficulties in accessing individual asylum procedures. This may even be the case where female family members have borne the brunt of the persecution. As a result, women are less likely to be able to access individual procedures. This is even truer for girls, unless they are unaccompanied or separated.

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⁸⁵ See *Secretary of State for the Home Department (Respondent) v. K (FC) (Appellant) and Fornah (Appellant) v. Secretary of State for the Home Department (Respondent)*, United Kingdom House of Lords, October 2006, para. 86, at <http://www.unhcr.org/home/RSDLEGAL/4550a9502.pdf> and for UNHCR submission in the case, which outlines the practice in other States, see <http://www.unhcr.org/home/RSDLEGAL/45631a0f4.pdf>. See also chapter 5, section 3.1.1 for more on harmful practices and on this case.

4.2.6 Refugee status determination, continued

"I couldn't tell immigration because I was told I would be taken to hospital and they would put something inside you. I haven't even told my little sister about this. It would upset her and be too much for her."

27-year-old asylum-seeking woman from Somalia in the United Kingdom, who was raped along with her mother and sister, but who had felt unable to speak about her story, even to her solicitor, and whose claim was rejected, leaving her destitute⁸⁶

Challenge: Difficulties discussing experiences and establishing credibility

Women and girls may be reluctant to discuss the details of the persecution they have faced with male interviewers or interpreters and/or even with other family members present. They may not want their husband and family to know about the persecution they have suffered. They may therefore remain silent about experiences or fears which relate directly to their need for international protection.

Women and girls may also have difficulties establishing the credibility of their claim if their fear of persecution relates to the private/domestic sphere, as in cases involving domestic violence or other forms of gender-related persecution, including in relation to sexual orientation.

Challenge: Gender- related persecution not accepted

Decision-makers may have only very limited appreciation of how forms of harm experienced by women and girls can constitute persecution for reasons set out in the refugee definition. They may not, for instance, view persecution by private individuals which is condoned by the State as falling within the refugee definition.

Even where it is accepted, there may be a tendency to examine claims solely under the "particular social group" ground of the refugee definition.⁸⁷

Women and girls who oppose harmful practices and violence which violate their rights can, for instance, also be seen as facing persecution on account of their political opinion.

Challenge: Unaccompanied and separated girls

In addition, there may not be adequate measures and procedures in place to take care of unaccompanied or separated children, for instance, through the appointment of an appropriate guardian or representative to accompany the child through the process.

Challenge: Procedural obstacles

At a practical level, procedural obstacles may prevent women and girls from making and pursuing a claim for refugee status. For example, they may

- not even know that it is possible to make such a claim;
- be discouraged from making a claim by their husband or other family members, where the male head of household's refugee status is already being examined in RSD procedures;
- lack education and confidence and have language difficulties;
- lack experience and confidence in engaging with figures of authority;
- lack access to female-to-female services;
- lack access to private confidential interviewing spaces; and/or
- lack familiarity with formal procedures.

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⁸⁶ Refugee Action, "The Destitution Trap: Research into Destitution among Refused Asylum Seekers in the UK", 2007, p. 71, at http://www.refugee-action.org.uk/campaigns/documents/RA_DestReport_Final_LR.pdf.

⁸⁷ See 1951 Refugee Convention, Article 1A(2).

4.2.6 Refugee status determination, continued

International legal standards and guidelines

It is by now a well established principle in many countries of asylum that the refugee definition contained in the 1951 Convention should be interpreted as encompassing gender-related forms of persecution. This approach has been endorsed by UNHCR's ExCom and the UN General Assembly.⁸⁸

It is now also recognized that child specific forms and manifestations of persecution, such as "under-age recruitment (including of girls for sexual services or forced marriage with the military) and direct or indirect participation in hostilities constitutes a serious human rights violation and thereby persecution, which should lead to the granting of refugee status" where a link with race, religion, nationality, membership of a particular social group or political opinion can be established.⁸⁹ ExCom has also recognized that child-specific manifestations and forms of persecution may include child trafficking and female genital mutilation.⁹⁰

UNHCR Guidelines on International Protection

UNHCR's Guidelines on International Protection on gender-related persecution⁹¹ provide guidance to staff, legal practitioners, decision-makers, and the judiciary on the interpretation of the 1951 Convention refugee definition from a gender perspective, and also provides guidance on procedural practices. The Guidelines aim to ensure that female applicants for refugee status are given due consideration and that claims with a gender-related element are recognized as such.

UNHCR's Guidelines on International Protection on "membership of a particular social group", on religion-based claims, and on the application of the refugee definition to victims of trafficking and persons at risk of being trafficked likewise reflect gender and age concerns in both substance and procedures.⁹²

Other guidance

Other guidance can be found in:

- UNHCR's *Procedural Standards for Refugee Status Determination under UNHCR's Mandate*,⁹³ which contain a number of provisions aimed at ensuring that refugee women and girls have independent and confidential access to UNHCR registration and RSD procedures and that the individual protection needs of women and girls are identified and fully examined in these procedures;
- UNHCR's three module resource package on ensuring gender sensitivity in the context of RSD, including procedural issues, and of resettlement;⁹⁴ and
- Action for the Rights of Children (ARC) CD-Rom, International legal Standards, Topic 3 Legal Status – Birth Registration, Nationality and Refugee Status Determination.

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⁸⁸ See for instance, ExCom Conclusions No. 87 (L), 1999, para. (n); No. 105 (LVII), 2006, para. (n)(iv).

⁸⁹ See CRC Committee, General Comment No. 6, 2005, para. 59.

⁹⁰ See ExCom Conclusion No. 107 (LVIII), 2007, para. (g)(viii).

⁹¹ UNHCR, "Guidelines on International Protection: Gender-related persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees", HCR/GIP/02/01, May 2002.

⁹² See UNHCR, "Guidelines on International Protection, on 'membership of a particular social group'", HCR/GIP/02/02, May 2002; on religion-based claims, HCR/GIP/04/06, April 2004, particularly paras. 24, 28, and 30; and on victims of trafficking and persons at risk of being trafficked, HCR/GIP/06/07, April 2006.

⁹³ UNHCR, *Procedural Standards for Refugee Status Determination under UNHCR's Mandate*, September 2005. See also UNHCR's Guidelines on International Protection on gender-related claims, see footnote above no. 91, paras. 35–38.

⁹⁴ See UNHCR, *Ensuring Gender Sensitivity in the Context of Refugee Status Determination and Resettlement*, modules 1, 2 and 3, Regional Bureau for Europe, October 2005, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain>.

4.2.6 Refugee status determination, continued

Responsibility

It is, in principle, the responsibility of States to determine refugee status. When the authorities are unable or unwilling to do so, UNHCR may conduct RSD and provide documentation attesting to refugee status when appropriate.⁹⁵

As part of UNHCR's supervisory responsibility,⁹⁶ we have a responsibility to monitor government asylum procedures and to promote the gender and age-sensitive interpretation of the refugee definition, including by making interventions before courts.

How to respond

The RSD Procedural Standards and the Guidelines on International Protection referred to above contain more detailed information on how national and UNHCR decision-makers should carry out RSD in an age- and gender-sensitive manner. This includes ensuring that:

- all examiners are familiar with the ways in which gender and age can be relevant to determining whether a particular form of harm of treatment constitutes persecution;
- extensive background information on the situation of women and children in the country of origin is available;
- all adult family members and dependants accompanying a "principal applicant" have an individual and confidential registration interview and, if this has not taken place, a separate status determination interview, and if any information obtained during the principal applicant's claim indicates that another family member may have an independent refugee claim;⁹⁷
- women and girls have access to counsellors able to explain how the asylum procedure works, including the possibility that gender-related forms of persecution can constitute grounds for refugee status;
- specially trained female interviewers and interpreters are available to asylum-seekers, especially where it becomes evident that sexual and gender-based violence may be an issue;
- special procedures are in place for asylum-seeking girls and boys who are unaccompanied or separated, which provide amongst other things for
 - the child's representation by an adult familiar with her or his background who can protect her or his best interests,
 - child-friendly interviewing by specially trained interviewers and interpreters, and
 - priority determination in the regular procedure.⁹⁸

Ensuring such standards are realized in practice, means we should, for instance, lobby and cooperate with decision-making authorities to raise awareness of why women and girls may feel unable to raise their protection concerns and of other age- and gender-related issues during the procedure. Similar awareness raising is also integral to UNHCR's RSD training for its own staff.

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⁹⁵ See Rick Stainsby, "Individual Refugee Status Determination (RSD) in UNHCR's Protection Activities and Operations", internal UNHCR study, April 2006.

⁹⁶ See 1951 Refugee Convention, Article 35: UN General Assembly Resolution 428(V), 14 December 1950, para. 2(d), annexing UNHCR Statute.

⁹⁷ UNHCR, *Procedural Standards for Refugee Status Determination under UNHCR's Mandate*, November 2003, sections 3.2.6 and 4.3.13.

⁹⁸ See e.g. UNHCR, *Refugee Status Determination: Identifying Who is a Refugee*, Self-study module 2, 1 September 2005, pp. 122–123; ExCom Conclusions No. 105 (LVII) of 2006, para. (n)(iv); No. 107 (LVIII), 2007, para. (g)(viii).

4.2.6 Refugee status determination, continued

How to respond (continued)

Where governments do not have the capacity to operate advice centres to provide counselling to asylum-seeking women and girls, we should work to establish such advice centres, perhaps through partnerships with local NGOs or universities.

Field practice: Germany

In Germany, the UNHCR office in Nürnberg participates in the Federal Working Group of Refugee Women organized by the NGO “Diakonisches Werk der EKD”, which mainly consists of social work experts who have their own refugee background. These women are now well integrated in German society, working as psychotherapists, sociologists or refugee counsellors. The group meets in plenary three times a year to discuss issues relevant to asylum-seeking and refugee women and girls in Germany.

One initiative developed by UNHCR has involved setting up meetings between them and first instance asylum policy experts at the Federal Office for Migration and Refugees (BAMF). At these meetings, the women have spoken about their experiences in their countries of origin, women’s and girls’ position in their society, the limits to their freedom of action in strongly patriarchal societies, the likely response to an attempt to approach the police and the reality, for instance, of seeking to live independently of patriarchal family structures. For the officials, this has provided an excellent opportunity to appreciate and understand more fully the experiences of women and girls in certain countries of origin.

The approach has proved more persuasive than purely legalistic arguments, although other more “traditional” approaches were also used, such as training and promotion of UNHCR’s Guidelines on International Protection on gender-related persecution and on membership of a particular social group. The latter also provided useful lobbying tools to raise awareness and understanding of how gender-related forms of persecution can fall within the refugee definition.

A new Immigration Law also entered into force in January 2005, Section 60 of which specifically includes gender as a “particular social group” and hence as a ground which can result in refugee status.

An assessment of first instance decisions made during 2006 indicates that the “membership of a particular social group” ground in the refugee definition is now being used more frequently. It also shows that some 25 per cent of cases where refugee status was recognized in 2006 involved gender-related forms of persecution. These included cases involving domestic violence, forced marriage, sexual orientation, and threats of female genital mutilation or of “honour” killings, whether singly or in combination.

Field practice: Domestic violence and refugee status

Introduction

Women and girls exposed to various forms of gender-related persecution are now recognized as refugees in many countries. It is only more recently, however, that a growing number of countries of asylum have also recognized that women and girls who are victims/survivors of domestic violence⁹⁹ may have international protection needs which require their recognition as refugees.

Rights promoted

When a victim/survivor of domestic violence flees her country and her asylum claim is found to fall within the refugee definition given in the 1951 Refugee Convention, she is able to enjoy many rights including her right to

- seek and enjoy asylum from persecution;
 - equal protection before the law;
 - liberty and security of person; and
 - be free from torture, cruel inhuman or degrading treatment.
-

Steps to implementation

Historically, the refugee definition was interpreted through a framework of male experiences. This meant many women's claims went unrecognized. Since the early 1990s, however, the analysis and understanding of sex and gender in the refugee context have advanced substantially, in parallel not least with developments in international human rights and international criminal law.

As part of the process of raising awareness and acceptance of how gender-related forms of persecution can fall within the refugee definition, UNHCR has issued guidelines and provided legal advice and training to decision-making authorities.¹⁰⁰

A key step has been promoting a clearer understanding of the nature of gender-related persecution and of the distinction between the terms "gender" and "sex".

Some countries, especially those in Latin America, have adopted the approach of approving legislation which specifically recognizes that persecution on the basis of sex, gender and/or sexual and gender-based violence (all of which may of course also affect men and boys although in different ways) can fall within the refugee definition. Others have opted to issue guidelines on the gender-sensitive interpretation of the refugee definition. Whichever approach is adopted, it is clear that the Convention and its interpretation can no longer be seen as gender neutral.

With respect to domestic violence, it should be made clear that all abused women are not automatically entitled to refugee status. Each case needs to be analysed holistically and within its own particular cultural and political context.

Relevant questions include:

- How severe and persistent is the persecution or harm?
 - If the fear of persecution is well-founded, is it related to one or more of the Convention grounds?
 - What protection does the applicant have in law, and in fact?
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⁹⁹ On domestic violence generally, see e.g. UNICEF, "Domestic Violence Against Women and Girls", Innocenti Digest No. 6, 2000, at <http://www.unicef-icdc.org/publications/pdf/digest6e.pdf>.

¹⁰⁰ See e.g. UNHCR, "Guidelines on International Protection: Gender-Related Persecution within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, HCR/GIP/02/01, 7 May 2002, at <http://www.unhcr.org/publ/PUBL/3d58ddef4.pdf>.

Field practice: Domestic violence and refugee status, continued

Steps to implementation (continued)

- Is the persecution knowingly tolerated by the authorities?
- Are the authorities unable or unwilling to offer protection?
- Could the woman find safety somewhere else in her country?

These issues are of course also relevant in situations where UNHCR conducts RSD in the absence of a national determination system. Like States, Offices are also now generally more aware of these issues and recognize that it may well be that accompanying female family members have an independent refugee claim in their own right, including in relation to domestic violence.¹⁰¹

At the same time, UNHCR has worked more broadly to raise awareness of the issue, for instance, through news stories explaining the complexities of such cases and promoting understanding for the situation of women and girls in such situations, as for instance recently in relation to cases recognized in Spain, Hungary and Argentina.¹⁰²

AGDM and empowerment

In cases of domestic violence or abuse, a victim/survivor who flees and claims asylum may not only have suffered a situation of severe and persistent domestic abuse at the hands of her husband. She may also be threatened by his or her own family if she attempts to leave him and may be perceived as “dishonouring” the family, while the authorities may not grant her any effective protection or remedy against her persecutor(s). Girls may also be subject to domestic violence, for instance, at the hands of their father or step father or if they are subject to early or forced marriage.

Where such women and girls are granted asylum, this provides them with an opportunity to start a new life far from their home country. In Lebanon, for instance, one survivor of domestic violence recognized as a refugee by UNHCR went to work in a refugee community centre. She started as a cleaner there but her creative talents were soon recognized and she now trains other refugees in ceramics and jewellery design and making. The experience of being able to share her skills with other women refugees and help them achieve greater economic independence has been an immensely empowering experience for her. It has given her back her sense of dignity.

Psychological care and support as well as other integration measures are critical to survivors’ empowerment and integration.

Partners involved

The process of raising awareness of the situation of women and girls subject to gender-related persecution, including domestic violence, involves working with a wide range of actors from national decision-making authorities and the judiciary to NGOs, the media, and universities where refugee studies are taught.

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¹⁰¹ UNHCR, *Procedural Standards for Refugee Status Determination under UNHCR’s Mandate*, 2003, unit 4–15.

¹⁰² For further details see, UNHCR, “Spain Grants Asylum to Battered Woman”, 9 June 2005, at <http://www.unhcr.org/news/NEWS/42a849eb4.html>; UNHCR, “Abused Woman Granted Refugee Status in Hungary”, 1 November 2005, at <http://www.unhcr.org/news/NEWS/436788e94.html>; UNHCR, “Argentina Offers Care and Support to Refugee Women Victims of Violence”, 4 January 2007, at <http://www.unhcr.org/news/NEWS/459cfbea4.html>.

Field practice: Domestic violence and refugee status, continued

Constraints

Constraints which can be encountered include:

- lack of understanding of how sex and gender can influence the type of persecution or harm suffered and the reasons for this treatment;
 - lack of recognition that domestic violence is not a private family matter but rather that the authorities have a duty to protect the human rights of the victim/survivor and to provide protection if the country of origin is unwilling or unable to do so; and
 - lack of female interviewers and interpreters in refugee status determination procedures.
-

Impact

Asylum-seeking women who faced severe domestic violence in their country of origin have been recognized as refugees in an increasing number of countries. These include Argentina, Australia, Canada, Ecuador, Germany, Hungary, Ireland, New Zealand, Romania, Spain, the United States, and the United Kingdom, as well as in UNHCR RSD operations.

Once recognized, the woman or girl concerned has a vital opportunity to start afresh in an environment where she is safe from the perpetrator of the violence and protected by the authorities of the country of asylum.

Lessons learned

An integrated approach is needed, working with a wide range of actors including the government, parliament, decision-making authorities, the judiciary, civil society, health authorities and partners providing healthcare and psychosocial care, and the media, as well as asylum-seeking women and girls themselves.

4.3 Securing solutions for women and girls

Overview

Introduction

UNHCR's mandate to secure durable solutions for all persons of concern requires us to adopt solution-oriented strategies which take account of each individual's particular situation from the outset.

For refugees, these solutions traditionally involve voluntary repatriation to the country of origin, local integration in the country of asylum or resettlement in a third country. For the internally displaced, this involves them being able to realise their basic human rights in an effective and sustainable manner and without discrimination vis-à-vis those who never left their homes. This may mean they choose to go home, stay more permanently in the area where they have sought safety or relocate to another area.¹⁰³



Democratic Republic of the Congo / Returnee women learning furniture making in a Women-to-Women International vocational training project in Baraka, South Kivu Province, which is currently benefiting 1,000 women / UNHCR / P. Mateu / 2007

Purpose

The purpose of this section is to describe briefly various strategies and approaches which are particularly relevant to securing durable solutions for displaced women and girls. It also highlights some of the perspectives and skills they can bring to achieving such solutions, sets out applicable legal standards and guidelines, suggests actions and responses to support the process, and provides field practice examples.

Note: The applicable international standards use abbreviations to refer to key human rights treaties and conventions. These are given in full in the List of Abbreviations at the start of the Handbook. Additional information on these standards and guidelines can be found in chapter 6.

Importance of self-reliance

Self-reliance is central to solutions for women and their families, just as it is for men. It also enhances their protection and dignity. Empowering women, fostering livelihoods, and enhancing their capacities and opportunities during displacement are critical to avoiding exploitation and achieving food security (see also chapter 5, section 7.1), and help equip and capacitate them to achieve any of the durable solutions. When women and girls are self-reliant, they are better able to use their skills and experience wherever they are.¹⁰⁴

In this section

This section covers the following topics.

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¹⁰³ For further information see the "Framework for Durable Solutions" welcomed by the IASC Working Group in March 2007.

¹⁰⁴ See ExCom Conclusion No. 104 (LVI), 2005, on local integration, para. (m); UNHCR, "Local Integration", EC/GC/02/6, 25 April 2002, especially paras. 9–13; UNHCR, "Framework for Durable Solutions for Refugees and Persons of Concern", EC/53/SC/INF.3, 16 September 2003; UNHCR, *Handbook for Self-reliance*, August 2005, including Appendix 1, pp. 31, 32, 143, 149.

4.3.1 Participation in peacebuilding processes

"Only the parties responsible for war and its accompanying atrocities are negotiating the terms of peace, while those who have been lobbying for peace and campaigning against human rights violations over the past two decades find themselves marginalized in the formal process."

Sri Lankan internally displaced woman speaking at the 5th anniversary of Security Council Resolution 1325, New York, October 2005

"The men who had been negotiating didn't feel that they [women] had any right to be there. These men felt they had a right to be there because they were fighters or had been elected to the parliament before the war escalated. But Burundi women who had suffered so much didn't have any legitimacy in their eyes. But by bringing women in, the documents have more legitimacy now."

Conclusion following a women's conference organized to enable women to contribute to the Burundi Peace Accords¹⁰⁵

Introduction

Security Council resolution 1325 (2000) emphasizes the importance of women's equal participation as active agents in peace and security.¹⁰⁶ It calls for

- increased participation of women at all decision-making levels in conflict prevention, management, and resolution,
- support for local women's peace initiatives and indigenous processes for conflict resolution,
- measures that support women's participation in peacebuilding processes and in all implementation mechanisms of peace agreements; and
- action by governments, parties to armed conflict, the UN Secretary-General, and other UN bodies to achieve this.

UN Peacebuilding Commission

Since then, UN member States agreed at the 2005 World Summit to establish a Peacebuilding Commission. A part of its mandate, the Commission has a responsibility to incorporate a gender perspective in its work. Indeed, it has identified gender equality as a critical cross-cutting issue for peace consolidation.¹⁰⁷ The Commission thus represents an important mechanism to ensure full implementation of resolution 1325.

Summary of opportunities

Peacebuilding and reconstruction processes offer a unique opportunity to improve the protection of women and girls. They can, for instance, provide an opportunity to achieve greater gender balance in national and local decision-making structures. Including women in peace negotiations can help ensure that human rights provisions to safeguard gender equality are incorporated into new constitutions and that reconstruction efforts address their priorities.

It can also help ensure that national legislation on such issues as property, inheritance, domestic violence and the prosecution of perpetrators of gender-based violence are drafted. In Sierra Leone, for instance, three laws approved in July 2007 make domestic violence a criminal offence, allow women to inherit property and protect women and girls against early and forced marriage by introducing a minimum age for marriage of 18 and requiring the consent of both parties.

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¹⁰⁵ E. Johnson-Sirleaf and E. Rehn, *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*, Progress of the World's Women, UNIFEM, 2002, p. 80.

¹⁰⁶ For an overview of Security Council Resolution 1325, see chapter 6, section 2.3.

¹⁰⁷ "Report of the Peacebuilding Commission on its First Session", A/62/137-S/2007/458, 25 July 2007, para. 11.

4.3.1 Participation in peacebuilding processes, continued

Summary of challenges

As Ellen Johnson-Sirleaf, now elected President of Liberia, and Elizabeth Rehn have reported: “Women establish their credibility as peacemakers at the grassroots level but they are marginalized during official negotiations. Making it from the grass mat to the peace table has nothing to do with their qualifications as peacemakers. Once the foreign mediators come and the official negotiations start, you have to be able to sit at the table and speak their language. Often, women are not trained or given the chance.”¹⁰⁸

As a result, despite the recognition that peace is inextricably linked with equality between women and men¹⁰⁹ and despite all the groundwork done by women, often in support of men, women are often excluded from high-level decision-making arenas. As a result, their priorities disappear from global and national agendas.¹¹⁰ Mechanisms to identify and respond to their concerns may not be in place or may lack sufficient expertise.

Too often, women feel they have to change to adapt to the needs of negotiators – a belief that inadvertently supports and reinforces gender inequalities. Women and girls also have to overcome gender inequalities within their own environment and sometimes even hostility, including ridicule and violence, from their male counterparts in order to exercise their right to participate. They may, for instance, be given last-minute speaking time at the end of the process, when, with coordination, planning, and support from UN agencies and NGO partners, they could be seated in their rightful place at the negotiating table from the outset.

International legal standards and guidelines

The themes of participation and equal rights in decision-making run through the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and include the equal rights of women to participate in the political and public sphere. This provides the basis for realizing equality between women and men by ensuring equal access to, and equal opportunities in, political and public life, including the right to vote, to be eligible for election, to participate in the formulation and implementation of government policies, to hold public office at all levels, and to participate in NGOs concerned with the public and political life of the country.¹¹¹

Similarly, the Convention on the Rights of the Child (CRC), with its principles of non-discrimination, best interests, and participation, is a key instrument for ensuring gender equality for girls in peace and reconstruction processes.

The Guiding Principles on Internal Displacement provide clear guidance on voting rights. Principle 22 provides that internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of a number of rights, including the right to associate freely and participate equally in community affairs and the right to vote and to participate in governmental and public affairs. The right to participation in public affairs and return programmes with equal access to public services is outlined in Principles 27 and 28.

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¹⁰⁸ E. Johnson-Sirleaf and E. Rehn, *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*, Progress of the World's Women, UNIFEM, 2002, p. 79.

¹⁰⁹ “Members of the Security Council ... affirm that the equal access and full participation of women in power structures and their full involvement in all efforts for the prevention and resolution of conflicts are essential for the maintenance and promotion of peace and security”, Security Council President Anwarul Karim Chowdhury of Bangladesh on 8 March 2000, cited in *Women, War and Peace*, 2002, p. 75.

¹¹⁰ E. Johnson-Sirleaf and E. Rehn, *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*, Progress of the World's Women, UNIFEM, 2002, paras. 190–191, p. 61.

¹¹¹ CEDAW, Article 7; CEDAW Committee, General Comment No. 23, political and public life, 1997.

4.3.1 Participation in peacebuilding processes, continued

Responsibility: States

CEDAW requires States parties to eliminate discrimination against women in the political and public life of the country. It obliges them to ensure to women, on equal terms with men, the right to vote in elections and public referenda, to be eligible for election to public bodies, to participate in the formation of government policy and its implementation, to hold public office, to perform all public functions at all levels of government, to participate in NGOs and associations, and to represent their governments at the international level.¹¹²

The CRC obliges States parties to assure children's right to express their views freely in all matters affecting them, to have the opportunity to be heard in any judicial and administrative proceedings affecting them. States are also obliged to ensure these rights without discrimination and to consider the child's best interests as a primary consideration.

Responsibility: UN and UNHCR

UN agencies have a responsibility to work together to ensure negotiation processes are adapted to consider the specific needs of women and to support women in strengthening their capacities to assume leadership roles.

UNHCR staff and partners should be aware of gender inequalities and obstacles women and girls face when they seek to participate in what are often highly-charged political processes. They should work with male leaders and women and girls in the community to tackle these obstacles.

How to respond

In order to support women's and girls' equal participation in peace processes and their enjoyment of their political rights, UNHCR, together with local, national, and international partners should carry out the following actions:

Response	Actions
Coordinate	• Work with our partners to support and equip women and girls to participate in all decision-making processes, particularly peace processes. This requires working with women and girls from the beginning of an emergency to ensure that their views, protection risks, and needs are immediately incorporated into protection strategies and planning. • Seeking women's and girls' guidance on how to work with men and boys to support women will, in itself, raise awareness among the male leaders and can strengthen work in favour of women and girls. Failure to work with men and boys will undermine the process. An important partner in this work is likely to be UNIFEM.¹¹³ • Work with male leaders to open channels for active participation by women and avoid token representation, and lobby with high-profile male participants in the peace process. • Agree with all parties responsible for, and participating in, the peace process on the criteria for women's participation and how they will be supported. • Ensure foreign mediator missions have a gender balance and work with all to gain support for the rights of displaced women and girls.

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¹¹² CEDAW, Articles 3, 7 and 8.

¹¹³ See, for instance, the work of the UNIFEM Regional Project "Women in Conflict Prevention and Peace-Building in the Southern Caucasus" which has developed a training module for gender equality advocates entitled *Advancing Gender Equality using CEDAW and UN Security Council Resolution 1325*, available in English at http://www.unifem.org/attachments/products/AdvancingGenderEqualityManual_eng.pdf and in Russian, Armenian, Azeri and Georgian.

4.3.1 Participation in peacebuilding processes, continued

How to respond (continued)

Response	Actions
Assess, analyse and design	• Work to mobilize women well before peace negotiations begin to ensure the peace process includes gender analysis and women's participation and rights.¹¹⁴ • Analyse the political situation with the community, identify all parties and then work with women and men in the community, including young people, to develop a strategy for women's participation. • Design and support programmes to build on women's capacities and to sensitize men about women's participation.
Intervene to protect	• Support women and adolescent girls who take on leading roles in peacebuilding negotiations and are exposed to intimidation or threats of violence as a result and ensure they receive support and protection including, for instance, through women's and adolescent girls' associations.
Strengthen national capacity	• Raise awareness of the judiciary about women's rights • Support the equal participation of women in all electoral processes, including through the use of quotas.¹¹⁵
Strengthen community capacity to support solutions	• Prepare women and girls for participation in peace processes through training programmes, by lobbying with partners, especially UN agencies, for women's direct participation in the decision-making bodies, and ensuring cross-border support for women's organizations. • Support women's representatives with clear ties to a female constituency; support their efforts to organize themselves into a broad-based coalition with a common agenda and lobby for its inclusion into the peace agenda.¹¹⁶ • Support displaced women and girls to organize themselves; identify and work with local women's organizations, regional networks, and those in their place of origin which work to enhance respect for women's rights and participation in peace processes. • Encourage women and girls to participate in decision-making bodies in the community, including in camp, urban displaced, and returnee structures, by providing training and child care, developing skills in information sharing, and organizing with other women and girls in the community. (Approaches adopted in Nepal to secure women's greater participation in refugee camp elections are also relevant in this respect, as set out in the corresponding field practice example in chapter 2, section 5.) • Facilitate women's access to information on the peace process and help leaders to organize workshops for them so they can analyse their content and formulate their inputs. • Sensitize men and boys about the value of women's and girls' participation in decision-making in family and community life and promote the advantages of women's and girls' empowerment during exile and upon return.
Monitor, report and evaluate	• Together with other UN agencies and partners, including NGOs, monitor and support women's participation in decision-making bodies, including in national and local authority structures.

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¹¹⁴ "The opportunities for the involvement of women in formal peace negotiations and their capacity for effective participation are often dependent on their political mobilization prior to the peace process itself, as evidenced by the examples of Guatemala, Israel, and Palestine, where women and adolescent girls were mobilized politically before the start of the formal peace process. At the same time, however, women and adolescent girls who have traditionally been excluded from decision-making and peace processes can become more actively involved if they receive support from local and international actors", E. Johnson-Sirleaf and E. Rehn, *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*, Progress of the World's Women, UNIFEM, 2002, para. 194, p. 62. The study goes on to cite examples where women's participation was minimal or not supported and resulted in no significant progress for women, such as in Kosovo, Bosnia and Herzegovina and El Salvador.

¹¹⁵ Adapted from E. Johnson-Sirleaf and E. Rehn, *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*, Progress of the World's Women, UNIFEM, 2002, p. 127, Actions 5 and 7.

¹¹⁶ Department of Peacekeeping Operations (DPKO), "Gender Resource Peace-keeping Package for Peace-keeping Operations", 2005.

4.3.1 Participation in peacebuilding processes, Continued

How to respond (continued)

Response	Actions
Monitor, report and evaluate, contd.	When monitoring the peace process and its implementation in a return situation, work with other UN Country Team (UNCT) members to support the passage and implementation of draft legislation (e.g. on prosecuting perpetrators of gender-based violence, on domestic violence or on property ownership and inheritance). Provide advice and support to institutions and communities to support such initiatives where needed. Evaluate the impact of such changes and support returnee women and girls to access reparation.

Field Practice: African women's committees

The Africa Women's Committee on Peace and Development, launched in 1999, and Femmes Africa Solidarité have focused on promoting conflict resolution in a number of African countries. The Mano River Women's Peace Network brings together women from Guinea, Liberia, and Sierra Leone to the same end. These processes cut across the divisions between warring factions to promote peace.¹¹⁷

Field Practice: Sierra Leone/ Liberia

In Sierra Leone, UNHCR organized several workshops for refugee women from Liberia to prepare for repatriation and discuss how to build and consolidate peace. These workshops aimed to raise refugees' awareness of ethnic chauvinism as a root cause of strife in the region, which had meant some tribes or those deemed to have been in power earlier were targeted by rebel elements and Government forces where civil strife has erupted in the country of origin. Refugee women came out strongly as advocates for peace. They reasoned that in the end, it is the women and children who have suffered most in the successive conflicts that have engulfed the region.

Field practice: South Africa

The groundwork for greater gender equality as part of the transition to democracy in South Africa was laid by women (and men) in the African National Congress, trade unionists, and others, both in exile and within the country. In the early 1990s, women across party lines agreed each party should be one-third represented by women on their negotiating teams for the formal constitutional process, resulting in key gains for women. The South African Constitution includes a comprehensive Bill of Rights which

- forbids discrimination "directly or indirectly against anyone on grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth", and
- upholds women's right to make decisions about reproductive health and have control over their own bodies, their rights to property, to health care, including reproductive health care, to education, and to enjoy and practice their own cultural and religious beliefs.¹¹⁸

Legislation has since been passed recognising women's reproductive health rights, including as regards abortion, on domestic violence, and giving women and men equal status and capacity in customary marriages.¹¹⁹

¹¹⁷ See generally, Susan Bazilli, "Review of Global Women's Peace-Building Programms", International Women's Right Project, February 2006, at http://www.iwrrp.org/pdf/peacebuild_bazilli.pdf.

¹¹⁸ E. Johnson-Sirleaf and E. Rehn, *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*, Progress of the World's Women, UNIFEM, 2002, para. 193, p. 62.

¹¹⁹ Further information can be found on the site of the South African Constitutional Court at <http://www.concourt.gov.za/text/rights/know/women.html>.

4.3.2 Voluntary return and reintegration

"If UN agencies had a better understanding of refugee women's and girls' needs and what they fear upon return, the agencies could better address the problems. More women and girls would repatriate and be safer as a result."

Women's Commission for Refugee Women and Children¹²⁰

"Conflict may create space for a temporary redefinition of social relations, but often does not change them fundamentally. Gains made are usually reversed after the end of the conflict."

From *Women, Peace and Security*¹²¹

Introduction

Experience has shown that, although war changes the roles of women and men, many of these changes are subject to reversals in the aftermath of the conflict. Men often seek to re-establish themselves as the decision-makers in the public arena and as the main providers – and ultimate authority within the home – while women return to the private, home-bound domain. The gains that women and girls may fear losing include:

- access to health care, education, and economic opportunities;
- prevention of SGBV;
- participation in decision-making processes; and
- the potential to challenge traditional justice systems not in keeping with international norms.

Challenges during the return process

Voluntary repatriation or return poses particular challenges for women and girls. They may

- not be able to make a free, informed and individual decision, either because information relevant to their particular concerns is not made available or because decisions to return are made by the men in the family or by male community leaders;
- find their concerns (e.g. regarding continued insecurity or the risk of trafficking en route and/or past trauma) are not adequately taken into account, in the repatriation or return planning process;
- find families are split and the support and protection they offer is lost, as girls (and boys), grandparents or family members with disabilities become separated, are left behind or are abandoned in transit;
- find themselves reliving the trauma they experienced before fleeing as they return and face their persecutors;
- return as female-headed families, because they are widowed or their husbands do not return with them; and/or
- face difficulties securing access to property, reconstructing their homes and re-establishing themselves.

Those particularly at risk during the return process include separated or unaccompanied children, children in foster families, women and girls who are survivors or witnesses of human rights violations in their place of origin; heavily pregnant or lactating women, and those who are older, have disabilities, and/or are in need of medical attention.

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¹²⁰ Women's Commission on Refugee Women and Children, "Focus on Refugees Lacking in Implementation of Resolution 1325 on Women, Peace and Security, 50th Anniversary: Time for Action on Refugees is Now", 31 October 2005, at http://www.womenscommission.org/archive/05/press_releases/103105.shtml.

¹²¹ E. Johnson-Sirleaf and E. Rehn, *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*, Progress of the World's Women, UNIFEM, 2002, para. 11.

4.3.2 Voluntary return and reintegration, continued

Challenges upon return

Women and children are more likely to be injured by land mines upon return than men, since mines are often placed near water and firewood sources, cultivation plots and other places where women go to provide for their families and where children play.¹²²

Discrimination against women and girls and gender inequalities may also persist or deepen in the post-conflict period, as men are anxious to re-establish their traditional roles. Returning women and girls may therefore face challenges maintaining their autonomy and consolidating their civil and political rights.

Even where legislation strengthening women's and girls' rights is passed, the infrastructure and resources necessary to implement them may be lacking and need to be (re)established.

Working on gender equality and respect for women's rights in the return and reintegration context can be complex (see Guatemala field practice example below). It is important to work with men and boys, particularly male leaders, to ensure genuine support. As in displacement, specific targeted actions are required to support women and girls to ensure they can sustain gains made during displacement and exercise their rights once they return.

International legal standards and guidelines

Under international human rights law, no one shall be arbitrarily deprived of the right to enter her or his country and to liberty of movement and freedom to choose her or his residence within it.¹²³

Each person's right to enter their country underpins the voluntary repatriation of refugees. It may also be exercised to entitle a refugee to come to the country for the first time, if for instance, she or he was born outside the country, as in the case of refugee girls and boys born in exile.¹²⁴

Guidance on legal safety issues in the context of voluntary repatriation of refugees can be found in ExCom Conclusion No. 101 (LV) of 2004.¹²⁵

For internally displaced women, girls, men and boys the search for solutions is based in particular on their right to freedom of movement and choice of residence. A durable solution will only have been achieved once the basic rights that were violated during all phases of the displacement cycle have been reinstated without discrimination vis-à-vis other citizens in an effective and sustainable manner.

The *Inter-Agency Peace Education Programme: Skills for Constructive Living*, published by UNESCO, UNHCR and Interagency Network for Education in Emergencies (INEE) provides comprehensive guidance on peace education and conflict minimization and prevention to reach refugee and returnee children, young people and the wider community.¹²⁶

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¹²² Mary Anne Fitzgerald, *Throwing the Stick Forward: The Impact of War on Southern Sudanese Women*, UNIFEM and UNICEF, 2002.

¹²³ Universal Declaration of Human Rights, Article 13(1); ICCPR, Article 12; CRC, Article 10; Guiding Principles on Internal Displacement, Principles 14, 15(d), 28, 29 and 30.

¹²⁴ UN Human Rights Committee, General Comment No. 27, 2 Nov. 1999, CCPR/C/21/Rev.1/Add.9, para. 19.

¹²⁵ More generally, see also, the "UNHCR Guide on Selected Good Practices in Reintegration", issued in June 2006, which provides good practice examples including some relevant to women and girls from reintegration operations in Afghanistan, Angola, Eritrea, Guatemala, Liberia, Mozambique, and Sierra Leone.

¹²⁶ See UNESCO, UNHCR and Interagency Network for Education in Emergencies (INEE), *Inter-Agency Peace Education Programme: Skills for Constructive Living*, November 2005, at http://portal.unesco.org/education/en/ev.php-URL_ID=47164&URL_DO=DO_TOPIC&URL_SECTION=201.html.

4.3.2 Voluntary return and reintegration, continued

**Responsibility:
in asylum**

In the context of voluntary repatriation, countries of asylum have a responsibility, amongst other things, to continue to grant asylum to those who remain in need of international protection. This includes, for instance, women and girls who have faced severe forms of persecution and cannot return to their homes. Countries of asylum also have a responsibility to fully adhere to the principle of voluntariness of return and to ensure all refugees who voluntarily decide to repatriate are able to do so without obstacles or discrimination, including as regards age, sex and disability.

Since women and girls are particularly at risk of not having relevant documentation, to loss of nationality during exile and other such problems, these State responsibilities are especially relevant to them.

**Responsibility:
in repatriation**

Under international human rights law, the right to return to one's country entails a duty for States to admit their nationals and not to arbitrarily prevent them, whether through legislative, administrative or judicial means, from returning to their country.¹²⁷ Countries of origin thus have a responsibility – without discrimination as to age, sex, disability or health status – to

- allow their nationals and long-term residents to return in safety, including legal, material and physical safety, and with dignity;¹²⁸
 - assume lead responsibility for creating conditions conducive to voluntary return;
 - provide returnees with necessary travel documents, entry permits, and any other documentation required for return; and
 - arrange for the restoration of nationality to refugees who have lost this and for granting nationality to the children of nationals born outside the country and, as appropriate, to non-national spouses.
-

**Responsibility: in
internal
displacement**

In the context of internal displacement, the Guiding Principles affirm that it is the “competent authorities” who have the primary duty and responsibility to establish the conditions and the means for internally displaced persons, including women and girls, amongst other solutions, “to return voluntarily, in safety and with dignity to their homes or places of habitual residence” and to facilitate their reintegration.

**Responsibility:
UNHCR**

UNHCR has a responsibility to promote durable solutions, including voluntary repatriation and return where appropriate, as part of its mandate to secure “permanent solutions” for refugees and persons of concern, including women and girls.

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¹²⁷ UN Human Rights Committee, General Comment No. 27, 2 Nov. 1999, CCPR/C/21/Rev.1/Add.9, para. 21.

¹²⁸ See e.g., ExCom, Conclusion No. 101 (LV) of 2004 on Legal Safety Issues in the Context of Voluntary Repatriation of Refugees.

4.3.2 Voluntary return and reintegration, continued

The “four Rs” framework

In this context, UNHCR has promoted the “four Rs” as an overarching framework for institutional collaboration during returns. These are:

- repatriation,
- reintegration,
- rehabilitation, and
- reconstruction.

This approach is an important component in the transition process that includes peacebuilding, reconstruction and development, and in which partnerships are a particularly important element. The promotion of gender equality and the empowerment of women are an integral aspect of the “four Rs” approach.

How to respond

In order to support women and girls in exercising their rights in peace, return and reconstruction processes, UNHCR, together with local, national, and international partners should carry out the following actions:

Response	Actions
Coordinate	• Long before repatriation starts, coordinate and work with communities on both sides of the border to help women and girls retain enhanced equality and rights that have been gained during displacement. Verifying the individual and voluntary nature of repatriation for women and adolescent girls, as required by UNHCR procedures, is key to supporting them in this process. • Work with women and girls and the whole community to develop appropriate voluntary return methodologies that take into account the concerns of specific groups, particularly – female-headed households, – women and girls with disabilities, – unaccompanied or separated children, – children in foster families, – older women with no family, and – women and girls who have been subject to rape and other forms of SGBV by persons in their area of return.
Assess, analyse and design	• When designing repatriation/return programmes incorporate specific measures to address the protection concerns of specific groups identified (including those as listed under “coordinate” above). For girls and boys in foster families, for instance, measures to prevent them being left behind or abandoned en route include information campaigns on effective fostering, ongoing best interest assessments for foster children, and cooperation with ICRC to reunify any separated children with their families.

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4.3.2 Voluntary return and reintegration, continued

How to respond (continued)

Response	Actions
Assess, analyse and design, contd.	• Involve women, men, girls, and boys in the design of reconstruction and assistance programmes and community-based economic projects in return areas and support women to ensure that they benefit equitably from the projects established. • Ensure age, gender and diversity perspectives are taken into account in our assessment of conditions for return and when designing economic reconstruction programmes and promote the inclusion of women and girls in local reconstruction processes.
Intervene to protect	• Give special attention in return and reintegration operations to specific groups of women and girls as outlined above under “Coordinate” to make sure that they can be included in initiatives. • Promote respect for women’s and girls’ equal rights to make a free and informed choice to return voluntarily and to equal access to housing, land, property, and inheritance so as to enable female refugees to return,¹²⁹ including by ensuring that information relevant to their concerns is transmitted and incorporated into information provided to the community deciding to return. • Incorporate measures in tripartite voluntary repatriation agreements to ensure adequate ongoing assistance and support for those who were at risk.¹³⁰ • Establish economic and other projects that target groups of women with specific needs to ensure they are not exposed to exploitation or violence and can exercise their rights on return. • Include older persons as well as girls and boys in initiatives to restore family unity, especially where these individuals may have become separated from their families and support mechanisms or left behind. • Where women and girls have been traumatized by severe past persecution, provide them with counselling and advice on other durable solutions which may be available to them, even if most of the community are returning voluntarily. See also section 3.4 of this chapter below on refugee resettlement.
Strengthen national capacity	• Work with UN agencies and the government to sustain and advance progress made for women and girls during displacement, e.g. by providing training and promoting gender-sensitive national legislation. • Work with UN agencies and the government in post-conflict societies to ensure that gender issues are mainstreamed when accession to international instruments and the drafting of national legislation to consolidate peace is being considered. • Raise awareness of women’s and girls’ rights among the judiciary • Support the equal participation of women in all electoral processes, including through the use of quotas.¹³¹ • Ensure national authorities issue individual documentation to all adult returnee women and unaccompanied and separated girls.

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¹²⁹ See ExCom Conclusion No. 105 (LVII) of 2006, para. (p)(i).

¹³⁰ See ExCom Conclusion No. 105 (LVII) of 2006, para. (p)(i).

¹³¹ Adapted from E. Johnson-Sirleaf and E. Rehn, *Women, War and Peace: The Independent Experts’ Assessment on the Impact of Armed Conflict on Women and Women’s Role in Peace-building*, Progress of the World’s Women, UNIFEM, 2002, p. 127, Actions 5 and 7.

4.3.2 Voluntary return and reintegration, continued

How to respond (continued)

Response	Actions
Strengthen community capacity to support solutions	• Ensure young and older women representatives are elected and participate in all “go-and-see” visits to return areas and “come-and-inform” visits, assist them in preparing for return by gathering questions from women and girls in the community, and support their efforts to share the information when they return. • Ensure information campaigns regarding return include information relevant to children and adolescents and provide information in a child friendly way. • Work with receiving communities to sensitize them to any changes in dress codes, behaviour, and levels of participation that might have taken place among women and girls during displacement to ensure that returning women and girls are not targeted or ostracized upon return. • Encourage women and girls to participate in decision-making bodies in the community, including in returnee structures, by providing training and child care, developing skills in information sharing, and organizing with other women and girls in the community. • Sensitize men and boys about the value of women's and girls' participation in decision-making in family and community life and promote the advantages of women's and girls' empowerment during exile and upon return. • Work with the community on campaigns to prevent sexual exploitation and abuse and to establish clear complaints mechanisms.¹³² • Make voluntary repatriation grants directly available to women and girls and not through husbands/partners or fathers, so that women and girls have equal access to resources and particularly to cash income. • Integrate new skills that women and girls may have acquired during displacement and any resulting changes in gender roles into reintegration, rehabilitation and reconstruction efforts. • Establish women's centres in returnee areas so that women and adolescent girls can gain access to a combination of educational, awareness-raising, income generation and healthcare services. • Ensure women and girls are able to access housing, land and property on an equal basis with men and boys. More detail on this issue can be found in chapter 5, section 8.2. • Tap the experience and wisdom of older members of the community to promote reconciliation, by drawing on their formal and informal leadership of communities and the respect they command.
Monitor, report and evaluate	• Monitor the rights of women and girls in return situations to ensure that gains made in displacement are not eroded. • Monitor the situation of women and girls in the post-conflict period carefully, including in particular that of single adolescent girls and women, girls and boys in foster care, female heads of household, widows, older women, women and girls with disabilities, women and girls from ethnic or religious minorities. • When monitoring returnee situations pay particular attention to the situation of women and girls when serious economic deprivation and/or large influxes of peacekeepers and/or foreign workers may arise or combine, as this can lead to abuse and exploitation.

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¹³² Secretary-General's Bulletin, “Special Measures for Protection from Sexual Exploitation and Sexual Abuse”, S/SGB/2003/13, October 2003, as circulated in IOM/FOM/77/2003 of 13 November 2003. For further information, see also chapter 5, section 3.1.2 of this Handbook.

4.3.2 Voluntary return and reintegration, continued

Field Practice: Angola

In order to promote returnee women's empowerment and participation in the reconstruction of their country and in upcoming elections, UNHCR worked in close collaboration with the Angolan Ministry of Family and the Advancement of Women (MINFAMU) and partners to promote returnee women's empowerment.

They worked together to establish women's rights committees in three of the key return districts, in particular to ensure returnee women were not disenfranchised and were able to participate in the electoral process. The association "USA for UNHCR" arranged for financial support from private sources so that almost 17,000 women could be made aware of their rights. Over 30 "training of trainers" workshops on basic human and women's rights were organized in 2005. The initiative also established a constructive working relationship between UNHCR and the independent electoral commission.

Broad-based civil society involvement was a major asset of the project. Women's community centres in remote areas became the institutional backbone of its implementation. They enabled partner agencies to incorporate educational and literacy initiatives into the project and make it better known among returnee women involved in income-generating and reproductive health programmes.

In Lumbala N'Guimbo, for instance, the Community Development Centre is now run by a women's group called Kukwava ("Bringing Women Together"). The Centre focuses mainly on women's socio-economic empowerment. Kukwava helps women start activities such as dressmaking, making handicrafts, practising horticulture or attending literacy classes. It also provides a place where women can gather to learn about issues affecting the community, such as domestic violence, HIV/AIDS and mine hazards and agree on innovative ways to address them.

UNHCR has in addition worked closely with the International Labour Organization (ILO). The ILO Women's Entrepreneurship Development and Gender Equality Team has helped the Lumbala N'Guimbo Community Development Centre to empower women and thereby rehabilitate the region's economy.

As part of this project, a technical expert undertook an economic mapping exercise of the area and provided training for the women at the Centre. The mapping exercise identified existing capacities among the population and the kind of economic opportunities that could flourish in the region. The communities were then given practical advice on income-generating activities with a strong potential to succeed. Women received training on how to start, run and manage individual businesses sustainably. They learnt about the concept and advantages of association and how best to structure the functions and overall management of the Centre, so that it could continue to promote improved conditions for women, women's rights and gender equality and to restore dignity.¹³³

¹³³ UNHCR, *Global Appeal 2007*, p. 32.

Field practice: Women's rights during Guatemalan repatriation

Overview The repatriation and reintegration of refugees in Guatemala in the second half of the 1990s stands out as an early example of how gender issues can be integrated into UNHCR return operations.¹³⁴

Rights promoted Among the rights promoted during the operation were women's equal right to:

- return to their country in legal, material and physical safety and with dignity;
 - information, freedom of expression and participation;
 - personal identity documentation, including birth certificates; and
 - enjoyment of civil, political, economic, social and cultural rights, including ownership of housing, land and property.
-

Steps to implementation One innovation was a Forum for Refugee Women on issues related to displaced and returnee women in the region held in 1992. This raised awareness of their particular situation and bolstered UNHCR's subsequent inclusion of a clear gender focus in its planning. For the first time, the Forum gave a visible role to these women, including Guatemalan refugee women, who were able to give their testimonies. It publicly recognized and affirmed their experience.

Examples of how women's issues were mainstreamed into programming, protection and documentation activities include:

- UNHCR's direct verification of the delivery of assistance to both heads of households, which found that in-kind assistance was preferable to cash and was easier for women and children to access;
 - provision of personal identity documentation to some 42,000 women and men to support returnees' enjoyment of their civil, political, and socio-economic rights, a process UNHCR supported by building the capacity of municipalities and returnee "documentation promoters" to provide personal documentation, including birth certificates, in post-conflict areas with a specific focus on women, who were not accustomed to having documentation, through radio and other media;
 - giving legal counselling on national remedies to victims/survivors of domestic violence and possibilities to remain in the country of asylum, even if their husband/partner or father opted for voluntary repatriation; and
 - supporting women's refugee organizations which mobilized to demand co-ownership of land.
-

AGDM and empowerment The UNHCR Office adopted a gender focus to its mission plan in 1996. Contact with Guatemalan returnee women raised the profile of incorporating women into planning and influenced changes in policy. It raised the expectations of UNHCR staff regarding what was possible in striving for gender equality.

Community involvement Refugees participated actively and directly in negotiations with the Guatemalan and Mexican Governments on voluntary repatriation conditions and helped shape the peace process. Refugee women played a decisive role in determining return conditions and equal rights in relation to both assistance and protection.

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¹³⁴ See generally, UNHCR, "Guatemala Reintegration 1994–2000", available on the UNHCR intranet. UNHCR internal draft document on reintegration, 2006.

Field practice: Women's rights during Guatemalan repatriation, continued

Partners involved

Female staff in UNHCR and UNDP and local and international NGOs with a gender perspective were instrumental in establishing the Forum. UNHCR left operational responsibilities for the repatriation to NGOs, community organizations and the government. It concentrated on monitoring, coordination, and trouble shooting. The Office worked with two government agencies, 21 NGOs and eight other operational partners. Funding from the Canadian Development Agency (CECI) and other donors played an important role.

Constraints

Women nevertheless faced many challenges. When, for instance, some women returnees opted to prioritize “the agenda of women and their rights” and demonstrate greater autonomy, they were met with hostility.

Male leaders in some return areas questioned the legitimacy of the members of the women's organizations. They even sought to remove them from elected leadership positions and replace them with women who were likely to follow the accepted agenda. Ironically, these same male leaders had encouraged women to organize as refugees to secure funding and support for their (male) political agenda.

In an effort to address these challenges, UNHCR played an important role in the empowerment process, providing training, financial assistance and support for women's inclusion in decision-making. The scale of societal change during the transition to peace meant, however, that on return returnee women found a reversal of the greater equality they had secured in exile. There was thus a gap between their expectations as refugees and the reality of their lives in returnee communities. Once they had crossed the border, many male leaders expected the women to “give up” their hard-earned rights and simply follow the “community” (male) agenda.

Impact

Despite the challenges encountered, some of the refugee women's organizations still exist today and some of the women leaders have taken up key roles. They survived the transition process and have continued their struggle for women's rights.

Lessons learned

The Guatemalan experience demonstrated that

- gender equality rights realized in exile can be diminished upon return, where both returnee men and some women expect women to return to their traditional roles;
 - all activities to promote women's rights and equal participation require changes at the grassroots level, in legal systems and official institutions, in culture and in social systems;
 - men in leadership roles in the community must be genuinely committed to women having their own agenda; and
 - societal changes require long-term commitment from UN agencies, donors, NGOs and civil society in general.
-

4.3.3 Local integration

"I didn't feel sorry that I am a doctor and I was working as a cleaner. I cleaned three times a week and I was very proud of the fact that I was able to earn money. For me, this was the beginning of integration. I was very tired, but it was somehow pleasant because I was proud that I could earn something for my children."

Roza, a Chechen refugee in Poland, who applied for her doctor's diploma to be recognized and started working as a cleaner before finding a job as a school doctor. For her, integration means rethinking her rules and values. At home, she cultivates her own traditions, teaching her children about their religion, where they come from and their language. In public, she takes part in Polish traditions.¹³⁵

Introduction

Local integration is a complex and gradual process, comprising three distinct but inter-related legal, economic, and social and cultural dimensions. Each of these dimensions is important for refugees' ability to integrate successfully as fully included members of society.¹³⁶

As ExCom has emphasized, "age and gender sensitive approaches, and attention to participatory and community development processes should permeate all activities aimed at enhancing the capacities of refugees to integrate locally". It has also recognized "the need for different strategies and support to boost the integration capacity of various groups with special needs, such as refugee women, refugee children and older refugees".¹³⁷

Challenges in the context of local integration

Local integration or settlement can pose challenges for women and girls, especially if they have to integrate into a cultural environment very different from that of their place of origin. Some of these challenges relate to:

- limited freedom of movement and access to livelihoods and/or housing, land and property;
- changed gender roles and cultures;
- additional pressures on girls (and boys);
- lengthy asylum procedures;
- experience of trauma in the country/place of origin, during flight or in asylum; and
- marginalized status.

Note: These challenges are discussed further below.

Challenge: Freedom of movement, livelihoods and property

Integration presents particular challenges for women and girls if they are unable to enjoy freedom of movement and/or livelihood opportunities, since both are critical for their self-reliance. This may be because the authorities wish to retain employment opportunities for their own citizens or because female single heads of household never had documentation permitting them to work or this has been taken by the husband.

Where provision of housing, land and property for locally integrating refugees and internally displaced persons discriminates against women, this also reduces their potential to achieve sustainability.

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¹³⁵ See European Council on Refugees and Exiles, Refugee Stories Project (supported amongst others by UNHCR), at <http://www.ecre.org/refugeestories/>.

¹³⁶ ExCom Conclusion No. 104 (LVI), 2005, on local integration, para. (k) and generally UNHCR, "Local Integration", EC/GC/02/6, 25 April 2002.

¹³⁷ ExCom Conclusion No. 104 (LVI), 2005, on local integration, para. (o).

4.3.3 Local integration, continued

Challenge:
Changed gender
roles and cultures

As ExCom has recognized, displacement can result in “changes in gender roles”.¹³⁸ Where male family members are unable to find work and have difficulty adapting to not being able to support their family, this places additional burdens on female family members and may expose them to domestic violence.

The disruption caused by displacement often splits families and can lead to many single female or child or grandparent headed households, which places additional burdens on these individuals, who often have to cope alone without adequate support.

Women and girls may find it difficult adapting to a culture where their female counterparts in the host community have much greater autonomy and independence. Where they wish to retain their own customs, they may face criticism, discrimination and even hostility in the host community.

Challenge:
Additional
pressures on girls

Where asylum-seeking and refugee girls and boys go to separate schools from those attended by local children, including for instance where asylum-seekers are detained, their integration and rehabilitation is hampered.

In other situations, girls (and boys) may have better language skills than their parents through attending school and may become the point of contact with local authorities and services with the attendant additional responsibilities this entails.

Separated or unaccompanied girls may be at particular risk of exploitation and abuse, including trafficking, if adequate arrangements are not in place to enable their integration. These include access to a full education and monitoring of their situation on an ongoing basis.

Refugee girls born in asylum countries whose birth has not been registered may become stateless if not permitted to integrate locally and acquire the nationality of the country of asylum.

Challenge:
Lengthy asylum
procedures

Female asylum-seekers can face particular challenges integrating, if

- they have spent a long time in limbo, for instance, awaiting the outcome of their asylum application, before being permitted to stay;
 - they have been detained or placed in care; and/or
 - if they have not been able to become self reliant during that time.
-

Challenge:
Trauma

Where women and girls have been severely traumatized by their experiences, whether in the country of origin, during flight and/or in the country of asylum, they may find the process of adjustment difficult. This is particularly so if medical and psychological treatment and support is not available or, if available, is prohibitively expensive and/or subject to long waiting lists.

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¹³⁸ Ibid.

4.3.3 Local integration, continued

Challenge: Marginalization

Widows, single women, unaccompanied and separated girls and women and girls with disabilities can be particularly at risk of marginalization, exploitation, abuse and/or trafficking. It can take many years before they can be reunited with family members, if at all.

Older women, especially widows and/or those with no family members in the country of asylum may find themselves socially isolated, neglected and/or chronically dependent on social support. They may find it particularly difficult to adapt to the new environment, for instance, if they cannot speak the local language or have hearing or mobility problems.

International legal standards and guidelines

The 1951 Refugee Convention and relevant human rights instruments provide the legal framework guiding the local integration process. The wide range of social, economic and civil rights and entitlements which form part of the achievement of local integration are essentially the same as those attached to refugee status itself. Naturalization as provided for under Article 34 of the Convention marks the legal culmination of the process.

ExCom Conclusion No. 104, 2005, on local integration also provides valuable guidance on the legal, economic and social and cultural dimensions of local integration.

Principles 28 and 29 of the Guiding Principles on Internal Displacement refer to the possibility of the internally displaced to “resettle voluntarily in another part of the country”. This includes either local integration in the place to which the person has fled within the country or settlement in another part of the country. The need for the full participation of internally displaced persons in the planning and management of this process is specifically mentioned and necessarily includes women and girls.

Responsibility

States party to the 1951 Convention are responsible for implementing the range of rights and minimum standards for the treatment of refugees set out in the Convention and thus ultimately for the process of integration. They are responsible under Article 34 of the Convention, for facilitating “as far as possible ... the assimilation and naturalization of refugees”. ExCom has acknowledged that host States are required to take the lead role in the process of achieving local integration, while the sustained commitment by all stakeholders of the necessary time and resources is also needed.¹³⁹ Refugees have a responsibility under Article 2 of the 1951 Convention to conform with laws and regulations of the country of asylum.

UNHCR has a responsibility to promote durable solutions, including local integration where appropriate, under its mandate to secure “permanent solutions” for refugees and persons of concern, including women and girls.

In the context of internal displacement, the Guiding Principles affirm that it is the “competent authorities” who have the primary duty and responsibility to establish the conditions and the means for IDPs, including women and girls, amongst other solutions, “to resettle voluntarily in another part of the country” and to facilitate their reintegration.

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¹³⁹ ExCom Conclusion No. 104, 2005, para. (q).

4.3.3 Local integration, continued

How to respond

In order to ensure that women and girls are able to integrate locally, UNHCR, together with local, national and international partners, should carry out the following actions:

Response	Actions
Coordinate	- Establish/strengthen links with a wide range of national and international relief/humanitarian and, particularly, development actors, including governments especially ministries for health, education, and family welfare, NGO partners, and displaced communities themselves. Work with them to raise awareness of the particular situation of forcibly displaced women and girls and promote the inclusion of their concerns in development strategies. - Work to bring partners together and promote host government leadership of "development through local integration" (DLI) initiatives and the engagement of the UN Country Team, international financial institutions and bilateral donors in such initiatives to support the local integration of refugee women, girls, men and boys.¹⁴⁰ - Identify local women's business associations that may wish to support displaced women's economic empowerment.
Assess, analyse and design	- Use the UNHCR <i>Handbook for Planning and Implementing Development Assistance for Refugees (DAR) Programmes</i>, January 2005, as a tool to assess the potential and design strategies for the inclusion of refugee women, girls, men and boys in development programmes. - Use the UNHCR <i>Handbook for Self-Reliance</i>, August 2005, as a tool to plan, launch and guide a self-reliance strategy, including its material relating e.g. to gender, separated or unaccompanied children and adolescents. - Examine national legislation such as that on local government to see whether this can be used e.g. to support the establishment of refugee women's welfare councils to create a space for refugee women to articulate their concerns and needs regarding the integration process. - Use participatory assessments to determine the capacities and skills already existing in the displaced population and make sure their experience is taken account of in devising strategies to promote self-reliance and integration. - Analyse with the local authorities how refugee and internally displaced women are integrated into and able to access public services and work with them to address any gaps.
Intervene to protect	- Target women and girls at risk for livelihood initiatives to increase their self-reliance and integration and reduce their vulnerability to exploitation and abuse. - Advocate with national authorities to permit prompt family reunification with recognised refugees and persons with complementary forms of protection, especially in the case of women and girls who are alone or are single heads of household, so that family members can provide mutual support during the integration process. - Ensure girls are able fully to access education, including secondary and tertiary education.

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¹⁴⁰ UNHCR, "Framework for Durable Solutions for Refugees and Persons of Concern", EC/53/SC/ INF.3, 16 September 2003, para. 91.

4.3.3 Local integration, continued

How to respond (continued)

Response	Actions
Strengthen national capacity	• Advocate with government for refugees to be included in national development strategies and for such strategies to include special emphasis on the concerns of marginalized and at risk groups, such as single-headed households, unaccompanied or separated children or stateless women and girls. One such example has been the "Zambia Initiative". • Encourage the implementation of anti-discrimination policies and awareness-raising activities aimed at combating institutionalized discrimination and at promoting the positive aspects of a diverse society and interaction between refugees, the local population, civil society and refugee organizations.¹⁴¹ • Train national ministry staff on refugees' rights and entitlements to reduce discriminatory treatment e.g. by hospital workers, teachers etc. • Urge governments and all relevant actors to combat intolerance, racism and xenophobia, including obstacles faced by refugee women, and to foster empathy and understanding through public statements, appropriate legislation and social policies, especially with regard to the special situation of refugees with the aim of allowing refugees to participate actively in the civic, economic, and social and cultural life of the host country.¹⁴² • Persuade government authorities of the importance of family unity and reunification, since family members can reinforce the social support system of refugees and, in so doing, promote the smoother and more rapid integration of refugee families.¹⁴³ • Ensure self-reliance initiatives benefit local host communities as well as displaced communities. • Work with partners to promote the development of legal and institutional frameworks to foster productive activities and protection relevant civil, social and economic rights.
Strengthen community capacity to support solutions	• Promote the establishment of women's cooperatives where women can work together including with assistance of an NGO partner to administer a revolving loan fund to enable different women successively to borrow and return small-scale loans for commercial undertakings and thereby enhance their self-reliance. Ensure adequate training is provided beforehand on how they work and the importance for the community of repayments so that each member of the cooperative can benefit.¹⁴⁴ • Encourage women to group together so that they can fund larger purchases or investments and help overcome the difficulties one individual on her own may encounter in buying larger items or borrowing funds when the latter are limited. • Include women and girls in vocational training and credit schemes to make sure they are not left out of initiatives, including especially adolescents, older women, those with disabilities, and their carers. • Promote the admission of asylum-seeking girls and boys into local schools so that they can learn the local language and begin integrating as early as possible. • Lobby for and support language classes, which are at times and places accessible to women and include childcare arrangements/facilities, so that women are able to attend these classes.

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¹⁴¹ ExCom Conclusion No. 104, 2005, para. (n)(i).

¹⁴² ExCom Conclusion No. 104, 2005, para. (n)(ii).

¹⁴³ ExCom Conclusion No. 104, 2005, para. (n)(iv).

¹⁴⁴ For details of this approach adopted in Senegal for Mauritanian refugees, see David Stone, "Refugee Livelihoods, Enhancing Livelihood Security among Mauritanian Refugees, Northern Senegal: A Case Study", EPAU/2005/11, June 2005, especially pp. 2–3 on lessons learned, at <http://www.unhcr.org/research/RESEARCH/42bbcb702.pdf>.

4.3.3 Local integration, continued

How to respond (continued)

Response	Actions
Monitor, report and evaluate	• Monitor the performance of micro-credit schemes through assessments with refugee and internally displaced women, to ensure they are adjusted as necessary in line with their and their community's needs. • Evaluate the level of integration with the host community and those providing services. • Evaluate the host community's level of tolerance of the community seeking to integrate, checking especially for situations of abuse of integrating women and girls.

Field practice: Mexico	The words of former Guatemalan refugee Esperanza Vázquez, a member of the Technical committee of the Social Welfare Revolving Fund (FORBIS), Campeche, effectively outline the range of empowerment and integration activities that were successfully implemented in the context of the local integration of Guatemalan refugees in Mexico: “In the process of integration, we have had the opportunity to reaffirm the skills we have acquired throughout the different stages of asylum. In the last few years, we have demonstrated that, as women, we can also organize and manage our own income generation projects, and not just take care of our homes and children. An example of this is the first community credit scheme established in Los Laureles refugee settlement. At the beginning it was difficult to organize ourselves since we had never had this opportunity, and our husbands discouraged us telling us, and making us believe, that we would never be able to manage any projects. “Now we realize that we have learned many things, from operating a calculator, to writing cheques, depositing and withdrawing money from the bank, applying for loans and assessing whether a project will succeed or not. We can do paperwork, voice our concerns and vote on issues not just in the meetings of our organization but also in large community gatherings. We now have the courage to participate, and our male colleagues have started to realize and to be conscious of the importance, for our families and for our communities, of our participation.”¹⁴⁵

¹⁴⁵ Cited in UNHCR Reintegration and Local Settlement Section, Division of Operational Support, *Handbook for Self-reliance*, August 2005, appendix 1, p. 150, and extracted from Edith F. Kauffer-Michel (ed.), *The Integration of Former Guatemalan Refugees in Mexico: A Multi-Faceted Experience*, San Cristóbal de Las Casas, Mexico, El Colegio de la Frontera Sur, 2002.

4.3.4 Refugee resettlement

The amazing odyssey of thousands of youths ripped from their homes in the late 1980s by fighting in Sudan and forced to wander for years across the East African Savannah became the stuff of African legend. They eventually reached Kenya, where they languished in camps, becoming known as the Lost Boys of Sudan. The United States agreed to resettle nearly 4,000 of them. As they flew in small groups to all parts of America, they became instant celebrities, interviewed endlessly in the media about their amazing survival and their thoughts about starting new lives.

Forgotten in all this publicity were the fates of several thousands of girls aged between 8 and 10 who had undergone similar ordeals. While the boys remained an identified group which caught the sympathy and attention of the resettlement countries, the girls were ignored. Absorbed into foster families, their protection needs became invisible. Abduction and forced marriage was common and many girls were caught in a cycle of exploitation and abuse.¹⁴⁶

Introduction

Resettlement involves the selection and transfer of refugees from a State in which they have sought protection to a third State that agrees to admit them, as refugees, with permanent residence status.

Purpose

Refugee resettlement provides individual protection for refugees who are not adequately protected in a first country of asylum. It also acts as a durable solution and a responsibility and burden sharing tool. This section focuses particularly on its function as a tool to protect women and girls.

While resettlement is not the only solution for refugee women and girls with serious protection concerns in countries of asylum, it may be the only way to ensure protection for some of them.

Summary of challenges

Even though women and girls face particular gender-related risks that may make local solutions untenable, women and girls can have difficulty accessing resettlement programmes. UNHCR's women-at-risk resettlement programme is underutilized and quotas are not always filled. Reasons for this include:

- UNHCR faces challenges identifying women and girls for resettlement;
- family members may provide inaccurate information to qualify for resettlement;
- problems related to divorce and child custody;
- problems related to polygamous marriages; and
- children are unaccompanied or separated.

Note: These challenges are discussed further below.

Challenge: Identifying women and girls for resettlement

Some of the challenges related to identifying refugee women and girls for resettlement are listed below.

- Many women and girls may not even be aware of the possibility of resettlement.
 - Women may be living in hiding or in insecure locations and/or may be too afraid to approach individuals in authority, including UNHCR, or may be pressured not to do so.
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¹⁴⁶ Adapted from "The Lost Girls of Sudan", *Refugees magazine*, Vol. 1, No. 126, 2002, pp. 8–9.

4.3.4 Refugee resettlement, continued

Identifying women and girls for resettlement (continued)

- Violations endured by women and girls may be perpetrated by the community or within families and so may be invisible to us.
 - UNHCR staff may be insufficiently aware of how to use resettlement as a tool to protect women and girls.
 - They may find it difficult to identify women and girls at heightened risk, particularly because so many female refugees are potentially at risk.
 - Staff may believe that refugee women and girls are exaggerating claims of sexual and gender-based violence (SGBV) to gain resettlement, which may colour their response to SGBV cases. This inaction may, in turn, serve to confirm the attitudes of some decision-makers who do not necessarily regard rape and sexual abuse as sufficient grounds for specific protection measures.
-

Challenge: Inaccurate information

Refugee women and their families may provide inaccurate information in order to qualify for resettlement, for instance, as single heads-of-households, thus committing fraud. Refugee women with resettlement prospects may be forced to add dependants – such as children – who are not, or who are no longer, family members to their application.

Where staff have had experience of such behaviour, they may adopt a negative attitude toward those requesting resettlement, especially if they themselves are burnt out.

Challenge: Divorce and child custody

The resettlement of women and girls may be impeded by problems relating to divorce and child custody. For instance,

- resettlement may be the only protection solution available to women and girls who are victims of domestic violence, even though many of these women would not want to be resettled without their children or siblings;
 - discriminatory laws and cumbersome and lengthy procedures may prevent women from obtaining a divorce or custody of their children; or
 - even if divorce and/or custody has been granted, refugee women may not have documentation that confirms this and/or the decision may not have been implemented.
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Challenge: Polygamous marriages

Women in polygamous marriages may also face obstacles to resettlement. As outlined in Chapter 5, section 2.2, the practice of polygamy violates women's right to equality in marriage. Nevertheless, where a polygamous marriage is contractually valid, all family members are, in principle, eligible for UNHCR assistance. Most resettlement countries will, however, only accept one spouse because their own national legislation forbids polygamy.

This problem is particularly acute when UNHCR has recognized the refugee status of family members only on a derivative basis. This emphasizes the importance of granting refugee status to each individual family member who applies for asylum and falls within the criteria for refugee status in their own right. By doing so, submissions for resettlement can be made independently of the husband/father. Even so, some resettlement countries have been known to decline resettlement to individuals because of their polygamous relationship, regardless of their refugee claim or the protection merits for resettlement.

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4.3.4 Refugee resettlement, continued

**Challenge:
Unaccompanied or
separated children**

Children face many problems securing resettlement when they are unaccompanied or separated and when resettlement would involve separation from a parent, for instance, in the context of emergency resettlement in cases of girls exposed to domestic violence. These problems can be compounded when UNHCR staff may believe that domestic violence does not justify separation of children from one parent (usually the perpetrator) through resettlement.

For more on this issue, see section 2.5 on best interests assessment and best interests determinations and related field practice example concerning emergency resettlement.

**International legal
standards and
guidelines**

UNHCR's *Handbook on Resettlement* provides guidance to UNHCR protection and resettlement staff and partners on this issue.¹⁴⁷ In addition, module 3 of UNHCR's resource package on ensuring gender sensitivity in the context of RSD and resettlement focuses on ensuring gender sensitivity in the context of resettlement.¹⁴⁸

**UNHCR criteria for
resettlement**

The UNHCR *Handbook on Resettlement* sets out eight criteria for resettlement.¹⁴⁹ Refugee women and girls, like men and boys, are eligible for resettlement if they meet one of these UNHCR criteria. They may, for instance, be refugees who:

- have legal and physical protection needs;
- are survivors of violence and torture;
- have medical needs;
- require family reunification;
- are older refugees; or
- are refugees without local integration prospects.

In addition, refugee women and girls may be eligible for resettlement under a seventh "women-at-risk" criterion. For resettlement purposes, "UNHCR considers women-at-risk as those women or girls who have protection problems particular to their gender, whether they are single heads-of-families, unaccompanied girls or together with their male (or female) family members".¹⁵⁰ Women and girls at heightened risk may be eligible for resettlement under other criteria too, such as those for survivors of violence or torture or older refugees.

Girls, including adolescent girls up to the age of 18, may also be eligible for resettlement under an eighth criterion for children including adolescents.

Responsibility

No country is obliged to resettle refugee women, men, girls or boys. Only a small number of States do so on a regular basis.¹⁵¹

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¹⁴⁷ UNHCR, *Handbook on Resettlement*, November 2004, Chapter 4.

¹⁴⁸ See UNHCR, *Ensuring Gender Sensitivity in the Context of Refugee Status Determination and Resettlement*, modules 1, 2 and 3, October 2005, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain>.

¹⁴⁹ UNHCR, *Handbook on Resettlement*, November 2004, Chapter 4.

¹⁵⁰ Ibid., Chapter 4.5, p. IV/16.

¹⁵¹ UNHCR, *Handbook on Resettlement*, November 2004, Chapter 1.

4.3.4 Refugee resettlement, continued

Responsibility (continued)

Resettlement is a specialized task that is carried out by specifically trained staff. All UNHCR staff involved in protection, including community-services and field officers, should, however:

- be familiar with the categories and criteria for resettlement;
- be able to identify women and girls who may be eligible for resettlement; and
- coordinate with the appropriate officers for follow-up.

How to respond

Chapter 3, section 3 explains how to identify women and girls who are at heightened risk. This involves working with partners and the community in a participatory process to identify groups of refugees who are most at risk. It then involves making individual assessments of members of these groups to identify potential resettlement cases. One example is given in the Kenya field example at the end of this section below. It is important to avoid raising expectations and to be transparent and honest in all our communications.

Depending on the situation and issues that arise, different approaches are required as detailed in the table below.

Where a case involves	UNHCR should...
Women and girls at risk	• Strengthen the use of resettlement as a protection and durable solutions tool by – using other resettlement criteria in addition to the women-at-risk criterion; – enhancing identification, including through training (see the Kenya field practice example below and chapter 3, section 2, under “identification, assessment and monitoring” and “identification and immediate response”); and – streamlining processing further, including by establishing measures to enable the departure of women and girls at risk and their dependants.¹⁵² • Consider using special evacuation programmes for internally displaced women and girls at risk, given that resettlement is not as such presently available to them.¹⁵³
Provision of inaccurate information	• If inaccurate information has been provided, explore with the woman or girl concerned to understand why and to address any protection threats which may have been made to coerce her. • Support refugees who may do this by providing counselling and information on the criteria for resettlement and on their rights and obligations.
Divorce and child custody	• Work towards a solution that respects the rights of the woman and the best interests of the child(ren), and that conforms to international law.

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¹⁵² See ExCom Conclusion No. 105 (LVII) of 2006, para. p)(ii).

¹⁵³ See ExCom Conclusion No. 105 (LVII) of 2006, para. (p)(iii).

4.3.4 Refugee resettlement, continued

How to respond (continued)

Where a case involves	UNHCR should...
Families of polygamous marriages	• Not risk splitting the family by asking one spouse to be chosen, as this could expose the remaining wife and child(ren) to even greater protection risks. • Explore, rather, the possibility of resettling the family in a country that would allow the family to remain together, even if the relationship to one spouse will not be legally recognised by that country. • Ensure that families of polygamous marriages are counselled concerning all aspects of resettlement and the rights and obligations in the resettlement country prior to submission of the case, especially as concerns any detrimental impact (economic/social) arising from the non-legal recognition of the marriage.
Unaccompanied or separated children or resettlement would involve separation from a parent	• Conduct a formal best interests determination¹⁵⁴ as provided for in UNHCR's Guidelines on Formal Determination of the Best Interests of the Child, by first ensuring that a decision on custody rights is made by the competent authorities before departure. (For further information see section 2.5 of this chapter, including field practice example.) • Where no custody decision exists, encourage the competent authorities of the country of asylum to decide on the custody of the child before departure for resettlement. • Promote the provision of age appropriate and female-to-female services for refugee girl children awaiting resettlement. • If this is not possible, for instance, in emergency cases involving domestic violence, – undertake a formal best-interests determination before the resettlement submission; – formally ask the resettlement country to decide on custody rights as soon as possible after the child's resettlement; and – at the same time, inform the parent with whom the child is resettled how to acquire custody rights upon arrival in the resettlement country.¹⁵⁵

Field practice: Ecuador

In **Ecuador**, UNHCR works through local women's associations to identify women and girls at risk and provide a protection network for (mainly Colombian) refugee women in such vulnerable conditions. Inter-agency and inter-institutional committees have also been established to identify problems faced by unaccompanied and separated children and women, who are victims/survivors of sexual and gender-based violence and to determine appropriate protection needs and responses, including the possibility of resettlement. Possible resettlement cases are referred to a Unit for the Analysis of Cases with Special Protection Needs (UANEP), established in 2003, to which referrals can only be made by "internal" actors (i.e. the UNHCR Protection Unit, UNHCR Field Offices, and UNHCR's main Implementing Partners). An increasing number of refugee women and girls whose protection cannot be secured in Ecuador have been referred. They are mainly single heads of households and young girls who have suffered direct or indirect threats from different, irregular armed groups in Colombia or have fled violent confrontations in remote rural areas between the different parties in the Colombian conflict.¹⁵⁶

Continued on next page

¹⁵⁴ UNHCR, "UNHCR Guidelines on Formal Determination of the Best Interests of the Child", provisional Release, May 2006, p. 10.

¹⁵⁵ For further details see, "UNHCR Guidelines on Formal Determination of the Best Interests of the Child", UNHCR, provisional release May 2006, p. 19.

¹⁵⁶ UNHCR, Annual Protection Report, 2005.

4.3.4 Refugee resettlement, continued

Field practice: Brazil	Brazil recently joined a number of other resettlement countries and adopted a special procedure for emergency resettlement, under which emergency cases, including women and girls at risk, can be resettled within 72 hours.

Field practice: Iceland	In the past, most refugees resettled in Iceland were settled and integrated in the capital, but an increasing number are now being settled in small fishing villages. The Icelandic Red Cross (IRC) operates a year-long central government-funded Family Support System, which pairs local families with resettled refugee families to support the integration process. Under the scheme, the Ministry of Social Affairs places a newspaper advertisement asking municipalities willing to receive refugees to contact them and explaining the support and benefits central government can offer. The IRC and municipal authorities volunteering to accept the refugees then organise general meetings for interested community members to share essential information about the Family Support System. The steering committee of the project (the IRC and local authorities) analyses the composition, characteristics and needs of the refugee families to pair these with the characteristics of the Icelandic support families. A month before the refugees arrive, IRC volunteers collect furniture, utensils and clothing and prepare the apartment where the refugee family will live. The support families are given an introduction to the culture and traditions of the country of origin and the political and humanitarian situation there. They are also given training in psychological first aid, since many of the refugees have gone through traumatic experiences. On average, two or three Icelandic families support each refugee family, providing information about Icelandic society, psychological support and human warmth to support them. In the beginning, the support families visit the refugee families every day to guide them in their day-to-day activities, such as going to the bank, taking the bus and how the school system works. After the first three weeks, there are weekly meetings and then later monthly meetings, the frequency depending on the needs and interests of the refugee family. For the first six months, the focus is on language training and the integrating refugees notionally do not work. After that, half-time work is envisaged for three months and then full-time work. The refugees are also offered 530 hours of Icelandic language classes. In fact, many of the refugees start to work after 4-5 weeks once their “green cards” (work permits) have been issued. A particular focus of the programme over the past few years has been on resettling single women and single mothers with their children. One recently resettled Colombian mother, Marta, explained how armed groups had wanted to forcibly recruit her 17-year-old son, forcing her to flee first within Colombia and then to Ecuador. She was urgently resettled when the armed groups traced her in Ecuador, threatened to take her son and kill her for hiding him. Now in Iceland, she has benefited from the integration programme described above and appreciates the warm welcome and support she has received. “We feel so safe here”, she says, “We can go to sleep without being afraid, and that is what really counts.”¹⁵⁷

¹⁵⁷ See, UNHCR, “Chilly Iceland Gives a Warm Welcome to South American Refugees”, 4 January 2008, at <http://www.unhcr.org/news/NEWS/477e51ca4.html> for more information on Marta’s experience and the integration programme.

Field practice: Identifying Sudanese refugee women and girls at risk for resettlement, Kenya

Introduction

Following the resettlement from Kenya of several thousand mainly young male Sudanese refugees, known as the “lost boys” of Sudan in 1999/2000, it was recognized that there were also a significant numbers of “lost girls” in Kakuma refugee camp, Kenya, many of whom were at risk and in need of resettlement.

As a result, UNHCR undertook an exercise between October 2003 and August 2004 to assess their protection needs. This had to adopt a discrete and sensitive approach, as many of the girls and women were in exploitative and abusive foster families. The exercise successfully identified women and girls in Kakuma who were at heightened risk. Their cases were then considered for resettlement.

Rights promoted

Among the rights promoted by this initiative are the right to:

freedom from forced labour and servitude;
consent to marriage and protection from underage marriage;
primary and higher education;
property ownership individually or in association with others; and
just and favourable conditions of work.

Steps to implementation

In the course of the resettlement of the Sudanese “lost boys”, it became clear there were also significant numbers of “lost girls” who had followed the same path but were not so readily visible. A UNHCR consultant raised concerns as to their welfare. The Office therefore assessed a number of lists of Sudanese girls who had arrived in Kenya as unaccompanied or separated children.

Unlike the “lost boys”, who were more easily identifiable because they had stayed together and faced a common protection threat of forced conscription as child soldiers, many of the girls had been placed in foster families by the Sudanese community. Identifying the girls required a more labour-intensive approach because they were dispersed in different foster families and less visible to humanitarian agencies. UNHCR recognized that they needed to be individually and systematically interviewed to identify who was at risk and determine appropriate responses to their situation, including resettlement.

The girls were assessed individually by psychosocial counsellors. Interviews had to be discreetly administered and included lengthy counselling to determine the level of vulnerability each individual faced. Only later were those found to be “vulnerable” or “highly vulnerable” considered for resettlement, while a number of highly vulnerable persons were resettled immediately. A further assessment was required in many cases, including best interest determinations where minor children were involved, to determine whether resettlement was appropriate. In the meantime, other protection interventions were made, such as removal from the source of risk, including in some cases through relocation to Nairobi and placement in “safe house” accommodation.

Profiles of girls and women identified as being at heightened risk included young unmarried girls and women facing a threat of forced marriage by their foster family in exchange for a bride price, young women who had “unofficially” married someone of their choice and/or had a child from this or another “unrecognized” partnership and widows who risked being forced to marry one of their husband’s relatives or whose children risked abduction.

Continued on next page

Field practice: Identifying Sudanese refugee women and girls at risk for resettlement, Kenya, continued

Steps to implementation (continued)

Ultimately, the exercise established a useful methodology which has now been adapted and applied to regular case identification and referral mechanisms. It recognises the need for “multifunctional teams” of experts, involving community services, protection and resettlement staff, as well as external partners such as NGOs to identify and address protection needs.

AGDM and empowerment

The focus of the exercise to assess the protection needs of the “lost girls” enabled their situations to be mainstreamed and addressed, even though the initial focus had been on the “lost boys”. It helped both to identify women and girls in need of resettlement and to identify other women and girls with protection concerns that required response. It gave UNHCR and NGO partners a better insight into the dynamics within the refugee community which contributed to the risks faced by refugee women and girls. This also allowed for interventions to protect other individuals who did not belong to the list of “lost girls”.

Community involvement

Prevailing social customs among the refugees meant the interviews had to be administered discreetly, so the girls concerned, who were by then sometimes women, were not exposed to greater risks. Given that some of the risks faced by the women and girls came from within the Sudanese community, the engagement of the community in the process was a delicate undertaking. Information sharing and briefings of community representatives was undertaken to mitigate these risks and to foster confidence and support toward the outcomes, including steps to mitigate such risks in the future.

Partners involved

UNHCR involved a number of NGOs in the exercise under special secondment-type arrangements. NGOs provided psychosocial counsellors and social workers able to assess the risks individuals faced and determine best interests.

Constraints

Firmly entrenched traditional Sudanese cultural values and practices presented challenges to the smooth implementation of the project which had to be implemented sensitively and discreetly. The complexities of the relationships between the Sudanese girls and their foster families and the guardianship arrangements reached also required sensitivity by UNHCR when considering resettlement interventions. This made group designation for resettlement problematic, requiring individual case assessments and protection interventions.

Impact

Of 415 interviews conducted, about a third of the individuals were identified as “vulnerable” or “highly vulnerable”. Some were later screened out in resettlement interviews, but 71 cases (341 individuals) were submitted for resettlement.

Lessons learned

UNHCR needs to be aware of the effects of traditional practices on refugee girls and address their welfare concerns systematically, in a way that is sensitive to cultural values and guardianship relations. The cases of highly vulnerable individuals must be considered on a priority basis to avoid further abuse or violence. The exercise can usefully be extended to women and girls of all ethnicities in the camp and involve expertise from different sectors to quickly identify and respond to the situation of women and girls at risk.



Uganda / A Sudanese refugee mother and her baby who have fled attack by an armed rebel group receive emergency assistance from UNHCR / A rights-based approach to protection requires us to recognize that women and girls of concern are not passive recipients of humanitarian aid but “rights holders” with legal entitlements / UNHCR / S. Mann / 2002

Chapter 5: Exercising Rights and Ensuring Protection

Overview

Introduction

The international community has made particularly concerted efforts since the early 1990s to promote and protect the rights of women and girls. Of critical importance has been the recognition that

- women's and girl's rights are human rights;
- violence against women and girls, whether in war, in peace, at the hands of family members, the community or the State, is a human rights violation that should incur individual criminal responsibility;
- States and other actors, including UN agencies such as UNHCR, have clear responsibilities to ensure that these are respected; and
- the extent to which women and girls are able to enjoy one right or set of rights often affects their enjoyment of other rights.

With regard to the latter issue, if displaced, returnee, (re)integrating or stateless women cannot, for instance, exercise their right to pass on nationality to their children, they may lose their custody rights. If teenage girls cannot exercise their right to reproductive health, they may not be able to enjoy their right to education. Where women cannot exercise their right to housing, land and property, this may result in a host of other rights violations, including violations of their right to food and adequate shelter.

Purpose

The purpose of this chapter is to:

- strengthen understanding of the particular challenges faced by women and girls of concern in exercising their rights, and
- provide information on how applicable legal standards and guidelines can be used to respond to these challenges and ensure the protection of women and girls.

What this chapter does

This chapter examines the extent to which women and girls of concern are able to exercise and enjoy specific rights. These are grouped under human rights themes, although the list is not exhaustive and not all rights are covered. For each right, the chapter:

- considers some of the gaps in protection;
- outlines key challenges, including some of the differences between securing access to rights in asylum, in situations of internal displacement, return, (re)integration and/or of statelessness, as well as in urban and rural settings;
- identifies applicable international legal standards;
- identifies the responsibilities of States, UNHCR and other actors; and
- suggests responses and actions we and our partners can take to address those challenges so as to enable women and girls to enjoy their rights.

Notes: The sections on applicable international legal standards and guidelines use abbreviations to refer to key human rights instruments, which are listed in full in the List of Abbreviations at the start of the Handbook.

Suggested responses and actions are organized according to the six broad types of protection response outlined in chapter 4, section 1.2.

Continued on next page

Overview, continued

Other resources

Further information on the various conventions and other legal instruments referred to in this chapter as “international legal standards and guidelines” and on the broader legal framework governing our work is given in chapter 6.

This chapter is also complemented by the Annexes and CD-Rom which give further detail on applicable international and regional legal standards and guidelines, essential reference materials, and standards and indicators.

In this chapter

This chapter contains the following sections, each of which relates to a specific right or group of rights.

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5.1 Access to information

"We are kicked like a ball from one service to the next and we don't get the help we need... The implementing partner's offices are all in fenced compounds. When we go there for help, we have to take a token and wait outside in line. There is no shelter from the sun and no drinking water. We often have to wait most of the day and those who are sick and old can't do it."

Refugee women at a workshop in New Delhi, India, on the identification and protection of women at risk, September 2005

Introduction

The right to access information underpins all other human rights. It is essential if women and girls are to be able to access and enjoy other rights. Access to information allows them to make informed choices regarding their rights, gender roles, power relations, their current situation, and their future. It allows them to protect themselves and represent their own interests more effectively. Sharing information also helps empower a community, including women and girls.



Panama / A UNHCR staff member visits a Colombian refugee family to discuss their concerns and rights, and whether UNHCR needs to intervene on their behalf / UNHCR / B. Heger / 2006

Purpose

Ensuring persons of concern are able to access information – and empowering a community in the process – helps community members take informed decisions about their lives.

There are many areas where information relevant to humanitarian programmes can be vital. For example, it can help reduce tensions if the security situation changes, if assistance is reduced, if the delivery of food or non-food items is late, or if the availability of medicines is modified, or community structures or programmes change.

The more information we share with people of concern to us, the more we will learn from them and the greater our capacity will be to work with the community to build effective protection strategies. Sharing information is thus a two-way process essential to ensuring the protection of women and girls, as well as to providing security to those working with them.

Access to information

It is important that women and girls, as well as men and boys, are able to access information and know about:

- decision-making structures, assistance and services;
- rights, including women's rights, gender equality and the rights of children;
- livelihood projects, education and training programmes;
- SGBV prevention and response activities;
- the Secretary-General's Bulletin on special measures for protection from sexual exploitation and abuse and related complaints mechanisms;¹
- return programmes; and
- who is accountable for delivering in each of these areas.

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¹ Secretary-General, "Bulletin on Special Measures for Protection from Sexual Exploitation and Sexual Abuse", ST/SGB/2003/13, 9 October 2003, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/opendocpdf.pdf?docid=451bb6764> and circulated in IOM/FOM/77/2003 of 13 November 2003.

5.1 Access to information, continued

Summary of challenges

Some of the challenges faced by UNHCR and its partners in sharing information with forcibly displaced and returnee communities and ensuring women and girls of concern can access the right information include:

- ensuring we do it regularly and in an appropriate and timely manner;
- reaching all members of the community regardless of the setting and in particular women and adolescent girls;
- ensuring awareness of power relations between UNHCR and the community;
- ensuring awareness of women's and girls' position in society;
- avoiding the concentration of information with a few representatives creating elitism and manipulation of access to information;
- ensuring that women and girls living in urban settings have access to information; and
- avoiding security risks for people who speak out, including in situations of internal displacement.

Note: Some of these challenges are discussed further below.

Challenge: Awareness of power relations

When we fail to share enough information, this is often because we are not sufficiently aware of the power relations between ourselves and the affected community. Often we do not realize how important the information we hold is or might appear to be to those who cannot access it. As a result, rumours easily heighten tensions, create confusion and frustration and even lead to violence because individuals feel a sense of impotence and inability to control their future.

Challenge: Women's and girls' position in society

For women and girls, information is often in even shorter supply as their position in society often leaves them with fewer opportunities to get information because they lack education and basic literacy skills and also because they are less likely to be invited to meetings or attend them due to other chores. They are also less likely to be members of decision-making bodies in their community which are often the main target of our information sharing activities.

Regular dialogue with UNHCR staff has confirmed that we most frequently target leaders, who because of gender roles are more likely to be men, and that, even when we have offices who work closely with women, the focus can be on certain leaders.

"Information is power and lack of it is lack of power."

Noor Abdi Ali, 24-year-old refugee youth leader, Dadaab refugee camp, Kenya²

Challenge: Power games

The concentration of information with a few representatives creates elites and paves the way for manipulation of others in the displaced community by giving them greater power, particularly over those who are regularly marginalized or discriminated against such as minority ethnic or religious

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² UNHCR, "Thanks for the Classrooms, Now we Need Computers, say Refugee Students", 15 March 2006, at <http://www.unhcr.org/news/NEWS/4417df344.html>.

5.1 Access to information, continued

**Challenge:
Power games
(continued)**

groups, community members with disabilities, unaccompanied and separated girls and boys and older women and men.

Such manipulation can become quite evident in situations where return is being planned and leaders have political allegiances to one group or another. Women and girls are often entirely dependent on husbands, fathers and/or leaders for information on conditions for return. The type of information provided may not relate to their particular concerns and interests.

**Challenge:
Access to
information in
urban settings**

Women and girls living in urban settings often have no independent access to information. Consultations with women in these settings have highlighted how their dependency on what their partners/husbands tell them can result in their accepting domestic violence, as they believe they have no individual right to refugee status, assistance or individual documentation. A pro-active community outreach approach is important to reach such individuals.

**Challenge:
Confidentiality**

There can sometimes appear to be a conflict between principles of transparency and confidentiality. Women and girls may be put at risk if principles of confidentiality are not upheld. For instance, in situations where SGBV programs are being established and women are being encouraged to understand their rights and report violations, if it becomes known that someone has been subjected to SGBV, they may face ostracism and/or renewed risk of attack.

**Challenge:
Security risks**

Information sharing can be made more complex, particularly in situations of internal displacement, if informants for security forces or illegal armed groups are intermixed with the displaced population. This is particularly so in situations where forced displacement is not the result or by-product of armed conflict but is rather used as a tactic of war and/or the objective of the conflict is to seize territory, as for instance in Colombia or Darfur, Sudan. Consequently, there can be security risks for those who speak up and information sharing must be done in such a way as to avoid exposing people to security problems.

**International legal
standards and
guidelines**

Article 18 of the 1948 Universal Declaration of Human Rights (UDHR) and Article 19 of the 1966 International Covenant on Civil and Political Rights (ICCPR) guarantee the right to freedom of expression, which includes the right to seek, receive, and impart information and ideas of all kinds.

Articles 13 and 17 of the 1989 Convention on the Rights of the Child (CRC) oblige States to respect the right of children to receive information from various national and international sources regardless of frontiers.

Responsibility

States have an obligation to respect, protect and fulfil the right of everyone within their jurisdiction to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds.³

Continued on next page

³ ICCPR, Article 19.

5.1 Access to information, continued

Responsibility (continued)

UNHCR has a responsibility to ensure that all persons of concern, including women and girls, are provided with information about their rights. Sharing information and transparent working practices are integral to ensuring the protection of women and girls. As UNDP has noted more generally: "There can be no democratic participation in decision-making without transparency and sharing information."⁴

Staff and partners must respect fundamental principles of confidentiality, including the confidential nature of personal data and information.⁵ At the same time, under the Secretary-General's Bulletin, we are obliged to report all cases of sexual exploitation and abuse.⁶

How to respond

Consultation, listening and providing feedback from and to all sections of the community, including women and girls, underpin the concept of participatory assessment and are integral to ensuring all persons of concern can enjoy their right to access information.⁷

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to ensure that women and girls have access to information include:

Response	Actions
Coordinate	• Discuss with different members of, and groups in, the displaced/returnee community as to what they would like to know about and how information should be disseminated. • Coordinate with, and be guided by, women and girls on how best to ensure information reaches them and on which mechanisms they consider trustworthy. Informal information and communication networks are particularly useful in this respect. • Develop a community outreach strategy with partners and people of concern to identify and coordinate ways of reaching those least likely to come to UNHCR. • Agree with all partners and the community on the creation of an information board or "spot" where relevant information will be posted, including a description of each agency's and partner's mission, mandate and principles, including to uphold gender equality and children's rights, and who to contact in case of need.
Assess, analyse and design	• Use participatory assessments to identify and analyse the obstacles confronting women and girls in accessing information and work with them to devise ways of overcoming these obstacles, including by developing appropriate communication channels. • Observe who attends information meetings and who uses the information provided. • Identify, understand, and use the communication channels and networks, whether informal or formal, that exist within the community.

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⁴ UNDP, "Right to Information: Practical Guidance Note", July 2004, p. 9.

⁵ For further guidance on this issue, see UNHCR, "Confidentiality Guidelines", UNHCR/IOM/71/2001, UNHCR/FOM/68/2001, 24 August 2001.

⁶ Implementation Guidelines for the Field on the Secretary-General's Bulletin on Special Measures for Protection from Sexual Exploitation and Sexual Abuse (ST/SGB/2003/13)", 2006.

⁷ See UNHCR's *Tool for Participatory Assessment in Operations*, May 2006, especially pp. 13–14 on the ethics of participation and p. 41 on the importance of giving feedback to the community and ensuring persons of concern are informed.

5.1 Access to information, continued

How to respond (continued)

Response	Actions
Assess, analyse and design, contd.	• Design information campaigns with the community, including women and girls, after a participatory assessment and analysis, so that they will reach all members of the community and build on capacities and skills within the community to design and implement them. • Design confidential individual complaints mechanisms with partners including the community and hold awareness sessions in the community so that everyone is aware of the complaints mechanism and its purpose.⁸ • Work with governments and asylum-seekers to create information leaflets for asylum-seekers and refugees, which include information regarding their rights and the asylum procedure, so that these can be distributed in relevant languages at border crossing points, air and sea ports, making sure that the information contained therein takes account of the particular needs of asylum-seeking women and girls, including in particular those who may be unaccompanied and separated. • Ensure that all information avoids portraying women, girls, boys, and men in stereotyped gender roles.
Intervene to protect	• Ensure women and girls are fully aware of whom they should approach if they need information and further support.⁹ • Ensure that all information is shared verbally, in written form in appropriate languages, and in pictorial form, for those who cannot read or write, using appropriate and varied media, including meetings, picture story-boards, film, radio, posters, T-shirts, theatre, and training sessions. • Distribute wind-up or solar-powered radios to women so they can access information. • Ensure that the rights and well-being of displaced and returnee women and girls who may share their experiences with us or with the authorities are safeguarded by ensuring the confidentiality of any personal information shared.
Strengthen national capacity	• Ensure that information on the authorities' responsibility to ensure all within their jurisdiction, including in particular women and girls, are able to seek, receive and impart information is included in training programmes for national border, immigration and refugee status determination officials. • Lobby national authorities to ensure that they fully inform displaced and returnee women and girls about asylum procedures, registration and documentation, and assistance to be provided.
Strengthen community capacity to support solutions	• Strengthen women's leadership, including by enhancing their representation and meaningful participation in displaced community and camp management committees, in decision making, and in dispute resolution systems, by enhancing their access to and control over services and resources, promoting their rights and leadership skills and supporting implementation of UNHCR's Five Commitments to Refugee Women;¹⁰ • Arrange for regular meetings/drop-in times in urban and rural settings, such as at a health clinic, a UNHCR out-post or in a religious institution in the community, where women and girls can meet and share ideas and information without feeling threatened.

Continued on next page

⁸ See chapter 3, section 3 of this handbook for more on confidential, individual case management systems and "Implementation Guidelines for the Field on the Secretary-General's Bulletin on Special Measures for Protection from Sexual Exploitation and Sexual Abuse (ST/SGB/2003/13)", 2006.

⁹ See generally, ExCom Conclusion No. 105 (LVII) of 2006, para. (n)(i).

¹⁰ ExCom Conclusion No. 105 (LVII) of 2006, para. (k)(i).

5.1 Access to information, continued

How to respond (continued)

Response	Actions
Strengthen community capacity to support solutions, contd.	• Target locations frequented by women and girls, such as water points, and ensure that, if an area is also frequented by men and boys, the information provided does not cause embarrassment, particularly if the prevailing culture requires women and men to be separated. • Build women's and girls' leadership skills and information-sharing techniques and encourage them to be the main disseminators of information. • Ensure legal literacy campaigns for the community that clearly reflect gender equality and rights for women and children, and ensure that women and girls participate. • Provide women and girls with training opportunities to learn about their rights (e.g. in relation to sexual exploitation and abuse where there are peacekeeping operations and about Security Council resolution 1325)¹¹ and about the relevant legal instruments to help them exercise their rights, and participate in decision-making committees. • Identify and work with local women's organizations to strengthen collaboration on women's and girls' rights. • Ensure that women and girls can participate in computer classes and other activities that improve their knowledge of and access to information. • Ensure that women and girls are fully informed about asylum procedures; registration and documentation, including of births, death and divorces; decision-making procedures; opportunities to participate in camp activities, such as in food distribution and medical care, and assistance to be provided. • Provide information on the different options and solutions for the future, including resettlement, its purpose, and when it is used. • Give much greater importance to finding a variety of ways of sharing information with all members of the community.
Monitor, report and evaluate	• Provide feedback to the community, for instance, to community leaders (both female and male), women's associations, and youth groups, as this shows how their concerns have been heard and demonstrates commitment to transparency. • Reinforce all communication campaigns regularly and monitor their impact by holding focus groups to evaluate the level of their success and to make changes and corrections as necessary. • Undertake regular evaluations with women and girls of their access to information and the impact on their lives. • Undertake spot checks through home visits to see which women and girls have received the information they need.

Continued on next page

¹¹ For more on Security Council resolution 1325 (2000), see chapter 4, section 3.1 and chapter 6, section 2.3.

5.1 Access to information, continued

**Field practice:
Kenya**

In the participatory assessment in Nairobi, Kenya, UNHCR and its partners made an effort to reach out to refugees who rarely came to the office.

Refugee women who were domestic workers were an important target group. They were often confined to the homes where they worked and were at high risk of exploitation. It was not easy to find or gather the women, but community-based organizations were able to help. The assessment revealed that because they rarely left the homes where they worked, refugee women in domestic labour lacked even basic information about their rights and available services.

UNHCR began to work with a Kenyan NGO that specialized in training domestic workers. The NGO ran a training centre providing women with training in cooking, cleaning and child care, along with literacy classes and rights awareness. The goal was to empower domestic workers with skills and information so that they could protect themselves.

UNHCR, the NGO and refugee community organizers are currently working together to mobilize refugee women to participate in the training programme, which has been adapted to suit the refugee communities and situated in their neighbourhood.

**Field practice:
Algeria**

Refugee women, who had fled from the disputed Western Sahara territory and were living in camps in southern Algeria, formed their own National Union of Sahrawi Women and assumed sole responsibility for local administrative structures in the absence of most adult men.

They ran campaigns informing other women of their rights and encouraging their participation in the political arena. They were in charge of reception, distribution of food and non-food items, running committees, schools and government bodies, sanitation and health projects.¹²

¹² UNHCR, "Refugee Women and Mainstreaming a Gender Equality Perspective", EC/51/SC/CRP.17, 30 May 2001, para. 26.

5.2 Nationality, civil status and family relations

Overview

Introduction

The principle of the equality of women and men in relation to nationality, civil status, and family relations is well established in international law.

Nevertheless, it is often in relation to these rights that discrimination against women and girls is most entrenched.

Such inequalities may be exacerbated during displacement and may create barriers to achieving or sustaining durable solutions.



Kyrgyzstan / A formerly stateless ethnic Tajik refugee receives a new passport for her family in Kyrgyzstan / UNHCR / J. Lunch / 2002

In this section

This section covers the following topics.

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5.2.1 Nationality

"Being said 'No' to by the country where I live, being said 'No' to by the country where I was born; being said 'No' to by the country where my parents are from; hearing 'You do not belong to us' continuously! I feel I am nobody and don't even know why I am living. Being stateless, you are always surrounded by a sense of worthlessness."

Lara, who was formerly stateless¹³

Introduction

Nationality is critical to full participation in society. Without status as nationals or citizens, women are deprived of the right to vote or to stand for public office and may be denied access to public benefits and a choice of residence.

An adult woman should be able to change her nationality. A woman's or girl's nationality should not be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality.¹⁴ Where women and girls face discrimination in such matters, this is a major cause of statelessness.

Purpose

Nationality and citizenship provide women and girls, men and boys, with a sense of identity. Although under international human rights law most human rights are to be enjoyed by everyone under the jurisdiction (effective control) of the State, there are some rights which are limited to nationals such as political rights. Perhaps more importantly, non-citizens, including stateless persons, often face practical obstacles to full enjoyment of their human rights, including recognition as a person before the law, and the rights to education, to work and to freedom of movement.

Summary of challenges

Some of the challenges women and girls face in securing and/or keeping their nationality, even in situations of displacement and/or return as well as more generally include:

- discrimination against girls and women in regard to birth registration and issuance of personal identity documents;
- renunciation or loss of nationality upon marrying nationals of another country;
- delays obtaining their husband's nationality; and
- inability to pass on their nationality to their children and associated custody issues in the event of divorce.

Note: Each of these challenges is discussed further below.

Challenge: Discrimination regarding birth registration and identity documents

Birth registration provides proof of *where* a person was born and *whom her or his parents are*. It is therefore a key process for determining who acquires nationality by virtue of birth on the territory (*jus soli* principle) or by descent (*jus sanguinis* principle).

Birth certificates and other personal identity documents are often necessary for enjoyment of a broad range of human rights including education and public sector employment. In some societies a common view is that girls will

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¹³ UNHCR/Inter-Parliamentary Union, *Nationality and Statelessness: A Handbook for Parliamentarians*, 2005, p. 6.

¹⁴ Committee on the Elimination of Discrimination Against Women, General Comment No. 21, Equality in marriage and family relations, 1994, para. 6.

5.2.1 Nationality, continued

Challenge:
Discrimination
regarding birth
registration and
identity documents
(continued)

not go to school and women will not work beyond the confines of the family and it is therefore not worth using time and money to register a girl's birth or obtain an identity document for an adult woman.

As a result, girls and women may face greater difficulties in proving their nationality, which puts them at greater risk of statelessness. Even if they are legally nationals, they may face obstacles in exercising the rights which are linked to nationality such as the right to vote, to obtain a passport and to travel abroad and return.

Challenge:
Marriage and
statelessness

In some countries, women who marry nationals of another country may be granted their husband's nationality. This, in turn, guarantees the right to family life, that is, the right of spouses to live together. In the case of refugee women, this can lead to local integration as a durable solution. In some countries, however, the nationality of the wife is dependant on that of her husband. As a result, even if a woman acquires her husband's nationality, she will automatically lose it if she is divorced or widowed and become stateless if she has not retained her previous nationality.

Similarly, when the national law of the woman's country of origin makes her nationality dependant on that of her husband, she may become stateless if she marries a man with a different nationality, since she will lose her own nationality if there are no safeguards against this, even if she has not yet acquired that of her husband.

In still other countries, stateless refugee and other women may face an increased risk of domestic violence or sexual abuse, if they seek to use marriage as an escape from the limbo of statelessness and marry men despite suspicions that they may be subject to such treatment.

Where refugees have become stateless, they may be prevented from exercising their right to return voluntarily to their country of origin, should they wish to do so in the future. Even if they are able to return, women who have lost their nationality may have difficulty gaining access to their housing, land property, as well as fundamental services. In the event of divorce, women may lose their husband's nationality and, having already lost their own, thus become stateless.

Challenge:
Statelessness
when applying for
naturalization;
delays obtaining
husband's
nationality

In many countries, when a woman (such as a refugee woman who marries in the country of asylum) marries a foreign man, she may be required by the national law of his country to renounce her old nationality before she can be naturalized in his country. This leads to statelessness during the intervening period or sometimes for much longer if the marriage ends before she is naturalized.

In other countries, women may not automatically lose or have to renounce their nationality when they marry men of another country, but they may have

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5.2.1 Nationality, continued

Statelessness when applying for naturalization; delays obtaining husband's nationality (continued)

to reside in the country for a specified period before being granted their husband's nationality through naturalization. This creates a legal limbo until they are able to secure the nationality of the country in which they reside. Where such women are economically, socially, culturally, and even linguistically dependent on their husbands, they may be vulnerable to violence and abuse.¹⁵

Challenge: Passing nationality on to children

Some women married to nationals of another country (such as refugee women married to men from the asylum country), cannot pass on their nationality to their children because discriminatory laws provide for nationality by descent based only on the father's nationality. In these cases, women may not be able to have custody of, or access to, their children if the marriage is terminated by divorce or death. Women in abusive relations may be forced to choose between staying with their husband or losing their children.¹⁶

In some situations, children may be left stateless, if they are unable to acquire the nationality of their father if he is stateless, if he is from a country which does not allow for transmission of nationality to his children born abroad, or if he is unable or unwilling to register them at a consulate.

Children born as a result of rape, whose father is unknown or a foreigner, may not have any nationality and thus no identity papers or access to other rights.

Other children may be unable to acquire the nationality of their mother or father, including if the latter is not known or does not acknowledge paternity, as is the case for mothers who are victims/survivors of rape. Such children may be prevented from repatriating with their mothers. Even if they can do so, they may not be able to go to school or access fundamental services because they are not considered to be nationals.

International legal standards and guidelines

Under Article 15 of the Universal Declaration of Human Rights "everyone has the right to a nationality" and "no one shall be arbitrarily deprived of his [or her] nationality nor denied the right to change his [or her] nationality".

Women and men have equal rights under international law to acquire, change or retain their nationality. CEDAW specifically affirms that States "shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband." The 1957 Convention on the Nationality of Married Women includes similar provisions.

Children also have the right to acquire a nationality.¹⁷ Women have the right on an equal basis with men to pass on their nationality to their children.¹⁸

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¹⁵ UN Division for the Advancement of Women, Department of Economic and Social Affairs, "Women, Nationality and Citizenship, *Women2000 and Beyond*, Department of Economic and Social Affairs, June 2003, <http://www.un.org/womenwatch/daw/public/w2000.html>.

¹⁶ Most legal systems that provide for nationality by descent accord the nationality of the father to his children, regardless of the nationality of his spouse. In many States, nationality through descent by the mother is conferred only where she is unmarried or the father is unknown or stateless. See UN Division for the Advancement of Women, Department of Economic and Social Affairs, "Women, Nationality and Citizenship", *Women2000 and Beyond*, June 2003, pp. 8–10.

¹⁷ ICCPR article 24 and CRC article 7.

¹⁸ CEDAW article 9(2).

5.2.1 Nationality, continued

International legal standards and guidelines (continued)

The Human Rights Committee has indicated that “States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he [or she] is born”.

The 1961 UN Convention on the Reduction of Statelessness, the African Charter on the Rights and Welfare of the Child, the American Convention on Human Rights and the European Convention on Nationality all establish that a child shall acquire the nationality of the State on whose territory she was born if she would otherwise be stateless.

The non-discrimination clauses of human rights treaties implicitly prohibit discrimination in the enjoyment of the right to acquire a nationality between children born in and out of wedlock. The Human Rights Committee has stated that discrimination with regard to the acquisition of nationality is not admissible between children born in and out of wedlock, those born of stateless parents or based on the nationality status of one or both of the parents.¹⁹

Responsibility

The rights mentioned above primarily create obligations for States regarding persons who are on their territory. When applying their nationality legislation States nevertheless also have duties to persons not on their territory. For example, they may not discriminate on the basis of gender with regard to acquisition of nationality by children born to their nationals abroad, e.g. by allowing for men to pass on their nationality to their children but not women.

There is now growing awareness that States are obliged to prevent and resolve problems of statelessness. Governments must acknowledge, formally and in practice, that they do not have the right to arbitrarily withdraw or withhold the benefits of citizenship from individuals who can demonstrate a genuine and effective link with the country.²⁰

Responsibility: UNHCR

UNHCR has a mandate from the UN General Assembly to help States prevent and reduce statelessness and to protect non-refugee stateless people. Article 11 of the 1961 Convention on the Reduction of Statelessness also empowers UNHCR to assist those affected and to examine their claims before presenting them to the State Party concerned. ExCom has provided detailed guidance on how to implement this mandate through a series of Conclusions on international protection.²¹

UNHCR therefore has an important role to play in preventing and reducing statelessness and protecting stateless persons, not only in situations of asylum, internal displacement and return, but also in relation to persons who have not been forcibly displaced. To these ends, UNHCR works closely with States, OHCHR, UNICEF, UNFPA, UNIFEM, UNDP, ILO, and NGOs.

Note: For more on providing birth and marriage registration and documentation to help prevent and avoid statelessness, see chapter 4, sections 2.2 and 2.3.

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¹⁹ ICCPR, Article 24; CEDAW, Article 9; CRC Article 7; Human Rights Committee, “General Comment No. 17”, 1989, paras. 7–8.

²⁰ UNHCR/Inter-Parliamentary Union, *Nationality and Statelessness: A Handbook for Parliamentarians*, 2005, p. 3.

²¹ See most notably ExCom Conclusions Nos. 78 (XLVI), 1995, and 106 (LVII), 2006.

5.2.1 Nationality, continued

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to promote equality in relation to nationality include:

Response	Actions
Coordinate	• Coordinate with the national office or ministry for gender, women, and family affairs, relevant UN agencies, NGOs, including women's rights organizations, and the displaced/returnee community involved. • UNICEF is a particularly important partner when it comes to registration and certification of births, since it has an important role to play in promoting this and supporting governments in establishing a birth registration programme for the general population. (See field practice example relating to Papua New Guinea in chapter 4, section 2.2.)
Assess, analyse and design	• Work with relevant ministries and other partners to identify discriminatory provisions in legislation relating to civil status and nationality and establish safeguards to prevent statelessness in cases of change of nationality. • Work with partners to identify particular groups that are at risk of becoming stateless or are at risk because they do not have a nationality. • Undertake participatory assessments with stateless women and girls to identify and analyse the particular protection risks they face. • Work with partners to establish programmes e.g. for the registration of births of refugee children born in exile and to address the causes and consequences of women's and girls' statelessness.
Intervene to protect	• Intervene with the authorities in individual cases to persuade them to grant nationality to girls and boys born on their territory who would otherwise be stateless. • Intervene with national authorities to grant residence (and readmission if necessary) of stateless women and girls who have a genuine and effective link with a country so that such individuals have somewhere to reside and are not at risk of <i>refoulement</i>. • Intervene with national authorities to ensure stateless women and girls can gain a nationality and are able to enjoy resulting rights.
Strengthen protection capacity of national bodies	• Work with relevant ministries and other partners to – analyse nationality laws and revise such legislation if it provides for automatic loss of citizenship when women or men marry non-nationals; – ensure that the restoration of nationality is facilitated or even automatic when someone has lost his/her nationality because of a change in his/her marital or other status; and – ensure that women, as well as men, can pass on their nationality to their children, regardless of whether the latter were born in or out of wedlock. • Advocate at high levels within UNHCR and with relevant ministries to persuade parliaments to revise discriminatory laws and to enact and/or enforce legislation that guarantees the equality of women and men in relation to nationality. • Train government officials to raise their awareness of State obligations regarding nationality and of problems that arise e.g. if women cannot pass on nationality to their children or lose their own nationality upon marriage.

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5.2.1 Nationality, continued

How to respond (continued)

Response	Actions
Strengthen community capacity to support solutions	• Use training sessions, communication networks and school classes to raise the awareness of women, girls, men, and boys about the equal rights of women and men in relation to civil status, including nationality. • Help empower women and girls to exercise and enjoy their rights in relation to civil status and family relations, including by improving birth registration, access to documentation and participation in citizenship campaigns. • Provide information on the consequences of marriage where women may be at risk of losing their nationality.
Monitor, report and evaluate	• Evaluate whether all relevant individuals have been included in programmes to identify stateless persons. • Ensure birth registration programmes facilitate registration of all children on the territory on an on-going basis. • Monitor and report on women's and girls' access to, and inclusion in, citizenship campaigns.

Field practice: Nepal	Following a peace accord in Nepal, a new Citizenship Law and Interim Constitution were adopted under which persons born in Nepal before April 1990 and resident there since that time were recognized as nationals. Previously, nationality had been transmitted only through descent (<i>jus sanguinis</i>). The law provides that a certificate is necessary in order to prove nationality and exercise a broad range of rights. These include registration of marriages, births and deaths, enrolment in higher education, property transactions, government employment, access to banks, registration of businesses and obtaining benefits for the internally displaced. The authorities undertook a massive citizenship campaign in which they distributed almost 2.6 million certificates in just four months in early 2007. When such campaigns are undertaken, people who historically have been subject to discrimination may be left out. In order to verify that all stateless persons in Nepal were able to benefit from the campaign, UNHCR conducted a series of monitoring missions in affected areas. The monitoring teams found that in some communities it was believed that women and girls did not need certificates because their interests were represented by their husbands or fathers and because men did not want to share rights to property. It was also found that, contrary to the law, some authorities required the cooperation of the husband or father when processing applications submitted by married women, women and girls. Such monitoring provided the basis for follow-up action by UNHCR and its partners with national and local authorities.

5.2.2 Marriage, civil status and family relations

A pained look crossed 11-year-old Madiha's face as she quietly told the story of her father's plans to marry her off – without her knowledge and against her wishes – to one of his friends, a man of 38. The man paid a bride price for Madiha, the eldest daughter of a Sudanese refugee family living in Mile camp in Eastern Chad. But in a rare move, Madiha's mother, who had been forced to marry at 11 and gave birth to Madiha three years later, stepped in to prevent the marriage.

Standing up to her husband came at a price, however, in a society where men do not listen to women, and women have little or no say in the future of their children. Despite the fact that Madiha's mother had just given birth to a baby boy, her husband beat her severely for refusing to let Madiha be married. After the intervention of UNHCR and CARE, Madiha's father eventually agreed to call off the marriage, but the bride price paid by the groom was long gone. Once more Madiha's mother took action and sold her jewellery to pay back the bride price.

Story of Madiha, 11-year-old refugee girl in Mile camp, Chad²²

Introduction

Women and girls can sometimes face serious challenges ensuring their right to equal rights vis-à-vis men and boys as regards their civil status – the right to a name, the registration of births, marriages, divorces, and deaths – as well as in their family relations. These problems are further exacerbated by the disruption caused by conflict and forced displacement.

Note: See chapter 4, section 2.3 for more on registration and certification of marriage and divorce as a tool to protect women and girls.

Purpose

Ensuring women and men enjoy equal rights in relation to marriage and family relations are integral to ensuring the protection of women and girls, not only in the domestic sphere, but also more broadly in terms of ensuring they can access other rights and services.

Summary of challenges

Some of the challenges faced by displaced and returnee women and girls in relation to marriage and civil status are outlined briefly below and include:

- child or early marriage;
- forced marriage;
- wife inheritance;
- polygamy; and
- divorce and custody.

Note: Each of these challenges is discussed further below.

Challenge: Child or early marriage

Child marriage or early marriage has been defined as “the union of two persons at least one of whom is under 18 years of age”.²³ It is common in many countries in the world and is also a serious problem in situations of displacement and return.

When resources are scarce, girls are married at earlier and earlier ages. Parents who consider their daughters to be burdens at home may regard them as assets to be sold to improve the family's welfare. The dowries

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²² This story is adapted from a UNHCR news article of 1 December 2005, at <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=438f07434>. Madiha is not the real name of the refugee girl.

²³ See Council of Europe, Parliamentary Assembly, Resolution 1468 (2005), forced marriages and child marriages, para. 7, at <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta05/eres1468.htm>; UNICEF, “Early Marriage: Child Spouses”, Innocenti Digest No. 7, 2001, at <http://www.unicef-icdc.org/publications/pdf/digest7e.pdf>, p. 2; and also <http://www.forwarduk.org.uk/key-issues/child-marriage>.

5.2.2 Marriage, civil status and family relations, continued

Child or early marriage (continued)

which parents receive for their daughters may be used to enable their sons to marry or simply for the family to survive.

Child or early marriage robs girls of their childhood and time to develop physically, emotionally, and psychologically. When girls are removed from their parents' home to live with their husbands and in-laws, this can cause great emotional stress for them²⁴ and generally also results in their removal from school.

Although girls may not be physically fully developed, they will be obliged to have intercourse with their husbands. Pregnancy at early ages can result in severe health risks, including obstructed labour, which may provoke fistulas²⁵ and maternal death. Girls who are married as children are at greater risk of domestic abuse and HIV/AIDS infection.²⁶

As OCHA/IRIN notes: "The leading cause of death for 15–19-year-old girls worldwide is complications from pregnancy and child-bearing. According to public health experts, for every girl that dies during pregnancy or childbirth, 30 more will suffer injuries, infections and disabilities. And the risks are not limited to the mother: if a girl is under the age of 18 when she gives birth, her baby's chance of dying in its first year of life is 60 per cent higher than a baby born to an older mother."²⁷

Challenge: forced marriage

Forced marriage has been defined as "the union of two persons at least one of whom has not given their full and free consent to the marriage".²⁸ Like child or early marriage, it is common in many countries in the world and is a serious problem in situations of displacement and return.

Decisions of some traditional dispute-resolution mechanisms may result in girls being forced into marriage to pay family debts or commitments. In some situations, girls who are raped are forced to marry the perpetrators of that crime. Abductions of girls for forced marriage can also be a problem.

Forced marriage has been recognized as a form of contemporary slavery, trafficking and sexual exploitation.²⁹

Child marriage can be seen as forced marriage "since children are, by definition, incapable of consent or of exercising the right of refusal ... and as such [it] violates fundamental human rights standards and must therefore be strictly prohibited".³⁰

Continued on next page

²⁴ OHCHR, Fact Sheet 23: Harmful Traditional Practices Affecting the Health of Women and Children, pp. 11–12.

²⁵ A fistula is a rupture of the tissue that results in an opening between the vagina and the bladder or the rectum, or both, which can only be repaired by surgery. It can result from pregnancy at too early an age and from rape. As most women and girls of concern do not have access to surgery, the impact on their lives is devastating. They become incontinent and are often isolated and marginalized by their families and communities. See also section 5.1 of this chapter on reproductive health.

²⁶ OCHA/IRIN, *Broken Bodies, Broken Dreams: Violence Against Women Exposed*, 2005, pp. 64–68.

²⁷ *Ibid.*, pp. 67–68.

²⁸ See Council of Europe, Parliamentary Assembly, Resolution 1468 (2005), forced marriages and child marriages, para. 4.

²⁹ "Report of the Working Group on Contemporary Forms of Slavery on its 28th Session", 27 June 2003, E/CN.4/Sub.2/2003/31; Report of the Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons, Especially Women and Children, Sigma Huda, "Implementation of General Assembly Resolution 60/251 of 15 March 2006", A/HRC/4/23, 24 Jan. 2007, para. 33.

³⁰ Report of the Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons, Especially Women and Children, Sigma Huda, "Implementation of General Assembly Resolution 60/251 of 15 March 2006", A/HRC/4/23, 24 Jan. 2007, para. 21. See also para. 28 of this report for examples of other kinds of forced marriage.

5.2.2 Marriage, civil status and family relations, continued

Challenge: Wife inheritance

Another form of forced marriage is the traditional practice known as “wife inheritance”. Under this practice, widows are forced to marry their husbands’ brothers or cousins in what is sometimes called a “ghost marriage” or risk losing custody of their children and/or title to housing, land and property, creating serious protection risks for women returning to their homes after displacement.³¹ The practice can also lead to increased risk of HIV and other infections.

“My husband threw me and our three children off the plot of land where we lived [in the camp]. He now lives on that plot with his girlfriend, and I have nowhere to stay with the children. I reported the case to the police, and they did nothing to help me. I also reported the case to UNHCR and suggested a plot and separate ration card. UNHCR has not yet responded to my requests. I made the requests four weeks ago.”

Burundian refugee woman, Tanzanian refugee camp³²

Challenge: Polygamy

Polygamy, a practice whereby a man has more than one wife, is common in a number of societies. When the social fabric of the community is ripped apart, as it is during displacement, the incidence of polygamy often increases. In some cases, single women may agree to become a man's second wife because they have no protection as a single woman. In others, husbands cease to support their wives and families during displacement and move from one family to the other, leaving their wives and children destitute. In some cases, children are required to follow their fathers, losing their right to be cared for by both parents, and risking abuse at the hands of second or third wives. In other cases, children remain with their mothers, but often do not see or receive support from their fathers.

“I was comfortable with my husband until six months after the marriage when he began hitting me. I tried to run away three times. The first time I went to my parents and my husband came and he pleaded with me to come back. I went but he began beating me after a month. The second time I went again to my parents. I stayed there for five months. My husband came armed and threatened my family if I did not return. My husband refused to let me come to my parent's home after that. Once he hit me [on] the head with a large stone.”

Afghan woman married 20 years ago at the age of 10³³

Challenge: Divorce and custody

Many women are trapped in violent and abusive marriages that they cannot leave. In some countries, women are not even permitted to apply for divorce and may risk violence or even death for trying to do so. Traditional practices and even national laws sometimes dictate that, in the event of separation or divorce, custody of the child is given to the father. As noted above, this practice may be reinforced by laws through which nationality by descent is passed on from the father. As a result, many women are faced with the choice of losing their children or remaining in abusive relationships. In other situations, divorced women may lose custody of their children if they decide to marry again.

Other challenges

In some societies, the place of girls and women is seen as being in the home rather than in school or, later in life, working outside the home.

Continued on next page

³¹ For more on this practice, see section 8 of this chapter below on housing, land, and property.

³² Human Rights Watch, “Seeking Protection: Addressing sexual and gender-based violence in Tanzania's refugee camps”, October 2000, at <http://www.hrw.org/reports/2000/tanzania/>, p. 69.

³³ Amnesty International, “Afghanistan: Women Still under Attack – A Systematic Failure to Protect”, 2005, p. 6.

5.2.2 Marriage, civil status and family relations, continued

Other challenges (continued)

In addition, individuals from certain groups without citizenship may be required to obtain “marriage permission” from the local authorities before their marriage and, if they do not do so, may risk lengthy prison terms, while any children born to them are not registered.

Alternatively, marriages lawfully concluded in exile may not be authorized upon return to the country of origin, with the result that children born from that marriage are not registered and are therefore unable to access other rights and services.

International legal standards and guidelines

Under international law, women and men have equal rights in marriage and family relations. These rights include the right to freely choose a spouse and to enter into marriage with free and full consent. Women and men have the same rights and responsibilities during marriage and its dissolution.³⁴ They also have the same rights and responsibilities as parents, regardless of their marital status, including equal rights to custody of their children. The best interests of the child must always be a primary consideration.³⁵

Children have the right to know and be cared for by both parents. They shall not be separated from their parents against their will, except when determined by competent authorities and subject to judicial review that such separation is necessary for the best interests of the child. Children who are separated from one or both parents have the right to maintain personal relations and direct contact with both parents, except if such relations and contact are contrary to their best interests.³⁶

International legal standards and guidelines: Child marriage

Child marriage is explicitly prohibited under international law and the marriage of a child shall have no legal effect.³⁷ Child marriage is considered to be a form of violence against girls.

International legal standards and guidelines: Polygamy

Polygamy violates the principles of equality of women and men in marriage. The Human Rights Committee has noted: “Polygamy violates the dignity of women. It is an inadmissible discrimination against women. Consequently, it should be definitely abolished wherever it continues to exist.”³⁸ The Committee on the Elimination of Discrimination against Women has affirmed that polygamy violates Article 5 of the 1979 Convention on the Elimination of Discrimination against Women (CEDAW), “contravenes a woman’s right to equality and can have serious emotional and financial consequences for her and her dependants”.³⁹

Continued on next page

³⁴ ICCPR Article 23; ICESCR, Article 10; CEDAW, Article 16 and the General Comments of the Committee on Human Rights and the General Recommendations of the Committee on the Elimination of Discrimination Against Women. While some States have entered broad reservations to CEDAW, seeking thereby to subject compliance with the treaty to the terms of their domestic legislation, others have objected to these reservations. See also chapter 4, section 2.3.

³⁵ CRC, Articles 3, 9.

³⁶ CRC, Articles 7, 9, and 10.

³⁷ CEDAW, Article 16(2), CRC, Article 24(3). Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages. As highlighted in this section, early or child marriage also results if further violations of the rights of children.

³⁸ Human Rights Committee, General Comment No. 28, para. 24.

³⁹ See CEDAW Committee, General Recommendation No. 21, Equality in Marriage and Family Relations, 1994, para. 14.

5.2.2 Marriage, civil status and family relations, continued

**International legal standards and guidelines:
Wife inheritance**

As the Human Rights Committee has noted: “Everyone has the right to be recognized everywhere as a person before the law. This implies that women may not be treated as objects to be given, together with the property of the deceased husband, to his family.”⁴⁰

**Responsibility:
Right to marry and
divorce freely**

States have a responsibility to register and certify marriages and divorces of everyone within their jurisdiction.⁴¹ As the Committee on the Elimination of Discrimination against Women has noted, the registration of all marriages, whether contracted civilly or according to custom or religious law, operates to “establish equality between partners, a minimum age for marriage, prohibition of bigamy and polygamy, and the protection of the rights of children”.⁴²

The 1962 UN Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages reaffirms: “All States ... should take all appropriate measures with a view to abolishing such customs, ancient laws and practices [relating to marriage and the family] by ensuring, *inter alia*, complete freedom in the choice of a spouse, eliminating completely child marriages and the betrothal of young girls before the age of puberty, establishing appropriate penalties where necessary and establishing a civil or other register in which all marriages will be recorded”.⁴³

As the Human Rights Committee has noted: “States have a responsibility to ensure equality [between women and men] in regard to the dissolution of marriage, which excludes the possibility of repudiation. Grounds for divorce and annulment should be the same for men and women, as well as decisions with regard to property distribution, alimony and the custody of children.”⁴⁴

**Responsibility:
Forced marriage**

In addition to the responsibilities outlined above, Article 1 of the 1956 Supplementary Convention on the Abolition of Slavery obliges States parties to abolish or abandon any institution or practice whereby:

- “(c)(i) a woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or
- (ii) the husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or
- (iii) a woman on the death of her husband is liable to be inherited by another person;
- (d) any institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour”.

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⁴⁰ Human Rights Committee, General Comment No. 28, equality of rights between men and women (Article 3), 2000, para. 19.

⁴¹ 1951 Refugee Convention, Articles 12 and 25; CEDAW, Article 16(2); Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, Article 3; Agenda for Protection, Goal 1, Objective 11; ExCom Conclusion No. 105 (LVII), 2006, para. (j)(iii). See also chapter 4, section 2.3 for more details.

⁴² Committee on the Elimination of Discrimination against Women, General Recommendation No. 21, equality in marriage and family relations, 1994, para. 39, referring to Article 16(2) of CEDAW.

⁴³ 1962 UN Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, preamble. See also Council of Europe, Parliamentary Assembly, Resolution 1468 (2005), para. 10, concurring with this provision.

⁴⁴ Human Rights Committee, General Comment No. 28, para. 26.

5.2.2 Marriage, civil status and family relations, continued

Responsibility: Child or early marriage

The principle of the best interests of the child entails a positive obligation upon States, including in the context of child marriage. Bearing in mind the serious health consequences of child marriage, States' responsibility to "take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children" is also relevant.⁴⁵

The 1990 African Charter on the Rights and Welfare of the Child obliges States parties to take "effective action, including legislation, ... to specify the minimum age of marriage to be eighteen years and make registration of all marriages in an official registry compulsory" (Article XXI(2)).

The Human Rights Committee has affirmed that States have a responsibility to set a minimum age for marriage on the basis of equal criteria for women and men and that these criteria should ensure women's capacity to make an informed and uncoerced decision.⁴⁶

ExCom has given UNHCR a responsibility, in conjunction with States, other relevant agencies and partners, to "take effective and appropriate measures ... to prevent and eliminate traditional practices that are harmful to children taking into account the physical and mental harm caused to the child, and the different impact on girls and boys".⁴⁷

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to promote equality in relation to marriage, civil status and family relations include:

Response	Actions
Coordinate	• Coordinate with the national office/ministry for gender, women, and family affairs, relevant UN agencies, and NGOs, including women's rights organizations.
Assess, analyse and design	• Work with partners, including relevant ministries, social services, other UN agencies, other international and non-governmental organizations, using participatory assessments with displaced and host communities to establish a system that identifies women and girls at risk of protection problems because of inequalities in their family relations and civil status, focusing on girls and women at risk of early or forced marriage, women trapped in systematically abusive marriages, and on problems associated with polygamous relations. • Work with partners to identify discriminatory provisions in legislation relating to civil status, including nationality, marriage, divorce, and custody. • Work with partners, including the government and displaced and returnee communities, to identify and analyse the causes of practices that violate the rights of women and girls, including polygamy and child or early and/or forced marriage. Identify male and female leaders who can be agents of change and develop with them a strategy to end such practices. • Identify and build relations with key individuals in the community who can identify those who are at risk.

Continued on next page

⁴⁵ CRC, Article 24(3). See, Report of the Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons, Especially Women and Children, Sigma Huda, "Implementation of General Assembly Resolution 60/251 of 15 March 2006", A/HRC/4/23, 24 Jan. 2007, para. 21.

⁴⁶ Human Rights Committee, General Comment No. 28, para. 23. See also Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, Art. 2.

⁴⁷ ExCom Conclusion No. 107 (LVIII), 2007, children at risk, para. (h)(vii)

5.2.2 Marriage, civil status and family relations, continued

How to respond (continued)

Response	Actions
Intervene to protect	• Support women of concern seeking divorce from abusive husbands, by – informing them of their rights under the law of the country of asylum; – working with lawyers and NGOs to secure their access to courts where needed; – in situations where divorce is not allowed under traditional justice mechanisms, advocating on behalf of such women so that they are able to leave abusive marriages; and – supporting such women to secure divorce as well as custody of, or at least access to, any children. • Where a case of child or early or forced marriage comes to our attention, work with national authorities and community leaders to prevent it and, if this fails, ensure that a best interests determination is made and appropriate action taken. • Support families wishing to protect their daughters from child/early marriage and/or forced marriage and work with the community to ensure their protection.
Strengthen national capacity	• Advocate at high levels with relevant ministries to revise discriminatory laws and to enact and/or enforce legislation that promotes the equality of women and men in relation to civil status, including marriage, divorce, and custody. • Work with government ministries, policy makers, politicians, academics, lawyers, the media, religious leaders, and others in civil society to raise awareness of the health, educational and other problems faced by married girls and to prevent or discourage early and/or forced marriage. • Work with relevant ministries to ensure that national law provides for the recognition of the civil status of returning refugees and changes thereto, including as a result of births, deaths, adoptions, marriage and divorce, as well as for recognition of documentation or registration proving that status, which has been issued by the competent bodies in the country of asylum or elsewhere. Ensure this legislation takes into account the special situation of returning refugee women and girls who may not have documentation proving their civil status or who may face difficulties securing recognition of documentation issued by the authorities of the country of asylum.⁴⁸
Strengthen community capacity to support solutions	• Work with community members to develop mediation and counselling mechanisms that respect confidentiality and the equal rights of women and men in marriage, divorce, and custody proceedings. • Use training sessions, communication networks and school classes to raise the awareness of women, girls, men, and boys about the equal rights of women and men in relation to civil status, marriage, and family relations. • Work with community judicial officials to change traditional justice systems to allow women to divorce, particularly in abusive or violent relationships. • Work with communities to understand and address the health risks associated with under-age marriage, including teenage pregnancy and obstetric fistula. • Ensure that awareness-raising initiatives regarding the health, educational and other problems faced by girls married as children reach both unmarried and married girls, so that the latter are better able to gain access to reproductive healthcare, stay or return to school, and are better equipped to adopt strategies to protect themselves, for instance, if they fear their husband may be infected or could be exposed to HIV.

Continued on next page

⁴⁸ See ExCom Conclusion No. 101 (LV), 2004, para. (I).

5.2.2 Marriage, civil status and family relations, continued

How to respond (continued)

Response	Actions
Strengthen community capacity to support solutions, contd	• Help empower women and girls to exercise and enjoy their rights in relation to civil status and family relations, including by ensuring individual registration and access to documentation and by initiatives to support girls continuing education (see also chapter 4, section 2.3).
Monitor, report and evaluate	• Monitor the systems established to identify women and girls at risk, e.g. of repeated domestic violence due to inability to divorce, or of early or forced marriage, to ensure that they enable action to be taken to address these risks and problems and include ongoing monitoring of these actions and the situation of the women and girls concerned.

5.3 Personal liberty and security

Overview

Introduction

Everyone who is displaced is likely to find their right to personal liberty and security violated, perhaps in numerous ways.

Although all displaced persons and returnees are at risk of becoming victims of sexual and gender-based violence (SGBV), smuggling, trafficking, and abduction, women and girls are most frequently targeted.

They, along with men and boys, may also have their right to freedom of movement violated and may be forcibly recruited into armed groups.

Liberia / The need to collect firewood puts displaced women and adolescent girls at risk of sexual and gender-based violence when they leave camps and settlements to search for fuel / UNHCR / L. Taylor / 1993



In this section

This section covers the following topics.

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5.3.1 Sexual and gender-based violence (SGBV)

Overview

Introduction

Sexual and gender-based violence (SGBV) remains the most widespread and serious protection problem facing women and girls of concern. As highlighted throughout this Handbook, when women and girls are unable to enjoy other rights, the risk of exposure to SGBV increases.

Purpose

This section outlines some of the challenges we face when seeking to tackle SGBV in our work. It then sets out applicable legal standards, guidelines, and responsibilities, and suggests how to respond to and prevent SGBV.

Other resources

This Handbook does not seek to duplicate the wealth of existing information on this core protection concern but rather to summarize it briefly. Clear policy and practical guidance on prevention and response using an inter-agency, multi-sectoral approach is, for instance, provided in:

- UNHCR Policy on Harmful Traditional Practices (1997)⁴⁹
- IASC Plan of Action on Protection from Sexual Exploitation and Abuse in Humanitarian Crises (2002)⁵⁰
- UNHCR Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response (2003)⁵¹
- Secretary-General's Bulletin on Special Measures for Protection from Sexual Exploitation and Sexual Abuse (2003)⁵²
- IASC Statement of Commitment on Action to Address Gender-based Violence in Emergencies (2004)⁵³
- IASC Guidelines for Gender-based Violence Interventions in Humanitarian Settings (September 2005)⁵⁴
- UNHCR Standard Operating Procedures for Prevention of and Response to SGBV (July 2006)⁵⁵
- Building Safer Organizations and International Council of Voluntary Agencies, Guidelines and Handbook on receiving and investigating allegations of abuse and exploitation by humanitarian workers⁵⁶

In this section

This section covers the following topics.

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⁴⁹ UNHCR/IOM/83/1997, UNHCR/FOM/90/1997, 19 December 1997.

⁵⁰ See "Report of the Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises", 13 June 2002.

⁵¹ See <http://www.unhcr.org/protect/PROTECTION/3f696bcc4.pdf>. These build on earlier guidelines issued in 1991.

⁵² Secretary-General, "Bulletin on Special Measures for Protection from Sexual Exploitation and Sexual Abuse", ST/SGB/2003/13, 9 October 2003, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=451bb6764>.

⁵³ "Action to Address Gender Based Violence in Emergencies: IASC Statement of Commitment", 22 December 2004.

⁵⁴ See <http://www.unhcr.org/protect/PROTECTION/453492294.pdf>.

⁵⁵ See UNHCR/IOM/62/2006 UNHCR/FOM/62/2006, 28 July 2006.

⁵⁶ For both the Guidelines (42 pages) and Handbook (395 pages) containing training materials, see <http://www.icva.ch/doc00001412.html>.

5.3.1.1 SGBV challenges

"If they [raped women] come home, they would be better off shooting themselves. If anyone laid a hand on them they'd be written off for good here in Chechnya. It's a kind of law. A sullied daughter is worse than a dead one to her father. It's a terrible disgrace. She'll never get married and no one will say a kind word to her, even though it's not her own fault she was dishonoured."

Woman displaced within the Russian Federation⁵⁷

Introduction

Sexual and gender-based violence (SGBV) refers to violence that is directed against a person on the basis of her or his gender or sex. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion, and other deprivations of liberty, whether occurring in public or in private life.⁵⁸ While women, men, boys, and girls can all be victims of gender-based violence, women and girls are the main victims.

This section examines the root causes and consequences of SGBV and outlines a number of key risks and challenges faced by women and girls of concern. Section 3.1.2 of this chapter which follows describes how to respond to and prevent SGBV.

Root causes and risk factors

Gender inequality and discrimination are the root causes of SGBV. Such violence may result from discriminatory legislation or persecution by the authorities, from circumstances such as conflict, or from prevailing societal norms and practices, which may discriminate against or persecute particular groups in that society or discriminate against or persecute individuals who oppose norms which violate their rights.

Young girls are especially at risk; nearly 50 per cent of all sexual assaults worldwide are against girls aged 15 years or younger.⁵⁹

Displacement increases the risks to which women and girls are exposed at the hands of armed groups, the host community, other displaced persons, smugglers and/or traffickers. Disability also increases the risk of SGBV. Some UNHCR offices have, for instance, reported higher numbers of women with speech and hearing difficulties among reported rape cases.

Perpetrators of SGBV

Perpetrators regularly go unpunished, especially in situations of armed conflict. Sometimes, they are the very people upon whom the person concerned depends to assist and protect them. They may include not only the guardians or foster parents of unaccompanied and separated children, but also humanitarian workers and peacekeepers.

The sexual exploitation scandals of the early 2000s involving humanitarian workers in refugee camps in West Africa and Nepal raised awareness of this problem. As a result, the Secretary-General issued a Bulletin on special measures for protection from sexual exploitation and sexual abuse.⁶⁰

Continued on next page

⁵⁷ Commission on Human Rights, "Report of the Special Rapporteur on violence against women its causes and consequences, Yakin Ertürk, Mission to the Russian Federation", E/CN.4/2006/61/Add.2, 26 January 2006, para. 58.

⁵⁸ This definition is based on the 1993 Declaration on the Elimination of Violence against Women. See also Chapter 6, section 2.1.

⁵⁹ See http://www.unfpa.org/swp/2005/presskit/factsheets/facts_adolescents.htm. More detail on factors which may put women and girls at risk is provided in Chapter 3, section 1.

⁶⁰ Secretary-General, "Bulletin on Special Measures for Protection from Sexual Exploitation and Sexual Abuse", ST/SGB/2003/13, 9 October 2003, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=451bb6764>.

5.3.1.1 SGBV challenges, continued

Consequences of SGBV

The consequences of SGBV are devastating and can lead to a whole range of further rights violations. Women and girls exposed to SGBV face possible death, including from HIV/AIDS, or acute and chronic physical injury,⁶¹ reproductive health problems, emotional and psychological trauma, stigmatization, rejection, isolation, increased gender inequality, and further exposure to other forms of SGBV.⁶²

Securing redress is often very difficult. Women and girls who have been raped may be treated as criminals. In Darfur, Sudan, for instance, some women and girls who have been raped have been imprisoned and fined by police for “illegal pregnancy”.⁶³ In camps, traditional dispute-resolution systems generally do not provide adequate redress to women and girls.⁶⁴

Summary of challenges

Particular risks and challenges in relation to protecting women and girls from SGBV arise in the following situations:

- during war and flight from conflict zones;
- during displacement and upon return;
- when seeking to access water and fuel;
- because of unsafe work and/or school conditions in urban and rural settings;
- in the domestic environment; and
- resulting from harmful practices violating the rights of women and girls.

“At 13, I was raped by four men because I couldn’t run away. My daughter is the result. I count myself lucky because I didn’t catch AIDS. ... AIDS doesn’t know that you are different. ... I think the people [carrying out attacks on women] are mentally ill. In my condition someone can take advantage of me and I feel bad. That’s why it is important to talk against it.”

Fatouma, a 22-year-old refugee disabled by polio⁶⁵

Challenge: Conflict situations

Rape and other forms of SGBV may provoke flight, especially when such violence is used as a weapon of war, including in the context of ethnic cleansing. Too often, attacks “are not random acts of violence in the theatre of war but a deliberate attempt to dehumanize and destroy entire communities”.⁶⁶ SGBV may also be perpetrated during flight at the hands of bandits, traffickers, border guards, and other individuals in authority.

Disability and age are factors increasing the risk of such attacks.

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⁶¹ One such example is the medical condition of fistula, which occurs when the wall between the vagina and the bladder or bowel is ruptured during obstructed labour. Severe pain and chronic incontinence ensue. Fistula is found where health infrastructure and childbirth care are poor, and is common in girls subject to early marriage. It can also be caused by rape. Surgery can repair the injury, but several operations may be required if the case is severe. When fistula results from rape, survivors are routinely rejected and ostracized by their husbands, parents, and communities.

⁶² UNHCR, *Sexual and Gender-based Violence against Refugees, Returnees, and Internally Displaced Persons: Guidelines for Prevention and Response*, May 2003, pp. 23–24.

⁶³ Médecins sans Frontières, “The Crushing Burden of Rape: Sexual Violence in Darfur”, 8 March 2005, p. 6.

⁶⁴ For more on this issue, see section 4.3 of this chapter.

⁶⁵ UNHCR, “Harmony Centre Leads 16 Days of Activism Campaign in Ghana Camp”, 7 December 2006, at <http://www.unhcr.org/news/NEWS/457838f54.html>.

⁶⁶ “Report of the Secretary-General on the Protection of Civilians in Armed Conflict”, S/2007/643, 28 October 2007, para. 45.

5.3.1.1 SGBV challenges, continued

"People are drunk and fighting. Everything is different from home. My father hits my mother and drunken people destroy light bulbs and buildings."

Girl, 14, in transit centre for internally displaced persons, Sri Lanka⁶⁷

**Challenge:
During and after
displacement**

Rape and other forms of SGBV may continue during displacement, where prior exposure often leads to continuing problems, including further violence. This is particularly true if camps are raided by militia and during protracted displacement. Consultations with the refugee communities in Bangladesh, for instance, highlighted that wives and daughters of men in prison, including on false premises, were at particular risk of being raped by police, "mahjees" (refugees designated by government officials to administer justice) or local villagers.⁶⁸

When women and girls return, they may be attacked or abused during the journey or afterwards, especially if peace is tenuous.⁶⁹

**Challenge:
Accessing fuel and
water**

Displaced women and girls run the risk of rape, harassment and other forms of violence every time they leave camps to collect firewood and water.⁷⁰ Sometimes, they are at risk merely by setting foot outside the camp. In other situations, relative risk may depend on the current state of relations between the displaced community and the local community, government or security forces. Relative risk may decline over time or may increase.

Cooking fuel is traditionally seen by both displaced communities and humanitarian organizations as a "women's" issue, since it is a part of the cooking process and the task of collection falls almost exclusively to women and girls. Displaced women and girls are often at their most vulnerable when gathering fuel, often alone, in remote environments outside the camps.

**Challenge:
Urban and rural
settings**

In urban and rural settings, displaced women and girls may be sexually harassed or abused when looking for employment and/or if they are obliged to work in unsafe conditions. Girls may also face violence at school. Women and girls may be harassed or attacked on their way from or to their homes by members of the displaced or the host community.

The often uncertain status of displaced and stateless women and girls leaves them more vulnerable to violence, including forced prostitution, especially if they are not officially permitted to work and cannot otherwise meet their basic needs and those of their families. Too often, UNHCR is not aware of these kinds of incidents and generally has limited resources and capacity to monitor and provide protection.

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⁶⁷ Machel Study 10-year Strategic Review, UNICEF, Global Youth Action Network, UNFPA, Women's Commission for Refugee Women and Children, "Will you Listen?" Young Voices from Conflict Zones", October 2007, p. 4.

⁶⁸ See field practice example in this chapter below in section 3.3 and UNHCR, *Refugee Consultations Bangladesh*, March 2007, pp. 20–24, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=46f0ec002>.

⁶⁹ For a more detailed listing, see UNHCR, *Sexual and Gender-based Violence against Refugees, Returnees, and Internally Displaced Persons: Guidelines for Prevention and Response*, May 2003, p. 20.

⁷⁰ Adapted from Women's Commission for Refugee Women and Children, *Beyond Firewood: Fuel Alternatives and Protection Strategies for Displaced Women and Girls*, March 2006, at <http://www.womenscommission.org/pdf/fuel.pdf>. See also, section 7.1 of this chapter below on livelihoods and food security.

5.3.1.1 SGBV challenges, continued

"G., a 22-year-old Burundian woman, married a Rwandese man in Burundi and had two children with him. They came together to Dzaleka in 2002, their first refugee camp. G.'s husband beats her many times a week and is also verbally and emotionally abusive... G.'s husband did not beat her in Burundi because her family was there to defend her. Now, without her family around, he beats her without restraint. G.'s neighbours have counselled the couple three times, but his behaviour still has not changed. G. attributes this to the fact that the neighbours' scoldings do not have any meaning for him."

Interview with refugee woman in Dzaleka refugee camp, Malawi⁷¹

Challenge: Domestic violence

The dangers and uncertainties of displacement place great strain on families and communities. These can, in turn, provoke domestic violence, in both camps and urban settings. High levels of violence can result from flight from conflict, disruption of social structures, men's loss of their traditional roles, cultural traditions, poverty, frustration, alcohol and drug abuse, and lack of respect for human rights. They are all factors contributing to the domestic violence that is inflicted upon women and children of concern.

Sexual abuse, including incest, and promiscuity can be significant problems, especially in long-term camp situations when accommodation is too small and/or does not provide adequate privacy. It can also be the case in urban environments, where displaced families and individuals live in inadequate accommodation. Such behaviour heightens the risk of sexually transmitted diseases, including HIV/AIDS, and their consequences.

Women and girls may feel obliged to stay in violent and abusive relationships because they see no other way of surviving independently, because there is social or religious pressure to remain in a family, or because divorce is not permitted under traditional justice systems.

Domestic violence is rarely reported and generally remains hidden. It is often regarded as a private matter, including by UNHCR, NGOs, and community members. This makes it more difficult to intervene on behalf of the women and children concerned.

"I lived in Freetown in Sierra Leone. I had a happy childhood... The only difficult thing I had to face was that my aunts used to come from the village to see my father and tell him it was time for me to join the secret society. That meant that it was time for me to be cut, to be circumcised. My father ... didn't want me to go, he said, it's evil. ... He protected me and said I didn't have to do it. But then the war came, and I lost my father and mother and my brothers. I was taken by a soldier into the bush, to be his sex-partner. He would rape me whenever he wanted. These soldiers were terrible. I saw many things that no one should have to see. Then, after the war my uncle came from America, looking to find what had happened to us all. I was the only one of my family left in Freetown. I couldn't stay in Freetown because everyone knew I had been taken to the bush by Timboy but I couldn't go back to the village, because I didn't want to be circumcised. I knew I didn't want to do it because I have heard how it is done – they don't even sterilize the knife and the girls bleed a lot and sometimes they die. The government has tried to stop it, I know, but they had to back down because all the people protested. So if a family member wants to do it there is no one to stop them. So my uncle helped me to get to England. ... I am 18 now and I am going to college. I want to be a social worker to help other people."

Esther, Sierra Leonean who fled to the United Kingdom and was recognized as a refugee⁷²

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⁷¹ Sharon Carlson, "Contesting and Enforcing Patriarchy: An Analysis of Domestic Violence in the Dzaleka Refugee Camp", RSC Working Paper No. 23, March 2005, p. 34.

⁷² See http://www.refugeewomen.com/real_lives.php. For the House of Lords judgment in this case see *Secretary of State for the Home Department (Respondent) v. K (FC) (Appellant) and Fornah (Appellant) v. Secretary of State for the Home Department (Respondent)*, United Kingdom House of Lords, October 2006, at <http://www.unhcr.org/home/RSDLEGAL/4550a9502.pdf> and for UNHCR submission in the case, which outlines the practice in other States, see <http://www.unhcr.org/home/RSDLEGAL/45631a0f4.pdf>.

5.3.1.1 SGBV challenges, continued

Challenge:
Harmful practices

When communities flee, they bring with them their customs and traditions. Among these are harmful practices, such as female genital mutilation (FGM), early or forced marriage, killing and maiming in the name of honour, infanticide and/or neglect, and denial of education for girls or women.⁷³

With regard to FGM, girls sometimes as young as five or six may be subject to FGM. The practice can have severe health consequences for the girls concerned and can result in death. FGM reinforces the subordination of girls and women in the communities where it is practiced. Older women sometimes play a driving role in perpetuating the practice. When conflict and displacement have disrupted the practice of FGM, it may be carried out on adult women once they return.

While often viewed as a cultural tradition that should be respected, these harmful practices are human rights violations. Sometimes, such practices are permitted under national laws.⁷⁴ Even if they have been banned in law, there may be few, if any, prosecutions.

Such practices may be the very reason why women and girls flee and may constitute grounds for refugee status, as some countries have recognized, including in the Sierra Leonean example above. During displacement, these practices are not reduced and may even be exacerbated.

Note: The section which follows provides more information on how to respond to these challenges faced by women and girls.

⁷³ The 1997 WHO, UNICEF and UNFPA "Joint Statement on Female Genital Mutilation" defines FGM as "all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs whether for cultural or other non-therapeutic reasons". Resources on FGM published by WHO are available at <http://www.who.int/reproductive-health/publications/fgm.html>. As of late 2007, a new Inter-Agency Statement on the Elimination of Female Genital Mutilation including suggestions for action was shortly to be released. On harmful traditional practices generally, see UNHCR, *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response*, 2003, p. 18.

⁷⁴ Under Article 4 of the 1993 Declaration on the Elimination of Violence against Women, States should condemn violence against women and should not invoke any custom, tradition or religious considerations to avoid their obligations with respect to its elimination. See chapter 2, section 2 for more on cultural relativism and chapter 6, section 2.1 for more on the Declaration.

5.3.1.2 Responding to and preventing SGBV

"Here in the camp, we have protection. You can report if your husband beats you and you can stay in a safe haven. But when we go back to Sudan, there is no one we can report to."

Sudanese refugee women, Kakuma camp, Kenya

"Recognizing that sexual and gender-based violence continues to be a severe impediment to the advancement of women and the enjoyment of their rights, UNHCR commits to developing integrated country-level strategies to address it."

Third of UNHCR's Five Commitments to Refugee Women

Introduction

Preventing and responding to SGBV are integral parts of UNHCR's strategy to enhance the protection of women and girls. Building on the analysis of the challenges faced on this issue set out in the previous topic, this topic briefly outlines applicable legal standard and guidelines, the responsibilities of States, UN agencies, UNHCR and staff, and makes suggestions on how to respond to and prevent SGBV in its various manifestations.

International legal standards and guidelines

Sexual and gender-based violence impairs or nullifies women's and girls' enjoyment of human rights and fundamental freedoms and constitutes discrimination. These rights and freedoms include the right to:

- life, liberty and security of the person;
- freedom from torture, or cruel, inhuman or degrading treatment or punishment;
- freedom of movement, opinion, expression and association;
- enter into marriage with free and full consent and the entitlement to equal rights to marriage, during marriage and at its dissolution;
- equality, including to equal protection under the law, not least (under international humanitarian law) in time of war;
- human dignity and physical integrity;
- be free from all forms of discrimination;
- equality in the family;
- the highest attainable standard of physical and mental health; and
- just and favourable conditions of work.⁷⁵

International humanitarian law prohibits rape, enforced prostitution and any form of indecent assault. International criminal law defines "Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity" as a "crime against humanity" when committed "as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack" and as a "war crime" when committed individually during international and non-international armed conflicts.⁷⁶

Information on the many sources of guidance provided by UNHCR, IASC and others is listed at the start of section 3 of this chapter.

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⁷⁵ See Committee on the Elimination of Discrimination against Women, General Recommendation No. 19, Violence against Women, 1992, para. 7, and Declaration of the Elimination of Violence against Women, GA resolution 48/104, 20 Dec. 1993, Article 3; UNHCR, *Sexual and Gender-based Violence against Refugees, Returnees, and Internally Displaced Persons: Guidelines for Prevention and Response*, May 2003, p. 8.

⁷⁶ See Statute of the International Criminal Court, Articles 7(1)(g); 8 (2)(b)(xxii) and 8(2)(d)(vi) respectively.

5.3.1.2 Responding to and preventing SGBV, continued

**Responsibility:
States**

Governments are required to respect the right to life, the right to physical and mental integrity, and to freedom from torture, inhuman or degrading treatment or punishment, collective punishment, reprisals etc of everyone within their jurisdiction. This includes the responsibility to protect against, and provide remedies for, acts of violence against women and girls.

Under international humanitarian and international criminal law, States have an obligation to search for and prosecute persons suspected of war crimes and crimes against humanity. This includes crimes in relation to rape and other forms of sexual violence.⁷⁷

A number of Executive Committee Conclusions and the Agenda for Protection have also highlighted the need for States and UNHCR to take action to prevent and respond to SGBV.⁷⁸

**Responsibility:
Regarding
traditional
practices**

States parties to the Convention on the Rights of the Child are obliged to take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children (Article 24(3)). ExCom calls on States and relevant parties to take effective and appropriate measures to prevent and eliminate traditional practices harmful to children.⁷⁹

The Declaration on the Elimination of Violence against Women affirms: “States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination.” Rather “women’s right to live a life free of gender-based violence has primacy”.⁸⁰

This means, as the Special Rapporteur on violence against women writes, that States “may not deny, trivialize or otherwise play down the harm caused by such violence by referring to these notions [of custom, tradition or religion]. Instead, States are expressly required to condemn such violence, which entails denouncing any cultural discourse put forward to justify it. For this reason, senior government officials who remain silent when significant sectors of their own population justify certain types of violence against women with reference to culture incur responsibility for a human rights violation. States also have to take active measures to eradicate violence against women committed with reference to culture that go beyond merely criminalizing and prosecuting the violence itself. Instead, they have to identify those aspects of a given culture which are linked to the violent practice and are required to develop a comprehensive strategy to transform those aspects.”⁸¹

The General Assembly has also affirmed: “Governments should give priority to developing programmes and policies that foster norms and attitudes of zero tolerance for harmful and discriminatory attitudes, including son preference, which can result in harmful and unethical practices such as prenatal sex selection, discrimination and violence against the girl child and

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⁷⁷ “Report of the Secretary-General on the Protection of Civilians in Armed Conflict”, S/2007/643, 28 October 2007, para. 49.

⁷⁸ See, for example, ExCom Conclusions Nos. 39 (XXXVI), 1985; 73 (XLIV), 1993; 85 (XLIX), 1998; 98 (LIV), 2003; 99 (LV), 2004, and Goal 4, Objective 4 of the Agenda for Protection.

⁷⁹ ExCom Conclusions Nos. 84 (LXVIII), 1997, para. (a)(v) and 107 (LVIII), 2007, para. (h)(vii).

⁸⁰ Special Rapporteur on Violence against Women, its Causes and Consequences, Yakin Ertürk, “Intersections between Culture and Violence against Women”, A/HRC/4/434, 17 January 2007, para. 30.

⁸¹ Ibid., paras. 30–31.

5.3.1.2 Responding to and preventing SGBV, Continued

**Responsibility:
Regarding
traditional
practices
(continued)**

all forms of violence against women, including female genital cutting, rape, incest, trafficking, sexual violence and exploitation. This entails developing an integrated approach that addresses the need for widespread social, cultural and economic change, in addition to legal reforms.”⁸²

**Responsibility:
During conflict**

In times of conflict, all parties are obliged under international humanitarian law to protect the civilian population and individual civilians “against dangers arising from military operations”, to ensure they are not “the object of attack” and to treat civilians “humanely in all circumstances”.

All parties are also responsible for ensuring that women and children are “the object of special respect” and are “protected against rape, forced prostitution and any other form of indecent assault”. This applies in both camp and non-camp settings.⁸³ It is well established that sexual violence falls within the prohibitions of cruel treatment or torture in the Geneva Conventions.⁸⁴

**Responsibility:
UN agencies**

The 1993 Declaration on the Elimination of Violence against Women affirms: “The organs and specialized agencies of the United Nations system should, within their respective fields of competence, contribute to the recognition and realization of the rights and principles set forth in the present Declaration.”

UN agencies, including UNHCR, have a responsibility under Security Council resolution 1325 (2000) on women, peace and security to take action to implement this resolution under the Secretary-General’s 2005 Action Plan.⁸⁵ They also have a responsibility under Security Council resolution 1612 (2005) to cooperate to establish a monitoring and reporting mechanism on violations and abuses committed against children affected by armed conflict.⁸⁶

Recognizing that the question of fuel is a multi-faceted problem that requires a multi-sectoral and inter-agency approach, an IASC Taskforce on Safe Access to Firewood and Alternative Energy in Humanitarian Settings was formed in March 2007. It is co-chaired by UNHCR, WFP and the Women’s Commission on Refugee Women and Children.

**Responsibility:
UNHCR**

UNHCR’s responsibilities as regards SGBV and its approach to the prevention and response to such violence are situated within the wider framework of gender equality mainstreaming and empowerment. The development of “integrated country-level strategies to address sexual violence, including domestic violence, against refugee women” is also one of UNHCR’s Five Commitments to Refugee Women.⁸⁷

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⁸² UNGA resolution S-21/2, “Key Actions for further Implementation of the Programme of Action of the International Conference on Population and Development”, A/RES/S-21/2, 8 November 1999, para. 48.

⁸³ 1949 IV Geneva Convention relative to the Protection of Civilians in Time of War, Article 27; 1977 Protocol No. 1 additional to the 1949 Geneva Convention, Articles 50, 51, 75, 76 and 77.

⁸⁴ See generally also, IASC, *Women, Girls, Boys and Men: Different Needs – Equal Opportunities*, December 2006, pp. 9–20.

⁸⁵ See chapter 6, section 2.3 for more the Action Plan.

⁸⁶ See below, section 3.4 of this chapter, for more on the use of children in armed conflict and chapter 6, section 2.4 for more on this and other relevant Security Council resolutions.

⁸⁷ See this handbook, chapter 1, section 1.3 “Promoting gender equality to protect women and girls”.

5.3.1.2 Responding to and preventing SGBV, Continued

Responsibility:
UNHCR (continued)

Effective action to prevent and respond to SGBV is mandatory if UNHCR is to fulfil its protection mandate. It must be incorporated into the early stages of emergency preparedness and integrated into country programmes. UNHCR's work often puts staff in positions of power vis-à-vis persons of concern. Staff have an obligation not to abuse this power.⁸⁸

With regard to harmful practices, UNHCR has a responsibility to work to prevent and eliminate them at the community level and to protect the individual women or girls concerned. The Office's policy on this issue clearly states: "UNHCR's concern with harmful traditional practices is an integral part of its protection responsibility for persons under its mandate." It further affirms that "a harmful traditional practice that violates the individual rights of refugees will normally require the intervention of UNHCR."⁸⁹ International legal standards must guide our work in this respect.⁹⁰

**UNHCR's
responsibility in
different settings**

UNHCR's responsibilities in different settings are set out below:

If...	Then UNHCR...
In refugee settings	is the coordinating agency for SGBV in collaboration with a lead SGBV NGO and a number of multi-sectoral actors.
In IDP settings where no actions to prevent and respond to SGBV have been taken	should take the lead in coordinating and establishing activities to address SGBV as part of its core mandate.
There is already a coordinating agency, as for instance in situations of internal displacement where UNFPA is the cluster lead	shall participate in and support the inter-agency response and prevention mechanisms.

Responsibility:
**UN and UNHCR
staff**

The Secretary-General's Bulletin "Special measures for protection from sexual exploitation and sexual abuse" (ST/SGB/2003/13) of October 2003 applies to all staff of the UN, including UNHCR staff and UN forces conducting operations under UN command and control.

We are obliged not to commit acts of sexual exploitation or sexual abuse and are responsible for creating and maintaining an environment that prevents sexual exploitation and sexual abuse. All UN staff have a particular duty of care towards women and children and must report concerns or suspicions regarding sexual exploitation or sexual abuse by a fellow worker, whether in the same agency or not and whether or not within the United Nations system, via established reporting mechanisms.⁹¹

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⁸⁸ See UNHCR, *Code of Conduct*, 2002, introduction.

⁸⁹ UNHCR/IOM/83/97, UNHCR/FOM/90/97, "UNHCR Policy on Harmful Traditional Practices", 19 December 1997.

⁹⁰ Chapter 2, section 2 on a rights- and community-based approach provides more information on cultural practices and working with communities to ensure respect for women's and girls' rights.

⁹¹ "Implementation Guidelines for the Field on the Secretary-General's Bulletin on Special Measures for Protection from Sexual Exploitation and Sexual Abuse (ST/SGB/2003/13)", 2006. See also, ExCom Conclusion No. 107 (LVIII), 2007, para. (g)(x).

5.3.1.2 Responding to and preventing SGBV, continued

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to prevent and respond to SGBV include:

Response	Actions
Coordinate	- Identify and engage a group of multi-sectoral actors, including actors involved in legal, health and education, to devise and implement a coordinated plan of action covering prevention and response. They will also form the team to coordinate SGBV interventions. - Ensure that inter-agency collaboration, including collaboration with government actors and civil society, is a key component of the programme.⁹² - Use the establishment of Standard Operating Procedures for Prevention and Response to SGBV⁹³ to reach common understandings among different actors of the range of prevention and response activities needed and which actors should undertake which actions. Often, nationals in the country face similar SGBV problems and some national NGOs may have already galvanized efforts to address the issue. - Map current activities and identify gaps in protection against SGBV. - UNHCR cannot meet all needs during reintegration, therefore agencies like FAO, UNICEF, and UNFPA may help to develop a more comprehensive and sustainable approach to prevention and response.
Assess, analyse and design	- Ensure that registration identifies displaced women and girls at heightened risk of SGBV. - Conduct regular participatory assessments with displaced women, men, boys, and girls, in order to gather information and understand SGBV-related issues in the context of community capacities, cultural practices, and available services. Use this information to feed into the annual protection report, country report, and country operation plans. - Use an inter-agency collaborative approach with governments to review national legal instruments and protection mechanisms in place in the country/region to determine the extent to which they support ending impunity for violence against women. - Develop a plan of action for prevention and response to SGBV against women and girls of concern based on the guiding principles set out in the SGBV Guidelines to ensure that their rights and dignity are respected. (Given that women and girls are the primary targets of SGBV, they will form the primary focus of such initiatives, although UNHCR and partners also need to be aware of and take action in the relatively smaller number of cases targeting boys and men.) - Use the Committee on the Rights of the Child's General Comment No. 8 on corporal punishment⁹⁴ as a framework to design a strategy with the authorities and with partners to tackle corporal punishment against children, for instance, against girls and boys in schools in camps, against girls undertaking domestic chores or against unaccompanied and separated girls who have been taken into care, for instance by guardians.

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⁹² Where UNHCR does not have direct contact with refugees, the importance of collaborating with relevant networks is all the more important. Relevant networks in Europe, for instance, include the European Women's Lobby (<http://www.womenlobby.org/site/hp.asp?langue=EN>); the Separated Children in Europe Programme (<http://www.separated-children-europe-programme.org/>); and the European Network for the Promotion of the Sexual and Reproductive Health Rights of Refugees and Asylum Seekers' (<http://www.icrh.org/projects/european-network-for-the-promotion-of-the-sexual-and-reproductive-health-rights-of-refugees>).

⁹³ See UNHCR, "Standard Operating Procedures for Prevention of and Response to SGBV", IOM/62/2006, FOM/62/2006, 28 July 2006.

⁹⁴ CRC Committee, "General Comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment", August 2006, at <http://www.ohchr.org/english/bodies/crc/comments.htm>.

5.3.1.2 Responding to and preventing SGBV, continued

How to respond (continued)

Response	Actions
Intervene to protect	• Establish confidential, individual case management systems and committees to coordinate and monitor the response to the situation of all women, girls, men and boys of concern who are at heightened risk, and to support solutions for them, as outlined in chapter 3, section 3. • Establish confidential complaints mechanisms in the community and make sure they are known by the community so that persons of concern can report on abuses etc., as also outlined in section 1 of this chapter on access to information. • Work with host communities, local authorities and other partners to reduce tensions relating to scarce water, firewood and land resources. • Support the provision of quality health services, including medical and psychosocial care, to address the specific needs of women and girls at risk,⁹⁵ ensuring that such care is provided in an age-, gender- and culturally sensitive manner by adequately trained staff and partners. • Provide women and girls with adequate clothing so that they are able to access health services and training classes, can attend school, can maintain their dignity, and reduce their risk of exposure to SGBV. • Provide women and girls who may be particularly at risk of SGBV, such as those with hearing or speech difficulties, with whistles and train them how to avoid danger and how to use the whistles to draw attention if attacked. • Work to provide women and girls, who are victims/survivors of SGBV and who cannot return to their community, with the possibility of emergency voluntary relocation to another town or camp or, for refugee women and girls, emergency resettlement. • Establish and/or implement codes of conduct, including on the elimination of sexual exploitation and abuse, for all humanitarian staff, including those working in the delivery of services and for other staff in authority.⁹⁶ • If incidents of SGBV involving peacekeeping forces come to light, report and follow-up on these with the Department of Peacekeeping Operations (DPKO) and other relevant UN agencies. • Promote the provision of legal assistance and the establishment of victim-support and witness-protection schemes so that perpetrators can be brought to justice.
Intervene to protect: Access to safe houses	• Provide women and girls facing domestic violence and abuse or attack by other members of the community with access to safe houses, especially if there are no mechanisms to remove perpetrators,⁹⁷ so that they can find immediate safety and can begin to recover from and reflect on their ordeal before medium- and longer-term solutions can be implemented, thereby reducing the risk of further abuse. • Ensure that such safe housing alternatives: – are in a confidential location to avoid stigma and maximize security; – provide safety and security for those living at or managing the shelter; – allow women and their children to be accommodated together; – develop plans, as soon as a survivor is referred, for a longer-term arrangement;

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⁹⁵ ExCom Conclusion No. 105 (LVII) of 2006, paras. (j)(i) and (n)(ii).

⁹⁶ ExCom Conclusion No. 105 (LVII) of 2006, para. (j)(vi).

⁹⁷ ExCom Conclusion No. 105 (LVII) of 2006, para. (n)(ii).

5.3.1.2 Responding to and preventing SGBV, continued

How to respond (continued)

Response	Actions
Intervene to protect, Access to safe houses, contd.	– establish guidelines on limits to a stay in the shelter to avoid indefinite stays; and – enable women and children to enjoy fundamental human rights, including the right to an education.
Strengthen national capacity	• Support governments in fulfilling their responsibility to maintain the civilian and humanitarian character of asylum,⁹⁸ including through specific measures to support women and girls as outlined in UNHCR's <i>Operational Guidelines on Maintaining the Civilian Character of Asylum</i>.⁹⁹ • Support governments in fulfilling their responsibility to protect against, and provide remedies for, acts of violence against women,¹⁰⁰ including in particular by their implementation of appropriate legislative frameworks, policing systems, and judicial procedures to address SGBV, including domestic violence. • Support law enforcement measures that prevent, deter, and combat SGBV, including measures to criminalize SGBV and bring perpetrators to justice, which include protection procedures to assess the protection needs of victims/survivors. • Support and feed into projects to prevent and to respond to SGBV in countries of asylum, such as that of the International Centre for Reproductive Health, which uses a participatory approach to develop a SGBV prevention tool for use by refugees and asylum-seekers to combat violence against refugees in Europe.¹⁰¹ • Establish and/or implement codes of conduct, including on the elimination of sexual exploitation and abuse, for staff in authority, such as border guards.¹⁰² • Work with the different arms of government to ensure that victims/survivors of SGBV receive adequate care and support to enable their recovery and rehabilitation, including health, education and family welfare. • Lobby asylum authorities to raise their awareness of how gender-related persecution can fall within the 1951 Convention refugee definition and promote the recognition of such claims including through training, submission of <i>amicus</i> briefs before courts, such as that referred to above in relation to the practice of FGM in the <i>Fornah</i> case (see "harmful practices" above) or in relation to domestic violence, as outlined in chapter 4, section 2.6 on "refugee status determination". • Lobby national and local government authorities to persuade them to fund places in women's refuges for asylum-seeking women fleeing domestic violence as common practice and to offer all asylum-seeking women single sex accommodation if preferred.

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⁹⁸ ExCom Conclusions Nos. 94 (LIII), 2002, para.(a); 105 (LVII), 2006, para. (j)(ii).

⁹⁹ UNHCR, *Operational Guidelines on Maintaining the Civilian Character of Asylum in Mass Refugee Influx Situations*, September 2006, pp. 37–38.

¹⁰⁰ Report of the Special Rapporteur on Violence Against Women, its causes and consequences, Yakin Ertürk, "Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women: The Due Diligence Standard as a Tool for the Elimination of Violence Against Women", E/CN.4/2006/61, 20 January 2006.

¹⁰¹ For further information see the website of the International Centre for Reproductive Health at <http://www.icrh.org/projects/development-of-a-prevention-tool-to-combat-violence-against-refugees-in-europe-a-participat>. The results of the project are to be published in February 2008.

¹⁰² ExCom Conclusion No. 105 (LVII), 2006, para. (j)(vi).

5.3.1.2 Responding to and preventing SGBV, continued

How to respond (continued)

Response	Actions
Strengthen national capacity, contd.	• Work with relevant civic authorities and NGOs to reach agreement with institutions running safe house shelters to allow non-citizens, including asylum-seeker and unregistered foreigners, access to such shelters. • Train national, UNHCR, and partner staff (including civil and military authorities) on SGBV, including – to understand their responsibilities to respond to incidents of SGBV and how to prevent them; – to counter resistance to viewing domestic violence as a private matter but rather to recognize it as a human rights violation requiring prevention and response; – to understand that exposure to domestic violence and to harmful practices can represent a ground for refugee status; – to make sure staff are able to support younger girls and adolescent survivors of SGBV in age and developmentally appropriate ways; and – to promote use of resettlement as a protection tool in SGBV cases.
Strengthen community capacity to support solutions	• Provide water supplies close to where women and girls live so that they do not have to go far for water. • Promote skills training and livelihood opportunities to reduce dependency on assistance and promote independence and empowerment. • Analyse with women and girls potential protection risks in shelter design in urban, rural and camp settings and ensure appropriate lighting. • Introduce alternative fuel, more efficient stoves and similar arrangements immediately it is evident that the collection of firewood will lead to SGBV.¹⁰³ • Work with communities to analyse and raise awareness and understanding of the challenges faced by women and girls who have been raped and give birth, to strengthen acceptance of their children, as well as of children of rape who have been abandoned. • Work with leaders who are willing to act as agents of change to promote a different perspective on “women’s and girls’ honour”, so that women and girls are not seen as the cause of shame and responsibility is shifted to male perpetrators. • Work with traditional justice systems to have SGBV recognized as a crime so that appropriate penalties are imposed on perpetrators and that victims are not penalized. • In working with communities, recognize that the function of culture and tradition is to provide a framework for human well-being but explain that cultural arguments can never be used to condone violence against individuals, male or female. Moreover, culture is not static, but constantly changing and adapting. Work together to develop and implement activities for the elimination of female genital mutilation (FGM) in a way that is sensitive to the cultural and social background of the communities that practice it. Behaviour can change when people understand the hazards of certain practices and when they realize that it is possible to give up harmful practices without giving up meaningful aspects of their culture.¹⁰⁴

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¹⁰³ See text on “Accessing fuel and water” in this section above and section 7.1 of this chapter below on livelihoods and food security.

¹⁰⁴ See UNFPA “Since FGM/FGC is Part of a Cultural Tradition, Can it Still be Condemned?” and other questions, at <http://www.unfpa.org/gender/practices2.htm#20>. A Norwegian NGO working with immigrant and refugee communities in Norway has a site with information on the practice in Norwegian, English and Somali and on ways to address it at www.okprosjekt.no.

5.3.1.2 Responding to and preventing SGBV, continued

How to respond (continued)

Response	Actions
Strengthen community capacity to support solutions, contd.	• Work with communities in conjunction with our partners, so that measures to eradicate harmful practices are effective. Governments, other UN agencies, and local NGOs may already have active campaigns in the country. Inadequate and haphazard efforts to prohibit the practices may only drive them underground. • Work with the community to design and implement innovative campaigns during the “16 Days of Activism against Gender Violence” which run from the International Day for the Elimination of Violence Against Women on 25 November, through World AIDS Day on 1 December until Human Rights Day on 10 December so as to raise awareness about SGBV and initiatives to prevent and respond to it. • Use the international day against FGM – 6 February – to raise awareness of the right of women and girls which the practice violates; to explain that contrary to popular belief FGM is not required by any religion; and to strengthen commitment to prevent the practice. • Establish children's and adolescents' clubs where children including adolescents can learn about their rights and educate their peers. • Support both displaced/returnee women and girls and those in the host community when identifying solutions.
Monitor, report and evaluate	• Use the Standard Operating Procedures for Prevention of and Response to SGBV issued by UNHCR in July 2006 to monitor the work of different actors for prevention and response to SGBV and ensure a coordinated and ongoing response to the needs of victims/survivors of SGBV. • Ensure that confidential and accessible complaints systems are in place which include investigation and follow-up, so as to encourage the reporting of abuse and exploitation where codes of conduct are breached.¹⁰⁵ • Evaluate the effectiveness of responses to SGBV with the community.

Field practice: Ethiopia

In Shimelba camp, Ethiopia, where young Eritrean males outnumber women by four to one, a transit house was established in 2005 for newly arriving women and survivors of SGBV, who do not have adequate housing. This has helped the women set up longer-term living arrangements without immediately falling prey to men, who at first seem to offer hospitality, but who may go on to abuse the situation and expose them to exploitation and/or HIV/AIDS. Adequate funding and proper management of the project are essential for its ongoing effectiveness.

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¹⁰⁵ ExCom Conclusion No. 105 (LVII), 2006, para. (j)(vi).

5.3.1.2 Responding to and preventing SGBV, continued

**Field practice:
Austria**

In Austria, the Office has worked to strengthen the protection of, and response to, asylum-seeking and refugee women and girls who may be exposed to sexual and gender-based violence, including domestic violence.

This has involved working to

- raise the profile of the issue,
- persuade both the authorities and NGOs to address the particular concerns of asylum-seekers and refugees regarding this issue, and
- promote better linkages between organizations supporting female victims/survivors of domestic violence and refugee counselling organizations.

The Protection from Violence Act, for instance, helps protect against such violence. Amongst other things, it requires the police to evict individuals who pose an imminent threat to the life, health or freedom of others living in the same apartment/house and its immediate vicinity and to bar them from re-entering it. Since a barring order has to be issued by the police as soon as the requirements are fulfilled and, thus, does not require any application/request of the victim concerned, the Act can especially support individuals who may not be aware of the legal situation in Austria, including asylum-seekers.

At the same time, however, the Office has cautioned the authorities repeatedly regarding potentially harmful effects of a provision included in numerous basic welfare support acts for asylum-seekers. This provides that such support may be restricted or withdrawn from individuals evicted by the police under the Protection from Violence Act. UNHCR is worried that this may have the effect of preventing women and girls exposed to domestic violence from seeking State support.

Communication problems (including cultural aspects) may also hinder the application of the Act. The Office has therefore tried to increase awareness of SGBV prevention and response (including in the context of the Protection from Violence Act) among employees of reception facilities. To do so, the Office works to strengthen links between organizations supporting female victims of violence and refugee counselling organizations and organized several exchange meetings and training events.

As a result, the issuance of barring orders for the benefit of women and children of concern to UNHCR is increasingly reported by our partners and the victims receive better support and assistance.

Field practice: Protection network in Sri Lanka

Introduction A special protection network initiated in north-eastern Sri Lanka in 2004 provides a mechanism to help prevent sexual and gender-based violence (SGBV) and to respond to SGBV incidents and find lasting solutions for the individuals concerned.¹⁰⁶

Rights promoted Among the rights promoted by this initiative are the right to:

- life, liberty and security of the person;
- freedom from torture, cruel, inhuman or degrading treatment or punishment;
- personal integrity;
- equal protection under the law;
- right of the child to respect for her or his best interests; and
- right of the child to survival and development.

Steps to implementation In early 2004, a panel was formed in Mannar, north-eastern Sri Lanka, bringing together lawyers, policy officers, health officers and local support organizations to work with UNHCR to find lasting solutions for victims/survivors of SGBV. Once the panel established itself, it invited the UN Children's Fund (UNICEF) to become involved.

Before 2004, although it was common knowledge that sexual violence was rampant in Mannar, but very few incidents were reported and even fewer were actually investigated.

UNHCR organized numerous campaigns in the displaced community and with different actors to raise awareness about SGBV, its impact and what can be done about it.

The network also went beyond UNHCR's usual mandate to assist the displaced and served the entire population of the district.

When a victim/survivor of SGBV became known, for instance, by a visiting health worker, the panel was convened to determine what action needed to be taken and worked towards a lasting solution, always assuming this was what the victim/survivor wishes. Once informed, Red Cross workers met with the victim to gather details that were then reported to the panel. All information has been kept confidential.

AGDM and empowerment Enhancing prevention and response to SGBV has mainstreamed both gender and age into UNHCR's work. Many of the survivors of such violence whom the network has been able to help have been children. Those assisted have received counselling and support to cope with the trauma they have experienced and to empower them to begin afresh.

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¹⁰⁶ See UNHCR, "UNHCR Protection Network Brings hope to Abused Women in Northern Sri Lanka", 29 November 2006, at <http://www.unhcr.org/cgi-bin/textis/vtx/print?tbl=NEWS&id=456da9c34>.

Field practice: Protection network in Sri Lanka, continued

Community involvement	In developing the network, it became clear that the contribution of the communities in the area was essential to understanding and finding solutions to the problem. Initially, the communities considered sexual violence a taboo subject and refused to discuss anything even remotely related to it. With time, however, they learnt to accept it as a reality that could not be swept under the carpet. That in itself was a significant achievement. By accepting that sexual violence was a serious problem that needed to be tackled urgently, the communities opened themselves up to discussion.
Partners involved	Partners involved include police officers, health officers, local support organizations and NGOs, lawyers, UN Children's Fund (UNICEF).
Constraints	The volatile security situation has been a hurdle for those trying to tackle abuse. It can itself exacerbate the problem of sexual violence. Police have been unable to pursue perpetrators into hostile territory, but have had to wait until the individual returns to government-controlled areas.
Impact	Since it was set up, the network has identified and resolved 28 cases of gender crimes, which were mostly child-related. Every month the network has handled at least two cases of sexual or physical abuse. For the past two years, a mechanism has been in place that finally offers hope to the women and children in the area.
Lessons learned	The involvement of the trusted and locally respected Sri Lanka Red Cross Society has been crucial in getting communities on board. Respect for confidentiality has been critical.

Note: Other relevant field examples in this Handbook on responding to and preventing SGBV can be found, including for instance, at the end of

- chapter 2, section 4, on the “Through our Eyes” participatory video project in Guinea and Liberia;
- chapter 2, section 6, on working with men of concern in Sierra Leone and in Egypt to stand against harmful practices and domestic violence;
- chapter 3, section 2 on prevention of, and response to, risks faced by women and girls in Afghanistan;
- chapter 3, section 3 on the Women's Protection Clinic in India;
- chapter 4, section 2.5 on best interests assessments and best interests determinations;
- chapter 4, section 2.5 on refugee status determination;
- chapter 4, section 3.2 on voluntary return and reintegration; and
- chapter 5, section 4.4 on transitional justice and justice in return situations.

5.3.2 Smuggling, trafficking and abduction

Introduction

Smuggling, trafficking and abduction each endanger the physical liberty and security of women and girls of concern. If they are fleeing conflict and persecution, they, like men and boys, are increasingly obliged to pay people smugglers and undertake perilous journeys if they are to reach a country where they can claim asylum.

The trafficking of people, particularly women and children, is also a growing phenomenon. Victims are tricked or coerced into various exploitative situations, including prostitution, other forms of sexual exploitation, forced labour, begging, and slavery. Women and girls may be targeted by traffickers because of their ethnicity, race or poverty. Once displaced, whether internally or as refugees, women's and girls' often uncertain status also exposes them to greater risk of abduction and trafficking.

Summary of challenges

The text below outlines briefly the challenges faced by women and girls of concern in relation to

- smuggling,
- trafficking, and
- abduction.

"When our boat sank we felt we were going to die. Everyone ... screamed – 'God, God, please help us, save us please' ... I can never forget the unbelievable pictures in front of my eyes. Some people ... in the water, some swallowing the water and choking and choking. I will never forget the bodies lying on the sea. And the moment that pushed me into ... the ... water and ... I saw my son fighting for his life as well... finding a piece of wood, my son started to scream "Mum, Mum, we will choke, we will die. God please save us." At this point, I was anxious to get where my son was, but I saw a dead woman's body beside me. And with my heart burning, I feeling very scared and try to hold the hand of the dead body to support myself to swim to my son's side. Thank God I could arrive near my son. We kissed each other... Some other people were still fighting for their lives. The screaming still rings in my ears... My friend who was holding onto a piece of wood had all her children's dead bodies floating around her. Next morning while we were still waiting for death, the Indonesian fishermen help us and save us."

Amal Basry, survivor of the sinking of SIEV-X in Australia's border-protection surveillance zone on 19 October 2001, in which 353 people, including 146 children and 142 women, drowned. Amal was one of fewer than 50 survivors, of whom only a dozen were women and children, adrift in the water for around 20 hours before they were rescued by Indonesian fishing boats.¹⁰⁷

Challenge: Smuggling

Women and girls who pay smugglers to take them out of their country may be hoping to escape conflict and human rights violations or may be seeking better economic prospects, but they can all too easily find themselves in dangerous and/or degrading situations. Unlike trafficking, smuggling is essentially a voluntary act – at least initially – involving the payment of a fee to the smuggler to provide a specific service.

Women and girls may nevertheless end up being raped and/or exposed to other violence and/or abuse during the journey, including at the hands of those supposed to bring them to safety, pirates, and the authorities, if

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¹⁰⁷ Amal's son survived, largely because when Amal was first rescued, she persuaded the fishermen to keep searching for him and other survivors. Eight months later, the Australian government allowed her and her son into the country on a temporary visa, even though her husband was already living there as a recognized refugee. Three years after that, in mid-2005, she was granted a permanent refugee visa. She died of cancer in March 2006. See <http://sievx.com/>. As one male survivor testified: "The bottom level of the boat had women and children, the middle level had families, and the top level had men only. No one survived from the bottom level." See <http://sievxmemorial.org/accounts.htm>. See also Human Rights Watch, "By Invitation Only: Australian Asylum Policy", 2002.

5.3.2 Smuggling, trafficking and abduction, continued

Smuggling (continued)

detected. They may be abandoned in a country *en route* without papers or any kind of support. Their position in society means they may be less able than men to negotiate safe passage. If unable to meet further demands or pay additional fees or bribes, they may also end up being trafficked or drawn into other abusive situations.

Initial consent or cooperation to smuggling may be nullified or vitiated by subsequent coercive, abusive or exploitative circumstances and thus become trafficking.¹⁰⁸

"Khin is a 13-year-old Muslim girl who lives in a refugee camp near Mae Sot with her mother and three siblings. Khin reported that her father and stepmother took her to Bangkok, where, for approximately a year, she was forced to sell tissues on the street. If she did not make at least 200 baht (US\$ 5) a day, she was beaten. Her father and stepmother then forced her to go back out to the streets until she brought the required amount of profits home. Eventually, Khin was picked up by the Thai police and taken to a government-run shelter for trafficking victims. Later, the police returned her to the border near Mae Sot where she was reunited with her mother and siblings. At that point, a local NGO asked the refugee community in the camp to take in Khin, her mother, and her siblings and care for them, because her mother had few means of generating income. This had been a contributing factor that had compelled Khin to live with her father and, while her mother was unaware of the abuses, left Khin vulnerable to being trafficked..."

From "Abuse without End: Burmese Refugee Women and Children at Risk of Trafficking"¹⁰⁹

"I have five children, but one is missing. She is thirteen years old. In the evening, a girl had come and went away with my daughter. Someone saw her at [the open border crossing between Nepal and India]. After a long interval, there was call from the Mumbai police. This information was given to others, to UNHCR and the [Refugee Coordination Unit implementing government policy in the camps]. No one has come to speak to me. I feel she won't know how to come back home, she doesn't know how to read. Days pass, at night I can't sleep. Children don't know how much we love them."

Lilal B., a refugee in Nepal¹¹⁰

Challenge: Trafficking

The trafficking of people is a modern form of slavery that treats human beings as a commodity to be bought and sold.¹¹¹ Eighty per cent of all people trafficked are women and girls.¹¹²

They are given false promises of a new and better life, but can end up in highly exploitative and hazardous situations, including prostitution, domestic service, begging, and other forced labour, such as child labour. They may be forced to work for a pittance or for nothing at all. Fear of deportation, seizure of papers, and incarceration are all factors exploited by traffickers to keep their victims under their control.

Women and girls may be at particular risk of being trafficked from their homes and villages of origin if they are poor, have disabilities, have been subject to other forms of SGBV, are separated from their family or other support networks, are part of a single-headed household, and/or because they are stateless or of a particular religion, caste or ethnicity.

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¹⁰⁸ See UN Office of Drugs and Crime, *Toolkit to Combat Trafficking in Persons*, 2006, pp. xiii–xviii, at <http://www.unodc.org/unodc/en/human-trafficking/publications.html> and 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Article 3(b).

¹⁰⁹ Women's Commission for Refugee Women and Children, "Abuse without End: Burmese Refugee Women and Children at Risk of Trafficking", January 2006, p. 22.

¹¹⁰ From Human Rights Watch, "Trapped by Inequality: Bhutanese Refugee Women in Nepal", September 2003, pp. 58–59.

¹¹¹ For a definition see, 2000 Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, Article 3.

¹¹² OCHA, "Violence Threatens Women in All Stages of Life", 9 December 2005.

5.3.2 Smuggling, trafficking and abduction, continued

**Challenge:
Danger of
trafficking during
displacement**

In addition, women and girls may be fleeing persecution and may have paid smugglers to bring them across borders, but then find that their uncertain situation leads to forced labour, debt bondage and/or trafficking. They may have fled their homes to escape conflict and human rights abuses only to be abducted and/or trafficked from camps or the streets. If women and girls lack adequate protection, assistance and/or livelihood opportunities, they are also at greater risk of abuse and trafficking.

During ongoing conflict and uncertain peace, past trauma and/or abuse can lead to ostracism, while education to raise awareness about this rights violation may be lacking or inadequate. Both of these factors can increase the risk of trafficking.

**Challenge:
Securing protection
for victims of
trafficking**

Where trafficked women and girls manage to escape those who have trafficked them and/or those to whom they have been sold, or if they are discovered, the authorities may view the case primarily as a criminal matter. As a result, victims may be summarily returned with no, or inadequate, consideration of their protection needs. This can, in turn, lead to a cycle of renewed trafficking and abuse.

Trafficked women and girls may be unaware of their rights, may lack access to information and advice, and may face obstacles to gaining access to mechanisms that protect those rights. They may find themselves without personal identity documents and be unable to establish their nationality status, leaving them *de facto* stateless. If they are able to seek asylum, they may find that procedures are not sufficiently age- and gender-sensitive to recognize their claim. Staff and local authorities' attitudes and prejudices can hinder their access to procedures and to protection.

**Challenge:
Abduction**

"Abduction is the removal, seizure, apprehension, taking custody, detention or capture of a child (under 18 years) temporarily or permanently by force, threat or deception for involvement in armed forces or armed groups, for participation in hostilities, for sexual exploitation and forced labour."¹¹³

This working definition has been adopted by both the UN Task Force on this issue and inter-agency consultations in the context of their efforts to enhance the protection of children in armed conflict. Outside this context, individuals may also be abducted for sexual exploitation, child or early marriage, forced marriage, forced adoption, or forced labour.

Women and girls may, for instance, be abducted and pressed into prostitution, for sexual slavery, child or forced marriage, female genital mutilation, or domestic labour. Boys are more vulnerable to abduction for forced military recruitment, but girls may be abducted for this purpose, too. When young girls disappear from camps for days, some label their disappearance, "elopement". In fact, it is more likely that the girls have been trafficked or abducted for child or forced marriage.

Women and girls may be abducted in places where they are isolated or alone, when, for example, they are walking to and from school or the market

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¹¹³ See, "Rights of the Child: Report of the UNHCHR on the abduction of children in Africa", E/CN.4/2006/65, 8 February 2006. para. 10.

5.3.2 Smuggling, trafficking and abduction, Continued

Challenge: Abduction (continued)

place, or when fetching firewood and water. Even if rescued and returned to their communities, women and girls who have been abducted may face social stigma and discrimination, including by their families, particularly if they have been forced into marriage or sexual slavery and/or to take part in armed conflict.¹¹⁴

Challenge: Abduction in internal displacement

Internally displaced women and girls living in remote areas are also more vulnerable to armed attack by raiders and are at heightened risk of abduction, rape and sexual abuse.

In northern Uganda, for instance, tens of thousands of girls and boys living in isolated settlements are obliged to walk several kilometres each night to find the relative safety of towns. Known as “night commuters”, they are seeking to avoid the danger of being abducted by armed militia for use as child soldiers, sex slaves and porters. Some are, in fact, twice displaced. First, they are forced to leave their home as a result of the conflict and then they are uprooted from their place of refuge by rebel incursions.

Night commuting may also take place in camps for the internally displaced. Children whose huts are on the periphery may sleep near public service buildings in the centre of the camp for shelter, as the lack of security prevents monitoring of the camps by night.¹¹⁵

International legal standards and guidelines

Trafficking is a crime under international law and in many countries.¹¹⁶ It is a form of enslavement¹¹⁷ and, in some circumstances, a crime against humanity or a war crime. Trafficking violates a range of women’s and girls’ rights: their rights to liberty and security of person, to be treated with humanity and respect for their inherent human dignity, their right not to be held in slavery, and sometimes their right to life. Child trafficking violates the right of a child to be free from all forms of abuse and exploitation.¹¹⁸

The focus of international efforts to combat human trafficking, including those under the 2000 Palermo Trafficking Protocol, has been on prevention, prosecution, and protection. Equally important are measures to rescue, rehabilitate, and reintegrate victims of trafficking.¹¹⁹

Smuggling and abduction are also crimes that can result in serious violations of women’s and girls’ rights, including their right to life.¹²⁰ In addition, even though smuggling is initially a voluntary arrangement it may later become trafficking. Abduction is recognized by the Secretary-General as one of the six grave violations of the rights of children in armed conflict that require particular monitoring.¹²¹

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¹¹⁴ See UN Commission on Human Rights, resolution 2005/43, requesting OHCHR, relevant UN agencies, international organizations, and NGOs to undertake a comprehensive assessment of the situation of the abduction of children throughout Africa; World Vision International, “Abduction of Children in Africa”, January 2006.

¹¹⁵ UNICEF, *The State of the World’s Children 2005*, pp. 48–49.

¹¹⁶ See 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

¹¹⁷ See 1998 Rome Statute of the International Criminal Court, Article 7(2)(c).

¹¹⁸ See 1989 Convention on the Rights of the Child, Articles 19, 34, 35, and 36.

¹¹⁹ See 2005 Council of Europe Convention on Action against Trafficking in Human Beings. See also International Organization for Migration (IOM), *The IOM Handbook on Direct Assistance for Victims of Trafficking*, 2007, especially chapter 3 on referral and reintegration assistance.

¹²⁰ See, “Rights of the Child: Report of the UNHCHR on the Abduction of Children in Africa”, E/CN.4/2006/65, 8 February 2006, para. 52.

¹²¹ See “Report of the Secretary-General on Children and Armed Conflict”, A/59/695–S/2005/72, 9 February 2005, para. 68.

5.3.2 Smuggling, trafficking and abduction, continued

**Responsibility:
States**

States have a responsibility to prevent and combat trafficking in persons, including in particular women and children, to protect and assist victims of trafficking in full respect for their human rights, and to promote cooperation among other States to do so.¹²²

They must safeguard the rights of individuals who have been smuggled, including in relation to any possible return to the country of origin, and must “take into account the special needs of women and children”.¹²³

States are obliged to take measures to provide “special protection and assistance” to children, including girls, if they are deprived of their family environment and to protect them from economic exploitation, sexual exploitation and abuse, abduction and trafficking.¹²⁴

States party to the 1951 Refugee Convention also have a responsibility to provide international protection to victims of trafficking or individuals fearing being trafficked who have a well-founded fear of persecution within the meaning of the Convention if returned to their country of origin.¹²⁵

**Responsibility:
UNHCR**

UNHCR has a responsibility:

- to ensure women and girls of concern do not fall victim to trafficking;
- to advocate with asylum decision-making authorities to ensure that victims of trafficking or individuals fearing being trafficked who have a well-founded fear of persecution within the meaning of the Convention if returned to their country of origin are recognized as refugees and afforded international protection and, where the Office undertakes refugee status determination itself to be aware and take account of these issues;¹²⁶ and
- to work with partners to ensure that States assume their responsibilities to protect women and girls of concern who have been smuggled or abducted and to ensure States bring smugglers and abductors to justice.

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to protect women and girls from smuggling, trafficking and abduction include:

Response	Actions
Coordinate	• Work with government partners, civil society and in multi-sectoral teams, including protection and community service staff, social workers and health care providers, to identify and provide health care, psycho-social support, legal advice, and other assistance to women and girls of concern to the Office who have been smuggled, trafficked or abducted.

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¹²² 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons supplementing the Convention against Transnational Organized Crime, Article 2. See also CEDAW, Articles 2, 6, 11; CRC, Article 35. The Human Rights Committee, in its review of States’ implementation of Article 8 of the 1966 International Covenant on Civil and Political Rights, has interpreted the prohibition of slavery and the slave trade as encompassing trafficking.

¹²³ 2000 Protocol against the Smuggling of Migrants by Land, Sea and Air supplementing the Convention against Transnational Organized Crime, Articles 9, 16 and 18.

¹²⁴ CRC, Articles 11, 16, 19–22, 32, 34, 35, 36, 37, 38, 39.

¹²⁵ See, UNHCR, “Guidelines on International Protection: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of being Trafficked”, HCR/GIP/06/07, April 2006; ExCom Conclusion No. 107 (LVIII), 2007, para. (g)(viii).

¹²⁶ UNHCR, “Guidelines on International Protection: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of being Trafficked”, HCR/GIP/06/07, April 2006, para. 5.

5.3.2 Smuggling, trafficking and abduction, Continued

How to respond (continued)

Response	Actions
Coordinate, contd.	• Coordinate with government partners and other agencies, including UNICEF and the International Organization for Migration (IOM) to raise awareness of the potential international protection needs of women and girls who have been trafficked to another country.¹²⁷ • Support the efforts of governments and of other UN agencies to provide legal assistance to victims of trafficking and to establish victim-support and witness-protection schemes so that perpetrators can be brought to justice. • Support these efforts by working with partners to promote education and vocational training for victims of trafficking to help reintegration and rehabilitation and thereby reduce the risk that they will be trafficked again.
Assess, analyse and design	• Ensure registration identifies displaced women and girls most at risk of trafficking and abduction and monitor their situation regularly. • Work with key partners, including UNICEF, the International Organization for Migration (IOM), the Organization for Security and Cooperation in Europe (OSCE) and governments and support programmes to – provide access to safe houses; – provide health care, psycho-social counselling, legal advice, and reintegration assistance to women and girls of concern who have been trafficked and/or abducted;¹²⁸ – help them deal with health problems, including post-traumatic stress disorder (PTSD), which they may face; – include support for longer-term solutions such as skills training and livelihood opportunities; and – to ensure access to asylum procedures for those who fear being persecuted if returned to their country of origin.
Intervene to protect	• If a victim of trafficking would enjoy protection in the country of origin and return is the desired outcome, promote cooperation among States to verify her or his identity and nationality status as a means to prevent <i>de facto</i> statelessness.¹²⁹ • If victims of trafficking express a fear of return, ensure that their claim can be assessed to determine whether they require international protection and that asylum procedures take into account the age, gender and specific needs of victims of trafficking. This includes providing legal counselling and, for girls, a best interests determination and appointment of a guardian to support her through the procedure.¹³⁰ • Work with the local authorities and local NGOs to ensure safe and secure accommodation for victims of trafficking who are persons of concern and are witnesses in prosecution cases.

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¹²⁷ UNHCR, "Guidelines on International Protection: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of Being Trafficked", HCR/GIP/06/07, April 2006, especially paras. 45–50.

¹²⁸ ExCom Conclusion No. 105 (LVII) of 2006, para. (n)(ii).

¹²⁹ See also, 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Article 8(3).

¹³⁰ UNHCR, "Guidelines on International Protection: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of Being Trafficked", HCR/GIP/06/07, April 2006, especially paras. 45–50.

5.3.2 Smuggling, trafficking and abduction, continued

How to respond (continued)

Response	Actions
Strengthen national capacity	• Support law enforcement measures that prevent, deter, and combat trafficking. Lobby government ministries and parliamentarians to ensure that measures to criminalize trafficking and bring perpetrators to justice also include explicit safeguards in anti-trafficking legislation to ensure victims of trafficking can be identified, assisted, counselled, allowed a reflection period, and have access to asylum procedures before any decision on return to the country of origin is taken.¹³¹ • Work with government authorities, agencies and other partners, to organize training for border guards, police, and immigration and camp officials to raise their awareness of protection concerns related to trafficking and enable them to identify and profile victims and potential victims of trafficking. • Ensure information is available at the border in relevant languages for victims of trafficking explaining how to seek support and approach UNHCR if they fear return to their country of origin. • Support national anti-trafficking initiatives and ensure that the authorities are aware that victims of trafficking may fear return to their country of origin and may have a claim for asylum. • Promote use of UNHCR's Guidelines on International Protection on trafficking¹³² by decision-makers in asylum procedures to raise awareness of the potential international protection needs of victims of trafficking and ensure that those falling within the refugee definition are accorded such protection. Where victims of trafficking are otherwise in need of international protection, promote the granting of complementary forms of protection.
Strengthen community capacity to support solutions	• Raise awareness among the displaced community, e.g. through radio programmes, leaflets, songs and drama, of the dangers of being smuggled, trafficked or abducted and the kinds of tactics used to deceive potential victims. • Launch information campaigns for women and girls through women's groups and schools to tell them about the dangers of trafficking and how false information may be given by foreigners or female friends, who have been abroad for a time and returned unusually wealthy, including offers of, and advertisements for, marriage or jobs. • Work with parents in the displaced or returnee community to change the belief that girls are inferior to boys and that girls' main purpose is marriage. • Establish centres where displaced children from urban or rural areas, who would otherwise risk abduction at night, can safely stay overnight.
Monitor, report and evaluate	• Establish reporting and monitoring mechanisms with partners to ensure – a coordinated and ongoing response to the needs of victims of trafficking; – those expressing fear of return are channelled into asylum procedures; and – measures, such as allocation of guardians and strengthened coordination between relevant authorities, are in place to prevent those admitted to such procedures from disappearing while their claim is being assessed.

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¹³¹ See also, ExCom Conclusion No. 105 (LVII) of 2006, para. (j)(v).

¹³² UNHCR, "Guidelines on International Protection: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of being Trafficked", HCR/GIP/06/07, April 2006.

5.3.2 Smuggling, trafficking and abduction, continued

Field practice: Slovenia

As part of a programme aimed at preventing asylum-seekers from becoming recruited or deceived by traffickers, the UNHCR office in Slovenia developed a Project Against Trafficking and Sexual and gender-based violence (PATs).

Developed in cooperation with the Ministry of Interior in Slovenia and two Slovenian NGOs in 2003, its primary objective was to introduce formalized mechanisms to

- provide information to asylum-seekers most at risk of falling prey to human traffickers and
- assist and protect victims of human trafficking and sexual and gender-based violence identified within the asylum procedures in the Republic of Slovenia.

The key elements of PATs were:

- distribution to all women and unaccompanied child asylum-seekers of a brochure known as “The Dictionary” which, among other things, contained vital information to raise awareness and help potential victims of trafficking to self-identify, and advised victims of trafficking where they could get help in Slovenia and in other countries in Europe; and
- one-to-one information sessions with social workers which were provided to all women and unaccompanied or separated child asylum-seekers and focused on the risks of trafficking and awareness raising about the information contained in the Dictionary.

The project was later also extended to Bosnia and Herzegovina.

Field practice: Albania

The UNHCR Office in Albania worked with relevant government authorities and other organizations to establish a pre-screening system to distinguish victims of trafficking – the vast majority of whom were women or girls –, asylum-seekers and irregular migrants willing to return to their own country from other irregular migrants.¹³³ In a country which has had to tackle complex mixed migration movements, the system has

- helped prevent the unlawful expulsion of asylum-seekers;
- provided appropriate assistance to victims of trafficking and irregular migrants expressing a wish to return, and
- drawn upon the expertise of relevant organizations according to their mandates and capacities.

Beginning with a pilot project in 2001, the UNHCR Office worked with the Organization for Security and Cooperation in Europe (OSCE) and the International Organization for Migration (IOM) in close collaboration with the Government to establish the pre-screening system. This identified, at an early stage, irregular migrants who may be asylum-seekers, victims of trafficking or economic migrants, and channelled them into appropriate procedures.

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¹³³ See “Briefing Note: Pre-Screening of Asylum Seekers and Migrants in Albania (CARDS Project 2003)”, 25 April 2006.

5.3.2 Smuggling, trafficking and abduction, continued

Field practice:
Albania (continued)

Once the authorities identified an irregular migrant, a mobile Pre-Screening Team (PST) based in Tirana was contacted. The team comprised one person from UNHCR, IOM and the Directorate for Refugees of the Ministry of Interior. It arrived within 24 hours, if necessary with an interpreter, interviews the person, and assessed whether she or he was an asylum-seeker, a victim of trafficking, or an economic migrant ready to return to her or his country of origin. If so, she or he was referred to the authorities responsible and taken by the PST to the appropriate reception facilities. Irregular migrants who did not fall in any of the above categories remained in police custody.

Between February 2001 and March 2006, 836 people were pre-screened. Of these, 216 were found to be asylum-seekers, 150 victims of trafficking and 470 economic migrants. In April 2006, responsibility for the pre-screening system was handed over to the Albanian authorities, in particular the Border and Migration Directorate of the Ministry of Interior. UNHCR has retained a monitoring and support role in the framework of its mandate.

The scheme formed part of wider initiatives in Albania to tackle trafficking, which have amongst other things resulted in trafficking victims no longer being charged with the crimes of prostitution and illegal border crossing.

External funding, including that of the European Commission through its Community Assistance for Reconstruction and Development and Stabilization (CARDS) project, has been critical.

Challenges have included ensuring the full functioning of the anti-trafficking centre, established in 2005 to facilitate communication between government and international organizations in cases of trafficking, and establishing effective witness protection in cases where traffickers are prosecuted.

Note: For field practice example relating to the rehabilitation in Sierra Leone of Liberian refugee girls abducted by rebel groups, see section 3.4 of this chapter below under “Military recruitment, disarmament and reintegration”.

5.3.3 Restrictions on freedom of movement

"My desires were over when I found myself in the middle of the desert, at a place with wire fences all around. We all came with hopes for a life of peace, freedom, and dignity but we were disappointed. Asylum-seekers flee their country because of persecution and danger; they shouldn't be kept in a locked detention centre. We were coming to get protection and freedom, not detention. We were locked in detention centres, treated like criminals for no reason. People in the detention centre were really depressed, especially the children. People attempted suicide and were anguished. Children were also getting mental illnesses."

Najeeba, a 17-year-old refugee girl in Australia, 2004¹³⁴

Introduction

Many forcibly displaced women and girls are subject to detention or other restrictions on their freedom of movement in different parts of the world. Women and girls who are seeking asylum and/or are stateless can be particularly affected, as can mandate refugees in States that have not acceded to the 1951 Refugee Convention.

Summary of challenges

Women's and girls' freedom of movement can be restricted because:

- they are detained as asylum-seekers;
- they are confined in camps;
- the security situation prevents movement;
- of prevailing cultural or religious norms; and/or
- they lack documentation.

Note: Each of these issues is discussed further below.

"Jules [an asylum-seeker in the UK] was asleep the night they came for her children. The first she heard was four, five, six men standing at the foot of her bed telling her not to scream. She could hear her daughters – the eight-year-old and the 17-year-old – shriek and sob and shake in the next room down, but she was not allowed to hold them. She had to pack a tiny bag, and quick. All three of them were going to be taken and locked away together indefinitely. Five months later, they are still festering in a jail cell, the end-point for this swift shift from a bang on the glass door to a life behind iron doors and barbed wire. The eight-year-old has lost a stone in weight; her clothes are hanging off her like rags. The 17-year-old has retreated to a sullen silence, rarely speaking. Nobody has ever accused these women of committing a crime. All Jules and her children did was run for their lives, run for safety to London, a place they thought would offer them asylum."

Newspaper report about asylum-seeking mother in Yarl's Wood detention centre, United Kingdom¹³⁵

Challenge: Detention

In a number of countries, asylum-seeking women and girls, like men and boys, are detained, because of their mode of arrival (perhaps without visas or other documentation), because their claim is being decided in accelerated procedures, or they are awaiting removal. Procedures can be lengthy; there may be difficulties in removals to third countries of asylum or, if their claim has been rejected, to the country of origin. Thus detention can last a long time. Stateless women and girls sometimes remain in indefinite detention, if attempts to remove them to another country fail.

Detention facilities for individuals charged with immigration-related offences are often ill-equipped to host women and girls. There may, for example, be only limited privacy, restricted access to natural light and fresh air, public phones, or washing facilities. In remote locations, including custody facilities

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¹³⁴ UNNCR, "Refugees: Telling Their Stories", UNHCR High School Writing Competition, 2004.

¹³⁵ Johann Hari, "We've been Taught to Hate the Innocent", *The Independent*, UK, 20 April 2006.

5.3.3 Restrictions on freedom of movement, continued

Detention (continued)

at the border, there may not be enough female police or immigration staff. These conditions can result in sexual exploitation and abuse by border officials, police, detention centre staff, medical officers, or inmates.

In most cases, husbands and wives and other family members in detention are not permitted to stay together. Alternatively, detention facilities may not allow women and/or children to be held separately from men who are not family members. Unaccompanied children may be kept with other adults they do not know, thus increasing the risk of abuse or violence. When men are detained but the rest of the family is not, women have to take sole care of the family, which may expose them to the risk of abuse and violence.

Asylum-seeking women and girls in detention often have no access to adequate health services. Women and girls may not be given sanitary materials and/or they may have to barter food in exchange for sanitary napkins. There is often limited access to showers for menstruating women and girls. The special dietary needs of pregnant and lactating mothers are often not met. Asylum-seeking and refugee children who are detained often suffer psychological and even physical harm like their adult counterparts. They may also have limited or no access to education or recreation.¹³⁶

"Our situation here is like a prison. We are not free. I wish to be a bird, free from this condition."

A 35-year-old woman in Nayapara refugee camp in Bangladesh

Challenge: Camp confinement

In many countries, refugees and internally displaced persons are confined to camps or settlements which may be located in isolated and insecure areas, such as border regions. This makes it difficult to seek employment and other income-generating activities outside the camp or settlement. Displaced women and girls who do manage to do so to support themselves or their families are at higher risk of exploitation, non-payment of wages, and SGBV, as employers know they are working illegally.

In other situations, displaced women and girls may be allowed to move freely only within a few kilometres of the camp. While this allows them to look outside the camp for basic natural resources for their households – particularly firewood and water – resources in these areas are soon depleted. There are often tensions with the host community, even resulting in attacks and beatings. Women and girls may be forced to go further away, thus exposing themselves to even greater risks.

Challenge: Security situation

The security situation often restricts the freedom of movement of displaced and returnee women and girls. Some restrictions may not violate international law, but may be a serious barrier to collecting firewood and water, accessing agricultural land, education, psycho-social and health care, and other civil, economic, and social rights. In internal displacement and returnee situations, women and children are often disproportionately affected by landmines and unexploded ordnance.¹³⁷

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¹³⁶ Similar problems may also arise where asylum-seekers are accommodated in inadequate reception facilities even if they are not as such detained. See chapter 1, section 1 "more restrictive asylum systems".

¹³⁷ See also chapter 4, section 3.2 on voluntary return and reintegration.

5.3.3 Restrictions on freedom of movement, continued

"One woman was not allowed out of her house for any reason, not even to fetch water for cooking or drinking. This task was usually performed by her son or other male relatives. One day when her son was sick and no other male relatives were around she decided to sneak out to fetch water. Unfortunately she ran into her husband on the way back from the water point and he said "Now I have seen you, so other men must have seen and tomorrow my name will be dust." He beat her with a stick. One of the women from the consultation saw this and quickly ran to the scene with a blanket. She covered the women to stop her husband beating her and dressed the woman's wounds because she knew she would not be able to leave the house to receive medical assistance."

Peshawar, Pakistan, 10 May 2001

Challenge:
Cultural and religious norms

Prevailing cultural and religious norms may mean that male family members restrict the freedom of movement of female family members outside the home. As a result, girls may be prevented from going to school, access to health care is likely to be severely restricted, and in certain contexts, widows may be unable to access assistance and services, if they are not allowed out without an accompanying male protector. Any protection concerns, particularly domestic violence, are likely to go unreported and unnoticed.

Challenge:
Lack of certifying documentation

Women and girls of concern who do not have individual documentation certifying their status may also find their freedom of movement curtailed. They may, for instance, be at risk of arbitrary arrest, including at military or police checkpoints, and/or subject to extortion, harassment and SGBV before being allowed to pass or may be deported. Each of these factors has the effect of restricting their freedom of movement.

International legal standards and guidelines

Freedom of movement consists of the right and the ability to move and choose one's residence, freely and in safety, within the territory of a State. It includes the right to leave any country as well as the right to return to one's own country.¹³⁸

Closely related are the right to liberty and security of person and the prohibition against arbitrary arrest or detention.¹³⁹ Children shall only be detained "as a measure of last resort and for the shortest appropriate period of time" (Article 37(b) of the CRC). The psychological effects of detention and prolonged or indefinite detention may also violate the prohibition of torture, inhuman or degrading treatment or punishment.

Detainees have a right to be treated according to internationally accepted norms and standards, many of which are reflected in the national legislation of several countries. Among international norms and standards are the

- UN Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment,¹⁴⁰
- UN Rules for the Protection of Juveniles Deprived of their Liberty,¹⁴¹ and
- UN Standard Minimum Rules for the Treatment of Prisoners.¹⁴²

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¹³⁸ See Universal Declaration of Human Rights, Article 13; ICCPR, Article 12; CEDAW, Article 15(4); Guiding Principles on Internal Displacement, Principles 14 and 15.

¹³⁹ UDHR, Article 3; ICCPR, Article 9; ICERD, Article 5(b); CRC Articles 9(4) and 37(b); Guiding Principles on Internal Displacement, Principle 12.

¹⁴⁰ UNGA res. 43/173 of 9 December 1988.

¹⁴¹ UNGA res. 45/113 of 14 December 1990.

¹⁴² Adopted by the First UN Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 1955, and approved by the Economic and Social Council in resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

5.3.3 Restrictions on freedom of movement, continued

International legal standards and guidelines (continued)

UNHCR's ExCom Conclusion No. 44 of 1986 on the detention of refugees and asylum-seekers refers in particular to Article 31 of the 1951 Refugee Convention (see also below) and affirms that detention of asylum-seekers and refugees should normally be avoided. If found to be necessary, detention may be resorted to only on grounds prescribed by law and only for specific and limited purposes. The Executive Committee has also stressed the need to ensure that refugees and asylum-seekers are not detained with individuals incarcerated as common criminals.¹⁴³

When refugees are lawfully within the territory of the host State, restricting their movement outside refugee camps could violate the right to freedom of movement set out in Article 26 of the 1951 Convention and Article 12 of the ICCPR. Keeping refugees in camps often has the effect of barring access to basic social and economic rights, particularly the right of everyone to have an opportunity to earn their living by work enshrined in Article 6 of the ICESCR, Articles 17–19 of the 1951 Refugee Convention, and Article 11 of CEDAW.

Responsibility

States are obliged under Article 31 of the 1951 Refugee Convention not to impose penalties on refugees who have come directly from a territory where their life or freedom was threatened solely because of illegal entry or presence. Any restriction imposed on their movements may only be such as is necessary and only until their situation is regularized.

The Human Rights Committee stipulates that States Parties to the ICCPR “must ensure that the rights guaranteed in article 12 [of the ICCPR] are protected not only from public but also from private interference. In the case of women, this obligation to protect is particularly pertinent. For example, it is incompatible with article 12, paragraph 1, that the right of a woman to move freely and to choose her residence be made subject, by law or practice, to the decision of another person, including a relative.”¹⁴⁴

ExCom Conclusion No. 44 on detention of refugees and asylum-seekers identifies the need for national legislation and administrative practices to distinguish between refugees/asylum-seekers and other aliens. It notes that detention of the former should be subject to judicial or administrative review.

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to tackle protection problems arising for women and girls as a result of detention and restrictions on freedom of movement include:

Response	Actions
Coordinate	• Coordinate with partners, including the human rights treaty bodies (e.g., the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child, the Committee against Torture, and the Human Rights Committee), to highlight and address protection gaps arising when refugees and asylum-seekers are detained and when conditions of detention do not respect detainees' rights.

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¹⁴³ See ExCom Conclusions Nos. 44 (XXXVII) of 1986, para. (f) and 85 (XLIX) of 1998, para. (ee).

¹⁴⁴ Human Rights Committee, “General Comment No. 27, Article 12: Freedom of Movement”, 1999, paras. 6 and 18; “General Comment No. 28, Article 3: the Equality of Rights Between Men and Women”, 2000, para. 16.

5.3.3 Restrictions on freedom of movement, Continued

How to respond (continued)

Response	Actions
Coordinate, contd.	• Work with national and local authorities and other partners to maximize freedom of movement and ensure camps are appropriately located so as to avoid restrictions on the freedom of movement of displaced and returnee populations whenever possible, including by addressing security, documentation and other concerns affecting women and girls. Where restrictions are in place, ensure they conform to international legal standards.
Assess, analyse and design	• Where asylum-seekers may be detained, survey the facilities to ensure that women and girls are not put at risk and are able to access the services to which they are entitled. • Hold focus group discussions with asylum-seeking women and girls who are detained to obtain insights into the protection risks they face. • Where asylum-seekers are detained, coordinate with immigration and prison authorities to design adequate facilities and ensure privacy and security, including for women and girls, and improve detention conditions and ensure access to legal, health and education services.
Intervene to protect	• In cooperation with partners, establish mechanisms to help individuals of concern who are detained gain access to legal remedies, education, health care, and psycho-social support. • Make interventions to secure the immediate release of, and alternative accommodation and care arrangements for, detained women and children who are at heightened risk, including pregnant women, unaccompanied and separated girls, and survivors of SGBV.
Strengthen national capacity	• Work with national authorities to ensure that legislation on “illegal” entrants distinguishes between asylum-seekers/refugees and other aliens and where detention or other restrictions on freedom of movement are imposed advocate that – they are not imposed unlawfully or arbitrarily; – they are related to a recognized purpose; – there is a reasonable relationship of proportionality between the end and the means; – they are only imposed where necessary for the reasons outlined in ExCom Conclusion No. 44 and are subject to judicial or administrative review; – families and children, in particular, are treated in accordance with international standards and children under 18 years of age are never detained; – families are in principle not detained, but if this is the case, they are not separated.¹⁴⁵ • Advocate that asylum-seeking and refugee children should never be detained and where this practice persists, promote the use of alternatives to detention, particularly for asylum-seeking women and girls. For girls, this may, for instance, be through improved guardianship arrangements, measures to strengthen integration in foster families, or the use of monitoring mechanisms to establish the exact nature of their relationship to any accompanying or receiving adults, so as to reduce the risk of abduction by traffickers.¹⁴⁶

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¹⁴⁵ For further details, see ExCom Conclusion No. 44, 1986, “Summary Conclusions: Article 31 of the 1951 Convention”, expert roundtable in the context of UNHCR’s Global Consultations on International Protection, November 2001.

¹⁴⁶ For further suggestions, see Ophelia Field and Alice Edwards, “Alternative to Detention of Asylum-Seekers and Refugees”, UNHCR Legal and Protection Policy Research Series, April 2006, at <http://www.unhcr.org/proctect/PROTECTION/4474140a2.pdf>.

5.3.3 Restrictions on freedom of movement, continued

How to respond (continued)

Response	Actions
Strengthen community capacity to support solutions	• Work with women and men to raise awareness of women's and girls' right to freedom of movement and the dangers and risks that restrictions of that right may impose. Analyse the problems and work together to find solutions. • Work with the community to tackle security concerns that may restrict women's and girl's safety outside the home. (See also actions suggested to prevent and respond to SGBV in section 3.1 of this chapter above.) • Ensure separate facilities in detention centres, where these are used, and in reception centres for women, men, and children, except for family members wishing to stay together. • Ensure also that such centres and indeed other accommodation for asylum-seekers have doors that can be locked by those living there and that there is access e.g. to health services, counselling and education in a language they can understand.
Monitor, report and evaluate	• Ensure that systems are in place to monitor detention facilities regularly and effectively, including those at the border and at airports, and focus on the specific protection risks faced by women and girls.

Field practice: Hungary	In Hungary, separated girls seeking asylum are not detained for unlawful entry or stay, but are hosted either in a special home for separated children seeking asylum or in open refugee reception centres following a best interest determination/assessment.

Field practice: Bangladesh	Participatory consultations held in refugee camps in Bangladesh in March 2006 during a joint mission undertaken by UNHCR, the University of New South Wales Centre for Refugee Research and the Victorian Foundation for Survivors of Torture, drew attention to the particular protection risks faced by the wives and daughters of men who were imprisoned. The consultations highlighted not only how men were often subjected to arbitrary arrest and detention, but also how this placed their wives at risk of rape and their adolescent daughters at risk of both abduction and rape.¹⁴⁷ The consultations further revealed that men with wives and adolescent daughters were also potential victims of false accusations by powerful locals, as their detention then left the family vulnerable to harassment and sexual violence. This placed the men in a very complex situation and exposed them to exploitation, as it increased their fear of being detained. The consultations enabled the Office to target whom it should interview to further assess and identify who might be most at risk in the refugee community. Follow-up interviews confirmed the accuracy of the community's assessment.

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¹⁴⁷ See UNHCR, *Refugee Consultations Bangladesh*, March 2007, pp. 20–24, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=46f0ec002>.

5.3.3 Restrictions on freedom of movement, continued

**Field practice:
Australia**

All unauthorised arrivals to Australia, including asylum-seekers and refugees, are subject to mandatory detention. The Office has been one of many actors – along with human rights oversight bodies, refugee advocates and non-governmental organizations – affirming that detention of asylum-seekers should be exceptional and only resorted to where there are no viable alternatives.¹⁴⁸ The Office has also worked to promote alternatives to detention, including notably for women and children. In addition to emphasizing international law and policy concerns, it has sought wherever possible to let refugees speak for themselves, including through publishing the stories of individual refugees who have come to Australia.¹⁴⁹

The introduction in November 2003 of Immigration Residential Housing (IRH) as one of several types of alternative immigration detention available was welcomed by the Office. Participation in such housing is voluntary and subject to people in detention meeting the eligibility criteria. Families and low-risk single persons are eligible for IRH accommodation subject to places being available; health and character checks, an assessment on whether or not the person in detention is likely to abscond; and any operational issues particular to the person in detention or the effective management of the immigration residential housing.

In June 2005, legislation was introduced which vests the Minister with an absolutely discretionary public interest power to specify alternative detention arrangements for a person's detention. Although initially designed for families with children, this programme also extends to other people in immigration detention. Unaccompanied children are referred to the Minister for consideration for placement in foster care arrangements in community detention. The Office welcomed these changes and especially Parliament's expressed intention that children should only be detained as a measure of last resort.

The Office periodically monitors detention centres, interviewing detainees and submitting reports to the Department of Immigration and Citizenship (DIAC). It reports on its findings and makes recommendations on the situation in detention facilities. It advocates for IRH to be expanded to accommodate all asylum-seekers at risk, including pregnant women and individuals suffering from mental illness. It further advocates that family unity be preserved by accommodating families, including the male head of the family, in alternative detention arrangements.

In 2006, the Australian Human Rights and Equal Opportunity Commission (HREOC) also conducted monitoring visits to immigration detention facilities and alternative detention locations. Its report states: "HREOC welcomes the recent changes in government policy regarding immigration detention. In particular, we welcome the introduction of residence determinations as an alternative to detention. We also welcome the legislative principle that children should only be detained in detention centres as a measure of last resort."¹⁵⁰

During the first half of 2007, no children were in immigration detention in Australia, representing substantial progress in recent Australian practice.

¹⁴⁸ See ExCom Conclusion No. 44 (XXXVII), 1986.

¹⁴⁹ See field practice example in chapter 2, section 5, strengthening participation and empowerment of girls.

¹⁵⁰ See Australian Human Rights and Equal Opportunity Commission's (HREOC), "Summary of Observations following the Inspection of Mainland Immigration Detention Facilities", January 2007, at www.humanrights.gov.au/human_rights/idc/.

5.3.4 Military recruitment and DDR

"I was defiled by some older boys [could not remember how many] when we were being marched to the rebel camp. After returning from Sudan, I was a wife to one rebel commander, then another junior commander and then two 'older' rebel soldiers. I had one child who died when he was a few days old. I was a slave to the rebels for 19 months. I do not think I will marry again."

Girl abducted by the Lord's Resistance Army (Machel Report)¹⁵¹

"One boy tried to escape [from the rebels], but he was caught... His hands were tied, and then they made the other new captives, kill him with a stick. I felt sick. I knew this boy from before. We were from the same village. I refused to kill him and they told me they would shoot me. They pointed a gun at me, so I had to do it. The boy was asking me, 'Why are you doing this?' I said I had no choice. After we killed him, they made us smear his blood on our arms. They said we had to do this so we would not fear death and so we would not try to escape... I still dream about the boy from my village who I killed. I see him in my dreams, and he is talking to me and saying I killed him for nothing, and I am crying."

Susan, 16, girl soldier abducted by the Lord's Resistance Army¹⁵²

Introduction

Girls and boys under the age of 18 – some as young as seven – are actively participating in hostilities in over 20 countries worldwide. Some have been abducted at gunpoint and forced to serve. Others enlist as their only means of survival in the face of extreme poverty, abuse and/or exploitation.¹⁵³

Estimates suggest that, of the approximately 300,000 children¹⁵⁴ involved in conflicts around the world, up to 40 per cent (120,000) are girls.¹⁵⁵

Risk of recruitment resulting from displacement

The risk of recruitment by armed forces or armed groups may be a factor initially prompting flight or provoking onward flight. Once displaced, this risk can increase, including as a result of

- separation of children from their families and their usual social support networks;¹⁵⁶
- proximity to conflict, to which IDPs in particular may be exposed;
- lack of economic, educational or other opportunities because of displacement;
- marginalization or discrimination, for instance, on ethnic grounds or because they have fled into an area where they are in a minority; and
- a perception that they are in allegiance with a belligerent in the conflict.

All these factors can lead to the displaced being targeted for recruitment. Sometimes refugee and IDP camps can become recruiting grounds for armed forces or armed groups.

Summary of challenges

Women and girls associated with armed forces and armed groups play various roles during conflict. They may act as porters, cooks, and "sex slaves", in addition to fighting and acting as "mine sweepers". They may be routinely subject to rape and sexual assault, as are some boys, and to child

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¹⁵¹ For the voices of other girl soldiers, see Yvonne E. Keairns, *The Voices of Girl Child Soldiers: Summary*, Quaker UN Office, Geneva, 2002.

¹⁵² From website of the Office of the Special Representative of the Secretary-General for Children and Armed Conflict at <http://www.un.org/children/conflict/english/home6.html>.

¹⁵³ Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2004*, London, 2004, p. 15, quoted in Save the Children, *Protecting Children in Emergencies*, policy brief, Vol. I, No. 1, 2005. See also generally, UN Department of Public Information, "Facts and Figures on Women, Peace and Security, November 2005, at http://www.un.org/womenwatch/ianwge/taskforces/wps/WPS_Facts.pdf.

¹⁵⁴ In 1998, it was estimated that up to 300,000 children were actively involved in armed conflict in government armed forces, government militias, and in a range of armed opposition groups. This number is believed to have remained relatively constant, although there are no exact figures.

¹⁵⁵ Save the Children, *Forgotten Casualties of War: Girls in Armed Conflict*, 2005; "The Elimination of All Forms of Discrimination and Violence against the Girl Child: Report of the Secretary-General", E/CN.6/2007/2, 12 December 2006, para. 30.

¹⁵⁶ ExCom Conclusion No. 94 (LIII), 2002, on the civilian and humanitarian character of asylum, para. (g), notes, for instance, that unaccompanied and separated children are even more vulnerable to recruitment than other children.

5.3.4 Military recruitment and DDR, continued

Summary of challenges
(continued)

and/or forced marriage. They may become infected with HIV/AIDS and/or disabled as a result of injury. Many women and girls become pregnant and lack the means to support or care for their children, who in turn risk abandonment and other protection problems.

Challenges: DDR

UNHCR's involvement in disarmament, demobilization and reintegration (DDR)¹⁵⁷ relates primarily to its reintegration element. As also discussed in greater detail below, particular challenges in this context concern:

- women's and girls' access to DDR programmes, since without such access reintegration and rehabilitation is extremely difficult, and
 - stigmatization and ostracism by their communities.
-

"I remember that when the information about disarmament reached our base and the girl-soldiers asked the commander about it, he said that this disarmament had nothing to do with them; that it was only for men."
Former child soldier, Liberia¹⁵⁸

Challenge: Access to DDR

Disarmament, demobilization and reintegration (DDR) programmes frequently discriminate against women and girls and do not take their particular concerns adequately into account.

In many conflict situations — such as in Liberia, Sierra Leone and the Democratic Republic of the Congo (DRC) — commanders and adult fighters do not feel obliged to release girls to transit care facilities, holding them captive as "wives." Sometimes government DDR officials uncritically regard such girls as "dependants", rather than as children who are entitled to entry into the child DDR programme.¹⁵⁹

Despite the establishment of separate facilities for boys and girls and gender-specific programmes in certain countries, such as the DRC, in the majority of DDR situations girls remain at a disadvantage in access to demobilization programmes and in reintegration into their communities.¹⁶⁰

Challenge: Stigmatization

Many women and girl soldiers are unwilling to come forward for DDR, because of their association with rebel groups and the "taint" of having been raped. They fear being identified as "bush wives" and/or having their children labelled as "rebel babies".

Even when they can access DDR programmes, they may find that their needs and the needs of any children they have had are not addressed. Stigmatization, psychological and physical trauma, and responsibility for dependants – all common for women and children in post-conflict settings – are rarely discussed during DDR programmes. The stigma facing girls lasts longer than for boys, is more difficult to reduce and is more severe, since

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¹⁵⁷ For a more detailed explanation, see "Note by the Secretary-General on Administrative and Budgetary Aspects of the Financing of UN Peacekeeping Operations", A/C.5/59/31, 24 May 2005, and the information at <http://www.unddr.org>.

¹⁵⁸ Krijn Peters with Sophie Laws, *When Children Affected by War Go Home: Lessons learned from Liberia*, Save the Children UK, 2003, quoted in *Save the Children, Reaching All: Core Principles for Working with Children Associated with Armed Groups and Forces*, 2005.

¹⁵⁹ Amnesty International, "DRC: Children at War, Creating Hope for the Future", 11 October 2006, at <http://web.amnesty.org/library/index/ENGAFR620172006>

¹⁶⁰ UN Department of Public Information, "Facts and Figures on Women, Peace and Security", November 2005, at http://www.un.org/womenwatch/ianwge/taskforces/wps/WPS_Facts.pdf

5.3.4 Military recruitment and DDR, continued

**Challenge:
Stigmatization**
(continued)

girls will have lost their “value” as perceived by the community, including in relation to marriage.¹⁶¹

Many women and girls formerly associated with armed forces and armed groups are ostracized by their families and communities, leaving them isolated and vulnerable to exploitation and abuse. Without viable alternatives, they may have to survive by hazardous and exploitative means, including prostitution and theft, and may risk re-recruitment. The rejection of any children born to them may be even more severe.

**International legal
standards**

International humanitarian law applicable to non-international armed conflict prohibits the recruitment of children under the age of 15 or their participation in hostilities. Article 37 of the Convention on the Rights of the Child (CRC) also establishes 15 as the minimum permissible age for military recruitment.

By contrast, the 2000 Optional Protocol to the CRC prohibits the compulsory military recruitment of children under the age of 18 and the recruitment or use in hostilities by armed groups of anyone under the age of 18. This is the standard which UNHCR should follow in its planning and interventions. It is also reflected in the 1990 African Charter on the Rights and Welfare of the Child, as it prohibits the recruitment and use of children under 18 in both international and internal armed conflicts.

More generally, as set out in the Paris Principles (see below), unlawful recruitment refers to the recruitment or use of children under the age stipulated in the international treaties applicable to the armed forces or armed group in question or under national law.

International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour defines forced and compulsory recruitment of children in armed conflict as one of the worst forms of child labour. It obliges States parties to provide and apply appropriate sanctions, including penal sanctions.

The Rome Statute of the International Criminal Court (ICC) and customary international law recognize that the recruitment and use in hostilities of children under the age of 15 is a war crime. This was reaffirmed in a decision by the Special Court of Sierra Leone in May 2004. In 2006, Thomas Lubanga Dyilo, a former militia leader in the Democratic Republic of the Congo, was charged with enlisting and conscripting boys and girls under the age of 15 and using them to participate actively in hostilities.¹⁶²

The Committee on the Rights of the Child has affirmed that under-age recruitment or use of children in armed conflict constitutes a child-specific form and manifestation of persecution. Children exposed to such treatment and who flee and claim asylum may therefore come within the refugee definition contained in the 1951 Refugee Convention if their treatment is linked to one of the five grounds set out in the definition.¹⁶³

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¹⁶¹ The Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups”, February 2007, para.7.59.

¹⁶² International Criminal Court, “Child Soldier Charges in the First International Criminal Court Case”, press release, 28 August 2006, <http://www.icc-cpi.int/press/pressreleases/174.html>.

¹⁶³ Committee on the Rights of the Child, General Comment No. 6 (2005) Treatment of unaccompanied and separated children outside their country of origin, CRC/GC/2005/6, para. 74. See also, UNHCR Advisory Opinion Regarding the International Standards for Exclusion from Refugee Status as Applied to Child Soldiers, letter to J. Wells Dixon Esq., 12 Sept. 2005.

5.3.4 Military recruitment and DDR, continued

Paris Principles

The 2007 “Paris Principles”¹⁶⁴ set out detailed “principles and guidelines on children associated with armed forces or armed groups”. Core elements of the Principles are the prevention of the unlawful military recruitment or use of children and of their release and reintegration.

The Principles also set out the applicable legal standards and give guidance on a wide range of issues, including prevention of unlawful recruitment or use of girls, treatment of children born to girls who have been associated with armed forces or armed groups, the importance of making the release process explicitly inclusive of the specific needs of girls, family tracing, reunification and family-based care arrangements, and the reintegration of girls.

Other guidelines

Other guidance can be found in

- UNHCR’s *Operational Guidelines on Maintaining the Civilian and Humanitarian Character of Asylum*,¹⁶⁵ which set out the legal framework underpinning this principle and provide operational guidance, including in relation to girl refugees associated with armed forces and measures to prevent the recruitment of refugees;
 - the “checklist” for gender-aware DDR produced by UNIFEM in 2007,¹⁶⁶ and
 - the UN Disarmament, Demobilization and Reintegration Resource Centre at <http://www.unddr.org/> launched by the Inter-Agency Disarmament, Demobilization and Reintegration Working Group (IDDRWG) in December 2006. This provides valuable information and guidance on integrated standards to improve DDR, including on the cross-cutting issues of women, gender and DDR; youth and DDR; children and DDR; and cross-border population movements.
-

Responsibility

States party to the 2000 Protocol are obliged to take all feasible measures to ensure members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities and to take all feasible measures to prevent armed groups recruiting children or using them in hostilities.¹⁶⁷

Since 1999, the UN Security Council has issued six resolutions on children and armed conflict.¹⁶⁸ They call on governments, parties to a conflict, and other organizations, including UN bodies, amongst other things to take wide-ranging action to prohibit the recruitment and use of child soldiers in hostilities.

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¹⁶⁴ “The Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups”, February 2007, at http://www.diplomatie.gouv.fr/en/france-priorities_1/democracy-human-rights_1101/children-rights_3265/international-conference-on-children-involved-in-armed-forces-and-armed-groups-paris-5-6-02-07_8638.html. The Paris Principles build on the 1997 Cape Town Principles and Best Practices on the Prevention of Recruitment of Children into the Armed Forces and on Demobilization and Social Reintegration of Child Soldiers in Africa. In addition, 66 governments had by October 2007 signed a set of “Paris Commitments to protect children from unlawful recruitment or use by armed forces or armed groups”.

¹⁶⁵ UNHCR, *Operational Guidelines on Maintaining the Civilian and Humanitarian Character of Asylum*, September 2006, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=452b9bca2>.

¹⁶⁶ UNIFEM, “Gender-aware Disarmament, Demobilization and Reintegration (DDR): A Checklist”, February 2007, at <http://www.womenwarpeace.org/issues/ddr/ddrenghish.pdf>. See also, UNIFEM, *Getting it Right, Doing it Right: Gender and Disarmament, Demobilization and Reintegration*, October 2004, at http://www.unifem.org/attachments/products/Getting_it_Right_Doing_it_Right.pdf.

¹⁶⁷ 2000 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, Articles 1 and 4. See also generally, the Cape Town Principles and Best Practices on the Prevention of Recruitment of Children into the Armed Forces and on Demobilization and Social Reintegration of Child Soldiers in Africa, at [http://www.unicef.org/emerg/files/Cape_Town_Principles\(1\).pdf](http://www.unicef.org/emerg/files/Cape_Town_Principles(1).pdf).

¹⁶⁸ For more on the responsibilities of States and UN agencies, including UNHCR, under these resolutions see chapter 6, section 2.5.

5.3.4 Military recruitment and DDR, continued

Responsibility (continued)

Responsibility for follow-up is assigned to UN peacekeeping missions and UN country teams. Recommendations related to child soldiers include action to protect the rights of girls, including refugee and internally displaced girls. Resolution 1379 (2001) also recommends the Secretary-General establish a “naming and shaming” list of groups accused of using child soldiers. This practice has continued in subsequent special reports.

Primary responsibility for ensuring the civilian and humanitarian character of asylum lies with States, as indicated in ExCom Conclusion No. 94 (LIII) of 2002. This includes a responsibility to ensure measures are taken to prevent the recruitment of refugees, in particular children, by government armed forces or organized armed groups. UNHCR and relevant UN bodies have a responsibility to support and assist States to do this.

Responsibility: UN and DDR

UN agencies are responsible for ensuring an integrated approach to DDR. While other UN bodies such as the UN Department of Peacekeeping Operations (DPKO) are likely to have a primary role in this process, it is important that UNHCR coordinate with other UN agencies, for instance, through an integrated DDR unit or team within the UN Country Team. This enables us to ensure that issues particularly relevant to displaced and returnee persons of concern, including women and girls, are integrated into the planning of DDR programmes.

UNHCR's involvement in DDR programmes has thus far primarily related to its reintegration element of DDR. As the organization becomes more involved in situations of internal displacement and the UN seeks to ensure a more integrated response to the issue, our involvement in accordance with our mandate is all the more important.

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to prevent forced military recruitment of women and girls of concern,¹⁶⁹ enable their access to DDR programmes in post-conflict situations, and promote rehabilitation include:

Response	Actions
Coordinate	• Coordinate with UN partners, such as UNICEF and DPKO, to support initiatives to protect girls and boys from military recruitment as well as the active inclusion of girls in DDR programmes. • Coordinate, especially in IDP and refugee camp settings, among key actors, including education and health partners and youth groups, to monitor population changes, analyse causes and coordinate responses to prevent military recruitment of persons of concern, including women and girls.

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¹⁶⁹ For further suggestions, see Save the Children, *Fighting Back: Child and Community-led Strategies to Avoid Children's Recruitment into Armed Forces and Groups in West Africa*, 2005, at http://www.savethechildren.org.uk/en/docs/fighting_back.pdf. The report identifies seven types of approaches involving: identifying and moving to a place of greater safety; avoiding separation or providing alternative care; changing attitudes to stop children wanting to join the fighters; reducing poverty through improving household livelihoods; providing alternatives for children through school and skills training; welcoming back children formerly associated with the fighting forces; and creating peace and reducing the demand for child soldiers.

5.3.4 Military recruitment and DDR, continued

How to respond (continued)

Response	Actions
Coordinate, contd.	- Acknowledging other actors' lead role in DDR programmes, including especially that of peacekeeping forces, and that UNHCR's role primarily relates to the reintegration element of DDR, advocate with inter-agency and other partners to promote an inclusive, community-based approach to DDR. This is so as to ensure that - the programme is well-integrated in displaced and returnee communities, - all members of the community affected by the conflict participate, - emotional and psycho-social support networks are established, - women and girls are supported to return to the community and are not ostracized, and - the community is empowered to protect its children.
Assess, analyse and design	- Promote the participation of women and girls of concern formerly associated with armed forces and armed groups in planning DDR programmes to ensure their experiences and recommendations are taken into account without affecting their security. - Work with partners to ensure that programmes for child soldiers pay special attention to girl victims of sexual exploitation and girl heads of household and that they address the particular concerns of young mothers and their children.
Intervene to protect	- Where girls and boys of concern have been or are being recruited, advocate to secure their release from the control of armed forces and groups. Such efforts do not need to form part of a formal DDR process but should be pursued at all times. - Support the prompt tracing and reunification of unaccompanied and separated girls and boys with their families to reduce their vulnerability to recruitment, ensuring that suitable care arrangements, including with relatives or foster families, are in place in the interim. - In situations of displacement and return, ensure women and girls of concern identified as combatants are not interned together with men and boys.¹⁷⁰ - Promote programmes to assure greater autonomy for girl soldiers and their children, including by supporting temporary reception centres for displaced, pregnant former girl soldiers and girl mothers, where they can receive medical and psychosocial support and take part in educational and livelihood programmes. - Ensure former child soldiers of concern receive medical assistance, especially related to sexual and reproductive health and sexually transmitted infections (STIs), including HIV/AIDS, and psycho-social follow-up.¹⁷¹
Strengthen national capacity	- Work immediately with the national authorities to denounce the military recruitment of children, including girls. - Promote the release of girls and boys from armed forces and armed groups at the first available opportunity, independently of a formal DDR process. - Work with partners to promote the enrolment of former child soldiers in schools and training centres, so that they can catch up on lost schooling and increase their self-reliance, and to ensure that such sites are protected from attack and recruitment.

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¹⁷⁰ UNHCR, "Operational Guidelines on Maintaining the Civilian and Humanitarian Character of Asylum, September 2006, p. 38.

¹⁷¹ Save the Children, *Forgotten Casualties of War: Girls in Armed Conflict*, 2005.

5.3.4 Military recruitment and DDR, continued

How to respond (continued)

Response	Actions
Strengthen national capacity, contd.	• Work with the asylum authorities in countries of asylum to raise their awareness of the fact that the recruitment of children by armed forces or armed groups and their participation in armed conflict are child-specific forms and manifestations of persecution which may justify the granting of refugee status if such acts are related to one of the 1951 Refugee Convention grounds.¹⁷²
Strengthen community capacity to support solutions	• Involve members of displaced and returnee communities of all ages in dialogue to raise their awareness of the dangers of forced recruitment of girls and boys into armed groups and forces, as well as of the legal standards on the age of recruitment, and penalties for violating them. • Raise awareness among girls of the negative consequences of being associated with armed groups in the short and longer term. • Work with teachers to incorporate information on children's rights and the prevention of military recruitment into school curricula. • Reinforce educational opportunities and recreational activities for girls and boys, especially adolescents, and encourage the formation of youth groups to keep adolescents productively occupied and reduce the risk of recruitment by armed groups. • In displaced and returnee situations, support solutions which focus on family and community reintegration through awareness-raising sessions about the situation of child soldiers and the importance of accepting former child soldiers back into their communities so that they can be rehabilitated and establish normal lives again. • Support peacebuilding and consolidation activities in communities which include demobilized former child/women combatants and include local residents in these activities. • Help establish and maintain livelihoods and access to education, particularly for displaced or returnee former female soldiers who are single and/or girl mothers who are most at risk of abuse, exploitation, and rejection. • Promote other measures, including family reunification and recreational activities, both as preventive measures and to help rehabilitate girls and boys who have been demobilized. • Support cultural and traditional activities to promote forgiveness, healing and reconciliation in displaced and returnee communities, as these can be especially useful in enabling former girl and boy soldiers to be reunited with and accepted once again by their families and communities. Where this has been achieved, encourage such children to provide support to their peers. • In the post conflict and reintegration phase, recognising the impact of armed conflict and displacement and the risks of increased domestic violence, especially in families of former combatants, promote counselling and other mechanisms to enable women and girls in displaced or returnee communities to report incidents, seek and receive assistance and secure redress.¹⁷³

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¹⁷² Committee on the Rights of the Child, General Comment No. 6 (2005) Treatment of unaccompanied and separated children outside their country of origin, CRC/GC/2005/6, para. 74.

¹⁷³ UNHCR, "Operational Guidelines on Maintaining the Civilian and Humanitarian Character of Asylum, September 2006, p. 38.

5.3.4 Military recruitment and DDR, continued

How to respond (continued)

Response	Actions
Monitor, report and evaluate	• Monitor school attendance to ensure that there is no military recruitment of pupils. • Promote the inclusion of age and gender disaggregated assessment in monitoring of DDR initiatives to ensure women and girls are not excluded from the process and promote reform of such processes to strengthen their inclusion if they are. • Evaluate the impact of DDR programme with girls of concern. • Monitor the situation of displaced or returnee women and girls formerly associated with armed groups through family and community-based initiatives to ensure their continued acceptance by their families and communities, their access to education and livelihood initiatives and to identify and respond to any risks arising so that protection problems including that of re-recruitment are minimized. • Contribute to the work of the monitoring and reporting mechanism established under Security Council resolution 1612 (see chapter 6, section 2.4).

Field practice: Sierra Leone DDR initiatives

Introduction	The UNHCR office in Sierra Leone has been involved in a range of initiatives concerning DDR in relation both to the Sierra Leone and Liberian civil wars as outlined below. ¹⁷⁴
Rights promoted	Among the rights promoted by these initiatives were the right to • life, liberty and security of the person; • personal integrity; • freedom from torture, cruel, inhuman or degrading treatment or punishment; • freedom of children from military recruitment and from participation in hostilities; • respect for the child's best interests; • freedom from child labour; and • family unity.
Sierra Leone civil war: cross-border combatants	With regard to cross-border combatants, UNHCR lobbied during 2002–02 for the inclusion in the DDR programme of: • male and female Liberians in Sierra Leone who had fought in the war and were approaching UNHCR to seek refugee status; and • male and female Sierra Leonean returnees with an ex-combatant background who wished to go through DDR before returning to their communities as part of reconciliation initiatives. DDR criteria were, however, already finalized and did not include a cross border dimension. This highlights the importance of early UNHCR advocacy on behalf of persons of concern in the planning of DDR. Since Liberian asylum-seekers lacked DDR options, some ended up being re-recruited into the next Liberian war, while others continued to seek refugee status. Sierra Leonean returnees with an ex-combatant background were included in UNHCR's returnee monitoring. UNHCR worked with UNICEF and ICRC at inter-agency level to support communities in reconciliation ceremonies for the return of Sierra Leonean children associated with fighting forces, including girls who had been sexually exploited.
Sierra Leone civil war: Guinean cross-border abductees	During missions in 2001–02 to areas controlled by Revolutionary United Front rebels, UNHCR identified Guinean civilians who had been abducted by the rebels during cross border attacks and were being held captive for slave labour and sexual exploitation. On humanitarian grounds, UNHCR negotiated the release of 120 abductees (men, women, boys and girls), relocated them to government-controlled areas, and helped them with voluntary repatriation. Young girls who had been sexually exploited and their families received counselling as part of the voluntary repatriation process. About 20 girls who had been taken as forced wives and had become pregnant or had babies decided not to repatriate at that time. Those who wished were helped to re-establish links with their families in Guinea.

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¹⁷⁴ See also generally, Office of the Special Rapporteur for Children and Armed Conflict, "Incorporation of best practices in disarmament, demobilization and reintegration programmes for children", at <http://www.un.org/children/conflict/english/ddrforchildren86.html>.

Field practice: Sierra Leone DDR initiatives, continued

Sierra Leone civil war: Guinean cross-border abductees (continued)

UNHCR advocated for the release of both national and cross border abductees, including forced wives, for them to be included in initiatives to sensitize combatants as part of DDR programmes, and for such households to benefit from reintegration activities so that the girls could be empowered and better able to make decisions on their future.

Adult combatants from Liberian civil war

Liberian combatants plus some nationals of other West African countries (including recruited refugees), who had been fighting in the Liberian war, crossed into Sierra Leone in 2001–03. With UNHCR's active support (through advice, advocacy, some funding until European Union funds were received, non-food items, participation in an Internment Taskforce), the government set up a system to separate combatants from refugee influxes. The former were then held in Mapeh and Mafanta internment camps away from the border and repatriated at the end of the war. Three female combatants were among the 435 internees. They benefited from:

- basic humanitarian assistance and separate accommodation appropriate for females (in female prison officers' quarters in Mapeh internment camp), with freedom to mix with the male internee population;
- vocational skills training as a preliminary step towards DDR, designed to give internees options for a civilian future;
- family visits from civilian family members living in refugee camps; and
- voluntary repatriation in coordination with that of refugee family members and DDR benefits upon return to Liberia. (Learning its lessons from the DDR programme for the Sierra Leone civil war, UNHCR successfully advocated for the Liberian DDR programme to have a cross border dimension.)

Two women with long-term partners among the male internees had babies and received medical care at a local clinic. They were given the option of relocating to refugee camps, but they regarded themselves as professional soldiers and preferred to remain within the command structure at the internment camp until they could be repatriated a few months later. (If their children had been older, UNHCR would not have considered it appropriate to accommodate them in the internment camp.)

Liberian civil war: children associated with fighting forces

In the context of the Liberian civil war, 168 Liberian children associated with fighting forces, including a handful of girls who had been either active combatants or had served in support roles, were treated as *prima facie* refugees and accommodated in refugee camps. This was because their recruitment was regarded as a serious violation of child rights amounting to persecution.

They benefited from:

- identification and separation from adult combatants immediately upon entry to the country of asylum;
 - accommodation in refugee camps in a civilian environment conducive to their rehabilitation and reintegration in their communities and to the prevention of re-recruitment;
 - sensitization of refugee communities through awareness raising programmes;
-

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Field practice: Sierra Leone DDR initiatives, continued

Liberian civil war: children associated with fighting forces (continued)

- integration within the population of separated children to avoid being stigmatized, with provision of community-based interim care, tracing and family reunification; education and vocational skills training programmes; counselling and psychosocial activities; and
 - voluntary repatriation in safety and dignity.
-

Liberian civil war: dependants of interned combatants

Civilian family members of interned combatants were recognized as *prima facie* refugees, like the rest of the refugee population, and were accommodated in refugee camps. This meant some families were split and female-headed households created. UNHCR therefore monitored the situation of combatants' family members closely to ensure they did not suffer retaliation by other refugees. ICRC in collaboration with UNHCR organized family visits of refugee family members to the internment camps to support the maintenance of family unity. UNHCR organized their voluntary repatriation in coordination with the return of internees.

Among the girls who had been abducted by combatants, 44 young female dependants (some of whom were accommodated in internment camps) were cared for as separated children. Education, vocational skills training, family tracing and counselling, were used to empower them to make their own decisions about their future. Some of the girls severed relations with their former abductors; others maintained their emotional attachment. Girl mothers received special care to help them bring up their babies.

Other measures

Among other measures, UNHCR and the UN Mission collaborated in UNHCR-led workshops to raise awareness on issues such as conscription of children and rights of children, in particular girls. Refugee legislation was also passed in 2007, containing measures including the provision of refugee status for children entering Sierra Leone from a conflict situation.

5.4 Administration of justice

Overview

"Regarding the abashingantya [the traditional justice mechanism in Burundi], it's a good thing; but even if it's a good thing, it has its flaws. Those flaws in Burundian culture mean that the man in the family, he is supposed to be the head. And so if a domestic situation arises when a woman has domestic issues and then they go to the traditional court, the woman is supposed to oppose the man. But we know this is just not realistic. The woman is not supposed to have any word on anything. So half of the fight is already lost."

Beatrice, Burundian refugee woman in Tanzania¹⁷⁵

Introduction

In some societies, the concept of justice is symbolized by a woman, blindfolded, with a sword and scales, representing the fair and equal administration of the law. Ironically, in almost all societies, and at the international level, women are vastly under-represented in the bodies that make or apply laws.



The principles of equality before the law and equal access to courts are firmly embedded in international law. Yet women and men are often treated differently under national and traditional laws and women may not be accorded the same rights as men. Women and girls may be less informed about their rights, because they lack education and/or literacy skills, or because of cultural biases against women and girls being involved in legal matters or other aspects of public life.

Women and girls of concern face numerous obstacles accessing justice whether through national or sometimes traditional judicial processes / Displaced Dafur women in Sudan sit listening and waiting / © Norwegian Refugee Council / R. Høvring / June 2006

Purpose

The purpose of this section is to

- illustrate some of the challenges women and girls face in obtaining access to the formal national judicial systems;
- illustrate some of the challenges they face in obtaining justice under traditional systems;
- illustrate some of the challenges faced in ensuring accountability for human rights violations in post-conflict and return situations;
- identify the laws and mechanisms for the administration of justice that apply in situations of displacement; and
- suggest actions UNHCR and partners should carry out to promote adherence to the principle of equality before the law and equal access to judicial systems.

In this section

This section covers the following topics.

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¹⁷⁵ "Within the Limit: Refugees in Tanzania", UNHCR film.

5.4.1 Administration of justice during displacement

"For example, the girl says she was raped, but how do we know for sure? If there are no scratches, it is difficult to decide if it is a rape. If she really struggled, there should be a scratch. If there is no scratch or injury, then there was no completed rape."

Traditional court judge in refugee camp, Thailand¹⁷⁶

"Opinion on how to deal with gender bias in non-formal justice systems varies. There are some who view gender bias as an incorrigible trait and call for disengagement with informal justice systems, and those who take the pragmatic view that the option of reform must be kept open because these systems will not go away."

Dr Celestine Nyamu-Musembi, "Review of Experience in Engaging with 'Non-State' Justice Systems in East Africa"¹⁷⁷

Introduction

Women and girls of concern face numerous challenges and obstacles in accessing national and, in some cases, traditional judicial procedures. They often face bias and discrimination against them by police and adjudicators.

Not only does displacement place women and girls at greater risk of violations of their rights. At the same time, it often exacerbates the inequalities and discrimination that they face in relation to the administration of justice.

As a result they often have little or no redress for the violations they have suffered. The impunity that is so often part of displacement leaves women and girls at increased risk of violence and rights violations.

Challenges during asylum

In many asylum situations, particularly in camp settings, refugee life is governed by a complex system of justice consisting of multiple sources of law and other rules, and a variety of mechanisms, both formal and informal, to enforce those laws and rules.

Understanding the content of these laws and mechanisms and working with both informal and formal legal systems to promote respect for the rights of women and girls, is an important aspect of our protection work. These laws and mechanisms include, but are not limited to those listed in the table below:

Laws and mechanisms	Including	Enforced by
Host-country domestic laws and regulations	Formal State law, including: • civil and criminal law; • specific laws regarding refugees and non-nationals; and • government directives, rules, and regulations specific to refugees and refugee camps.¹⁷⁸	Formal State legal system of the host country, which includes: • the police, the judiciary, including courts of law, administrative authorities; and • in some cases, quasi-judicial structures, such as chief district officers and government camp managers.

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¹⁷⁶ "The Silence that is Everyone's Secret", Film produced by UNHCR Thailand and refugee women's groups in Thailand.

¹⁷⁷ Dr Celestine Nyamu-Musembi, "Review of Experience in Engaging with 'Non-State' Justice Systems in East Africa", Institute of Development Studies, Sussex University, UK, February 2003, at <http://www.ids.ac.uk/ids/law/pdfs/eanyamu.pdf>.

¹⁷⁸ Host countries also often have customary traditional rules, which may be applied to refugees.

5.4.1 Administration of justice during displacement, continued

Laws and mechanisms	Including	Enforced by
Refugees' customary or traditional rules	Unwritten rules regulating behaviour and providing methods for resolving disputes within and among groups of refugees. These traditions and codes of behaviours can be governed by religious, cultural, ethnic, national, and tribal practices or other values and customs.	Traditional or customary justice mechanisms consisting of: • persons from elected refugee bodies or religious structures; and/or • elders or tribal, clan, village, zone or camp leaders.
Refugee camp rules and by-laws	Written rules developed by, or written in conjunction with, the refugee population to preserve harmony and law and order in the camp. They may reflect, to some extent, traditional beliefs and customs, but they may also contain aspects introduced by UNHCR, government or law enforcement counterparts or other actors.	Refugee camp management systems that may include: • government camp managers; • male and female leaders in the refugee communities; and • sometimes UNHCR.

Challenges during internal displacement

In internal displacement situations, both formal and informal laws and mechanisms may also apply. Conflict and violence may, however, mean that the laws of the country and the formal State law enforcement and judicial systems may not be functioning. In such cases, customary or traditional rules and mechanisms may be the only sources of justice.

National laws and/or customary and traditional rules may discriminate against women and girls. Women are often under-represented as lawyers, law enforcement and judicial officers in formal justice systems. Their access to such systems is often hampered by insensitivity and gender bias on the part of such officers. Women may not be permitted to sit on decision-making bodies of traditional justice mechanisms. Consequently, ensuring respect for women's and girls' entitlement to equal treatment before the law is a complex and challenging task in situations of displacement.

International legal standards and guidelines

Under international law, everyone is equal before the courts and tribunals, is entitled to a fair and public hearing by a competent, independent and impartial tribunal, and has the right to recognition everywhere as a person before the law.¹⁷⁹ Everyone also has the right to an effective remedy, including adequate reparation for violations of human rights. The right to liberty and security guarantees protection against arbitrary arrest and detention.¹⁸⁰

The Human Rights Committee has specifically recognized that "the right of access to courts and tribunals and equality before them is not limited to citizens of States parties, but must also be available to all individuals, regardless of nationality or statelessness, or whatever their status, whether asylum seekers, refugees, migrant workers, unaccompanied children or other persons".¹⁸¹

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¹⁷⁹ ICCPR, Articles 14 and 16.

¹⁸⁰ This right is implicit in the obligation to respect, protect and fulfil human rights and is a recognized general principle of law.

¹⁸¹ Human Rights Committee, "General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial", 23 August 2007, para. 9.

5.4.1 Administration of justice during displacement, continued

International legal standards and guidelines (continued)

Women are equal to men before the law and should be treated equally in all stages of procedures in courts and tribunals.¹⁸² Every child capable of forming his or her own views has the right to express them, including in judicial and administrative proceedings affecting him or her.¹⁸³ These rights are to be guaranteed to everyone under the jurisdiction of the State regardless of nationality.

Note: For more detail, regarding developments in international criminal law including as regards rape, sexual slavery, enforced prostitution, forced pregnancy, and enforced sterilization as war crimes and crimes against humanity, see Chapter 6, section 1.5.

Responsibility: States

The administration of justice is a State responsibility. States are obliged to

- accord women equality with men before the law;
- treat women equally in all stages of procedures in courts and tribunals;¹⁸⁴
- provide the child with an opportunity to be heard in any judicial and administrative proceedings affecting him or her;¹⁸⁵
- provide refugees and stateless persons with free access to courts on the same basis as nationals.¹⁸⁶

UN Security Council Resolution 1325 “emphasizes the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, and war crimes, including those relating to sexual and other violence against women and girls, and in this regard stresses the need to exclude these crimes, where feasible, from amnesty provisions.”

It also calls on all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including “measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police, and the judiciary.”

Responsibility: UNHCR

If UNHCR is to be able to ensure that women and girls can secure justice and redress for violations of their rights, staff have a responsibility:

- to work to understand the formal and informal justice systems that apply;
- to work with States to support them so they can comply with their obligations under international law to access to justice for women and girls;
- to promote the equal rights of women and girls, non-discrimination against women and girls, and the best interests of children before both formal and informal justice systems; and
- not to endorse decisions of information justice systems that violate international legal principles.

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¹⁸² CEDAW, Article 15.

¹⁸³ CRC, Article 12. See also Committee on the Rights of the Child, General Comment, No. 10 (2007), 2007, children's rights in juvenile justice.

¹⁸⁴ CEDAW, Article 15.

¹⁸⁵ CRC, Article 12(2). For further details concerning children's rights in juvenile justice, see CRC Committee, General Comment No. 10 (2007) on this issue, 2 February 2007.

¹⁸⁶ 1951 Refugee Convention, Article 16; 1954 Convention relating to the Status of Stateless Persons, Article 16.

5.4.1 Administration of justice during displacement, continued

**Responsibility:
Refugees and
stateless persons**

Refugees are obliged under the 1951 Refugee Convention to comply with the laws and regulations of the host country, as are stateless persons under the 1954 Convention relating to the Status of Stateless Persons.

How to respond

For suggested actions on how to respond to ensure women's and girls' equal access to formal and informal justice systems and in transitional justice situations, see this chapter, sections 4.2 and 4.3 and 4.4 respectively which follow.

5.4.2 Formal national judicial systems

"On 14 March 2005, a woman was raped in Western Darfur and lodged a complaint with the police. Other women had witnessed the incident. As the woman was married and the mother of six children, the police said that the results of the medical evidence did not support the allegation of rape and the case would be dismissed for insufficient evidence. No further steps were taken by the police to investigate the case. ...

In February 2005, in Southern Darfur, two female minors, aged 12 and 13, were raped by pro-government militia. They reported the incident to their families, who reported to the sheikh. The sheikh went to lodge a complaint at the police station and he was arrested for spreading false information. Human rights officers intervened and he was released on bail after spending two weeks in detention. Following his arrest the two minors refused to file a complaint for fear of further reprisals from the police, despite having a medical report which corroborated their testimony."

OHCHR, "Access to Justice for Victims of Sexual Violence, Report of the United Nations High Commissioner for Human Rights"¹⁸⁷

Introduction

The complexities involved in ensuring that women and girls have access to equality before the law and legal remedies are clearly illustrated in relation to our efforts to address sexual and gender-based violence (SGBV) – arguably the most widespread protection problem faced by women during displacement.¹⁸⁸ Despite the general prohibition against SGBV under national criminal laws, perpetrators are usually not penalized where such crimes are committed against refugee and internally displaced women and girls (assuming, in situations of internal displacement, that formal judicial systems are still functioning.)

Summary of challenges

There are many reasons why women are not able to access formal national judicial systems, including:

- lack of support from police, camp and judicial officials;
- women's lack of knowledge about, or lack of representation before, legal systems;
- community pressure; and
- general attitudes to SGBV.

Each of these challenges is discussed further below.

Challenge: Police, camp and judicial officials

Police, camp and judicial officials often do not take SGBV, particularly domestic violence, seriously or may, for instance, seek to prosecute a victim/survivor of rape for adultery.

Police and government security forces may also, in some cases, be the perpetrators of the violence. Judicial officials may also hold discriminatory views about women and girls and may, for instance, instruct them to return home in cases of domestic violence.

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¹⁸⁷ OHCHR, "Access to Justice for Victims of Sexual Violence, Report of the United Nations High Commissioner for Human Rights", 29 July 2005.

¹⁸⁸ See Rosa da Costa, "The Administration of Justice in Refugee Camps: A Study of Practice", UNHCR Legal and Protection Policy Research Series, PPLA/2006/01, March 2006. This study indicates that the greatest percentage of crimes and disputes fell under the category of SGBV crimes. Domestic violence was specifically reported as a widespread problem in all the countries surveyed and as the most common form of SGBV reported.

5.4.2 Formal national judicial systems, continued

**Challenge:
Lack of knowledge
and representation**

Women and girls may lack knowledge of, or familiarity with, the legal system, particularly in countries of asylum. They may lack legal representation and may not have the means to travel the distance to the courts or the money to pay for court-related costs. They may not be able to take time off from work or to leave their families. They may be intimidated or disillusioned by the justice system.

Gender bias within the judicial process – the very process that regulates how equality is achieved in society – prevents women from receiving fair treatment as witnesses, as complainants and in investigations. Women are often blamed for the crimes against them and risk retribution for seeking justice.¹⁸⁹ Complicated procedural and evidentiary laws may also discourage women from starting proceedings for which there is little chance of success. In some countries, woman's "word" is not considered "equal" to that of a man in terms of evidence.

In addition, in refugee situations, national prosecutors are often unwilling to prosecute crimes against refugees, particularly those in remote camps, as the judicial system is already overloaded. Often justice delayed means justice denied.

**Challenge:
Community
pressure**

One of the greatest barriers facing women in accessing formal judicial systems is community pressure, combined with fear of social ostracism and/or physical reprisal. Women and girls often do not want to disclose the violations they suffer because of feelings of shame, helplessness, shock, lack of confidence in the system and/or out of fear that, by doing so, they may be ostracized by their communities.

Communities may also put extreme pressure on women and parents of children who have been subject to SGBV to settle cases "the family way" under traditional justice mechanisms and may threaten them if they proceed under national legal systems. In particular, husbands, fathers and the families of perpetrators may threaten them. Women and girls may be at risk of ostracism and violence by members of their communities even when perpetrators are convicted under national legal systems.

**Challenge:
Attitudes to SGBV**

General attitudes to SGBV, whether within the community, among law enforcements, officials, some staff and partners, can also hinder women's and girls' access to national judicial systems. They may view SGBV as a private matter which should not be investigated through judicial channels. This is especially so, when domestic violence, including marital rape, exploitation and abuse of children, is involved.

**International legal
standards,
guidelines and
responsibilities**

For further information on international legal standards and guidelines, on the responsibilities of States, UNHCR, refugees and stateless persons, see section 4.1 of this chapter above.

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¹⁸⁹ E. Johnson-Sirleaf and E. Rehn, *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*, Progress of the World's Women, 2002, p. 94.

5.4.2 Formal national judicial systems, continued

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to promote the principle of equality before the law and equal access to judicial systems include:

Response	Actions
Coordinate	• Work with lawyers' and judges' associations, human rights groups, and women's groups to analyse the extent to which national legislation complies with the country's international commitments in relation to women's and girls' equality with men and boys before the law and equal access to judicial systems.¹⁹⁰ • Agree on gaps and a team approach addressing them with a view to promoting gender equality and ensuring women and girls of concern are better able to access national judicial systems to secure their rights.
Assess, analyse and design	• Assess and analyse with women and girls the challenges they face in accessing justice. • Discuss these with national and local authorities and community leaders and agree on areas for action. • Design and implement initiatives to help ensure that women and girls have access to justice, including for example mobile courts, and to legal assistance, when possible provided by female lawyers. • Use the CRC Committee's General Comment No. 10 (2007) on children's rights in juvenile justice to identify applicable standards, the responsibilities of states with regard e.g. to the minimum age for criminal responsibility, and applicable guarantees to a fair trial and other rights.¹⁹¹
Intervene to protect	• Advise, accompany, and support women and girls who wish to bring their cases before judicial systems, whether formal or informal, and promote initiatives to assist them, including by and through women's legal clinics, local women's associations and universities.¹⁹² • Ensure legal aid support for all SGBV cases.
Strengthen national capacity	• Support efforts by national and local groups, including lawyers' and judges' associations, human rights groups, and women's groups, to strengthen the legal and judicial system so that it can protect the rights of women and girls of concern. • Work with the authorities to ensure that relevant national laws adhere to international standards as regards women's and girls' equal access to justice and a fair trial, providing technical advice where needed. • Support government authorities in their efforts to carry out best interests determinations for displaced children whose rights have been violated, in line with international legal principles, particularly those set out in the CRC. • Provide materials and training to personnel in the formal legal system (police, prosecutors, judges, district officials, police officers) about the rights of women and girls regarding the administration of justice. Work with these individuals to provide training on women's and girls' rights to various groups within the displaced population, including those who are in decision-making positions in traditional justice mechanisms. • Provide training to these individuals on how to work with children and ensure that courts are adapted to be more child-friendly and respect their rights.

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¹⁹⁰ In this respect, the Human Rights Committee's "General Comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial", 23 August 2007, sets out relevant standards. UNDP, "Access to Justice: Practice Note", 2004, at http://www.undp.org/governance/docs/Justice_PN_English.pdf provides a checklist of issues for assessment.

¹⁹¹ CRC Committee, General Comment No. 10 (2007) on children's rights in juvenile justice, 2 February 2007.

¹⁹² See ExCom Conclusion No. 105 (LVII) of 2006, para. (o)(ii).

5.4.2 Formal national judicial systems, continued

How to respond (continued)

Response	Actions
Strengthen national capacity, contd.	- Promote equal numbers of male and female police officers and judges, or at least the presence of some female police officers and judges, in refugee and internal displacement settings. - In situations where national and local authorities in a country of asylum are not involved in the administration of justice for refugees, work with them to encourage the application of national laws to refugees, and facilitate refugee access to courts. - Promote the establishment of mobile courts with male and female judges in remote refugee camps, where access to national courts in towns is impracticable to reduce impunity, including for attacks against women and girls, and to secure justice, including by establishing witness-protection schemes;¹⁹³ - Encourage gender balance in the staffing of the country's rule of law institutions. - Support female-to-female police services and privacy to facilitate opportunities for women and girls to prosecute perpetrators.
Strengthen community capacity to support solutions	- Provide legal literacy and rights-awareness training to all members of displaced and returnee communities, including training on the rights of women and children. - In asylum situations, this training should also include information about the duties and responsibilities, as well as the rights, of refugees under the laws of the host country. - Work with the community and local authorities to remove obstacles women and girls face in talking their cases to court and encourage the use of the national judicial system to safeguard the rights of women and girls. - Work with men and boys to improve support for women and girls who take cases to court and to ensure their protection in the court.
Monitor, report and evaluate	- Monitor court proceedings involving refugee and internally displaced women to see the extent to which the rights of women and girls, and the country's obligations under international law, are respected, both substantively and procedurally. - Work with lawyers, prosecutors, and members of the judiciary to address any problems, such as lack of confidentiality and procedures that are not age- and gender-sensitive, which are crucial for cases involving children.

Field practice: Kenya

In Dadaab, Kenya, which is located in a remote part of the country, a mobile court was established to provide refugees in the camps with access to Kenya's judicial system and to provide an alternative to the traditional justice system. The court, the proceedings of which are monitored by UNHCR, is open to the public, unless there are cases involving issues of confidentiality or children. It serves as a venue for public education on the laws and procedures of the host country and on women's and children's rights. The presence of the mobile court has resulted in a reduction in crime, including SGBV, since perpetrators are punished and people are aware that there is no longer impunity.¹⁹⁴

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¹⁹³ See ExCom Conclusion No. 105 (LVII) of 2006, para. (o)(ii).

¹⁹⁴ For further information, see UNHCR, *Operational Protection in Camps and Settlements: A Reference Guide of Good Practices in the Protection of Refugees and Other Persons of Concern*, Solutions and Operations Support Section, Division of International Protection Services, 2006, section A11, at <http://www.unhcr.org/publ/PUBL/448d6c122.pdf>.

5.4.2 Formal national judicial systems, continued

Field practice: Ecuador	In Sucumbíos province, Ecuador, UNHCR provides logistical and technical support to a UNIFEM/UNDP project that seeks to guarantee access to justice for victims of domestic violence, including refugee women. The project carries out awareness raising and training for administrators of justice and civil society. It helps ensure that refugee women can enjoy the benefits of national laws which are already in place by adequately informing administrators of justice of the women's rights and combating the frequent misconception that certain laws only apply to nationals. This is especially important in remote areas where judicial administrators lack adequate training on how to implement legislation protecting women in Ecuador, much less refugee women.

5.4.3 Traditional justice mechanisms

"My husband drinks a lot. He promises he won't drink but it only lasts two days. He starts drinking, quarreling, fighting with me... I have the support of my children and the neighbours support me. That becomes another reason for me to get beaten... I've been reporting these problems for the last five months, even though it's been a problem for six years.

I have given application to the Refugee Coordination Unit ¹⁹⁵ because I can't tolerate it anymore. I asked for separation, to get my own rations, I've been tortured too much. In that case the RCU said, 'Okay, fine, let's see if he will improve. Let him come here and sign. Let's experiment' ... three times they gave him the chance to improve – the first time they gave him one month, the second time fifteen days, the third time seven days. Afterwards they passed the case on to the camp secretary... The sub-sector head encourages me to wait and see. He says I should cook food and give it to my husband..."

Nar Maya P. 37-year-old refugee woman in Nepal¹⁹⁶

Introduction

Given the inaccessibility of formal justice systems, cases such as Nar Maya's (see box above) often end up being decided under traditional justice mechanisms. While such mechanisms have the advantage of accessibility, efficacy, and cultural acceptance, their decisions often maintain unequal gender power relations and result in further violations of women's and girls' rights. To use the words of Beatrice, the Burundian refugee woman in Tanzania quoted in the introduction to this section, in many cultures "the woman is not supposed to have any word on anything. So half of the fight is already lost."

Summary of challenges

In recent years, UNHCR staff have become increasingly involved in the activities of traditional justice mechanisms. Often, UNHCR, the government of the host country, and the refugee community will agree that serious crimes, including rape, will go through the formal national legal system, while they may agree that "minor offences" can be decided by the traditional justice mechanism. While this type of arrangement may be the only viable option, it can still result in violations of the rights of women and girls.

Some of the major challenges women and girls face in obtaining justice through traditional justice mechanisms include:

- decisions in SGBV cases can result in further violence;
- other decisions may also result in SGBV and other rights violations;
- women and girls may be charged with, and sentenced for, "offences" that are not crimes under national or international law;
- domestic violence is viewed as a private matter or characterized as a minor crime;¹⁹⁷
- traditional justice systems are largely run by male leaders;
- women's and girl's rights are unlikely to be upheld; and
- they will not have access to a fair trial.

Note: The first three of these challenges are discussed further below.

Continued on next page

¹⁹⁵ The Refugee Coordination Unit is the Nepalese government authority that implements government policy in the camp.

¹⁹⁶ Human Rights Watch, "Trapped by Inequality: Bhutanese Refugee Women in Nepal", September 2003.

¹⁹⁷ For more on attitudes to domestic violence see under section 3.1.1 above.

5.4.3 Traditional justice mechanisms, continued

**Challenge:
SGBV decisions
can result in further
violence**

Decisions by traditional justice mechanisms in SGBV cases, including cases of domestic violence, often result in further violence against women and girls and violate international legal principles, including those of the equality of women and men and the best interests of the child. Since domestic violence is often not taken seriously, women can be forced to remain in abusive marriages for years on end.

Some traditional justice mechanisms “solve” rape cases by forcing the survivor to marry the perpetrator. The rapist will be absolved of all wrongdoing upon marriage, but if the woman refuses to marry she may be found guilty of adultery and sanctioned accordingly. In other cases, the survivor may not be required to marry the perpetrator, but the only sanction is a small fine paid to the survivor’s family and the perpetrator is free to roam the camps, leaving the survivor feeling insecure and at risk of further attack. This is frequently the solution proposed by traditional justice mechanisms to rape and other forms of SGBV against girls.

**Challenge:
Other decisions
can result in rights
violations**

Decisions made by traditional justice mechanisms in relation to non-SGBV disputes can result in SGBV against women and girls and a violation of their rights. In some cases, for example, young girls are forced into marriage in order to “pay back” another family for a debt or commitment made by the girl’s family or following an abduction.

In addition, traditional justice mechanisms often decide on cases involving family relations, such as separation, divorce, and custody, may deny women their right to equality in family relations, and rule against the best interests of the child.

**Challenge:
Women wrongly
accused**

Under traditional justice mechanisms, women and girls may be accused of “offences” that are not, in fact, offences under national or international law, such as witchcraft,¹⁹⁸ eloping, non-performance of marital and family duties, and opposing other social norms, and customs, which violate their rights.

**International legal
standards,
guidelines and
responsibilities**

For further information on international legal standards and guidelines, on the responsibilities of States, UNHCR, refugees and stateless persons, see section 4.1 of this chapter above.

**Principles for
response**

UNHCR can help to improve fairness, accountability, gender balance, and adherence to international legal principles in these systems. We also have an important role to play in linking these systems with formal justice structures so that women and girls can choose the system they wish to use. In working with traditional justice systems, we should be guided by two fundamental principles:

- The administration of justice is a State responsibility and UNHCR must advocate and support countries to meet their international commitments in this respect, and to comply with their obligations under international law, in regard to women and girls.
-

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¹⁹⁸ In some societies, men and boys may be accused of witchcraft as well.

5.4.3 Traditional justice mechanisms, continued

Principles for response (continued)

- UNHCR should work to ensure that traditional justice mechanisms comply with international legal standards, including equality of men and women and boys and girls, non-discrimination against women and girls, and the best interests of the child. UNHCR should not endorse decisions of such mechanisms that violate international legal principles and should, where necessary and possible, intervene to protect women and girls.

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to work with dispute resolution systems in camps and traditional justice systems and ensure that they comply with international legal standards include:

Response	Actions
Coordinate	• Work with the community, national authorities and security officers (including police) to create a coordination mechanism for discussing and analysing justice systems, planning and coordinating action to be taken. Make sure that it has a gender balance.
Assess, analyse and design	• Work with the community to understand traditional justice mechanisms. More particularly, identify: – the values at the core of the system; – who is using the system and for what types of disputes; – the authority that controls the system and the accountability framework; – the rules and standards that apply; – the extent to which the norms and practices comply with international legal principles, particularly the principle of equality between women and men and the best interests of the child; and – how decisions are enforced and whether they are respected. • Work with the community, including adjudicators in traditional justice mechanisms and women's groups, to identify those practices that discriminate against women and girls and that conflict with either the obligations of the asylum country or the country-of-origin's obligations under international human rights law, and identify ways to change such practices. Work with these mechanisms to encourage respect for such laws and international legal principles in their decisions. • Identify who among the population of women and girls may already have a conflict-resolution and decision-making role in the community and discuss ways to support these people. One possibility is to establish community-based mediation teams involving women and men of different ages and backgrounds. • Examine any rules and by-laws in the camps to see the extent to which they promote international legal principles, including the equality of women and men and boys and girls and the best interests of the child, and design strategies to work with the community to bring rules and by-laws that do not into line. • Be transparent and clear about UNHCR's role in upholding human rights.
Intervene to protect	• Take measures to assure confidentiality, so as to enable women and girls at risk to remain safely in their community.¹⁹⁹ • Intervene to protect women and girls exposed to further violations of their rights, including by giving consideration to options such as resettlement for refugee women and girls.

Continued on next page

¹⁹⁹ ExCom Conclusion No. 205 (LVII) of 2006, para. j)(iv).

5.4.3 Traditional justice mechanisms, continued

How to respond (continued)

Response	Actions
Intervene to protect, contd.	In some cases involving children of concern, including girls whose rights have been violated by the decisions of traditional justice mechanisms, ensure their best interests are upheld through best interests assessments and/or best interests determination regarding actions taken to protect them.²⁰⁰
Strengthen national capacity	- Strengthen the interplay between formal judicial structures and traditional justice mechanisms to ensure that they: – provide clear channels of referrals; – ensure that serious crimes are referred to national judicial systems; – find ways to ensure that women and girls can choose which system they would like to adjudicate matters that affect them; – provide judicial review for women or others who feel that traditional justice mechanisms have discriminated against them; and – provide judicial review for those decisions made by traditional justice mechanisms that may not be in the best interests of the child.
Strengthen community capacity to support solutions	- Strengthen women's leadership, including by enhancing their representation and meaningful participation in dispute resolution systems;²⁰¹ - Introduce a peace education programme to improve gender awareness and conflict resolution skills.²⁰² - Build relations between host and displaced communities to create a safe and non-exploitative environment;²⁰³ - Cooperate with national and local authorities and women's and/or lawyers' groups, as appropriate, in providing training to different groups within the displaced population, including elders and leaders involved in traditional justice mechanisms, on the laws of the host country and international legal principles related to the rights of women and children. - Advocate in favour of meaningful women's participation as decision-makers in traditional justice mechanisms and in community-based policing programmes. - Adopt a "bottom-up" approach, especially if communities are in remote areas, starting with the community members themselves, to increase understanding that SGBV should not be minimized in traditional dispute resolution mechanisms and ensuring that initiatives are in accordance with international rights standards.
Monitor, report and evaluate	- Monitor the proceedings of traditional justice mechanisms. To the extent possible, obtain and record statistics on these mechanisms, disaggregated by age and sex, covering the types of cases, the number of cases, and, for criminal cases, sentences. Note any statements that indicate gender-based discrimination or lack of gender sensitivity. - Document and promote good practices and do not only focus on negative examples. - Evaluate with the decision makers the impact of their decisions on women and girls over a three-month period so they can reflect on how they work.

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²⁰⁰ See chapter 4, section 2.5 on best interests assessments and best interests determinations and see UNHCR, "UNHCR Guidelines on Formal Determination of the Best Interests of the Child", provisional release, May 2006.

²⁰¹ ExCom Conclusion No. 105 (LVII), 2006, para. (k)(i).

²⁰² See UNESCO, UNHCR and Interagency Network for Education in Emergencies (INEE), *Inter-Agency Peace Education Programme: Skills for Constructive Living*, November 2005, at http://portal.unesco.org/education/en/ev.php-URL_ID=47164&URL_DO=DO_TOPIC&URL_SECTION=201.html.

²⁰³ ExCom Conclusion No. 205 (LVII), 2006, para. (j)(iv).

5.4.3 Traditional justice mechanisms, continued

Field practice: Rwanda	In Rwanda, ProFemmes/Twese Hamwe, a collective of 40 women's organizations throughout the country, conducts a variety of measures to maximize women's participation in <i>gacaca</i>, the traditional justice mechanism in Rwanda. These include advocacy for the integration of a gender perspective in implementation of <i>gacaca</i> law and awareness-raising sessions for 100,000 women leaders, local government representatives, and persons in detention centres.

Field practice: Strengthening administration of justice in Thai refugee camps

Introduction

When UNHCR's office in Thailand discovered that crimes, including SGBV and rape and murder of children, committed in nine remote refugee camps along the border with Myanmar were not being investigated or prosecuted by the Thai authorities, it worked systematically and comprehensively to strengthen the administration of justice in the camps, particularly in relation to violations of the rights of women and children.

The goal is to make the formal Thai justice system more accessible to refugees and ensure traditional justice mechanisms in the camps adhere to Thai law and international legal principles.²⁰⁴

Rights promoted

Rights promoted by this initiative include:

- the right to life, personal integrity and freedom from torture, cruel, inhuman and degrading treatment;
 - the right to equality before courts and tribunals;
 - the right to be presumed innocent until proved guilty according to law;
 - the right not to be subject to arbitrary or unlawful interference with one's privacy, family or home or to unlawful attached on one's honour and reputation; and
 - the right to the protection of the law against such interference or attacks.
-

AGDM and empowerment

A UNHCR study on protection incidents in the refugee camps between 2003 and 2006 found that 350 serious protection incidents in the camps had been reported to UNHCR in three years. The most common type of incident was domestic violence. A special focus of the initiative has been on victim/survivors of SGBV crimes, including child murder, rape and abuse, and recruitment of child soldiers and on bringing perpetrators to justice in a manner that adheres to Thai and international judicial standards. Another focus has been on juvenile justice and on community justice systems to ensure that they better protect the rights of women and children.

The four-pronged approach outlined below has been complemented by a variety of measures aimed at supporting victims of crimes, particularly SGBV crimes, including:

- providing legal counsel and establishing Legal Aid Centres (LACs) in the camps, the first such centre being opened in November 2006;
 - agreeing and implementing Standard Operating Procedures (SOPs) for SGBV in each camp; and
 - strengthening child-protection networks in the camps.
-

Community involvement in implementation

Refugees were consulted in a survey conducted by UNHCR's implementing partner, the International Rescue Committee (IRC) which found that 63 per cent of residents in three Thai camps had serious concerns for their safety in the camps, while they overwhelmingly preferred using traditional justice procedures to resolve even crimes as serious as murder.

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²⁰⁴ See generally, UNHCR, "In Thai Camps, Legal Centres Hold out Hope for Greater Justice", 22 November 2006, at <http://www.unhcr.org/news/NEWS/45646fed4.html>.

Field practice: Strengthening administration of justice in Thai refugee camps, continued

Community involvement in implementation (continued)

UNHCR worked with refugee women's groups to produce a film to raise awareness about SGBV and provide information on the options available for survivors of SGBV. It also worked with women's committees to increase awareness of women's and girls' rights and options available to them.

Partners and their involvement

Partners included:

- the Thai Ministries of Interior and Justice, involved to raise awareness of the extent of law and order problems in the camps and persuade them to assume their responsibilities to establish a justice system in the camps;
 - International Rescue Committee as UNHCR's implementing partner in the camps, involved e.g. in surveying justice systems operating in the camps and drawing up SOPs for the Legal Advice Centres; and
 - human rights academics, involved in conducting an independent study on the extent of the problem and supporting workshops held.
-

Steps to implementation

In order to strengthen the administration in the camps, UNHCR launched a four-pronged approach involving:

- training in Thai law and international legal standards for refugee camp committees and other organizations, including women's committees, to increase their awareness of their rights under Thai law and the options open to them, particularly for cases involving SGBV;
 - convening a workshop with government officials involved in the administration of justice at the provincial and central levels to clarify roles and responsibilities in an effort to ensure that justice is consistently administered in the various camps and that serious crimes are prosecuted by the Thai authorities;
 - organizing a workshop for government officials and refugee leaders to discuss their different roles and responsibilities in the administration of justice, resulting in agreement on a basic framework for the administration of justice whereby serious crimes would be referred to the Thai justice system and minor offences would be referred to traditional justice systems; and
 - supporting the Thai government in its efforts to build the capacity of traditional justice systems to comply with international norms, particularly regarding juvenile justice.
-

Constraints

One challenge was the initial reluctance of the Thai government to become involved in the administration of justice in the camps. It initially agreed to set up a justice system in the camps at a first workshop in 2004 and it is now the Ministry of Justice which is providing most active involvement.

Another has been the desire of refugee leaders to maintain control of justice issues in the camps. In particular, women and young people are under-represented in the refugee leadership and judicial committees and lack influence in decision-making. Greater efforts to conduct more democratic and representative camp elections are still needed.

Ongoing funding is also needed, e.g. of the Legal Advice Centres which are resource intensive both in terms of financial and human resources.

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Field practice: Strengthening administration of justice in Thai refugee camps, continued

Impact

UNHCR's initiatives have raised awareness among government ministries, camp leadership and the refugee community more generally of the challenges faced, and responsibilities for, administering justice in refugee camps.

The documentation and analysis of protection incidents in the camps has raised awareness of the extent of the problem, helping pave the way for the eventual introduction of a comprehensive monitoring and reporting system.

The Legal Advice Centres in the refugee camps are the first of their kind and will hopefully provide a model for similar initiatives in other camps.

Lessons learned

A comprehensive and systematic approach is essential to addressing the administration of justice, which presents challenges at government, refugee leadership and community level. The active personal involvement of high level ministry officials has provided strong support for UNHCR's initiatives.

UNHCR will need to continue to provide active support, including financial support, to this initiative e.g. to address the practical problems of accessing remote locations, raise awareness of the problems involved and applicable standards and ensure the long-term functioning of the Legal Advice Centres.

5.4.4 Transitional justice and justice in return situations

"Ensuring accountability for women's experience in the area of international justice remains a critical challenge... While it is true that some gains have been made as international institutions formally recognize sexual violence as a crime, and even nominally include sexual violence charges within the indictments, institutional efforts remain fraught with problems that prevent these mechanisms from comprehensively and sensitively rendering justice to female victims."

Binaifer Noworjee, "Making the Invisible Crime Visible: Post-Conflict Justice for Sierra Leone's Rape Victims"²⁰⁵

Introduction

An important element of international efforts to strengthen the rule of law in post-conflict situations and in reconciling divided communities has involved ensuring accountability for gross violations of human rights and international humanitarian law.

Despite the recent greater focus on gender-based crimes in the context of transitional justice, women's experience of other forms of violence and rights violations is often neglected. As the *Women, War and Peace* report notes: "Rarely have women been consulted about the form, scope, and modalities for seeking justice. Women's stake in these processes has been minimalized and, in most cases, crimes against them go unreported."²⁰⁶

The period of transition after a conflict does, however, offer an opportunity to create a more equitable and sustainable society. Working to ensure that women participate fully and equally in efforts to strengthen the rule of law, and that legal and judicial reform promote and respect women's and girls rights, is essential to achieving this end.

Definition

Transitional justice encompasses the full range of processes and mechanisms associated with a society's attempts to come to terms with the legacy of large-scale past abuses with the aims of ensuring accountability, serving justice, and achieving reconciliation.²⁰⁷ Justice mechanisms and processes include international tribunals, "mixed" international and national mechanisms, national courts, national truth commissions, and traditional justice mechanisms.

Summary of challenges

While there has been some improvement in recent years, gender-based crimes remain under-represented in cases considered by international tribunals. This is partly because

- women are under-represented as judges in such tribunals;²⁰⁸
- they are rarely involved when the tribunals are being established;
- even though rape, gang rape, forced prostitution, forced pregnancy and other forms of sexual violence can legally constitute torture, genocide mutilation and enslavement, they have, with rare exceptions, not been treated with the same seriousness as other war crimes;
- women testifying before truth commissions may focus on their husbands, children and loved ones, and avoid their own experiences and/or exposure to sexual violence due to fear or feelings of shame;

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²⁰⁵ Binaifer Noworjee, "Making the Invisible Crime Visible: Post-Conflict Justice for Sierra Leone's Rape Victims", *Harvard Human Rights Journal*, Vol. 18, 2005.

²⁰⁶ Johnson-Sirleaf, E. and Rehn, E., *Women, War and Peace: The Independent Experts' Assessment*, Progress of the World's Women, 2002.

²⁰⁷ Study by the Office of the United Nations High Commissioner for Human Rights on human rights and transitional justice activities undertaken by the human rights components on the United Nations Systems, E/CN.4/2006/93, 7 February 2006, para. 5.

²⁰⁸ Of the 14 permanent judges at the International Criminal Tribunals for the former Yugoslavia and Rwanda, no more than three have been women at any one time. On a more positive note, in February 2003, seven of the 18 judges elected to the International Criminal Court were women.

5.4.4 Transitional justice and justice in return situations, continued

Summary of challenges (continued)

- amnesties granted, including for crimes of SGBV, and gender-blind reparations policies can result in the denial of justice to women and impede their healing, rehabilitation, and reintegration into their society; and
- the problems women face gaining access to national courts, as discussed above, or before traditional justice mechanisms also apply in the context of transitional justice.

International legal standards, guidelines and responsibilities

For further information on international legal standards and guidelines, on the responsibilities of States, UNHCR, refugees and stateless persons, see section 4.1 of this chapter above.

In addition to the UNHCR responsibilities outlined in that section above, in return situations, UNHCR has a responsibility to work to promote initiatives where women can make a significant contribution in the area of transitional justice. This is also part of our role as cluster leader for protection of internally displaced persons.

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to promote transitional justice mechanisms and the administration of justice in return situations include:

Response	Actions
Coordinate	• Recognizing that “no rule of law reform, justice reconstruction, or transitional justice initiative imposed from the outside can hope to be successful or sustainable”, coordinate with UN agencies and other partners to ensure that international efforts are “based upon meaningful public participation involving national legal professionals, government, women, minorities, affected groups and civil society”.²⁰⁹ • Partners of particular relevance include OHCHR, the ministry of justice, the ombudsperson, parliament, and local women’s groups and NGOs. In addition, the International Centre for Transitional Justice assists countries pursuing accountability for past mass atrocity or human rights abuse and is working on how to introduce a gender dimension into reparations programmes.²¹⁰
Assess, analyse and design	• Work to ensure that women are directly involved in the design and establishment of the transitional justice mechanisms, and that there is gender balance among adjudicators in them.

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²⁰⁹ See “Report of the Secretary-General: The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies”, S/2004/616, 23 August 2004, at <http://daccessdds.un.org/doc/UNDOC/GEN/N04/395/29/PDF/N0439529.pdf?OpenElement>, especially para. 17.

²¹⁰ See generally <http://www.ictj.org>, and Ruth Rubio-Marín (ed.), *What Happened to the Women? Gender and Reparations for Human Rights Violations*, Social Science Research Council, New York, 2006, at <http://www.ssrc.org/blog/2006/12/29/what-happened-to-the-women/>.

5.4.4 Transitional justice and justice in return situations, continued

How to respond (continued)

Response	Actions
Assess, analyse and design, contd.	• Work with partners to mainstream a rights-based approach and gender analysis into transitional justice processes, including by working to – include women and girls in peace negotiations and agreements; – ensure accountability mechanisms in such agreements are not gender blind and that gendered patterns of abuse do not entrench impunity; – include references to justice for victims and the specific needs of women and girls in peace agreements; – include civil society, particularly women, in peace negotiations; – emphasize gender inclusion and accountability for gender-based violations; – provide support to grassroots peacebuilding and reconciliation efforts involving and led by women and girls, so that women and girls are able to give their testimony; – promote respect for the national context; – remember that one size does not fit all; – remember that reconciliation is not at the expense of justice; and – link transitional justice to democracy.²¹¹
Intervene to protect	• Provide support for women and girls' testimonies to be heard. • Work with the community and partners to ensure adequate protection of these women and girls.
Strengthen national capacity	• Encourage the appointment of male and female judges and advisers who have expertise in considering violations of the rights of women and girls. • Ensure that a gender perspective and women's concerns are reflected in the mandate of such mechanisms, and work with local women's groups to determine how women's needs can best be addressed. • In our work with both formal and informal justice mechanisms in situations of displacement advocate and work to – ensure gender balance in tribunal judges and truth commissioners, – support the provision of gender training for them, – promote the inclusion of thematic hearings, e.g. on women and conflict and forced displacement, in truth commissions, so that these issues can be specifically addressed, and – ensure that these bodies acquire expertise in specific issues, such as violence against women, new jurisprudence on international crimes relating to gender.
Strengthen community capacity to support solutions	• Organize preparatory workshops to ensure that formerly displaced women and girls can participate in truth commissions. In particular, convene sessions with rural women and special women-only sessions. • Work to promote awareness of the gender-sensitive reparations policies that have been implemented in truth commissions and in the Statute of the International Criminal Court (ICC), as well as awareness of the witness protection, support, and counselling guaranteed by the ICC through its Victims and Witnesses Unit.
Monitor, report and evaluate	• Consider how to link transitional justice mechanisms with other longer-term forms of reconciliation and rehabilitation, such as counselling and community healing.

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²¹¹ This listing draws on Yasmin Sooka, "Dealing with the Past and Transitional Justice: Building Peace through Accountability", *International Review of the Red Cross*, vol. 88, No. 862, June 2006, pp. 311–325, at <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/review-862-p311?opendocument>.

5.4.4 Transitional justice and justice in return situations, continued

Field practice: Sierra Leone

The process of dealing with the past and establishing transitional justice has been enhanced in many countries emerging from conflict through the establishment of truth and reconciliation commissions.

In Sierra Leone, for instance, the Truth and Reconciliation Commission helped amongst other things to deal with the denial with the lies and myths surrounding the conflict and violations committed, as well as to respond to the needs of victims and survivors.

Contrary to the belief that amputations had been the main violation carried out during the war, the Commission was able to establish that, in fact, rape and sexual violence were the most prevalent crimes. Rape had been the silent crime that most women and girls in Sierra Leone had suffered during the conflict.

Many victims were shunned and suffered great stigma in their communities during the conflict, while community members were afraid of associating with the victims. Revealing the truth of their experiences assisted their reintegration into their communities. The public affirmation and acknowledgement of wrongdoing done to the victim in the midst of the community is a powerful tool in effecting healing.²¹²

²¹² Adapted from Yasmin Sooka, "Dealing with the Past and Transitional Justice: Building Peace through Accountability", *International Review of the Red Cross*, vol. 88, No. 862, June 2006, pp. 311–325, at <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/review-862-p311?opendocument>.

5.5 Health

Overview

"In the border town of Tine, Chad, the assessment team met a 36-year-old refugee woman, Kadija, from Karnoi, Sudan, who had fled attacks from the Janjaweed and the Sudanese military when she was nine months pregnant. Three days into her journey, she gave birth under trees on the side of the road without any supplies to make her delivery safe: no soap, clean razor, cord or plastic sheet to keep her and her newborn clean. Luckily Kadija had no complications and her eighth baby was born healthy. Afraid to be caught by the Janjaweed and the Sudanese military, she continued to walk – for eight more days. During the flight her 14-year-old son was injured in a bombing. Kadija is less worried about her son's physical injuries than about the long-term psychological effects of the attack. At night, she has to tie his arms or give him medicines to make sure he doesn't hurt himself and is able to sleep."

from Lifesaving Reproductive Health Care: Ignored and Neglected, Assessment of the Minimum Initial Health Service Package (MISP) of Reproductive Health for Sudanese Refugees in Chad²¹³

Introduction

Health is defined by the World Health Organization (WHO) as a state of complete physical, mental and social well-being and not merely the absence of disease and infirmity. It is intrinsically linked to protection and respect for human rights. This makes the health of all persons of concern a priority for UNHCR.



Azerbaijan / Internally displaced woman receives medical treatment from a female doctor at a health clinic / I. Zimová / 2007

Purpose

The purpose of this section is to identify some of the major health risks and challenges faced by women and girls of concern, as well as possible approaches to ensure women and girls can enjoy their right to the highest attainable standard of physical and mental health.

In this section

This section does not seek to approach all health problems that women and girls would face nor to duplicate the wealth of information on this core protection concern. Rather, it focuses on issues of particular concern to women and girls due to their biological and sociological differences.

It does not therefore cover, public health, emergency health case or epidemics, but focuses on the following topics:

Topic	See Page
5.5.1 Accessing and enjoying the highest attainable standard of health	268
5.5.2 Reproductive health	271
5.5.3 HIV/AIDS	282
5.5.4 Mental health and psychosocial support	288

²¹³ Women's Commission for Refugee Women and Children and United Nations Population Fund, Lifesaving Reproductive Health Care: Ignored and Neglected, Assessment of the Minimum Initial Health Service Package (MISP) of Reproductive Health for Sudanese Refugees in Chad, ²¹³ August 2004, p. 21.

5.5.1 Accessing and enjoying the highest attainable standard of health

Introduction

Some of the main challenges to ensuring women and girls are able to access and enjoy the highest attainable standard of health include those resulting from:

- conflict and displacement;
- gender roles and inequalities; and
- being unaccompanied and separated.

Note: Each of these issues is discussed further below.

Conflict and displacement

The impact of conflict and displacement on health is profound. Health and sanitation systems are often destroyed and health services unavailable or overwhelmed. Quality health services, including reproductive health services, are often not available. When they are, women and girls may not be able to access to them.

Diseases such as measles, meningitis and cholera may become epidemics, causing high rates of illness and death among displaced populations. Mass population movements can also result in extremely high rates of malnutrition. Communicable diseases brought on in part by malnutrition are responsible for millions of preventable deaths each year. Shortage of food also makes people more vulnerable to sexual abuse and exploitation, which also has serious public health implications.

The conditions characteristic of displacement also favour the transmission of infectious diseases, such as HIV and other sexually transmitted infections. Exposure to chemical warfare or the environmental effects of conflict can also harm health, and could result in miscarriages and stillbirths. Mental health and stress-related disorders are also common.²¹⁴

Gender roles and inequalities

Women and girls face particular health risks because of their sex and because of gender inequalities. Since women are usually the family's caregivers, they are often responsible for tending sick family members. They may suffer from feelings of guilt and helplessness because they are not able to protect and help those they love to the extent they wish. Their efforts to care for others in particular children and their capacity to care for themselves and take timely decisions is often hampered by their reduced mobility and possibility to sick care due to cultural or religious reasons.

Unaccompanied and separated girls

The particular situation of unaccompanied and separated children outside their country of origin has been highlighted by Committee on the Rights of the Child. Such children "have undergone separation from family members and have also, to varying degrees, experienced loss, trauma, disruption and violence". It specifically mentions refugee children, many of whom "have further experienced pervasive violence and the stress associated with a country afflicted by war".

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²¹⁴ This section draws on E. Johnson-Sirleaf and E. Rehn, *Women, War, and Peace: The Independent Experts Assessment*, Progress of the World's Women, 2002, vol. 1, pp. 35–43.

5.5.1 Accessing and enjoying the highest attainable standard of health, continued

Unaccompanied and separated girls (continued)

As the Committee reports: “[G]irls are particularly susceptible to marginalization, poverty and suffering during armed conflict, and many may have experienced gender-based violence in the context of armed conflict. The profound trauma experienced by many affected children calls for special sensitivity and attention in their care and rehabilitation.”²¹⁵

International legal standards and guidelines

Everyone has the right to the enjoyment of the highest attainable standard of physical and mental health and to non-discriminatory access to health care services.²¹⁶ As the Committee on Economic, Social and Cultural Rights has indicated, “the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment”.²¹⁷

Clear policy and practical guidance on implementing public health activities is provided in the following UNHCR, WHO and IASC documents:

- *UNHCR Operations Manual*, Chapter 4 (Health, Nutrition and HIV), 2004
- WHO, *Clinical Management of Rape Survivors: Developing Protocols for Use with Refugees and Internally Displaced Persons*, 2004²¹⁸
- WHO, *Communicable Disease Control in Emergencies: A Field Manual*, 2005
- UNHCR Handbook for Emergencies, third edition, 2006
- UNHCR, “Note on HIV/AIDS and the Protection of Refugees, IDPs and Other Persons of Concern”, 2006
- IASC, *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, 2007

Responsibility: States

States have a responsibility to “take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning”.²¹⁹

The right to the highest attainable standard of health entails a corresponding obligation of States to “respect, protect and fulfil” this right.²²⁰ This obligation requires, amongst other things, that States should:

- “not restrict women’s access to health services ... on the ground that women do not have the authorization of husbands, partners, parents or health authorities”;

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²¹⁵ CRC Committee, General Comment No. 6, 2005, treatment of unaccompanied and separated children outside their country of origin, paras. 46–49.

²¹⁶ See ICESCR, Article 12; CRC, Articles 23, 24 and 39; CEDAW, Article 12; Convention on the Rights of Persons with Disabilities, Article 25.

²¹⁷ Committee on Economic, Social and Cultural Rights, Committee, General Comment No.14, 2000, the right to the highest attainable standard of health, para. 4.

²¹⁸ Available at http://www.who.int/reproductive-health/publications/clinical_mngt_rapeurvivors/clinical_mngt_rapeurvivors.pdf.

²¹⁹ CEDAW, Article 12.

²²⁰ For further details, see Committee on Economic, Social and Cultural Rights, General Comment No. 14, 2000, right to the highest attainable standard of health, paras. 34–37; Committee on the Elimination of Discrimination against Women, General Comment No. 24, 1999, Article 12 of the Convention (women and health), especially paras. 7, 11–25.

5.5.1 Accessing and enjoying the highest attainable standard of health, continued

States (continued)

- “enact and effectively implement laws that prohibit female genital mutilation and marriage of girl children”;
- “ensure adequate protection and health services, including trauma treatment and counselling, are provided for women in especially difficult circumstances, such as those trapped in situations of armed conflict and women refugees”;
- “ensure, without prejudice or discrimination, the right to sexual health information, education and services for all women and girls, including those who have been trafficked, even if they are not legally resident in the country”; and
- “ensure women’s right to safe motherhood and emergency obstetric services”.²²¹

The Committee on Economic, Social and Cultural Rights recommends that States “integrate a gender perspective in their health-related policies, planning, programme, and research”. This recognizes that “biological and socio cultural factors play a significant role in influencing the health of men and women”. It also affirms that States should intervene to prevent and treat diseases affecting women and develop policies to provide access to a full range of high quality and affordable health care, including sexual and reproductive services.²²²

The Committee on the Rights of the Child affirms that States must assess and address the particular plight and vulnerabilities of unaccompanied and separated children outside their country of origin.²²³

Responsibility: UNHCR

UNHCR has a responsibility to support States in fulfilling their responsibilities to ensure persons of concern can enjoy the highest attainable standard of physical, mental health and adequate nutrition.

Our activities should aim to minimize mortality and morbidity and to increase respect for the human rights and dignity of all persons of concern, including women and girls. This includes working to improve access to, and utilization of, health services, in particular primary health care, malaria control, and children’s and reproductive health services. Our work to secure women’s and girls’ access to health care services and improve health-seeking behaviour involves ensuring quality, privacy and adequacy of health service provision and ensuring family and community awareness and support.

²²¹ These examples are taken from Committee on the Elimination of Discrimination against Women, General Comment No. 24, 1999, Article 12 of the Convention (women and health), paras. 13–27.

²²² For further details, see Committee on Economic, Social and Cultural Rights, General Comment No. 14, *ibid.*, paras. 20–27.

²²³ CRC Committee, General Comment No. 6, 2005, treatment of unaccompanied and separated children outside their country of origin, paras. 46–49.

5.5.2 Reproductive health

"Reproductive health conditions are the leading cause of death and illness in women worldwide."

UNFPA, Reproductive Health Fact Sheet²²⁴

"Reproductive health care should be available in all situations and be based on the needs and expressed demands of refugees, particularly women, with full respect for the various religious and ethical values and cultural backgrounds of the refugees, while also conforming to universally recognized international human rights standards."

from *Reproductive Health in Refugee Situations: An Inter-Agency Field Manual*²²⁵

Introduction

Many women and adolescent girls, not only those who are displaced, have no access to reproductive health care. As noted in the Beijing Platform of Action, lack of access to reproductive health includes "inadequate levels of knowledge about human sexuality, inappropriate or poor quality reproductive health information services, the prevalence of high risk sexual behaviour, discriminatory social practices, negative attitudes towards women and girls, and the limited power that women and girls have over their sexual lives." Each of these issues reflects women's and girls' generally unequal situation in society.

These challenges are further exacerbated by displacement. Though the situation has improved greatly in recent years, numerous gaps still need to be filled. These relate in particular to:

- implementation of the Minimum Initial Standard of Services (MISP) at the onset of emergencies;²²⁶
- ensuring capacity of health facilities to address basic reproductive health services in an accessible, friendly, quality and comprehensive manner; and
- empowering women and adolescents to take control over key moments and events of their sexual and reproductive life.

Definition: Reproductive health

Reproductive health is a state of complete physical, mental, and social well-being, and not merely the absence of disease and infirmity, in all matters relating to the reproductive system and to its functions and processes.

Reproductive health therefore implies that people are able to have a satisfying and safe sex life, the capacity to reproduce, and the freedom to decide if, when, and how often to do so. Implicit in this last condition are the rights of men and women to have access to safe, effective, affordable, and acceptable methods of family planning of their choice, as well as other methods of their choice for the regulation of fertility that are not against the law, and the right to access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.²²⁷

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²²⁴ See http://www.unfpa.org/swp/2005/presskit/factsheets/facts_rh.htm.

²²⁵ UNHCR, WHO, UNFPA, *Reproductive Health in Refugee Situations: An Inter-Agency Field Manual*, 1999.

²²⁶ The MISP can be implemented without any needs-assessment since documented evidence already justifies its use. The MISP aims to identify an organization(s) and individual(s) to facilitate and coordinate the implementation of the MISP, prevent and manage the consequences of SGBV, reduce HIV/AIDS transmission, prevent excess neonatal and maternal morbidity, and plan to provide comprehensive reproductive-health services that are integrated into primary health care. See UNHCR, WHO, UNFPA, *Reproductive Health in Refugee Situations: An Inter-Agency Field Manual*, 1999, chapter 2 and Women's Commission for Refugee Women and Children, "Minimum Initial Service Package (MISP): Fact Sheet", September 2006, at <http://www.unhcr.org/protection/PROTECTION/456ac1362.pdf>.

²²⁷ International Conference on Population and Development – Cairo 1994, Programme of Action, para. 7.2. This is the definition adopted in the Inter-Agency field manual, *Reproductive Health in Refugee Situations*.

5.5.2 Reproductive health, continued

Summary of challenges

The reproductive health of women and girls is at great risk during displacement. This is because:

- reproductive health needs continue and in fact increase during crisis;
- lack of access to emergency obstetric care increases the risk of maternal and newborn death and disability;
- malnutrition, stress and epidemics increase the risk of complications;
- babies may be born by the wayside during flight;
- the danger of SGBV increases when there is insecurity and social instability; and
- harmful practices such as genital mutilation continue to be perpetrated.

The following challenges are outlined briefly below:

- lack of access to quality maternal and newborn health care;
 - fistula;
 - lack of access to family planning;
 - exposure to SGBV during and after conflict and/or flight; and
 - lack of sanitary materials.
-

Challenge: Access to maternal health care

Women and adolescent girls fleeing violence and conflict often do not have access to quality maternal health care and emergency obstetric care. Pre-existing malnourishment and anaemia, poor health status and infectious diseases, which are often prevalent during displacement, can compromise reproductive health even further.

Three major delays have a high impact on maternal and newborn mortality and morbidity. These are: the delay in deciding to seek care, the delay in reaching the health facility, and the delay in receiving appropriate care after arrival in the facility.

Lack of safe-motherhood appropriate services can lead to maternal mortality, miscarriages, still births and infant mortality. It can also lead to low birth weight, disabilities and ill health for the newborn child. Lack of access to quality reproductive health services during pregnancy and delivery can further result in serious health and protection consequences, such as permanent injuries, infertility and disabilities for the woman or girl.

Challenge: Fistula

In particular, unattended deliveries and childbirth at an early age can result in obstetric fistula.²²⁸

Women and girls with fistula often live an isolated existence, abandoned by their husbands and shunned by society. They risk death through neglect, medical complications, and suicide. Although fistula can normally be treated with reconstructive surgery, many health personnel do not know about fistula nor that surgical repair is possible. As a result, cases go unidentified or are considered to be “normal”.

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²²⁸ Fistula is a health problem that occurs when the wall between the vagina and the bladder or bowel is ruptured due to obstructed labour. Women then lose control of their bladder or bowel functions. See also, section 2.2 of this chapter on child or early marriage and forced marriage and Arletty Pinel and Lydia Kemunto Bosire, “Traumatic Fistula the Case for Reparations”, *Force Migration Review*, issue 27, January 2007, pp. 18–19

5.5.2 Reproductive health, continued

**Challenge:
Access to family
planning**

High fertility rates and low contraceptive use contribute to women's and young children's ill health. Yet family planning can prevent 25–30 per cent of all maternal deaths. Mistimed, unwanted pregnancies, including those from rape, are causes of serious protection risks in particular among adolescents and unmarried women. These include: school drop out; domestic violence; unsafe abortion which can lead to death or permanent disabilities, abandonment of the baby and infanticide; and reduced possibilities for girls and women to achieve personal development, empowerment and full potential. Spacing pregnancies more than two years apart significantly increases the child's chances of survival.

**Challenge:
SGBV**

SGBV during and after conflict, including domestic violence, can result in:

- sexual exploitation and unwanted pregnancies;
- complications from unsafe abortions;
- severe risks to their health and that of their children; and
- an increase in sexually transmitted diseases, including HIV/AIDS.

Displaced adolescent girls are particularly at risk of SGBV, including forced and early marriage, sexual exploitation, unwanted pregnancies, and pregnancies at a young age. This poses severe risks to their health and that of their children and increases the risk of becoming infected with HIV/AIDS. These challenges are compounded by lack of knowledge about reproductive health and lack of access to basic and fundamental necessities, such as sanitary materials, condoms, and HIV-testing.

Note: For more on SGBV, see section 3.1 of this chapter above.

"I won't go to school during 'that time'. The boys laugh and make fun of me. Sometimes I have an accident and it is not possible for me to clean myself. We never have enough materials and when we do they are itchy and uncomfortable. Some girls I know have 'boyfriends' who give them money and they use that to buy sanitary pads so that they can go to school."

Rebecca, a 15-year-old refugee girl in Uganda

"The provision of sanitary materials to all women and girls of concern will become standard practice in all UNHCR assistance programmes."

Fifth of UNHCR's Five Commitments to Refugee Women

**Challenge:
Access to sanitary
materials**

The lack of sanitary materials has critical implications for the health, safety, and well-being of women and girls. Yet strains on UNHCR's overall budget have meant that UNHCR efforts to achieve its Fifth Commitment have been reached in less than 20 per cent of all camps (where data is available).²²⁹

Lack of sanitary material undermines their opportunity to participate in community activities, registration, food distribution, training programmes, and employment opportunities. When menstruating, they may be forced to remain in their homes all day and only creep out at night to wash their clothes so as not to be seen. In order to obtain money to buy sanitary materials, some women and girls resort to survival sex, putting them at risk of HIV, pregnancy, and exclusion from their communities.

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²²⁹ See UNHCR, *Measuring Protection by Numbers*, November 2006, p. 22.

5.5.2 Reproductive health, continued

Access to sanitary materials (continued)

The lack of sanitary materials severely compromises girls' right to education. Many girls do not attend school when they are menstruating for fear of harassment and ridicule from boys and male teachers. As a result, their academic performance suffers and many eventually drop out.

Challenge: Other reasons for lack of access

Additional reasons for lack of access to reproductive health care during displacement include:

- loss of income reducing the ability of the displaced to make choices;
- the focus on life-saving measures coupled with failure to consider reproductive health as a priority;
- limited access, e.g. because women are not able to get health care without their husband's permission;
- limited or no access to female doctors and nurses;
- lack of privacy and/or confidentiality in health care facilities;
- poor or no roads, insufficient transport, great distance to health facilities;
- lack of security en route to health facilities;
- perceived low quality of health services and inconvenient hours of operation;
- humanitarian workers who do not think that reproductive health care generally and family planning in particular are a priority; and
- humanitarian workers who do not want to offer family planning services because it is against their own religious beliefs or because they believe it is against the culture of the communities concerned.

These reasons for lack of access often apply after return, as well, since reproductive health care is often not seen as a priority activity in reconstruction and rehabilitation programmes.

International legal standards and guidelines

Women's and girls' right to the highest attainable standard of physical and mental health includes the right to reproductive health,²³⁰ including to safe motherhood and emergency obstetric services.²³¹ "All couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so."²³²

Refugee women and girls are entitled to the same treatment as nationals as regards public relief and assistance.²³³ Reproductive health care and psychosocial support must be available from the beginning of an emergency.²³⁴

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²³⁰ Reproductive rights are based on a number of separate rights contained in various international instruments. Read together, the ICESCR (Article 12), CEDAW (Article 12), and the CRC (Article 39) oblige States to take measures to ensure that women have access to family-planning services and information about planning services, have the right to decide freely and responsibly on the number and spacing of their children and to have access to the information, education, and means by which to exercise these rights, are provided with appropriate health services for pre-natal and post-natal care, and take measures to diminish infant and child mortality. The Committee on Economic, Social and Cultural Rights has interpreted the right to the highest attainable standard of health to include "the right to control one's body, including sexual and reproductive freedom." International recognition of the importance of reproductive rights is reflected in the International Conference on Population and Development (ICPD) Programme of Action, the Beijing Plan of Action, the Millennium Development Goals and the World Summit Outcome Document.

²³¹ Committee on the Elimination of Discrimination against Women, General Recommendation No. 24, Article 12 of the Convention (women and health), 1999. para. 27.

²³² International Conference on Population and Development, Programme of Action A/CONF.171/13, 18 October 1994, Principle 8. At the regional level, see 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Article 14.

²³³ 1951 Refugee Convention, Article 23.

²³⁴ See UNHCR, WHO, UNFPA, *Reproductive Health in Refugee Situations: An Inter-Agency Field Manual*, 1999.

5.5.2 Reproductive health, continued

International legal standards and guidelines (continued)

The Guiding Principles on Internal Displacement provide that special attention shall be paid to the health needs of women, including through provision of access to female health-care providers and services, such as reproductive health care, and that appropriate counselling for victims of sexual and other abuses should be provided.

The Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination Against Women, and the Committee on the Rights of the Child have all emphasized the particular health care needs of displaced and/or refugee women and children. ExCom recommends that States, UNHCR and other relevant agencies and partners “make all efforts to ensure access ... for adolescents ... to age-sensitive reproductive healthcare as well as health and HIV information and education”.²³⁵

Responsibility: States

As part of States’ obligation to ensure women and girls are able to enjoy the highest attainable standard of health on an equal basis to men and boys, governments have a responsibility to ensure their access to health care services, including those related to family planning. They also have a responsibility to ensure women and adolescent girls have access to appropriate services in connection with pregnancy, confinement and the post-natal period, through free services where necessary, as well as adequate nutrition during pregnancy and lactation.²³⁶

States are obliged to respect the right to health including by, inter alia, refraining from denying or limiting equal access for all persons, including asylum-seekers and refugees, to preventive, curative and palliative health services and by abstaining from imposing discriminatory practices relating to women’s health status and needs.²³⁷

States have a responsibility to take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.²³⁸ These include the practices of female genital mutilation and early child or forced marriage, which not only harm girls, but may also adversely affect their future offspring.

Responsibility: UNHCR

Reproductive health care is a human right and a requirement for psychological and health. UNHCR’s protection responsibilities include the promotion of the rights of all persons of concern, including women and girls, to the highest attainable standard of physical and mental health.

The cornerstone of UNHCR’s interventions on this issue should be that “reproductive health care should be available in all situations and be based on the needs and expressed demands of refugees, particularly women, with full respect for the various religious and ethical values and cultural backgrounds of the refugees while also conforming with universally recognized international human rights”.²³⁹

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²³⁵ ExCom Conclusion No. 107 (LVIII), 2007, para. (h)(x).

²³⁶ CEDAW, Article 12.

²³⁷ Committee on Economic, Social and Cultural Rights, General Comment No., 14, The right to the highest attainable standard of health (Article 12, ICESCR), 2000, para. 34.

²³⁸ CRC, Article 24(3).

²³⁹ UNHCR, WHO, UNFPA, *Reproductive Health in Refugee Situations: An Inter-Agency Field Manual*, 1999, p. 1.

5.5.2 Reproductive health, continued

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to ensure that women and girls are able to enjoy their right to the highest attainable standard of physical and mental health include:

Response	Actions
Coordinate	• Ensure coordination among sectors (health, community services, protection), implementing agencies (government, NGOs, UN agencies), and different levels of service providers (doctors, midwives, traditional birth attendants, community health, social, water and sanitation workers). • Coordinate with other UN agencies and programmes, especially those of UNFPA and UNICEF, to cooperate with States, building on their respective expertise, to enable implementation of the right to health at the national level with due respect for individual organization mandates.²⁴⁰ • Coordinate, for instance, with UNFPA and partners to support its global Campaign to End Fistula²⁴¹ launched in 2003 and to ensure that the women and girls of concern are included in programmes (as, for example, in the field practice example for Chad below).
Assess, analyse and design	• Analyse with women and young adolescent girls the challenges they face in exercising their rights to reproductive health and accessing the services they consider important. • Work with men and boys to analyse their perspectives on these issues. • Work with government and NGO partners, as well as the displaced community, to raise awareness of sexual and reproductive health rights and how they can be incorporated into protection and programme strategies. • Design health programmes based on a full analysis with partners, especially women and men, and agree on an implementation strategy. • Examine where necessary the possibility of engaging alternative counterparts, when partners' do not feel able to support the implementation of certain aspects of sexual and reproductive health care from a rights-based perspective and highlight UNHCR's role in upholding women's and girls' rights to health and reproductive health. • Establish a reproductive-health focal point at the beginning of an emergency in order to ensure that reproductive health issues are addressed and that the Minimum Initial Service Package (MISP) can be implemented.
Intervene to protect	• Ensure reproductive health interventions are guided by the following principles: – women's and girls rights and needs, – community participation, – quality of care, – skilled personnel – integration of services, – access to services, – information, education, and communication activities, – advocacy for reproductive health, and – coordination among relief agencies. • Offer reproductive health care in the early emergency phase of a displacement situation by implementing the MISP and increase this to provide comprehensive services as soon as the situation allows.

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²⁴⁰ Committee on Economic, Social and Cultural Rights, General Comment No. 14, the right to the highest attainable standard of health (Article 12, ICESCR), 2000, para. 64.

²⁴¹ See <http://www.endfistula.org/> and Report of the Secretary-General, "The Girl Child", 24 August 2007, A/62/297, paras. 45–55 for report on implementation.

5.5.2 Reproductive health, continued

How to respond (continued)

Response	Actions
Intervene to protect, contd.	• Ensure women and girls at risk can access support, such as medical and psycho-social care, to facilitate their recovery and integration, whether this be in the context of local integration, return, resettlement or other humanitarian programmes.²⁴² • Provide culturally appropriate sanitary packs to all women and girls from at least 13 to 49 years of age, based on discussions with them. • Make sanitary materials and separate washroom facilities available for girls in schools.
Strengthen national capacity	• Support the strengthening of basic health structures used by both the local community and the population of concern of UNHCR. • Support capacity building, including in particular the formal training and certification of skilled birth attendants following a national or international training curriculum. • Support health worker refresher training sessions. • Support the establishment of a reproductive health care referral system. • Ensure systems are in place and used for registering use of services. • Lobby governments to persuade them ensure refugees have access to reproductive health services and receive care on the same basis as nationals and in accordance to international standards. • Lobby to integrate people of concern in national plans and services.
Strengthen community capacity to support solutions	• Identify capacities and skills already present among the displaced/returnee population, including midwives, nurses, doctors etc. • Wherever possible hire refugee staff, while ensuring that this will not diminish women's and girls' access to services because of traditional views. • Raise awareness and involve men as well as women in reproductive health programmes. Men may be poorly informed about reproductive health matters, although they are often the decision-makers. Health providers need to be aware of the roles and decision-making processes within the family so that they can provide services effectively and in the best interests of the women and girls concerned and of the family as a whole. • Respect the rights of women and girls of concern to give informed consent by providing adequate information and counselling. • Raise women's and girls' awareness of sexuality, sexual and reproductive health, rights and services, and their life skills. • Work with teachers and young people to provide awareness raising about reproductive health in schools. • Ensure that community outreach services contact women and girls with disabilities as part of their initiatives on reproductive health.
Monitor, report and evaluate	• Put in place Health Information System (HIS)²⁴³ to monitor essential and internationally accepted health indicators. • Conduct regular surveys on participatory basis to evaluate the population's perceived needs, demand and level of satisfaction. Surveys should also "triangulate" information on issues such as services coverage, mortality. Triangulation involves comparing results from individuals and groups representing the diversity of the community. It is a way of checking the reliability of the information gathered and validating the team's understanding of the issues. Such surveys will highlight problems and give the population affected an opportunity to be involved in defining solutions.

²⁴² See ExCom Conclusion No. 105 (LVI) of 2006, para. (p)(v).

²⁴³ HIS refers to a data management application supported by data collection tools, guidelines and training materials that have been successfully implemented in refugee operations in Ethiopia, Kenya and the United Republic of Tanzania. See UNHCR, "Health, Nutrition and HIV/AIDS: New Strategies", EC/58/SC/CRP.15, 4 June 2007, para. 6.

5.5.2 Reproductive health, continued

Field practice: Chad

In Abeche, Chad, a medical team funded by the UNHCR and UNFPA is treating 60 women and girls, 20 of them Sudanese refugees, at the Abeche Regional Hospital.

The women and girls are suffering from fistula, a health problem that occurs when the wall between the vagina and the bladder or bowel is ruptured due to obstructed labour. As a result, women/girls affected lose control of their bladder or bowel functions. It is found in rural areas where women do not always have access to proper facilities during delivery. It is also common among girls who marry at a very young age – 14 or 15 – and experience early childbirth. Rape victims are also prone to fistula. Two-thirds of the Sudanese refugee women undergoing fistula treatment at Abeche Regional Hospital in eastern Chad, including a 10-year-old girl, have been raped by Janjaweed militiamen in Darfur. Two surgeons from N'Djamena perform reconstructive surgery on six patients a day, six days a week.

“When the women first arrive at the hospital, they all tell the sad story of being abandoned by their husbands and shunned by society”, said Fatimé Mahamat Makoum, a midwife caring for the refugees at the Abeche hospital. “They are not allowed to sit with other women, attend wedding ceremonies and funerals in the camps. They are not even allowed to talk and give their opinion. They are second-class citizens.” Many of the women who have benefited from the surgery do not want to return to the refugee camps, but would like to stay at the hospital to help other women.²⁴⁴

Field practice: Kenya

During the annual participatory assessment in Nairobi, Kenya, refugee women said that they were not able to access reproductive health care. The public clinic in their neighbourhood was crammed into a tiny facility, and none of the staff spoke the refugees' languages.

UNHCR and its partner the German governmental Gesellschaft für Technische Zusammenarbeit (GTZ, a German governmental humanitarian organization) decided to build partnerships between the local health authorities and the refugee communities so that refugee women could access reproductive health care. After consultations with the health authorities, UNHCR and GTZ assisted with some physical improvements to the clinic. Interpreters were posted to the clinic during the busy morning hours.

Then UNHCR and GTZ mobilized the refugee community to access the facility. Meetings were held with community groups; community outreach workers went into homes to invite women to access reproductive health care; and GTZ began training refugee women to be peer counsellors in the areas of reproductive health and SGBV.

This outreach through multiple channels has been effective. Now refugee women are bringing their sisters to the clinic for ante-natal care, and more deliveries are taking place in maternity facilities.

²⁴⁴ See UNHCR, “UNHCR, UNFPA fund surgery for refugee and local women in Chad”, 17 March 2005, at <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&page=home&id=4239519f4>.

Field practice: Adolescent sexual and reproductive health, Tanzania

Overview Multi-purpose health centres in three refugee camps in Tanzania provide accessible youth-friendly and culturally-acceptable advice and treatment on adolescent sexual and reproductive health (ASRH) issues. The centres are run by youth-led committees. They provide training, including vocational skills training, as well as a space for recreation.²⁴⁵

Rights promoted Among the rights promoted by this initiative are:

- the right to the highest attainable standard of health, especially sexual and reproductive health;
- the right to information;
- the right to work and to an adequate standard of living; and
- the right to education.²⁴⁶

Steps to implementation In 2000, a World Health Organization (WHO) study revealed the poor quality of sexual and reproductive health services for adolescents in refugee camps in western Tanzania. Girls and boys complained about lack of confidentiality, long waiting times, and the judgmental attitudes of health workers.

In response, UNHCR set up youth centres in three refugee camps to inform, train, and provide healthcare to girls and boys. Adolescent refugees are trained in ASRH issues, encouraged to talk about their concerns. Girls and boys receive counselling and treatment for sexually transmitted diseases, HIV prevention, life skills building and HIV peer education training and have the opportunity to watch videos, dance, do drama and play ball games.

UNHCR has gained the support of parents, community and religious leaders by familiarizing them with the activities of the centres. Local leaders are now supportive of the centres, which increases trust and convinces more parents to allow the girls to go there.

AGDM and empowerment The youth centres are working with girls to solve problems linked to early marriages, unwanted pregnancies, and abortions. The centre gives hygiene advice and treats sexually transmitted infections. Through prevention information and post-infection treatment, the centre helps ensure girls can stay healthy and enjoy a better life.

Girls learn vocational skills such as gardening, tailoring and cooking. They study other languages, including English, French, Kiswahili, and Kirundi. With new skills, girls improve their income-generating opportunities.

Girls and their parents train to become peer educators. Once trained, they are able to go out to girls who are not usually able to come to the centre and tell them about health risks and available solutions. Information-sharing among parents ensures a proper response within the family to the health problems of adolescents.

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²⁴⁵ For more information, see Naomi Nyitambe, Marian Schilperoord and Roselidah Ondeko, "Lessons from a Sexual and Reproductive Health Initiative for Tanzanian Adolescents", *Forced Migration Review*, issue 19, January 2004, p. 9, at <http://www.fmreview.org/FMRpdfs/FMR19/FMR1903.pdf>.

²⁴⁶ See also, CRC committee, General Comment No. 4, 2003, Adolescent health and Development in the context of the Convention on the Rights of the Child.

Field practice: Adolescent sexual and reproductive health, Tanzania, continued

AGDM and empowerment (continued)

In one centre training has also been provided for 35 young people – a third of whom were girls - who are mute or deaf to empower them by giving them a better understanding of sexual and reproductive health, including HIV prevention.

Community involvement

Initially, UNHCR did not consult parents, religious and community leaders about the project which led to anxieties, suspicions and misconceptions about the youth centres. Few girls came to them because of these concerns and an initial focus of activities was on boys.

In response, UNHCR consulted community leaders, parents, and religious leaders who allowed girls to visit the youth centres in the absence of boys. Because the girls can only visit the centres two half days a week, dialogue with parents and local leaders must continue to ensure that girls and boys can benefit equally from the centres.

Young people, service providers, parents and religious leaders help develop the training material used in the centres together and to revise it annually.

Partners involved

UNHCR, UNICEF, WHO, and the International Rescue Committee (IRC) funded Multi-Purpose Youth Friendly Centres in three refugee camps. Implementing partners provide the facilities and services necessary to run the centres.

Constraints

The following constraints affect this project:

- some parents and religious leaders still do not approve of discussing sexual and reproductive health risks with young people;
 - poor economic conditions in refugee camps mean people engage in risky sexual behaviour even if they are aware of the risk of HIV;
 - youth trainers can become demoralized due to a lack of incentives; and
 - training sessions are often short, involve few participants and lack training materials.
-

Impact

Trainers challenge traditional beliefs about HIV, sexual health, and the transmission of other diseases in health education sessions. To minimize health risks, they provide personal hygiene information to girls and their parents. Parents have called this an eye-opening exercise and have suggested increasing the number of participants in the training sessions.

Community leaders and most of the religious leaders approve the activities at the centres. Because of their leaders' authority, community members are inclined to trust the centres and participate in their activities and training sessions.

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Field practice: Adolescent sexual and reproductive health, Tanzania, continued

Lessons learned Lessons learned by programme organizers include the need to:

- respond to local needs and involve religious leaders, parents and young people in all aspects of project design and implementation;
 - produce a transparent plan of action that clearly sets out the roles of all stakeholders;
 - ensure that skills taught are marketable, as there is little point in teaching tailoring or basket-making if markets are saturated;
 - establish youth-friendly spaces with trained adolescent asexual and reproductive health specialists able to ensure privacy and confidentiality;
 - provide flexible drop-in counselling and treatment services instead of a fixed schedule;
 - provide course participants with incentives to attend and complete courses, e.g. by providing a certificate or a bar of soap;
 - offer financial incentives to peer counsellors to ensure they do not drop out of programmes, thus demotivating other young people;
 - realize the importance of data collection and ongoing monitoring and evaluation; and
 - listen to young people, realize they are highly adaptable, and involve them in all aspects of project design and implementation.
-

5.5.3 HIV/AIDS

"Adolescent boys participating in a focus group in Indiri refugee camp, Chad, reported (while laughing) that when someone dies of AIDS, their body must be burned because it could infect others in the village. They said that they are worried about getting HIV. To prevent HIV, they suggested not eating with someone who has HIV, not taking the infected person's blood, not drinking the water or being near an infected person, nor using their blanket. They do not know what a condom is and don't know if people in this setting would use condoms. Sex education consists of teachers advising them not to have sex."

from Lifesaving Reproductive Health Care: Ignored and Neglected, Assessment of the Minimum Initial Health Service Package (MISP) of Reproductive Health for Sudanese Refugees in Chad²⁴⁷

Introduction

The global HIV pandemic is a serious problem for everyone. The conditions that characterize displacement – conflict, social instability, food insecurity, poverty, and powerlessness – are also conditions that favour the rapid transmission of HIV and other sexually transmitted infections. The long-term consequences of HIV/AIDS are often more devastating than the conflict itself, as the number of deaths from AIDS each year exceeds the number of those killed during conflicts. HIV and AIDS are not just health issues, but a problem that affects societies and cultures, human rights, and the long-term social and economic well-being of displaced persons and the local population with whom they interact.

HIV/AIDS is no longer striking primarily men. Today, more than 20 years into the epidemic, women account for nearly half the 40 million people living with HIV worldwide. In sub-Saharan Africa, 57 per cent of adults with HIV are women, and young women aged 15 to 24 are more than three times as likely to be infected as young men. Despite this alarming trend, women often know less than men about how HIV is transmitted and how to prevent infection, and what little they do know is often rendered useless by the discrimination and violence they face.²⁴⁸

"We have to speak more and more about violence. Because wherever you find violence – whether it's physical, psychological or sexual – there will be AIDS. HIV entered my life through violence, as it has for so many, and we must actively commit to bring this to an end."

Gracia Violeta Ross, National Chair of the Bolivian Network of People Living with HIV/AIDS (REDBOL)²⁴⁹

Summary of challenges

As further outlined below, women and girls face many challenges in relation to HIV/AIDS, including because:

- they are generally more susceptible to HIV infection than men and boys;
- they bear the burden of the pandemic in other ways;
- conflict and displacement are additional risk factors; and
- women and girls living with and affected by HIV are at particular risk of stigmatization and discrimination.

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²⁴⁷ Women's Commission for Refugee Women and Children and UNFPA, Lifesaving Reproductive Health Care: Ignored and Neglected, Assessment of the Minimum Initial Health Service Package (MISP) of Reproductive Health for Sudanese Refugees in Chad, August 2004, p. 18.

²⁴⁸ UNAIDS, UNFPA, UNIFEM, Women and HIV/AIDS: Confronting the Crisis, 2004, Preface.

²⁴⁹ The Global Coalition on Women and AIDS, Stop Violence Against Women, Issue No. 2, at <http://womenandaids.unaids.org/themes/docs/UNAIDS%20VAW%20Brief.pdf>.

5.5.3 HIV/AIDS, continued

**Challenge:
Susceptibility to
HIV infection**

Women and girls are generally more susceptible to HIV infection than men and boys because of:

- gender discrimination and violence;
 - biology;²⁵⁰
 - insufficient access to HIV prevention information and services;
 - inability to negotiate safer sex; and
 - the lack of female-controlled HIV prevention methods.²⁵¹
-

**Challenge:
Additional burdens**

Women and girls bear the burden of the pandemic in many other ways. They are more likely to take care of children orphaned due to AIDS and to care for sick relatives and neighbours. Older women, whose own children have died of AIDS, often care for their grandchildren or take in orphans.

In such circumstances, in order to augment or compensate for loss of income, girls tend to be removed from school, or may themselves become child heads of household. This in turn, prevents them from obtaining information about HIV prevention and transmission, and increases the risk that they will be infected. Education is often referred to as the “social vaccine” for preventing transmission of HIV and mitigating the impact of AIDS. There is a growing body of evidence that links the lack education, particularly for women, with the spread of HIV.²⁵²

**Challenge:
Resulting from
displacement and
conflict**

These factors may present greater challenges for displaced women and girls because of:

- their vulnerability to exploitation and violence throughout displacement;
- food insecurity and lack of livelihoods may oblige women and girls to turn to survival sex to gain access to food and other fundamental needs; and
- the breakdown of communities and families can result in high-risk behaviour.

The correlation between the spread of HIV and sexual violence and exploitation of women and girls in conflict situations is complex. Yet, when rape is used as a weapon of war, the consequences for women and girls are often deadly and can include HIV infection.²⁵³

At the same time, while it is true that conflict-affected populations and refugees are at greater risk of HIV infection – because of sexual violence and disruption of health services – this does not necessarily translate into higher infection rates. Actual infection rates are highly context specific. Key factors include the HIV prevalence in the area of origin, infection rates in the

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²⁵⁰ Male-to-female transmission of HIV during sex is about twice as likely as female-to-male transmission. See WHO, “Number of women living with HIV increases in each region of the World”, 2004, at http://www.who.int/mediacentre/news/releases/2004/pr_unaids/en/print.html.

²⁵¹ The information in this paragraph and those that follow is adapted from: UNICEF, *The State of the World's Children*, 2005, pp. 70–71; IASC, “Guidelines for HIV/AIDS Interventions in Emergency Situations,” UNHCR, “Note on HIV/AIDS and the Protection of Refugees, IDPs and Other Persons of Concern”, April 2006.

²⁵² UNICEF, “Making Waves with Girls Education”, *Education Update*, vol. 1, issue 1, 2003, p. 5, at <http://www.unicef.org/girlseducation/files/Acceleration.pdf>; “Education Access for Children Affected by HIV and AIDS”, Background Paper for Global Partners’ Forum on Children Affected by HIV/AIDS, 9–10 February 2006, at http://www.unicef.org/aids/files/GPF_backgroundpaper_education.pdf.

²⁵³ UNICEF and UNHCR, *HIV/AIDS, Conflict and Displacement*, Conference report on the XVI International AIDS Conference Affiliated Event, Toronto, Canada, August 2006, at <http://www.unhcr.org/protect/PROTECTION/45a4bf224.pdf>.

5.5.3 HIV/AIDS, continued

Resulting from displacement and conflict (continued)

population surrounding refugee camps and the time the refugees have spent in the camp. An increased risk of HIV infection in a time of conflict can also be offset by a decreased risk if refugees' mobility was reduced and if their level of HIV awareness has been raised through educational programmes in refugee camps.²⁵⁴

Challenge: Discrimination and stigmatization

Men, women and children who are living with and affected by HIV and AIDS may face protection risks, such as discrimination in relation to housing, property, and health care. They may face the risk of *refoulement*, denial of access to asylum procedures, lack of access to durable solutions, and restrictions on their freedom of movement due to their HIV status. Mandatory testing, which violates international human rights standards, and lack of confidentiality regarding health status also create protection risks.

Women are often the primary targets of stigmatization related to HIV and AIDS. They are often blamed for introducing the disease into the household or community, even though their male partners may be the true source of infection. Women who are HIV positive may be more susceptible to violence or the threat of violence by their partners and/or families. Fear of such violence causes some women and girls to avoid testing.

International legal standards and guidelines

Women and girls have the right to the highest attainable standard of physical and mental health, which includes the right to HIV and AIDS prevention, treatment, care and support.²⁵⁵ Women and girls, like men and boys, who are living with HIV and AIDS are entitled to live their life in dignity, free from discrimination and stigmatization and should not be subject to discriminatory measures.

Like other refugees, refugees living with HIV/AIDS are entitled as indicated in the 1951 Refugee Convention to the same treatment as nationals as regards public relief and assistance.²⁵⁶

The UN Declaration of Commitment on HIV/AIDS²⁵⁷ recognizes that gender equality and the empowerment of women are fundamental preconditions if women and girls are to be less vulnerable to HIV/AIDS infection.

Responsibility: States

Realization of women's and girls' right to the highest attainable standards of health requires States to take steps which are necessary for "the prevention, treatment and control of epidemic, endemic ... and other diseases" and for "the creation of conditions which would assure to all medical service and medical attention in the event of sickness" and to ensure that these rights are respected, protected and fulfilled without discrimination.²⁵⁸

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²⁵⁴ UN-OCHA Integration Regional Information Networks, "Sudan: Trying to Stem the Spread of HIV/AIDS", 6 September 2005, at <http://www.unhcr.org/cgi-bin/texis/vtx/print?tbl=PROTECTION&id=43293e0b2>.

²⁵⁵ See generally. UNHCR, "Note on HIV/AIDS and the Protection of Refugees, IDPs and Other Persons of Concern", April 2006, at <http://www.unhcr.org/publ/PUBL/444e20892.pdf>, especially paras. 51–54.

²⁵⁶ 1951 Refugee Convention, Article 23.

²⁵⁷ UN General Assembly, Declaration of Commitment on HIV/AIDS, A/RES/S-26/2, 2 August 2001, in particular paras. 14, 37, 58–62; 65–67.

²⁵⁸ ICESCR, Articles 2, 12(2)(c) and (d). See also Committee on Economic, Social and Cultural Rights, General Comment No. 14 (2000), para. 16.

5.5.3 HIV/AIDS, continued

Responsibility:
States (continued)

As indicated in the UN Declaration of Commitment on HIV/AIDS, States have a responsibility to address the gender and age-based dimensions of the HIV/AIDS epidemic. They must integrate a gender perspective into efforts to combat HIV and AIDS and ensure that women must participate in developing programmes to prevent the spread of HIV.

Central to this approach is the development of strategies that promote the advancement of women and women's full enjoyment of human rights, including their right to have control over their health and sexuality and to decide freely and responsibly on those matters so that they can protect themselves from HIV infection.

This approach involves providing health-care services, including for sexual and reproductive health, that promote gender equality within a culturally and gender-sensitive framework. The UN Declaration of Commitment on HIV/AIDS also states that HIV and AIDS awareness, prevention, care, and treatment must be incorporated into programmes and actions that respond to emergency situations.

Responsibility:
UNHCR

UNHCR has a responsibility to ensure that HIV gender-sensitive programmes are made available in concert with national programmes in situations of displacement, including emergencies, as well as upon return.

How to respond

In order to ensure that women and girls are able to enjoy their right to HIV and AIDS prevention, treatment, care and support, UNHCR and its local, national and international partners should carry out the following actions:

Response	Actions
Coordinate	• Work in concert with national HIV/AIDS programmes to promote the benefits of making these also available to displaced and returnee populations on a non-discriminatory basis. • Coordinate with international and national partners to ensure HIV gender-sensitive programming in situations of displacement as well as return.
Assess, analyse and design	• Use UNHCR's "Antiretroviral Medication Policy for Refugees"²⁵⁹ to work with governments, implementing and operational partners to assess the availability of short-term preventive anti-retroviral therapy (ART) to prevent mother-to-child transmission (PMTCT) and to reduce exposure through post-exposure prophylaxis (PEP), and of long-term ART, so as to identify gaps in provision and assess the need for capacity building and/or activities to promote the inclusion of refugees in national programmes.
Intervene to protect	• Focus on unaccompanied children, orphans, and other children affected by HIV and AIDS, provide necessary support, family tracing, and family reunification, and work towards durable solutions for them.²⁶⁰ • Ensure that everyone who has been raped has access to Post-Exposure Prophylaxis to prevent transmission of HIV. • Lobby for and support affected persons' access to treatment.

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²⁵⁹ Issued in January 2007 and available at <http://www.unhcr.org/publ/PUBL/45b479642.pdf>.

²⁶⁰ UNHCR, "Note on HIV/AIDS and the Protection of Refugees, IDPs and Other Persons of Concern", April 2006, para. 53.

5.5.3 HIV/AIDS, continued

How to respond (continued)

Response	Actions
Strengthen national capacity	• Advocate with governments for the integration of refugees and displaced persons in national strategic plans on HIV and AIDS, including national prevention, treatment and care programmes. • Include access to HIV and AIDS programmes, including prevention, support, care, and treatment of all individuals affected by HIV/AIDS. • Train health workers to recognize signs of gender-based violence and to provide medical care as well as counselling and referral services. • Ensure that women and children have access to antiretroviral treatment (ART) when it is available for the surrounding communities or for people who had started treatment before flight. • Where national authorities may implement mandatory HIV testing of women and girls of concern, or seek to do so, lobby strongly against this, explaining that – this is at variance with relevant human right standards; – WHO and UNAIDS have asserted that there is no public health justification for mandatory HIV screening as it does not prevent the introduction or spread of HIV, and – public health interests are best served by promoting voluntary counselling and testing in an environment where confidentiality and privacy are maintained.²⁶¹
Strengthen community capacity to support solutions	• Work with community leaders to eliminate stigma and myths about women and girls related to HIV/AIDS. • Ensure that women and young people are part of regular HIV coordination and planning meetings. • Ensure that women have access to programmes focusing on prevention of mother-to-child transmission when they are available for the surrounding communities. • Empower women and girls and, through basic rights-awareness training and life-skills training, reduce their vulnerability to HIV and AIDS. • Ensure that women and girls, especially have access to voluntary counselling and testing (VCT) that respects confidentiality and is administered by staff who are aware of the particular concerns of adolescent girls and women. • Ensure that young people, including those with disabilities, have sufficient understanding of HIV and are able to protect themselves against the infection, through schools programmes and youth groups. • Include support to caregivers of AIDS patients and children orphaned by AIDS. • Work to prevent and respond to protection risks faced by women and girls affected by HIV/AIDS, such as discrimination and violence. • Ensure that women and girls have access to education and literacy classes, including informal education such as vocational and life skills training.
Monitor, report and evaluate	• Monitor the protection needs of women and children who are HIV positive or otherwise made vulnerable by HIV and AIDS, including to determine a possible risk of domestic violence, barriers to women's access to care and treatment, stigma and discrimination, possible abandonment by their families or additional family care responsibilities, particularly for children or older women.²⁶²

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²⁶¹ See UNHCR, "Note on HIV/AIDS and the Protection of Refugees, IDPs and Other Persons of Concern", April 2006, p. 3.

²⁶² UNHCR, "Note on HIV/AIDS and the Protection of Refugees, IDPs and Other Persons of Concern", April 2006, para. 52.

5.5.3 HIV/AIDS, continued

Field practice: Tanzania	After six months on air, the story of a womanizing truck driver and his family, Twende na Wakati (Let's Go with the Times), was the most popular radio show in the United Republic of Tanzania. Eighty-two per cent of listeners said the serial had prompted them to reduce risky sexual behaviour. Independent data showed a 153 per cent rise in condom distribution during the first year of the show. Health-clinic data reported that 41 per cent of new users of contraceptives were influenced by the series. The cost of reaching each new client was less than a dollar: a cost effectiveness unmatched by any other known strategy. ²⁶³

Field practice: Ecuador	A "Gender and HIV" project was implemented in the province of Sucumbíos, Ecuador, in an interagency effort involving UNHCR, UNFPA, UNIFEM and a local NGO. The project: • trained community health promoters, including refugee women, on gender, sexual and reproductive health, and HIV/AIDS, who went on to share this information in their communities and neighbourhoods; • improved the communication skills of educators and adolescents on issues such as gender and HIV/AIDS; • supported local women's organizations in key celebrations such as the International Day for the Elimination of Violence Against Women on 25 November; and • led to an inter-agency programme supporting the Health Directorate in implementing a "provincial plan against HIV/AIDS" with the additional participation of UNICEF, UNDP, UNESCO, and the Pan-American Health Organization. A relatively small inter-agency initiative with modest funding (three agencies with a budget under \$10,000) has led on to a much bigger initiative (seven agencies plus the International Organization for Migration with a budget of over \$100,000) to support and build the capacity of Sucumbíos province in the fight against HIV/AIDS. This prevents duplication of efforts and resources and strengthens a unified UN presence in the northern border of Ecuador. It has also helped ensure that gender concerns are mainstreamed throughout the programme. In addition, indigenous refugee women and men of the indigenous quechua ethnicity received training on gender, reproductive health and HIV/AIDS as part of a UNIFEM-funded project with the Sucumbíos Quechua Women's Association. The project helped promote <i>local</i> quechua women's agendas regarding domestic violence in their communities, their demands and suggestions for preventive measures and allowed quechua refugees to link themselves with the Ecuadorian Quechua community, thus contributing to their integration.

²⁶³ See UNFPA website, www.unfpa.org.

5.5.4 Mental health and psychosocial support

Panchita came to Australia as a refugee with her husband and four children after having fled from a vicious civil war. Panchita and her husband and two of her children had suffered brutal experiences, including torture and rape, that resulted in both physical and emotional trauma. Their first year as refugees in Australia was filled with hope, however, and they looked forward with excitement to their future in a new country.

Within a few years, Panchita and her family had lost their initial high hopes. Difficulties in finding work and integrating into the local society led to feelings of isolation and depression. Panchita's husband resorted to violence, something that had never happened before, according to Panchita. He frequently beat Panchita and used excessive physical punishment on the older children. Panchita reported that her husband also raped her and called her names, which brought back terrible memories of the time she was raped and tortured by soldiers in their homeland.²⁶⁴

Introduction

It is widely recognized that forced displacement, conflict, and human rights violations have a significant negative impact on the mental health of those affected.²⁶⁵ Displaced persons often suffer from anxiety, depression, and post-traumatic stress disorders after experiencing the traumas of seeing family members and neighbours die or seeing their homes and villages destroyed. Sexual violence, either when used as a strategy of war or in its aftermath, has severe psychological effects on women and girls. Left untreated, the psychological scars can destroy a woman's or girl's quality of life and even threaten the community as a whole.²⁶⁶

Definition: Mental health and psychosocial support

The Inter-Agency Standing Committee defines mental health and psychosocial support as a composite term to describe any type of local or outside support that aims to protect or promote psychosocial well-being and/or prevent or treat mental disorder. Although the terms *mental health* and *psychosocial support* are closely related and overlap, for many aid workers they reflect different, yet complementary, approaches. Aid agencies outside the health sector tend to speak of supporting psychosocial well-being. Health sector agencies tend to speak of mental health, yet historically have also used the terms psychosocial rehabilitation and psychosocial treatment to describe non-biological interventions for people with mental disorders.²⁶⁷

Action to enhance mental health and psychosocial support may involve interventions to provide support, counselling and healthcare to individual survivors. It can also include working with communities to discern their own coping mechanisms, help rebuild them and support them in practical ways, thereby strengthen the confidence and trust of community members.

Summary of challenges

While the physical hardships suffered by the displaced are often well-documented by aid agencies, their mental health and psychosocial needs may be less evident. These are rarely subject to the same rigorous

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²⁶⁴ Story adapted from Eileen Pittaway, "The Ultimate Betrayal: An Examination of the Experience of Domestic and Family Violence in Refugee Communities", Occasional Paper no. 5, Center for Refugee Research University of New South Wales, 2004, at <http://www.crr.unsw.edu.au/documents/The%20Ultimate%20Betrayal%20-%20An%20Occasional%20Paper%20Sept%202005.pdf>.

²⁶⁵ International Consultation on Mental Health of Refugees and Displaced Populations in Conflict and Post-conflict Situations, "Declaration of Cooperation: Mental Health of Refugees, Displaced, and other Populations affected by Conflict and Post-conflict Situations", Geneva, October 2000.

²⁶⁶ E. Johnson-Sirleaf and E. Rehn, *Women, War and Peace: The Independent Experts' Assessment*, Progress of the World's Women, 2002.

²⁶⁷ See IASC, *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, June 2007, p. 1, at <http://www.humanitarianinfo.org/iasc/content/documents/weekly/20070620-1345/Guidelines%20IASC%20Mental%20Health%20Psychosocial.pdf>.

5.5.4 Mental health and psychosocial support, continued

Summary of challenges (continued)

assessments as those to determine the level of food, shelter, or physical health assistance.²⁶⁸

Some of the challenges faced are discussed below and include the difficulties women and girls may face seeking support and the dual burden they must bear of their own trauma and their responsibilities as caregivers.

Challenge: Seeking support

Women and girls subjected to SGBV and other trauma often do not come forward to ask for psychosocial support. They may not know it exists, may fear ostracism stigmatization, fear retaliation by perpetrators against them or other family members, feel helpless, be suspicious of authority, have experienced insensitivity and egoistic motives on the part of individuals persuading disclosure, and/or may not feel able to speak to a stranger when such issues have traditionally been resolved within the family.²⁶⁹

Such women and girls may refuse therapeutic treatment for trauma, even though they may seek medical help for physical ailments, including forced pregnancy. Their social and cultural background can thwart participation in psychosocial programmes. Where problems have always been solved within the extended family, the idea of expressing person distress to a stranger may well be anathema to many victims/survivors needing assistance.²⁷⁰

Challenge: Responsibilities as caregivers

Displaced women tend to carry a double burden, as the story of Panchita and her family at the start of this section shows. They must deal with their own traumatic experiences of displacement and violence. At the same time, in their role as caregivers, they must endure the consequences of the traumas suffered by their men folk and children.

It is recognized that women's role as caregivers is so embedded in many societies that, even in the most desperate circumstances, women will try to take care of the people around them and will put their own experience to one side as they focus on coping with the harsh realities of their new situation and protecting their families. Many women suffer from tremendous feelings of guilt and helplessness because they are unable to protect their children and relatives from violence and hardship.²⁷¹

International legal standards and guidelines

Women and girls have the right to psychosocial support as part of their right to the highest attainable standard of physical and mental health.

The *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings* set out a number of core principles which should guide our interventions. These affirm that humanitarian actors should base their actions on human rights and equity; participation; “do no harm”; build on

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²⁶⁸ J. Jayawickrama and E. Brady, *Trauma and Psychosocial Assessment in Western Darfur, Sudan*, 2005, Trauma Risk Reduction Programme, Disaster and Development Centre, Northumbria University, Newcastle-upon-Tyne, UK, 2005. See also UNICEF/UNFPA, “The Effects of Conflict on Health and Well-being of Women and Girls in Darfur: Situational Analysis Report: Conversations with Women”, (no date given but after mid-2005), p. 32, at http://www.unicef.org/infobycountry/files/sitan_unfpaunicef.pdf.

²⁶⁹ Geneva Centre for the Democratic Control of Armed Forces (DCAF), *Women in an Insecure World: Violence against Women, Facts, Figures and Analysis* (eds Marie Vlachová and Lea Biason), 2005, p. 163.

²⁷⁰ Josi Salem-Pickartz, “Psychosocial Interventions in Post-War Situations”, *ibid.*, pp. 157–167 at p. 165.

²⁷¹ E. Johnson-Sirleaf and E. Rehn, *Women, War and Peace: The Independent Experts' Assessment*, Progress of the World's Women, 2002.

5.5.4 Mental health and psychosocial support, continued

International legal standards and guidelines (continued)

available resources and capacities; integrate support systems; and develop a layered system of complementary support so as to be able to meet the needs of different groups.²⁷²

The Guidelines also clarify that mental health and psychosocial support requires various levels of interventions, each of which is mutually reinforcing. These involve:

- broad programmes to provide basic services and security issues;
- community and family support interventions;
- increasingly focused non-specialized support; and
- specialized mental health services.

Responsibility

States have a responsibility to ensure that adequate protection and health services, including trauma treatment and counselling, are provided for women in especially difficult circumstances, including those trapped in situations of armed conflict and women refugees.²⁷³

Psychosocial support must be made available from the beginning of an emergency. Early and adequate mental health responses during a humanitarian emergency limit the impact of these events, help those affected to cope, and speed their return to normal functioning.²⁷⁴

All humanitarian actors are expected to contribute to non-specialized responses and to ensure that coordinated referral and response mechanisms are put in place when a more specialized intervention is required. Coordination among actors is therefore crucial to ensure broad and effective prevention and response mechanisms.

UNHCR, like other agencies, thus has a responsibility to support the provision of adequate and culturally appropriate psychosocial care for women and girls. This includes provision of such care and services to survivors of violence and of different forms of exploitation and abuse,²⁷⁵ including by UN staff and peacekeepers.

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²⁷² IASC, *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, June 2007, pp. 9–13, available in various languages at <http://www.humanitarianinfo.org/iasc/content/products/>.

²⁷³ Committee on the Elimination of Discrimination Against Women, General Recommendation No. 24, 1999, para. 16. See also, ExCom Conclusion No. 73 (XLIV), 1993, on refugee protection and sexual violence, para. (f).

²⁷⁴ World Health Organization, "Tool for Rapid Assessment of Mental Health Needs of Refugees, Displaced and Other Populations Affected by Conflict and Post-Conflict situations: A Community-Oriented Assessment", 2001, p. 1.

²⁷⁵ See ExCom Conclusion No. 73 (XLIV – 1993) on refugee protection and sexual violence, para. (f).

5.5.4 Mental health and psychosocial support, continued

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to ensure that women and girls are able to enjoy their right to psychological health in situations of displacement and return include:²⁷⁶

Response	Actions
Coordinate	Coordinate with the primary health care providers, governments, and NGOs to ensure that access to mental healthcare services can be made available to the whole community and is not restricted to groups with specific needs, and to ensure sustainability of interventions.
Assess, analyse and design	- Carry out a Rapid Assessment of Mental Health needs and available resources (RAMH) of the displaced population whenever a complex emergency strikes a community. This may be requested by the government concerned, by a UN agency, an NGO, a funding source or suggested by WHO and must involve the community itself.²⁷⁷ - Spend time with the community identifying and analysing their responses to mental health challenges and working to understand community dynamics. - Identify trusted traditional healers and learn about their practices. - Advocate for and integrate appropriate community-based psychosocial support in programming, emergency preparedness, and contingency planning.
Intervene to protect	- Provide appropriate psychological, social, economic, educational, and medical support to survivors of rights violations and encourage active participation of the survivor in family and community activities.²⁷⁸ Integrate such services as part of other education, social and health services so that it is easier for women and girls to access them without stigma being attached. - Ensure women and girls at risk can access support, such as medical and psychosocial care, to facilitate their recovery and integration, whether this be in the context of local integration, return, resettlement or other humanitarian programmes.²⁷⁹ - Respect women and girls who may be fearful of speaking out about their experiences and trauma. Therapy interventions which assume that rape must be acknowledged and discussed, for instance, may not necessarily apply in situations where women and girls have many other traumas to deal with and may isolate victims/survivors further from their community.²⁸⁰ - Where women and girls refuse support groups and psychotherapy which focus, for instance, on rape, it may be helpful to encourage women and girls who have had similar traumatic experiences to form groups and tackle developmental projects. This would allow them to experience mutual support, to begin to rebuild their community (an essential element in returning to a semblance of normality), and have a greater sense of agency and control over their situation.²⁸¹

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²⁷⁶ For further suggestions see, *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, referred to above; World Health Organization, Department of Mental Health and Substance Dependence, "Mental Health in Emergencies: Mental and Social Aspects of Health of Populations Exposed to Extreme Stressors", 2003, at <http://www.wpro.who.int/NR/rdonlyres/6312A18D-1B1C-4F03-928C-394E24D9A7E6/0/MentalHealthinEmergencies.pdf>.

²⁷⁷ World Health Organization, "Tool for Rapid Assessment of Mental Health Needs of Refugees, Displaced and Other Populations Affected by Conflict and Post-Conflict situations: A Community-Oriented Assessment", 2001.

²⁷⁸ See also ExCom Conclusion No. 105 (LVI) of 2006, para. (n)(ii).

²⁷⁹ See ExCom Conclusion No. 105 (LVI) of 2006, para. (p)(v).

²⁸⁰ Josi Salem-Pickartz, "Psychosocial Interventions in Post-War Situations", in Geneva Centre for the Democratic Control of Armed Forces (DCAF), *Women in an Insecure World: Violence against Women, Facts, Figures and Analysis* (eds Marie Vlachová and Lea Biason), 2005, pp. 165–6.

²⁸¹ *Ibid.*, p. 166.

5.5.4 Mental health and psychosocial support, continued

How to respond (continued)

Response	Actions
Strengthen national capacity	• Work with WHO to educate primary health care officials, humanitarian aid workers and community leaders in core psychological care skills and basic mental health knowledge and skills to raise awareness and community support and refer individuals to primary health care when necessary.
Strengthen community capacity to support solutions	• Work to ensure that interventions in mental health and psychosocial support empower women and girls and enable them to play an active role in organizing their lives, taking reconstruction and development of their community into their own hands, solving problems that affect them, attaining self-sufficiency, and reducing dependency. All are major avenues to reinstalling self-esteem, while the restoration of formal family life and every day routines helps increase families' and communities' resilience to stress.²⁸² • Most societies have their own forms of coping mechanisms for mental health conditions and their own interpretations of trauma. Often, societies see healing as a collective process that involves spiritual and religious practices. In this context, actions carried out should include:²⁸³ – establish good relations with the community in order to identify the support structures that exist in the community before and after displacement; – encourage the reestablishment of normal cultural and religious events and activities in order to support social networks, such as neighbourhood committees, youth and women's groups, and recreational activities for children; – help the community to rebuild support mechanisms (including for different religious communities which may be present in the same location) which ensure that the rights of the individual are respected; – understand the role of women in health processes and work with women such as midwives who are assigned such roles to help them recognize trauma symptoms and refer such women and girls for psychosocial support;²⁸⁴ – learn about how communities helped SGBV survivors to recover emotionally before displacement; and – ensure that women and girls participate in common-interest activities, such as family tracing, distributing food, and teaching children. • Provide training, supervision and ongoing support to teachers, social workers and nurses so that they can recognise trauma, provide counselling, and refer women and girls needing more professional psychosocial support.²⁸⁵

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²⁸² Geneva Centre for the Democratic Control of Armed Forces (DCAF), *Women in an Insecure World: Violence against Women, Facts, Figures and Analysis* (eds Marie Vlachová and Lea Biason), 2005, p. 159.

²⁸³ J. Jayawickrama and E. Brady, *Trauma and Psychosocial Assessment in Western Darfur, Sudan*, 2005, Trauma Risk Reduction Programme, Disaster and Development Centre, Northumbria University, Newcastle-upon-Tyne, UK, 2005.

²⁸⁴ For ICRC work with midwives in this way in the Great Lakes, see, Geneva Centre for the Democratic Control of Armed Forces (DCAF), *Women in an Insecure World: Violence against Women, Facts, Figures and Analysis* (eds Marie Vlachová and Lea Biason), 2005, p. 121.

²⁸⁵ *Ibid.*, p. 160.

5.5.4 Mental health and psychosocial support, continued

How to respond (continued)

Response	Actions
Strengthen community capacity to support solutions, contd	• Include as core elements of psychosocial interventions initiatives to:²⁸⁶ – help people understand that they are experiencing normal reactions to abnormal situations; – empower people through appropriate and scientific knowledge; – understand the consequences of stress and thus reduce its impact; – increase coping strategies and thus reduce trauma; – develop communication and problem solving skills to obtain concrete help; – ensure connections with other survivors and staff of agencies who are providing relief, healthcare, shelter, education, and economic assistance; and – strengthen community initiatives and link available resources and needs of survivors. • Where women and girls may have become separated from the community that usually provided support or this has disintegrated, work with them to create self-help groups to share experiences and provide mutual support and/or to find access to new networks e.g. through local NGOs and religious groups or communities.
Monitor, report and evaluate	• Monitor and evaluate activities with the community using indicators that have been determined, if possible, before starting the activity.

Field practice: Ecuador

In Ecuador, a project to provide psychological support set up and run by UNHCR's partner, the Hebrew Immigrant Aid Society (HIAS) has proved invaluable. It not only treats traumas in refugees and asylum-seekers, but also attends to integration and work market-related problems. The initiative also helps refugees tackle the challenges they face trying to establish a new life and new social networks, and integrate into a society that often meets them with prejudice, suspicion, and even fear.²⁸⁷

The project has in particular benefited victims/survivors of torture and SGBV, many of whom are rural women and girls from Colombia, people suffering from conflict-related traumas, unaccompanied or separated children, refugees facing serious integration difficulties and/or in need of resettlement. Women and children constitute 70 per cent of those assisted by the initiative.

In 2005, HIAS expanded its work to provide psychosocial assistance to children. Whether it be in the playroom, in the waiting area, with their parents or on their own, children are given priority, especially those in vulnerable situations. Children are given the opportunity to draw paintings and perform skits to help them process their experiences and help them with psychological problems. All separated children are referred to the HIAS psychologists, where they receive continuous psychological support on a weekly basis, if needed and wanted. Family tracing and reunification was coordinated with UNHCR Colombia.

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²⁸⁶ See Action Aid International, "Tsunami Response Psychosocial Care Report, 9 March 2006, at http://www.actionaid.org/wps/content/documents/Final%20Report_982006_12155.pdf.

²⁸⁷ See, UNHCR, Annual Protection Report, 2005.

5.5.4 Mental health and psychosocial support, continued

Ecuador (continued)	Especially close follow-up is given to children in precarious mental situations, for example, rape victims/survivors. They are given legal and psychological assistance, as are their siblings and parents. This is done on an individual basis, with a parent if requested and even at home. The work carried out by HIAS is not related to the RSD procedure. Confidentiality and the privacy of those involved are always respected. A recreational “Children’s Corner” has been set up in the office of the Committee for Refugees (<i>Comité Pro-Refugiados</i>) in the capital, Quito, and is led by HIAS staff specialized in the day-care of children. Another “Children’s Corner” was created at the Field Office in Lago Agrio, next to the waiting room, for children to paint, draw and play. In the waiting room, the psychologists actively identify individuals suffering from anxiety attacks and prioritize those most at risk, while internal referrals are sometimes also made by different units working with victims of domestic violence, sexual abuse, and abuse at work. Psychologists carry out home visits, and conduct weekly visits to the shelter to assist the asylum-seekers accommodated there. The Children’s Corner provides day-care for the children of refugee parents who have no place to leave their children while they work or participate in literacy training.

5.6 Access to safe and quality education

We are teaching voluntarily our girls and women who dropped out of primary schools so that they can learn how to read, write, and count... For us, this is essential for women to know their rights, both as women and as refugees. Without education, women cannot access local administration to receive their papers nor be informed about humanitarian assistance. In this centre, we have also started a theatre performance in which adolescent girls and boys show in a comic manner how women should not be forced into polygamy.

Hawa, a 25-year-old refugee teacher, Senegal²⁸⁸

Introduction

Education is a basic human right for girls and women and is key to their empowerment. In the context of war, flight, and displacement, education is essential for the protection of women and girls and for the sustainability of durable solutions.

Well-designed education programmes can help girls and women exercise other rights, are an important part of protection strategies, and can indeed be “life-saving” and “life-supporting”.²⁸⁹

Education programmes can:

- protect women and girls from sexual abuse and forced military recruitment;
- help identify women and girls at risk;
- represent a channel for sharing information and for conveying messages e.g. on mine awareness, HIV/AIDS and/or reproductive health;
- help restore a sense of normality and self-esteem during displacement;
- make it possible for them to participate actively in peacebuilding and reconstruction efforts; and
- help facilitate the economic and social reintegration of women and girls in their country of origin.²⁹⁰



Syria / Iraqi refugee girls join Syrian girls at a school in Saida Zeinab, Damascus / UNHCR / J. Wreford / 2007

Summary of challenges

There are still significant differences between girls' and boys' access to formal and non-formal education. As a result, girls and women are often less educated than boys and men and lack knowledge about their rights. Poorly-designed programmes may sometimes endanger those rights.

Some of the challenges and obstacles women and girls face in securing their equal right to quality education include:

- poverty and gender bias in favour of boys;
- additional challenges posed by conflict and displacement;
- risks when education is neither safe nor gender-sensitive; and
- risks when education does not meet minimum standards.

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²⁸⁸ Marion Fresia, “L’humanitaire en contexte: pratiques, discours et vécus des Mauritanien(ne)s réfugié(e)s au Sénégal”, Thèse de Doctorat en Anthropologie, Ecole des Hautes Etudes en Sciences Sociales, Paris, 2005.

²⁸⁹ INEE, *Minimum Standards on Education in Emergencies*, 2004.

²⁹⁰ See generally, UNHCR, *Education Field Guidelines*, Geneva, February 2003.

5.6 Access to safe and quality education, continued

Challenge: Poverty and gender bias

Poverty and gender bias towards boys often restrict girls' access to education. Primary education is, in principle, free of cost. Yet attending school still costs money – for school fees, materials, uniforms and/or in-school feeding programmes – and boys are often regarded as a better “investment” than girls. Parents rely on girls' help for domestic chores and may see education as a “burden” and early marriage as an “asset”.

For those girls who do go to school, some may have to pay related costs by resorting to survival sex or poorly paid work. Others fall behind in their studies and drop out before they have acquired sufficient literacy and numeracy skills due to conflicting priorities, including household duties or marriage.

Challenge: Conflict and displacement

Conflict and displacement generally exacerbate inequalities in access to education. Unaccompanied and separated girls, teenage mothers, and single mothers often have particular difficulties in gaining access to educational opportunities, due to child care responsibilities, lack of financial or other support, discrimination and stigma and/or the inability of schools to respond to their specific needs and perspectives on education.

Asylum-seeking girls and women, particularly those in urban areas, and women in detention are least likely to have access to educational opportunities, including language classes. They may be unable to provide certificates from their country of origin. Even if able to enrol, they may not be able to access the additional support they need to catch up. These women and girls are then more at risk of sexual harassment, abuse, trafficking, forced labour or domestic violence.

Challenge: Access to safe learning environments

Schools may not always be safe places for girls. When they are far from children's homes or from camps, adolescent girls in particular may face verbal, physical and/or sexual violence on their way to or from school. School girls are particularly at risk when

- national education systems and the school infrastructure are weak,
- teachers are not adequately qualified and/or do not have acceptable working conditions,
- there is a lack of trained, paid and/or female teachers,
- school policies and codes of conduct are not in place, are not strong or are not adequately enforced, and/or
- corporal punishment is accepted as a way to enforce discipline in schools.

As a result, some teachers may harass and/or exploit children. They may, for instance, ask adolescent girls to farm their land, carry out domestic chores or sexually exploit them, if these girls cannot afford their school fees. Peer-to-peer violence and bullying can also be a problem.

The strongest message that corporal punishment and exploitation send to the mind of a child is that violence is acceptable behaviour, that it is alright for a stronger person to coerce a weaker one. This helps to perpetuate a cycle of violence in the family and in society.²⁹¹

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²⁹¹ International Save the Children Alliance, “Corporal Punishment”, April 2003, p. 2.

5.6 Access to safe and quality education, continued

**Challenge:
Access to safe
learning
environments
(continued)**

Within the school environment, the absence of separated and lockable latrines, a lack of access to water, to sanitary materials and/or soap, may provoke physical and verbal harassment of girls by boys.²⁹² In camp settings, refugee and IDP schools that are meant to protect children from violence are sometimes viewed as easy targets for military recruitment. Schools, including specifically girls' schools, are sometimes attacked, despite the fact that such attacks represent one of the six grave violations against children in armed conflict identified by the Secretary-General.²⁹³

**Challenge:
Access to quality
education**

Educational curricula often do not incorporate programmes to raise awareness of women's and girls' rights, empowerment, protection against sexually transmitted diseases, including HIV/AIDS, and/or to ensure the right of persons with disabilities to quality education.

Asylum-seeking, refugee and internally displaced children belonging to minority groups often do not have access to education in their own language. At the global level, girls' secondary education and non-formal education are still given a low priority.²⁹⁴

Where schools face problems recruiting female teachers, this can lead to curricula that favour boys' interests and perspectives and can deprive girls of a role model and someone they can confide in.

**International legal
standards and
guidelines**

Article 13 of ICESCR recognizes the right of every one to education, including to free primary education for all, to secondary and to higher education. Article 10 of CEDAW affirms that women have equal rights with men in the field of education. Relevant CRC provisions include those which:

- protect children from all forms of physical or mental violence (Article 19),²⁹⁵
- affirm the right of the child to education on the basis of equal opportunity and require school discipline to be "administered in a manner consistent with the child's human dignity and in conformity with" the CRC (Article 28); and
- define the purpose of the education of the child as including the development of the child's personality, talents and abilities to the fullest potential and the preparation of the child for responsible life in a spirit of equality of the sexes (Article 29).

The 2006 Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities recognizes their right to education without discrimination and on the basis of equal opportunity (Article 24).

Principle 23 of the Guiding Principles on Internal Displacement recognizes the right of IDPs to education and the right of women and girls to full and equal participation in educational programmes.

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²⁹² UNHCR, *SGBV Guidelines on Prevention and Response*; INEE, *Minimum Standards for Education in Emergencies*.

²⁹³ See chapter 6, section 2.4.

²⁹⁴ Jesuit Refugee Service, *Horizons of Learning: 25 Years of JRS Education*, 2005, p. 25.

²⁹⁵ See also CRC Committee, "General Comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment", 2006.

5.6 Access to safe and quality education, continued

International legal standards for indigenous peoples

With regard to indigenous peoples, who may be displaced, as for instance in Colombia, and their right to education, ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries of 1989 sets useful standards. It provides for the involvement of indigenous and tribal peoples in the development of educational programmes and services that address their special needs and incorporate their histories, knowledge, technologies and value systems (Article 27). It also states that indigenous children should be taught, wherever practicable, to read and write in their own language (Article 28), and for educational measures among the national population to eliminate prejudices against them (Article 31).

The 2007 UN Declaration on the Rights of Indigenous Peoples affirms the right of indigenous individuals, particularly children, to all levels and forms of education, including in their own languages, without discrimination.²⁹⁶ These standards can represent useful lobbying tools where UNHCR has to work with displaced indigenous peoples, as for instance in Colombia.

Responsibility of States

Article 10 of CEDAW commits States to taking all appropriate measures to eliminate discrimination against women in education, including in higher education, vocational training, continuing education, such as language and literacy courses, and participation in sports and physical education. This would include measures to reduce female student drop-out rates.

Under Article 28 of the CRC, States are required to make primary education compulsory and free for all, to encourage regular school attendance, and to reduce drop out-rates.

Under Article 22 of the 1951 Refugee Convention, States are obliged to provide elementary education to refugees on the same basis as they do to nationals. They must also make higher levels of education accessible to refugees on the same, or better, basis as that available to aliens.

The Guiding Principles on Internal Displacement affirm that national authorities concerned have a responsibility to make special efforts to ensure the full and equal participation of women and girls in educational programmes. Educational opportunities should be made available to internally displaced women and girls, particularly adolescents and women, whether or not living in camps, as soon as conditions permit.²⁹⁷

Responsibility of international community and UNHCR

The international community has committed itself, including through the “Education for All” strategy and the Millennium Development Goals, to eliminating gender disparities in primary and secondary education and to ensuring that the learning needs of adults, particularly women, are met.²⁹⁸ These initiatives focus on the need to achieve gender parity, promote access to quality education, and meet the learning needs of adults, especially women.

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²⁹⁶ UN Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly, A/61/L.67, 7 September 2007, Article 14.

²⁹⁷ See Guiding Principle 23.

²⁹⁸ Education for All Strategy, The Millennium Development Goals, Goal 3; education and training of women is a critical area of concern in the Beijing Platform for Action. See generally, chapter 6, section 2.8.

5.6 Access to safe and quality education, continued

Responsibility of international community and UNHCR (continued)

UNHCR has a responsibility to ensure women and girls of concern have access to quality education as an integral part of its mandate under the Statute to protect them and secure durable solutions for them.

Summary of how to respond

UNHCR should ensure that women and girls always participate in the planning of education programmes, in line with the rights- and community-based approach. The Inter-agency Network for Education in Emergencies, Chronic Crises and Early Reconstruction (INEE), in which UNHCR plays an active role, provides support in implementing a rights-based approach to education and in promoting gender equality in education. This is notably through its work in establishing and disseminating "Minimum Standards"²⁹⁹ and promoting its "Good Practice Guides".³⁰⁰

More specific responses related to the following issues are provided below:

- right to formal and non-formal education, and to gender-sensitive, quality education programmes;
- equal access to safe schooling and safe learning environments.

Right to education

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to promote women's and girls' right to formal and non-formal education and to gender-sensitive, quality education programmes include:

Response	Actions
Coordinate	• Work with the Ministry of Education, partners, parents, and students to establish local education committees to coordinate education programmes. • Conduct focus group discussions with students and parents on gender issues and consult women and girls, including those not attending school, as well as youth groups. • In internal displacement situations, ensure both the education and protection "clusters" work together to secure the right to education for internally displaced children.
Assess, analyse and design	• Collect and analyse data on a basis that is disaggregated by sex, age and diversity, including sample data from schools on end-of-year examination results, drop-out during and between years, regularity of attendance, etc. • Promote the active participation of girls and women in the design of programmes that focus on improving girls' access to education, on the quality of education, and on the safety of learning environments. • Use the INEE Minimum Standards as guidelines to establish and run quality education programmes which meet the needs of all pupils and students, women and girls included.

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²⁹⁹ Inter-agency Network for Education in Emergencies, Chronic Crises and Early Reconstruction (INEE), "Minimum Standards for Education in Emergencies, Chronic Crises and Early Reconstruction", 2004, at <http://www.ineesite.org/page.asp?pid=1240>.

³⁰⁰ See <http://www.ineesite.org/page.asp?pid=1238> and, for information on gender equality, women's and girls' education, see <http://www.ineesite.org/page.asp?pid=1149>.

5.6 Access to safe and quality education, continued

Right to education (continued)

Response	Actions
Intervene to protect	• Provide women and girls at risk with education and vocational training in safe learning environments, as well as recreational programmes with childcare.³⁰¹ • Negotiate with education authorities in places of origin and asylum to provide certification of students' achievements, in consultation with the country offices of UNICEF and UNESCO, as appropriate. This will facilitate recognition of education attained and re-entry into school systems on return to the area of origin. This is of particular importance for girls in societies that do not value the education of girls. • Ensure girls with disabilities are integrated into schools whenever possible and/or provided with other learning opportunities and support.
Strengthen national capacity	• Advocate with States and education authorities to promote their implementation of national laws and international commitments, such as those under the Convention on the Rights of the Child, which promote equal access to quality education for girls and boys regardless of their status, as well as access to learning opportunities for women and adolescent mothers. • Work to ensure equity in women's and girls' participation in national, regional, and local education committees, school management committees, and parent-teacher associations. • Work with the authorities to promote gender-sensitive learning activities, school hours and teacher training. Teachers and classroom assistants should be trained to be aware of how girls and boys are socialized differently, how to provide psycho-social support and treat girls equally and with respect during and after lessons. • Give particular attention to the recruitment and training of female teachers, with a minimum number (and ideally equal numbers) of these in each school. • Encourage the placement of women teachers in high-status positions, not just lower primary grades or for "soft" subjects. At least one female teacher should play a mentoring role for girls. • Work with UNICEF, other agencies, ministries responsible for education and for gender, and other partners to ensure gender- and diversity-sensitive curricula are developed and provided in schools for persons of concern and that curricula also incorporate modules on women's and children's rights
Strengthen community capacity to support solutions	• Strengthen women's and girls' capacities, including by enabling their access to quality education, including secondary education, in safe school environments.³⁰² • In line with the rights- and community-based approach, involve women's and youth organizations in raising awareness of the need for girls' and women's education, including life skills education. • Consider giving additional education and training to potential female teachers, if needed. Female classroom assistants may also be appointed to provide security and role models for girls and to help ensure that girls learn basic skills of literacy and numeracy. This can serve as an entry route to teaching. (See West Africa field practice example at the end of this section.) • Ensure that female teachers are able to participate fully in school meetings and in-service training.

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³⁰¹ ExCom Conclusion No.105 (LVII), 2006, para. (o)(iii).

³⁰² ExCom Conclusion, No. 205 (LVII) of 2006, para. (k)(ii).

5.6 Access to safe and quality education, continued

Right to education (continued)

Response	Actions
Strengthen community capacity to support solutions, contd.	• Ensure teachers from minority groups (especially women) are encouraged and have equal access to training and employment opportunities. • Work with the community, including parents and especially fathers, to find ways to promote girls' right to education. • In prolonged displacement situations, structure the provision of in-service teacher training so that it will be recognized in the home country. This is particularly important for returnee women who want to work as teachers
Monitor, report and evaluate	• Promote the active participation of girls and women in the monitoring and evaluation of programmes to improve girls' access to education, enhance the quality of education, and the safety of learning environments.

Equal and safe access to education

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to promote women's and girls' right to equal access to safe schooling and to safe learning environments include:

Response	Actions
Coordinate	• Using UNHCR's guidance on safe learning environments,³⁰³ work in collaboration with education authorities, sister agencies, implementing and operational partners, and the community to determine the types of violence present and identify root causes, establish preventive measures to create safe and supportive learning environments, and response mechanisms to ensure children have access to support and quality services.
Assess, analyse and design	• Work with girls in the community to identify and map all the "hot spots" where protection risks arise and hinder equal access to safe education. Discuss these in the education committee and together design response to address each of these risks.
Intervene to protect	• Help poorer families of concern enrol and keep their daughters in school, including by helping provide clothing, school materials, and child care, as well as additional coaching from peers or others. It may be possible for them to be exempt from fees. (There should be no fees for primary schools, according to international law, but schools sometimes levy fees for specific purposes.) • Promote the access to, and participation in, education of girls at risk, such as teenage heads-of-households, teenage mothers, girls with disabilities, and girls from minority groups. • Ensure that pregnant girls and adolescent mothers are allowed to continue their education, rather than be excluded from school by rules, discrimination or stigma.
Strengthen national capacity	• Work with the authorities to enrich the curriculum with reading materials that promote a positive view of girls and women and provide information on life skills (such as assertiveness/refusal skills and negotiation/conflict resolution/peace skills) to help avoid early pregnancies and exposure to HIV and SGBV. Where relevant, this should also include promoting the development of curricula in line with the traditions and culture of minority groups.

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³⁰³ UNHCR, "Safe Schools and Learning Environments: How to Prevent and Respond to Violence in School", June 2007, at <http://www.unhcr.org/protect/PROTECTION/4677981a2.pdf>.

5.6 Access to safe and quality education, continued

Equal and safe access to education (continued)

Response	Actions
Strengthen national capacity, contd.	• Work with education authorities to persuade them to abolish age constraints and/or requirements for birth certificates for school enrolment, so that women and girls can enrol easily. In large primary schools, arrange separate classes for over-age students. • Work with partners and education authorities to persuade them to provide support e.g. through food incentives for girls (and female teachers) who attend school regularly, clothing (especially for older girls), and targeted scholarship schemes. These schemes may have specific objectives, such as enabling girls to qualify as teachers, or ensuring a literate female in every household who can then help other girls with their studies. • Work to improve secondary and non-formal education, including literacy courses for women and out-of-school adolescent girls, as they can increase girls' and women's self-reliance and promote school attendance and success for their children. Secondary school graduates can become female classroom assistants or teachers, ensuring quality education for more girls and boys in the future. Literate mothers can help their children succeed in school. • Use the Committee on the Rights of the Child's General Comment No. 8 on corporal punishment as a framework to work with the authorities and with partners to lobby to remove legislative provisions that permit some degree of violence in schools, make it clear that "it is as unlawful to hit or 'smack' or 'spank' a child as to do so to an adult".³⁰⁴
Strengthen community capacity to support solutions	• Ensure that school infrastructures and locations are gender sensitive and meet minimum standards on walking distance between schools and home, separate latrines for girls and boys, and provision of suitable clothing and sanitary materials to all girls. • Develop community-based responses to prevent harassment of students and teachers in the school setting and during transit to and from school. • Develop a code of conduct for teachers, other staff and pupils with all actors involved and make sure that reporting guidelines are made available to, and understood by, girls, boys and their teachers. • Promote the establishment of pre-school classes and arrangements for community childcare in order to acquaint pre-school girls and boys with the education process, enable older girls to attend school rather than care for their younger siblings, and facilitate access to schooling for adolescent mothers. • Consider abolishing school uniforms when this policy leads to non-enrolment and early drop-out from poorer families or, alternatively, support community sewing and tailoring workshops to enable women (and men) in the displaced/returnee community to make uniforms for school children, so that enrolment and drop-out for lack of uniforms can be reduced. • When possible, provide all school materials free to girls and boys, to maximize participation and retention and to prevent stigmatization. • In some situations and where security conditions are met, provide dormitories for older girls to enable them to concentrate on their studies and stay in school.

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³⁰⁴ CRC Committee, "General Comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment", 2006.

5.6 Access to safe and quality education, continued

Equal and safe access to education (continued)

Response	Actions
Strengthen community capacity to support solutions, contd.	• Encourage partners to employ community-mobilization educators, including women, to mobilize community support for schools, liaise with women's and youth groups, conduct girls' education campaigns, and train parent-teacher committees. • Encourage some lessons on reproductive health to be given separately to boys and girls to enable freer discussion. • Encourage the establishment of girls' clubs to help ensure girls are informed about their rights, available support services and reporting mechanisms. • Ensure that schemes for reintegration of children abducted or forcibly recruited by armed forces or armed groups provide for the education needs of girls and women, and their children, as well as of boys and men.
Monitor, report and evaluate	• Work with teachers and other education personnel to establish a Code of Conduct for teachers and students that is publicized, including in a child-friendly way, and monitored. • Establish and enforce ethical assessment and examination processes that protect girls and women, e.g., ensure that teachers cannot demand favours in return for good marks or promotions. • Ensure community-based monitoring and evaluation mechanisms are in place to monitor the safety of their children's environment and that children and parents taken an active part.³⁰⁵

Field practice: West Africa

"Following reports of sexual abuse and exploitation of refugee girls in West Africa, the International Rescue Committee implemented programmes to train women classroom assistants for upper-primary classes. Working alongside male teachers, they serve as role models, monitor risks of exploitation of students by teachers and document cases of abuse. Boys and girls in these refugee schools said that their classrooms were more calm, organized and conducive to learning as a result of the initiative. Relations between teachers and students were more respectful, and because the classroom assistants collected examination results directly from the teachers, there were fewer opportunities for exploitation related to grade. The girls especially appreciated having a 'mother' or 'big sister' figure in the classroom."³⁰⁶

Field practice: Lebanon

Immediately after the conflict in southern Lebanon in mid-2006, UNHCR supported the establishment of a summer camp for children from four war-ravaged villages in southern Lebanon. The Office provided tents, mattresses, blankets and kitchen sets from emergency supplies brought in for victims of the war, while the summer camp was set up by the Lebanese NGO Development for People and Nature Association (DPNA). It brought some 100 children affected by the conflict to a school in Jezzine.

As one of 28 volunteers running the camp who was a member of DPNA said: "Those children have gone through very difficult times. They are distressed. They have witnessed atrocities and fear and some of them had even lost homes or loved ones. They need to be children again, and the

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³⁰⁵ UNHCR, "Safe Schools and Learning Environments: How to Prevent and Respond to Violence in School", June 2007, p. 24.

³⁰⁶ OCHR/IRIN, *Broken Bodies: Broken Dreams: Violence Against Women Exposed*, 2005, p. 81.

5.6 Access to safe and quality education, continued

Field Practice: **Lebanon** (continued)

idea was to provide them with space to express themselves. Here, they are far from destruction. They will be able to forget for a while the cruel scenes they have been seeing for weeks now."

The children, ranging in age from nine to 16, came from villages severely damaged in the war. They spent three weeks on a calm hill overlooking the houses in Jezzine, a village set among green fields and uninhabited hills that was relatively less affected by the fighting. Lamis, 12, shared a tent with five other children. She found the camp a refuge. "During the war, I was so afraid. Each time I hear the shelling, I think I am going to die. Here I feel safe, I am not afraid anymore and I thank god that the war is over."

Acknowledging the importance of addressing the psychological impact of war on children, UNHCR supported the camp. It gave the children the opportunity to recover and recover some of the summer time they had missed out on during the war. It helped them learn to live with other children from different backgrounds and different religions, and exchange ideas and experiences.

Activities in the camp went well beyond leisure. Besides playing, singing, drawing and performing plays, the children participated in sessions on conflict resolution and peace building and on mine awareness. One of the activities was called "ambassador for peace" and involved children splitting into groups and exchanging ambassadors carrying a clear message, that of peace. As 12-year-old Mariana said: "In this camp we learn important things in life. We learn to love and respect each other, and not to be afraid. And the most important thing is to work as a team."³⁰⁷

Field practice: **Liberia**

As part of a returnee reintegration programme in Liberia, UNHCR provided funding for the refurbishment of the Suakoko Women's Centre in 2005, in the country's Bong County, north of the national capital, Monrovia. A number of courses gave women practical knowledge about tailoring, hairdressing, tie and dye, cooking, soap-making, and so on. The one most appreciated and valued one was, however, the adult literacy programme. By early 2007, 75 women were enrolled in literacy courses there.

After 14 years of devastating civil war, they were grateful for the chance to make up for years of lost education. The centre depends heavily on volunteer teachers and students are encouraged to themselves become volunteer teachers in a country where up to 85 per cent of adults are illiterate. Referring to the past lack of educational opportunities for girls in Liberia, the (male) volunteer literacy teacher said: "I always remembered how ashamed I was with the way my sisters were treated and how sorry I was for them. This seems to be the way to rectify an old injustice."

The centre also plays an important social role, offering a rare forum for women from neighbouring villages to meet, exchange thoughts and discuss their problems.³⁰⁸

Continued on next page

³⁰⁷ UNHCR, "UNHCR helps Summer Camp in Lebanon to Revive Children's Laughter", 6 September 2006, at <http://www.unhcr.org/news/NEWS/44fef0cc4.html>.

³⁰⁸ UNHCR, "Literacy Programme Opens Up New Opportunities for Women in Liberia", 11 January 2007, at <http://www.unhcr.org/news/NEWS/45a66fe92.html>.

5.6 Access to safe and quality education, continued

Field practice: Ninemillion.org campaign projects in Africa

Launched on the World Refugee Day in 2006, the **ninemillion.org** UNHCR-led campaign supports the provision of quality education in safe learning environments to the estimated nine million girls and boys of concern to UNHCR. It promotes a holistic approach to education, “Education (Plus)”, to support children’s access to education from primary to secondary school and beyond to vocational and life-skills training, and their access to recreational and sports programmes.

In eastern Chad, for instance, a project has identified alternate care givers in displaced communities to look after the infants of teenage mothers and/or their younger siblings so as to increase adolescent girls’ enrolment and enable them to stay at school. Additional tuition and “catch-up” classes have been provided for girls unable to attend school regularly. Active participation by the displaced communities is fostered to raise awareness of women’s and girls’ rights, gender issues, and prevention of SGBV. Teachers, religious and other community leaders also take part in these activities.

In Uganda, girls’ education projects are being developed to provide out-of-school girls with basic education, literacy, numeracy and livelihood training as part of a project to produce locally-sourced sanitary pads (the “Maka pad” project as shown in the photo at the start of chapter 2).

The campaign also supports girls’ participation in sports, thus helping realize their right to play and to recreational activities (Convention on the Rights of the Child, Article 31). This enables them to strengthen their team-building, leadership and decision-making skills, as well as being a way to enhance life skills, for example, regarding HIV/AIDS prevention and children’s rights. In Liberia and southern Chad, for instance, sports and play modules have been used as vehicle for information and prevention messages on HIV/AIDS and to help build more peaceful, cohesive and youth friendly communities.

Note: See also chapter 2, section 2, for field practice example in Dadaab, Kenya, and chapter 2, section 4, for example of the work of the Centre for Peace and Development in Puntland, Somalia, and the importance of education for girls.

5.7 Livelihoods and food security

Overview

*"Resources for women represent resources for food security. Successful development for women does not stop at the individual; it benefits whole households and communities. Reducing gender disparities by enhancing the human and physical resources commanded by women leads to growth in household agricultural productivity, greater income, and better food and nutrition security for all."*³⁰⁹

Introduction

Displacement jeopardizes physical security and livelihoods and can change gender roles and relations between the sexes. Often women have to assume new responsibilities for the family's safety and economic well-being, if their husbands have not fled with them, have had to seek employment elsewhere, or have been conscripted into armed forces or armed groups. Women and girls become more vulnerable to sexual abuse and exploitation as they try to protect their families' lives and livelihoods. Girls are the first to be removed from school or face early marriage when household livelihoods are at risk.³¹⁰



This Bosnian returnee has been given a cow through a UNHCR project to help victims of domestic violence and trafficking gain greater economic independence. She says: "I was afraid I would not be able to enrol my older daughter in high school because I did not have the money. Now, thanks to God and UNHCR, I will be able to have the means for our life and the education of my children. I will make sure they are independent in life and never have to go through the hell I have been through." / Foundation for Local Democracy (FLD) and Women for Women International / 2007

Challenge

Women often bear the brunt of food shortages. This affects their health and that of their unborn or young children. If their husbands are missing in war, have disappeared, or are detained, they are especially at risk. A woman who is a widow or single or the head of a household often assumes additional roles and responsibilities, including as primary breadwinner for the family. Displaced grandparents may become the head of family, if their son or daughter has not fled, has been killed or died of AIDS, and must assume additional responsibilities even if they are less mobile or able to provide for their grandchildren. Sometimes very young girls and boys may also have to provide for their younger siblings, if their parents are missing or dead.

Definition: Food security

The 1996 World Food Summit agreed that food security exists when "all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food which meets their dietary needs and food preferences for an active and healthy life".

In this section

This section covers the following topics:

Topic	See Page
5.7.1 Livelihoods and food security	307
5.7.2 Food security and food distribution	316

³⁰⁹ World Food Programme, *Tackling Hunger in a World Full of Food: Tasks Ahead for Food*, background paper submitted to World Food Summit, 1996.

³¹⁰ WFP, "Food Aid and Livelihoods in Emergencies: Strategies for WFP", WFP/EB.A/2003/5-A, Rome, May 2003.

5.7.1 Livelihoods and food security

"Approximately one-third of Angolan households are headed by women who bear the burden of generating income as well as ... caring for their children. Internally displaced or refugee female-headed households have limited access to land, health care, education, and other social services. Internally displaced or refugee girls face more difficulties because they have no competitive skills for the labour market and an increasing number of them opt for nocturnal lives on the streets of the city... The mothers and community condemn them... They have poor parents and seek means of livelihood by engaging in prostitution."

From "Report on the Dialogue with Refugee Women"³¹¹

Introduction

A livelihood provides an individual and her or his household with the means to acquire food and meet immediate and long-term needs. Socio-economic factors such as natural, financial, and physical assets, gender inequalities, and ethnicity can determine whether different individuals are able to attain self-sufficiency. Forcibly displaced people are often very poor and have few, or limited, opportunities for securing livelihoods, even though they have a wealth of human and social-political assets and resources, including courage, determination and the potential to thrive. Displaced women, in particular, have often demonstrated their resilience and survival skills.³¹²

Definition: Livelihoods

The term "livelihood" has been defined as "the capabilities, assets (including both material and social resources) and activities required for a means of living. A livelihood is sustainable when it can cope with and recover from stresses and shocks and maintain or enhance its capabilities and assets both now and in future, while not undermining the natural resource base."³¹³

Livelihood assets

Livelihood assets can be categorized into five groups. By distinguishing between different assets, these can provide a framework for response.³¹⁴

Livelihood assets	Including
Natural	natural resource reserves, such as agricultural and grazing land, water resources, livestock, lakes, trees, fish
Socio-political	social resources, such as kinship structures, religious groups, neighbourhoods, political leaders, legal systems, women's groups and networks, youth clubs
Human	resources innate to a human being, such as strength and ability to work, skills, capacities, and knowledge
Physical	important support factors facilitating sustainable livelihoods; basic infrastructure, such as transport, shelter, energy, and communication; other production items, such as farm implements, tools, and equipment
Financial	financial resources required to pursue various livelihood options, such as earnings and wages, savings, and access to loans and credit

Continued on next page

³¹¹ UNHCR and the Women's Commission for Refugee Women and Children, "Report on the Dialogue with Refugee Women", Geneva, 2001.

³¹² UNHCR, "Framework for Durable Solutions for Refugees and Persons of Concern", EC/53/SC/INF.3, 16 September 2003.

³¹³ D. Carney (ed), *Sustainable Rural Livelihoods, Department For International Development*, London, 1998. Carney draws this explanation from the work of Robert Chambers and Gordon Conway. See also, <http://www.livelihoods.org/> on creating sustainable livelihoods to eliminate poverty.

³¹⁴ Ibid.

5.7.1 Livelihoods and food security, continued

"The danger is the same, near or far, but there's no wood nearby. When we are there getting the wood, local people sometimes take the girls' clothes off and do bad things. The people wear green uniforms. Some have camels, some have horses. At the place where we get the firewood they tell us, 'Line up one by one'. They say, 'Stand two by two', and they take us off like that and then they rape us... Sometimes this happens until evenings. We have told the police, but the police say, 'Stay in your tent and nothing will happen'."

Women's Commission for Refugee Women and Children, "Displaced Women and Girls at Risk: Risk Factors, Protection Solutions, and Resource Tools", New York, 2006

Summary of challenges

Women and children are the most at risk when they have no livelihood opportunities. Some of the specific challenges faced by displaced and refugee women and girls in their attempts to secure livelihoods include:

- lack of access to physical assets;
- cultural and behavioural norms;
- physical security risks when collecting firewood, including for income;
- unsuitable environments for cultivation near camps;
- movement restrictions in refugee camps;
- engagement in negative coping mechanisms in order to survive;
- obstacles to finding employment; and
- risk of exploitation while generating income in camps and urban settings.

Challenge: Access to physical assets

Refugees and displaced persons, particularly women, do not own or have access to assets such as land, farm implements, fishing boats and nets, livestock or credit facilities. Their assets are human.³¹⁵

Challenge: Cultural and behavioural norms

Not only do women already bear heavy, time-consuming domestic workloads, making it more difficult to engage in new activities, but they also have more difficulties in accessing land, credit, skills-trainings/education, rights, and information. Since communities perceive women as the protectors of culture and traditions, they may face social sanctions for challenging behaviour norms by searching for a livelihood.

Challenge: Physical security

As already noted in section 3.1.1 of this chapter on SGBV challenges, the collection of firewood and water is a survival strategy that frequently puts women and girls at risk of sexual assault and rape. In internal displacement and returnee situations, there is the added risk that women and children may look for firewood or water in mined areas.³¹⁶

The need to collect firewood and water is, in addition, directly and indirectly related to numerous protection concerns. It often means, for instance, that women and children have no time for education, skills training, income-generating activities or participation in leadership and decision-making bodies. Firewood may not only be collected for household use, which may be limited, women and girls may need to gather it to sell in local markets for cash so that they can buy other necessary household items, like food, sanitary materials, clothing, and toiletries.

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³¹⁵ Naila Kabeer, "Safety Net and Opportunities Ladders: Addressing Vulnerabilities and Enhancing Productivity in South Asia", January 2002, Institute of Development Studies, University of Sussex.

³¹⁶ Adapted from Women's Commission for Refugee Women and Children, "Displaced Women and Girls at Risk: Risk Factors, Protection Solutions and Resource Tools", 2006.

5.7.1 Livelihoods and food security, continued

**Challenge:
Unsuitable
environments for
cultivation**

Rural households depend primarily on subsistence agriculture and their livestock. In many parts of the world, refugee camps are set up in fragile ecological environments that cannot provide a viable means of livelihood. The camps, themselves, have an adverse affect on the land.

Displaced people are generally not permitted to cultivate the land around camps, to rear livestock, or to have access to the host community's grazing lands. When they live in fishing communities, they are generally not allowed to fish in lakes because they are seen as competition for the local fishermen.

Especially when people are displaced within their own country or when they return, they may be obliged to seek livelihoods in areas which are mined or where there is unexploded ordnance (UXO). This increases the security risks for women who often undertake the bulk of agricultural tasks.

**Challenge:
Negative coping
mechanisms**

Participatory assessments have shown that young girls and women are forced to adopt negative coping mechanisms in order to survive and some are forced into survival sex. Sometimes, adolescent girls are given away in marriage to men twice their age so that the bride price received for the girl can allow the rest of the family to survive or enable a male member in the family to marry or set up a small business.

**Challenge:
Restrictions on
freedom of
movement**

In many asylum countries, refugees are confined to camps in rural areas and are not permitted to leave the camps for employment or education. As a result, refugees become dependent on lower than subsistence-level assistance and become frustrated with their lives of poverty and unrealized potential.³¹⁷

"The labour office did not give the permission and it took several months... the employer was really interested in taking me ... but it didn't come off ... I was visiting the NGOs, none was sure in this matter. And then the position was occupied and I was absolutely down and I lost faith and I didn't want to go out of the house."

Zoja, a Chechen who fled to the Czech Republic, was eventually recognized as a refugee with her daughter after 3.5 years, and who was accepted for a job at a microbiology institute, but was unable to get a work permit.

She now works as a ticket inspector in a Jewish museum and is still seeking to get her diploma recognized.³¹⁸

**Challenge:
Obstacles to
finding work**

Asylum-seekers in many industrialized countries are denied permission to work and are therefore dependent on often very limited State support. The lack of gainful employment slows their integration and increases social exclusion. In some countries, support is removed entirely if their claim is rejected, even though they are afraid to return and feel their case has not been fairly assessed. Destitute women, especially those with children or who are pregnant, are especially vulnerable to exploitation and abuse.

Even if asylum-seeking women are recognized as refugees and allowed to work, they may lack access to childcare, their qualifications may not be recognized in the country of asylum and/or they may need to requalify or take work that leaves them open to exploitation and/or does not utilize their skills.

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³¹⁷ The World Commission on Environment and Development (also known as the Brundtland Commission), 1987.

³¹⁸ See European Council on Refugees and Exiles, Refugee Stories Project (supported amongst others by UNHCR), at <http://www.ecre.org/refugeestories/>.

5.7.1 Livelihoods and food security, continued

Challenge: Risk of exploitation

Despite all the obstacles to finding livelihoods, displaced women and girls living in camps have been resourceful in creating income-generating enterprises, such as hair salons, tailoring shops, kiosks, food shops, and bakeries. In urban areas, they have found jobs as domestic workers, packers, cleaners, and sales women. Yet because they often work in the informal sector, they usually have no employment safeguards and may be at risk of exploitation, abuse and trafficking.

International legal standards and guidelines

Article 3 of the ICESCR affirms the equal right of men and women to enjoy the rights in the Covenant, including the right set out in Article 6 of everyone to the opportunity to gain his or her living by work which he or she freely chooses or accepts. The right to work is essential for realizing other human rights and forms an inseparable and inherent part of human dignity.³¹⁹

Under CEDAW, women enjoy the right to choose their profession and employment, the right to equal remuneration, the right to the protection of health and safe working conditions, and to protection against dismissal for maternity or marital reasons.

Four International Labour Organization (ILO) Conventions aim to eliminate discrimination and achieve gender equality in the work place. These are Convention No. 111 on Discrimination (1958), which addresses discrimination in employment; Convention No. 100 on Equal Remuneration (1951); Convention No. 156 on Workers with Family Responsibilities (1981); and Convention No. 183 on Maternity Protection (2000).

Under Articles 17 and 18 of the 1951 Refugee Convention, refugees are entitled to the most favourable treatment accorded to foreign nationals as regards both wage-earning and self employment. Article 24 of the same Convention sets a higher standard, as it entitles refugees to the same treatment as nationals as regards regulations e.g. on "remuneration, ... women's work and the work of young persons" and as regards social security. This includes access for refugee women to industrial and commercial activities as well as agriculture and handicrafts.

Responsibility

The ICESCR obliges States Parties to take appropriate steps to achieve the full realization of the right to work. CEDAW provides that rural women be given the opportunity to obtain the training and education required to improve their technical proficiency. States' specific obligations as regards refugees under the 1951 Refugee Convention are briefly outlined above.

UNHCR has a responsibility to enhance the livelihoods of displaced women and ensure food security, as an integral part of its responsibility under its Statute to protect and secure durable solutions for them. Action to promote self-reliance is appropriate at all stages of an operation and regardless of what the ultimate durable solution will be.³²⁰ It is critical to the protection of women and girls.

Continued on next page

³¹⁹ Committee on Economic, Social and Cultural Rights, General Comment No. 18 on the right to work (2006), para. 1.

³²⁰ UNHCR, *Handbook for Self-reliance*, August 2005, p. 2.

5.7.1 Livelihoods and food security, continued

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to empower women and girls and keep them safe during food distributions and fuel collection and to promote equality in relation to livelihoods and food security include:

Response	Actions
Coordinate	- Identify local partners and authorities who could be stakeholders in economic activities, including local NGOs involved in micro-credit projects and women's associations able to provide skills training. - Involve women from displaced and returnee communities, as well as local communities in developing plans and mechanisms to address potential disputes about property, land, custom, and culture so that obstacles to women's ability to seek livelihoods and food security are removed.
Assess, analyse and design	- Assess markets so that existing skills within the displaced community can be matched to labour needs in the camp or surrounding area and so that targeted livelihood strategies can be designed. - Analyse existing livelihood programmes to determine whether supply/outputs correspond to local markets and cultures. - Conduct market assessments, including of emerging markets where gender roles are not yet defined. - Through participatory assessments,³²¹ identify the various resources available to women and men of different age groups and backgrounds, as well as groups whose livelihoods are too precarious to guarantee basic survival and those who manage to meet basic needs but need greater security for their livelihoods. - Consult the community, including women and girls, to ensure the design of livelihood programmes reflects their concerns, at the same time working also to ensure that these programmes do not automatically reinforce traditional gender roles. - Conduct economic mapping exercises, examining what businesses women are engaged in, what skills they have, what obstacles they must overcome and what market opportunities exist for business start-ups and growth. - Design comprehensive skills training programmes for women, including pre-counselling, apprenticeship, job placement, and micro-finance, so that skills training does not only raise expectations but is also more likely to lead to job placements. Provide guidance on how to invest remittances and income and diversify economic activities and risks. - Work to expand microfinance demographically to women and young people and geographically to rural settings. If programmes also target host community members this can promote economic development in the area of displacement and enhance receptiveness of the local community and government to the programmes.
Intervene to protect	- Since women often play multiple roles, do not overburden them with the responsibility for developing time-consuming or costly business ideas. Be sensitive about the specific needs of women, such as for day care centres and women's organizations. - Implement strategies to increase safety and security during fuel collection, e.g. by ensuring that regular patrols are present and/or that mixed groups of men and women go together to collect fuel. Reduce fuel consumption by promoting and using, for example, fuel-efficient stoves. Combine these fuel-related activities with livelihood initiatives so women and girls do not still have to collect firewood to sell in markets.

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³²¹ See, UNHCR, *Tool for Participatory Assessment in Operations*, May 2006, and chapter 2, section 3, above.

5.7.1 Livelihoods and food security, continued

How to respond (continued)

Response	Actions
Intervene to protect, contd.	• Strengthen women's and girls' capacities, including by enhancing food security, livelihood opportunities, freedom of movement and economic independence, including through access to labour markets;³²² • Ensure sufficient basic assistance, especially to women and girls at heightened risk.
Strengthen national capacity	• Support government reviews of laws, policies and regulations relating to refugee employment, taxation, movement, access to markets, legal support etc., in order to identify opportunities to strengthen livelihood opportunities and secure tangible benefits for refugees and asylum-seekers.³²³ Examine, for instance, whether refugees are granted legal rights to work on an employed basis and whether refugees are discriminated against by potential employers. • Work with governments to persuade them to give asylum-seekers permission to work and allow them freedom of movement, on the basis of international human rights standards, as has been achieved, for instance, in Chile, Argentina, Chile, Ecuador and Peru. Such action enables the host country to take advantage of the skills and resilience of asylum-seekers and refugees and enables the latter to become self-reliant, provide for themselves, and reduce their dependence on humanitarian assistance/social security. • Build host country capacity and strengthen regional and local institutions to support community development and provide services for both host and refugee/internally displaced populations.³²⁴
Strengthen community capacity to support solutions	• Promote community-based livelihood strategies that target women and girls at risk so they can take care of themselves and their families and as a prelude to solutions, especially in prolonged displacement situations.³²⁵ • Promote women's access to skills training, including in literacy/numeracy, credit and employment opportunities, to job placements, agricultural, and income-generating projects and microfinance institutions, focussing specific activities on women, such as business skills training courses for women only. • Reduce the risk of friction within the family or community by raising awareness of the positive aspects of women's entrepreneurship. Work in particular with male community members to enhance their understanding of the benefits derived from women being self-reliant and help them appreciate and support women's entrepreneurial activities. • Work with grassroots women's organizations to strengthen the coping skills of displaced and returnee women, upgrade their livelihood skills, and encourage their participation in decision-making. • Before launching large-scale micro-credit schemes, promote land-based agricultural activities and introduce diversification with small-scale home-based enterprises, such as rearing poultry and small animals, that provide not only additional income but also nutritional supplements. • Support education for girls, including leadership training for adolescents, so that they can aspire to better work and employment. • Build on positive traditional and community mechanisms, such as common property resources and customary rights for the poor. • Include agricultural tools for women in non-food item (NFI) distributions

Continued on next page

³²² ExCom Conclusion, No. 105 (LVII), 2006, para. (k)(ii).

³²³ UNHCR, *Handbook for Self-reliance*, August 2005, p. 10.

³²⁴ UNHCR, *Handbook for Self-reliance*, August 2005, p. 11.

³²⁵ ExCom Conclusion No.105 (LVII), 2006, para. (o)(iii).

5.7.1 Livelihoods and food security, continued

How to respond (continued)

Response	Actions
Monitor, report and evaluate	• Work with partners to monitor women's access to skills training and credit schemes and analyse their impact on households and level of income generated. Monitor with women how any additional income is used to and who benefits from it.

Field practice: Sudan

The Lulu Works project provides an example of how Sudanese women were able to use skills learn while in a Ugandan refugee camp upon their repatriation to south Sudan. Lulu Works now employs 24 women, the majority of whom are returnees. The project leader gained her soap and lotion-making skills in exile and when she returned she organized a small group of women to use these skills to sustain themselves. Their initiative was noticed by an NGO which then sponsored a refresher course for them, provided a grant to buy raw materials, and continues to support the export of their finished products.

The group has gained the respect and support of their husbands, families, and the community, especially as they live in a society where there is a clear lack of livelihood opportunities and a culture that limits women's economic independence. The popularity of the initiative and its acceptance by the community have increased participation, for instance, of single female parents. Lulu oil products are in high demand in the community and many parts of Sudan, as well as in Kenya, where they are exported. To show their level of commitment, members are required to pay registration and membership fees.

The output of the Lulu Works project adds high economic value to the community. It provides sustainable livelihoods and empowers the women involved. Many of the members have been able to send their children to school with the proceeds of their work and to provide food and basic household items for their families. The group has also been able to co-sponsor a machine operation room by raising \$530 for its construction; provide loans to members; and initiate farming activities on a small scale. The latter has been especially fruitful as the area has fertile soil, but food is still being imported. As a source of income for their activities, members provide tailoring services and are currently constructing huts for guest quarters, in addition to constructing a multi-purpose hall for hire to the community. Members often explain that any assistance provided to them will be multiplied within their community.

Field practice: Sierra Leone

At monthly meetings with Liberian refugee women in Sierra Leone, the women indicated they were tired of making soap and tie-dye garments. They explained to UNHCR and the implementing partner which ran the income-generating activity that they wanted to become drivers. They felt that this would provide them with excellent employment opportunities on return. The women themselves contacted and met the drivers' licensing organization in the capital Freetown, which agreed to provide driving licenses. UNHCR and its partner are trying to find vehicles to be used for this initiative and a driving school that will agree to provide driving lessons at low cost.

In another initiative, a rice mill project that provided machines for cleaning and drying rice enabled women and girls to save time, attend school, reduce workloads, and earn a small amount of income.

Field practice: Community development and social entrepreneurship, Belarus

Introduction

In the Republic of Belarus, UNHCR has helped refugee communities to establish and register four formal community organizations and to launch two social enterprises. This has provided employment opportunities for women and men and ensured the financial sustainability of the newly created community organizations. The community organizations interact with UNHCR, governmental and public institutions to represent the interests of refugee communities.

UNHCR has supported the establishment of a bakery in Grodna and a billiards club in Gomel as refugee-community owned and run social enterprises. Profits generated enable local community organizations to invest into the community and its members.

Rights promoted

Among the rights promoted by this initiative are:

- the right to work;
 - the right to education;
 - the right to an adequate standard of living; and
 - the equal right of women and men to enjoyment of economic, social and cultural rights
-

Steps to implementation

UNHCR worked with the refugee communities to help them establish leadership and organizational structures, prepare the necessary legal documents, and register the community organizations with the Ministry of Justice.

In June 2003, UNHCR announced a competition for best economic projects with the goal of creating employment opportunities for refugees, asylum-seekers and locals, promoting the social welfare of the refugee community and enhancing their local integration. The winning projects were provided with equipment and the revolving funds required for their first month of operation.

Activities and progress have been monitored on a quarterly basis through site visits, meetings with the community organizations concerned, and their management boards, as well as by analysing financial records and reports.

AGDM and empowerment

Both enterprises have mainstreamed age, gender and diversity by employing women and men and by ensuring that refugees of different ethnic origin work together with local people. Women represent 30 per cent of the workforce, while roughly half the employees are locals. Employment opportunities are available to people from different age groups. Although both community organizations are headed by men, the chief accountant in both is a woman. Women are present at board meetings, can voice their opinions and their needs and priorities are taken into account when developing new social and cultural initiatives.

Considering employment opportunities are scarce, the social enterprises provide the women employed with a rare opportunity for self-sufficiency. The extension of the billiards club to include a pizzeria has provided new workplaces for women and has allowed new social initiatives that involve women, such as teaching Afghan language classes.

Continued on next page

Field practice: Community development and social entrepreneurship, Belarus, continued

Community involvement

The community has set up the organizational structure of the social enterprises and the community organizations. Community members have produced the business plans and have been employed by the enterprises.

Profits are channelled through community organizations to help realize common social, cultural, and developmental goals.

Partners and their involvement

The proposals submitted to the UNHCR competition on sustainable economic projects were reviewed by representatives from UNHCR, UNDP, the Counterpart Alliance for Partnership, the Belarusian Red Cross, a local audit company "Partner Audit", and migration officials.

The cooperation of UNHCR with specialized agencies and State authorities helps provide the necessary expertise and resources to sustain established social enterprises.

Constraints

The overregulated environment for both NGO and micro/macro business activities in Belarus has created challenges for the establishment and the functioning of the social enterprises and community organizations.

Legislation on public associations and foundations has a direct impact on the activities of the community organizations. Further monitoring and consultancy services from UNHCR are crucial for their sustainability and further development.

Impact

These initiatives have helped the local integration of the refugees by providing employment opportunities for 23 refugees of different ethnic origins, mostly Afghans and Georgians, and 21 members of the local community. Almost a third of those employed are women.

The community organization financed by bakery profits has provided financial assistance to support a number of asylum-seekers at risk, paid the tuition fees of a refugee girl studying medicine, and co-financed the participation of women and girls in the Republican Festival of National Cultures. Women and girls have been the main beneficiaries of the cash assistance provided by the organization.

The community organization financed by the billiards club enacted social programmes and provided targeted social support to refugees in the region.

Lessons learned

It is difficult to implement such projects without a strong business initiative coming from the refugees and their communities. The financial and labour costs of organizing such enterprises may also not be commensurate with potential individual incomes, although there is a wider social benefit within the refugee community. Many refugees do not want to abandon their activities in the local markets, although most work there illegally.

5.7.2 Food security and food distribution

*"People cannot eat retroactively. It is extremely difficult to make up for the damage inflicted by inadequate nutrition in the first five years of life. The nutritional welfare of mothers and infants is vital. If it is inadequate, the damage is both lasting and far broader than the individuals and families involved. Society as a whole suffers losses when children cannot learn, when poor health restricts energy and productivity, when hungry women give birth to a new generation that is malnourished."*³²⁶

"UNHCR will ensure that refugee women participate directly and indirectly in the management and distribution of food and non-food items."

Fourth of UNHCR's Five Commitments to Refugee Women

Introduction

Hunger dulls the intellect and thwarts productivity, keeping entire societies from realizing their potential. This fact becomes evident when expectant mothers and their unborn babies, children under five, and nursing mothers lack food. Inadequate nutrition before birth and in the first years of life is likely to damage health, mental development and future productivity. If a woman is malnourished during pregnancy and lactation, she is more susceptible to disease and her capacity to work and care for her children is reduced. When this hardship is multiplied by millions of families worldwide, it creates a devastating ripple effect that jeopardizes global development.³²⁷

Hunger continues to cause widespread suffering despite the fact that the right to food is recognized either directly or indirectly by all countries in the world. Enjoyment of the human right to adequate food is crucial for the enjoyment of all rights.³²⁸

Challenge: Malnutrition

When there is no food security for displaced populations, humanitarian organizations often provide food aid. Yet food aid is not always sufficient: food baskets may not meet minimal caloric standards or lack nutritional value, the food-assistance pipeline may break down, and rations may be cut due to funding problems. When food rations are inadequate, children cannot perform well at school or stop attending classes, while women will often be the first to deny themselves food in favour of others, particularly their children and male partners.

Challenge: Sexual exploitation

Food insecurity is not only linked with malnutrition; it can also result in sexual exploitation. Those who have surplus food (or non-food items) have power over those who have no food and those who distribute food are usually men. Women and girls may be compelled to engage in survival sex because they lack a livelihood and desperately need food for themselves and their families.³²⁹ In some instances, humanitarian workers and peacekeepers have demanded sexual favours in return for food or money.

Continued on next page

³²⁶ WFP, *Tackling Hunger in a World Full of Food: Tasks Ahead for Food*, background paper submitted to World Food Summit, 1996.

³²⁷ Adapted from FAO, *Food: A Fundamental Human Right*, Rome, 2001.

³²⁸ Committee on Economic, Social and Cultural Rights, General Comment No. 12: The right to adequate food, 1999, para. 1.

³²⁹ Adapted from Women's Commission for Refugee Women and Children, *Displaced Women and Girls at Risk: Risk Factors, Protection Solutions and Resource Tools*, New York, 2006.

5.7.2 Food security and food distribution, continued

*"The right to food is not primarily about food aid; it is the right to be able to feed oneself through an adequate livelihood."*³³⁰

International legal standards and guidelines

Under Article 11 of the ICESCR States Parties "recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing". The reference to "himself and his family" does not imply any limitation upon the applicability of this right to individuals or to female-headed households.³³¹ States Parties also recognize "the fundamental right of everyone to be free from hunger".

The Rome Declaration on World Food Security, adopted at the 1996 World Food Summit, reaffirms "the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger".³³²

UNHCR's *Handbook for Emergencies* requires us to "ensure the maximum possible appropriate involvement of refugee women in all aspects of distribution", including food. This means women should be involved in the decision-making process and monitoring; in the distribution itself (whether by supervising or handing out the commodities); and in collecting them (where they are distributed to women not men).³³³

Responsibility: States

States Parties to the ICESCR are obliged to work to improve methods of production, conservation and distribution of food and to ensure equitable distribution of world food supplies in relation to need. The right to adequate food can only be realized progressively, but States still "have a core obligation to take the necessary action to mitigate and alleviate hunger ... even in times of natural and other disasters".³³⁴

In times of international armed conflict, States are obliged to allow free passage of essential foodstuffs for children under 15, expectant mothers and maternity cases.³³⁵ States and other entities have a responsibility to not to prevent access to humanitarian good aid in internal conflicts or other emergency situations.³³⁶

Responsibility: States and UN organizations

States and UN organizations, including UNHCR in coordination notably with the World Food Programme, have an obligation to provide disaster relief and humanitarian assistance, including food, to refugees and the internally displaced and should give priority to those most at risk and those with specific needs.

As the Committee on Economic and Social Rights notes: "Food aid should, as far as possible, be provided in ways which do not adversely affect local

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³³⁰ "Human Rights in Lebanon: Report of the Special Rapporteur on the right to food, Jean Ziegler, on his mission to Lebanon", A/HRC/2/8, 29 September 2006, p. 2, at <http://daccessdds.un.org/doc/UNDOC/GEN/G06/141/71/PDF/G0614171.pdf?OpenElement>.

³³¹ Committee on Economic, Social and Cultural Rights, General Comment No. 12: The right to adequate food, 1999, para. 1.

³³² FAO, *Food: A Fundamental Human Right*, May 2001.

³³³ For further details see, UNHCR, *Handbook for Emergencies*, 3rd edition, February 2007, pp. 232–35.

³³⁴ Committee on Economic, Social and Cultural Rights, General Comment No. 12: The right to adequate food, 1999, para. 6.

³³⁵ 1949 Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, Article 23.

³³⁶ Committee on Economic, Social and Cultural Rights, General Comment No. 12: The right to adequate food, 1999, para. 19.

5.7.2 Food security and food distribution, continued

Responsibility: States and UN organizations (continued)

producers and local markets, and should be organized in ways that facilitate the return to food self reliance of the beneficiaries. Such aid should be based on the needs of the intended beneficiaries. Products included in international food trade or aid programmes must be safe and culturally acceptable to the recipient population.”³³⁷

ExCom recommends that States, UNHCR and other relevant agencies, and partners “make all efforts to ensure integrated nutrition and health interventions and access to adequate food through measures that address the root causes of food insecurity and malnutrition, including by enhancing families’ enjoyment of self-reliance, age and gender-sensitive food distribution systems, targeted nutrition programmes for pregnant women and children during their critical first years of development, and by providing treatment for malnourished children”.³³⁸

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to empower women and girls and keep them safe during food distributions, and promote equality in relation to food security and food distribution include:

Response	Actions
Coordinate	• Ensure close cooperation and regular exchange of information between UNHCR and World Food Programme (WFP) on the basis of the 2002 Memorandum of Understanding between the two agencies and the 2004 UNHCR/WFP Joint Assessment Guidelines. • Work with partners, including governments, WFP, and NGOs to ensure, for instance, that UNHCR and WFP adopt common systems for issuing ration cards to families, that measures to ensure the protection of women and girls are a priority, and that common approaches are adopted towards the issue of ration cards to members of polygamous families.
Assess, analyse and design	• Assess micro-nutrient deficiencies among groups of women and children with specific needs, including older women, young children, unaccompanied and separated children. • Study and replicate traditional feeding mechanisms. • Analyse with women their preferred eating and cooking habits and design programmes with them accordingly, taking into account local eating and cooking habits.
Intervene to protect	• Provide women with individual ration cards for themselves and their children, including especially separate ration cards for each wife and her dependants in polygamous families. • Ensure women have safe access to firewood, alternative fuel, and water. Make sure that these items are easily accessible so that they do not have to go into isolated areas to collect them. • Provide women and others at heightened risk with sufficient rations and NFIs to avoid exposure to survival sex and further abuse. • When appropriate, support needy families in the host community.

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³³⁷ Committee on Economic, Social and Cultural Rights, General Comment No. 12: The right to adequate food, 1999, para. 39.

³³⁸ ExCom Conclusion No. 107 (LVIII), 2007, para. (h)(ix).

5.7.2 Food security and food distribution, continued

How to respond (continued)

Response	Actions
Strengthen national capacity	• Where possible, use local markets to supply additional materials and NFIs to support local produce and reduce tensions. • Ensure that, whenever food aid is provided, it both meets the short-term needs of the displaced population and helps restore the population's long-term food security. This can be accomplished by assigning plots of land for cultivating in the names of both the man and woman in the family, allowing the rearing of small animals and poultry in the camps, and re-establishing local markets. • Work with the authorities to ensure their support for food distribution systems.
Strengthen community capacity to support solutions	• Strengthen women's leadership, including by enhancing their access to and control over services and resources, and supporting implementation of UNHCR's fourth Commitment to Refugee Women to ensure that refugee women participate directly and indirectly in the management and distribution of food and non-food items.³³⁹ Experience has shown that women's participation in distributions lessens the possibility for sexual exploitation by food distributors. Women have also generally been found to be more aware of the needs of individual households in their communities than men. • Target relief food distributions to households, ensuring that women control the family entitlement, especially since women tend to have more control over food in the household than over cash. • Be sure that essential items, such as food, water and cooking fuel, are either given directly to women or are distributed through women. • Train all workers on their responsibilities under the Secretary-General's Bulletin on special measures for protection from sexual exploitation and abuse and related complaints mechanisms.³⁴⁰ • Adopt a zero-tolerance policy for sexual exploitation and other forms of abuse of power perpetrated by staff and partners against beneficiaries, as required in the Secretary-General's Bulletin. • Ensure confidential complaints mechanisms for report exploitation and abuse are in place and known by the community.
Monitor, report and evaluate	• Ensure that women's committees are involved in monitoring distribution and post-distribution activities. Aid workers should always be present at the distribution sites to monitor the process. • Undertake home visits to persons of concern who are older, at heightened risk, and/or have disabilities to ensure adequate food distribution and nutrition. • Ensure specific monitoring of the food security and nutrition of unaccompanied and separated girls and boys.

³³⁹ See UNHCR, "Report on the High Commissioner's Five Commitments to Refugee Women", EC/55/SC/CRP.17, 13 June 2005; ExCom Conclusion No. 105 (LVII), 2006, para. (k)(i).

³⁴⁰ Secretary-General, "Bulletin on Special Measures for Protection from Sexual Exploitation and Sexual Abuse", ST/SGB/2003/13, 9 October 2003, at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=451bb6764> and circulated in IOM/FOM/77/2003 of 13 November 2003.

5.8 Housing, land and property

Overview

"Housing, land and property disputes and problems are also an almost inevitable consequence of armed conflict, as people flee their homes and lands in search of safety, or are forced to flee, in particular through ethnic cleansing or sectarian violence, as currently plagues Iraq. Such situations invariably give rise to complex issues that, if not prevented in the first place, must be addressed later if any future peace is to be sustained and further violence prevented. These include forced evictions; property transactions made under duress; illegal destruction or appropriation and occupation of abandoned property; the illegal confiscation of land; discriminatory application of abandonment laws; and the loss or deliberate destruction of documentary evidence of ownership. Such problems are further compounded by the application of inheritance laws that deny women and minors the right to inherit, own or use land and property."

Report of the Secretary-General on the Protection of Civilians in Armed Conflict",
S/2007/643, 28 October 2007, para. 54

Introduction

Lack of adequate housing during displacement, and lack of access to land, property, and housing on return, can expose women and girls to severe protection risks, including SGBV and other forms of violence.

Lack of adequate housing during displacement is often related to lack of access to other rights, such as water, sanitation facilities, and health care.

In return situations, women and girls who are denied access to their land, property, and housing lose their main source of physical, economic, and food security.

Discrimination against women not only on account of gender, but also race, caste, ethnicity, age, relative impoverishment, and lack of access to social and economic resources compound these problems.



Russian Federation / Ingushetia / Chechen IDPs
/ A grandmother minds her children in a tented
camp in Sunzhenski District / UNHCR / T.
Makeeva / March 2003

In this section

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5.8.1 Housing and shelter during displacement

*"We checked that it was the correct number and walked up the stairway, which was dark even though it was noon. The place had a terrible smell. We looked all along the stairway and its pathway for the correct unit but we could not find it. Finally we found it at the bottom of a very dark and dirty stairwell that went downstairs, which we were first afraid to venture into... Ms A. opened the gate to us that led to a corridor. On the left was a big space that was very dark except for the fire from the stove at the far corner. She led us to what she said was her room towards the right... As we entered the room we saw men's clothing and toiletry. We asked her where she slept and she pointed to the space furthest from the door... All the men in the flat had gone out to work except one. Ms. A. says she is afraid to be at home alone with just one man."*³⁴¹

"In Mitrovica, northern Kosovo, over 500 internally displaced persons are living within the Zitkovac, Cesmin Lig, and Kabalare camps, constructed in 1999 by the United Nations High Commissioner for Refugees when Roma, Ashkali, and Egyptian community members were driven from their homes in Roma Mahalla. The camps were built as an ad hoc, temporary response to the flow of refugees. They were built on highly toxic land and individuals living there are alleged to have been, and continue to be, exposed to serious lead poisoning and other environmental health problems. The impact on women has been particularly grave, resulting in stillbirths and miscarriages."

From "Study by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living"³⁴²

Introduction

Whether living in urban slums, collective centres, refugee settlements, or with host families, women face a series of protection risks due to or associated with the lack of adequate housing. This and a lack of privacy can result in sexual and gender-based violence (SGBV), including domestic violence. Many women and girls cannot leave violent family situations simply because they and their children have no place to go.³⁴³ Inadequate housing usually also means inadequate water, sanitation and safety.³⁴⁴

Summary of challenges

Some of the specific housing challenges faced by women and girls during displacement are discussed below and include:

- finding affordable and suitable accommodation in urban settings;
- overcrowding and lack of privacy in camps;
- insufficient plastic sheeting, blankets, and clothing; and
- protection risks in reception and transit centres.

Challenge: Accommodation in urban settings

Urban asylum-seekers and refugees often find it extremely difficult to find affordable and suitable accommodation. Consequently, groups of unrelated families may share one flat or even one room. Single men and women often share rooms. Eviction by landlords or for urban regeneration is common. In such circumstances, women and girls, in particular those who are alone or who head families, are at great risk of SGBV, either by those with whom they are living or by landlords. In addition, these flats often do not have kitchens or fresh water and many people may be required to share one toilet. This can lead to serious sanitation and health problems.

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³⁴¹ "Needs Assessment for a Shelter to House Women of the Chin Community who are at Risk/are Survivors of Sexual Harassment", A project by Malaysian Care for UNHCR, 2004.

³⁴² Commission on Human Rights, Women and Adequate Housing, "Study by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living", E/CN.4/2005/43, 23 February 2005, para. 65.

³⁴³ Ibid., para. 67.

³⁴⁴ Commission on Human Rights, "Women and Adequate Housing: Study by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living", E/CN.4/2003/5, 3 March 2003.

5.8.1 Housing and shelter during displacement, continued

**Challenge:
Overcrowding and
lack of privacy in
camps**

In camp situations, overcrowding and a lack of privacy between and within dwellings can create protection risks for women and girls. Single women, women and girls with disabilities, and unaccompanied or separated girls often end up with the most insecure accommodation in the camp. Even when camps are planned to avoid this, these problems may arise as camp populations grow and additional land is not available.

When sanitation facilities and water are located far from accommodation, women and girls face further protection risks, especially if there is not lighting at night.

**Challenge:
Insufficient NFIs in
camps**

Insufficient non-food items (NFIs), such as plastic sheeting, blankets, and clothing, can compound these risks. For example, when there are fewer than five members of a family, as may be the case with child-headed households or single women, women and girls may be required to share tents and/or plastic sheeting with unrelated strangers.

While office policy might be to provide one blanket per person, inadequate supplies and insufficient consideration to the needs of those who are single and thus will not be warmed by the presence of family members can lead to ill health and undignified and threatening situations. Clothing is not regularly distributed or included in emergency packages or distributed on a regular basis during protracted refugee situations, even when refugees have no access to income-generating activities. This increases women's and girls' risk of exposure to SGBV.

**Challenge:
Risks in reception
and transit centres**

In some regions of the world, asylum-seekers are accommodated in reception centres, refugees and internally displaced persons may be housed in collective centres, while returnees may be housed in transit centres before they go back.

Such centres are used to provide short-term accommodation and can suffer from a lack of privacy and inadequate services, which can expose women and girls to SGBV and other rights violations. Because of their temporary nature, sanitation and cooking facilities are minimal and these accommodations often do not contain any partitions.

Some refugee or internally displaced women, particularly those who are older and unable to rebuild their homes or cultivate their land, have remained in collective centres indefinitely.

Some returnees may remain in transit centres for longer than originally intended. This is particularly a problem for older, unaccompanied women, for those with disabilities, or those who may not have anywhere else to go.

**International legal
standards and
guidelines**

The right to adequate housing forms an integral part of the right to an adequate standard of living contained in Article 11 of the ICESCR, Article 27 of the CRC, and Article 14(2)(h) of CEDAW. This right also implies a continuous improvement of living conditions.

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5.8.1 Housing and shelter during displacement, continued

International legal standards and guidelines (continued)

The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living has defined the right to adequate housing as “the right of every woman, man, youth, and child to gain and sustain a secure home and community in which to live in peace and dignity”.³⁴⁵

The Committee on Economic, Social and Cultural Rights has identified seven criteria of adequate housing:

- legal security of tenure;
- availability of services, materials facilities and infrastructure;
- affordability;
- habitability;
- accessibility;
- location; and
- cultural adequacy.³⁴⁶

The Special Rapporteur on adequate housing has identified nine additional elements when evaluating adequacy: access to land, water, and other natural resources; freedom from dispossession, damage, and destruction; access to information; participation; resettlement, restitution, compensation, *non-refoulement* and return; privacy and security; access to remedies; education and empowerment; and freedom from violence against women.

The Inter-Agency Standing Committee's *Women, Girls, Boys and Men: Different Needs, Equal Opportunities: Gender Handbook in Humanitarian Action* (2006) provides useful guidance on gender considerations relating to shelter in emergencies on pp. 97–104.

Responsibility

States have a responsibility to adopt positive measures aimed at alleviating the situation of refugees and displaced persons, including women and girls, living in inadequate housing. As part of their responsibility to ensure access to adequate housing States should ensure that accommodation provided gives security from harassment and violence in the home, as well as protection from illegal forced eviction.

The 1951 Refugee Convention requires States to give refugees treatment as regards housing which is as favourable as possible and not less favourable than that accorded to aliens generally in the same circumstances.

Principle 18 of the Guiding Principles on Internal Displacement affirms that the competent authorities have a responsibility “at the minimum, regardless of the circumstances, and without discrimination ... to provide internally displaced persons with and ensure safe access to ... basic shelter and housing”. They should also make special efforts to ensure women's full participation in the planning and distribution of such shelter and housing.

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³⁴⁵ Commission on Human Rights, “Women and Adequate Housing, Study by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living”, E/CN.4/2006/118, 27 February 2006, para. 10.

³⁴⁶ Committee on Economic, Social and Cultural Rights, General Comment No. 4 “the right to adequate housing”, 1991, para. 8.

5.8.1 Housing and shelter during displacement, continued

Responsibility (continued)

Relevant UN agencies, including UNHCR, have a responsibility in emergency situations to undertake participatory planning to ensure the right to an adequate standard of living and housing. Planning must include assessing and ensuring that shelter distribution and allocation to families and households are made in a non-discriminatory manner, without distinction of any kind. The right and needs of women, girls, boys, female-headed households, widows and other groups with specific needs should be addressed, including possibly through the adoption of affirmative measures that positively impact specific groups.³⁴⁷

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to promote women's and girls' rights to housing, land and property include:

Response	Actions
Coordinate	• Consult with all members of the community when planning shelters. Hold separate consultations with women and girls of diverse backgrounds and incorporate their views into the site plan. • Consult with women and girls to see what actions might be taken to minimize the protection risks that they face as a result of lack of adequate housing. • During registration and participatory assessment, identify women and girls in need of specific shelter assistance and follow up to ensure that they receive the support needed.
Assess, analyse and design	• When designing site plans, consider how to: – promote a sense of community and reinforce community-based protection; – ensure privacy of the family unit; – ensure women and girls' safe access to water, sanitation facilities, fuel, and other services; – provide a common area where children can play and that is visible from their families' homes;³⁴⁸ and – ensure adequate lighting in communal areas and for individual use. • When designing reception centres, ensure standards, including the following are respected: – single women and single men are accommodated separately; – families are accommodated together; – there are adequate partitions between families if families are accommodated collectively; – rooms can be locked by their occupants; – there are separate toilet and bath/shower facilities in different areas or, at a minimum, different timetables are established and monitored for their use by males and females; – there is adequate lighting throughout; – facilities and services are available to meet the educational, medical, psychological, religious, and recreational needs of asylum-seeking children and that special attention is paid to the risk of trafficking; and – the centres are protected 24 hours a day by guards, including female guards, trained on the gender-specific needs of those living there.³⁴⁹

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³⁴⁷ For more information, see IASC, *Women, Girls, Boys and Men: Different Needs, Equal Opportunities: Gender Handbook in Humanitarian Action*, Dec. 2006, p. 97; UNHCR, *Handbook for Emergencies*, 3rd edition, Feb. 2007, chapter 12, especially p. 218.

³⁴⁸ As promoted by UNICEF, "child friendly spaces" established in emergencies can go on to become a school or play area where educational, health and social support can be provided.

³⁴⁹ For further details see, ExCom Conclusion No. 93 (LIII), 2002; UNHCR, "Reception of Asylum-seekers, including Standards of Treatment, in the Context of Individual Asylum Systems", EC/GC/01/17, 4 Sept. 2001, especially paras. 20–23.

5.8.1 Housing and shelter during displacement, continued

How to respond (continued)

Response	Actions
Intervene to protect	• Provide support with the community for housing/shelter construction for older single women and women with disabilities, female- and child-headed households. • Ensure these same groups of people are located in safe central locations with easy access to facilities and services and not marginalized. • Provide access to land for cultivating crops. • In urban areas, use proGres and Geographic Information Systems (GIS) to map locations and inform people about where to find support networks, services and improved security. (See also field practice example for Kenya relating to access to information for refugee domestic workers in Nairobi in section 1.1 of this chapter above.)
Strengthen national capacity	• Lobby with the authorities to ensure refugees in rural areas are in safe locations away from the border and with access to firewood and water. • Work with the host community to address any tensions with the displaced community in a timely manner. • Work with the authorities to persuade them to give refugees living in urban areas the right to work, and where this is not provided to provide adequate support, to enable them to find adequate housing, so that they do not have to live in the poorest and most dangerous neighbourhoods, where women and girls may be particularly at risk of violence or abuse. • Ensure accommodation centres incorporate livelihood activities and people are organized to prevent idleness and increased security risks.
Strengthen community capacity to support solutions	• Mobilize community support for individuals require specific shelter assistance in relation, for instance, to construction and plot allocation. • Ensure that centres where women can network, convene, and work on projects are available for women during displacement. Adolescent girls should also have access to centres where they are offered skills training and information on sexual and reproductive health. • Consider establishing a transit house for newly arriving women and girls who may be alone or part of female-headed households to reduce their initial vulnerability to exploitation when they arrive in the camp or urban areas. Make sure that such a transit house is funded and managed properly. (See field practice example for Ethiopia in section 3.1.2 of this chapter above.)
Monitor, report and evaluate	• Monitor how women are accommodated during displacement and return, including women living in urban areas, in refugee settlements, in transit centres, and with host families, and take action to prevent and respond to protection problems due to lack of adequate housing.

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5.8.1 Housing and shelter during displacement, continued

**Field practice:
Indonesia**

Due to the lack of involvement of women in the planning and recovery process in Aceh, Indonesia, following the Tsunami in December 2004, UNIFEM organized a series of consultations with women to identify the needs and concerns of survivors and to ensure the incorporation of a gender perspective in the reconstruction process.

The issue of land, inheritance, and property rights, particularly for children who had lost their entire families, and access to adequate housing were identified as critical issues by the women.

In Aceh, women put at the top of their list of recommendations the re-establishment of Balai Inong, or “women’s house.” Before the Tsunami, every village in Aceh had Balai Inong, where women could meet to network, convene, or work together on projects.

According to the women, setting up these houses again would be an effective way of ensuring that women’s concerns were heard, while also providing a safe space for women to grieve, share experiences, and develop skills to sustain their livelihoods.

**Field practice:
Turkey**

Many asylum-seekers and refugees in Turkey have great difficulties finding housing and encounter a wide range of protection problems as a result. The Office in Ankara therefore sought to raise awareness of the problem and secure funding for the opening of reception centres.

As part of the “Welcome to Turkey” activities of the multi-functional Gender and Children Team, refugees and asylum-seekers were given cameras to document their experiences in Turkey. Since many asylum-seekers and refugees photographed poor housing conditions, their photographs contributed to discussions on the possibilities for opening reception centres, literally showing the great need for them. An exhibition of the photographs was held on World Refugee Day. A booklet on the project was also printed and included among submissions for funding for the reception centres.

5.8.2 Housing, land and property on return

"I am too old and gnarled to plant. I will try to work the land, but it will be hard."

54-year-old returnee widow and grandmother, returning to Angola with her young grandson whose mother died of AIDS³⁵⁰

"My life has been very hard since my parents died. Since their death I have not had access to my forest or my fields. When I went to court I was told that I had lost even before they started my case. I was not even given the chance to speak. I couldn't even cut a tree on my property or grow a potato."

Concessa Nibgore, internally displaced woman in Rwanda³⁵¹

Introduction

Many displaced women returning home from conflict find themselves homeless and landless. As a result, they lose their personal security, social status, and economic and food security and so may no longer be able to care for their families and children.³⁵² The risk of violence against women in such situations increases.

Summary of challenges

Some of the challenges displaced women and girls face in gaining access to housing, land and property on return from conflict include:

- discrimination and inheritance rights;
- cultural practices preventing widows from accessing safe and secure housing, land and property; and
- separated or unaccompanied children being denied their right to housing, land and property.

Challenge: Discrimination and inheritance rights

Discrimination against women and girls in relation to land, property, and inheritance rights contributes enormously to the challenges they face on return.

Women may be subject to limited inheritance from husbands, harmful customary practices, unequal inheritance from parents, unequal division of property upon divorce, discriminatory laws and customs, lack of control over property, biased attitudes among family and community members, unresponsive authorities, and ineffective courts.³⁵³ Even when laws provide for women's right to inherit property and land, women may lack documents and titles, while few have the social and economic resources to pursue their claims, either through non-formal or statutory means.³⁵⁴

Challenge: Widows denied access

Widows are particularly at risk. Cultural practices commonly prevent widows from having access to safe and secure housing, violate their rights, and expose them to additional protection risks. These include the requirement to commit themselves to lives of celibacy, to undergo a "cleansing ritual", in which a widow is forced to have sex with a man specially hired for the

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³⁵⁰ Human Rights Watch, "Coming Home: Return and Reintegration in Angola", 2005, p. 32.

³⁵¹ Quoted in "Going Home: Land and Property Issues", by L. Farha, Women's Right to Land, Property and Housing, *Forced Migration Review*, 2000, p. 24.

³⁵² Adapted from Centre on Housing Rights and Evictions (COHRE), "Bringing Equality Home: Promoting and Protecting the Inheritance Rights of Women, A Survey of Law and Practice in Sub-Saharan Africa", 2004, pp. 21–23.

³⁵³ Human Rights Watch, "Fact Sheet: Women's Property Rights Violations in Kenya", 2003, at <http://www.hrw.org/campaigns/women/property/factsheet.htm>.

³⁵⁴ Commission on Human Rights, "Women and Adequate Housing, Study by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living", E/CN.4/2006/118, 27 February 2006, para. 45.

5.8.2 Housing, land and property on return, Continued

**Challenge:
Widows denied
access (continued)**

purpose by the family, or to marry a male relative of her deceased husband in order to continue to have access to her marital home and land.³⁵⁵ Separated and divorced women may also lose their rights to their housing, land and property.

Even if they continue to have access to their housing, land and property, older women may not have the capacity to farm it to support themselves and those for whom they are responsible. If there is no legal transfer of ownership or no will, “in-laws” may take back property belonging to the deceased husband, leaving widows homeless. In these circumstances, some prefer to give their land to the next male heir.

**Challenge:
Girls denied access**

Unaccompanied and separated children and orphans, including those living in child-headed households, find it particularly difficult to gain access to their land and property. Girls are at particular risk of being denied their right to housing, their land and property. A girl child may, for instance, not be permitted to inherit property on an equal basis with her brother on the pretext that she will “not need it” because she will eventually be married. She may often not be aware of her rights. Even when girls have access to their land, they may not be able to build a home or shelter by themselves.

After the genocide in Rwanda, for instance, children in child-headed households lived a precarious existence. Ninety-five percent had no access to education or healthcare and most lived under plastic sheeting or in substandard housing. More than 60 per cent lived solely off agriculture, three quarters of whom owned less than one hectare of land and one quarter of whom were landless. Average revenue per family per month rarely exceeded 2,500 Rwandan francs (USD 5) per month. They were at the mercy of neighbours, relatives, and local officials when they needed assistance or protection, yet could find themselves marginalized and ignored, in part due to conflicts over management of assets left by their own parents.³⁵⁶

**International legal
standards and
guidelines**

The right to adequate housing is equally applicable to women and girls in displacement and on return. In addition, the equal rights of women and girls to own, have access to, control, and inherit housing, land and property are clearly established in international law.³⁵⁷ These rights include the right not to be arbitrarily deprived of housing, land and property in the first place.³⁵⁸ Ensuring that women, as well as men, have the right to land, property, and adequate housing on return is essential for post-conflict peace-building and sustainable return. Displaced women and girls are entitled to return to the homes from which they had been evicted or which they had left behind. If this is not possible, they should be provided with adequate compensation for any loss they have suffered.³⁵⁹

Continued on next page

³⁵⁵ Centre on Housing Rights and Evictions (COHRE), “Bringing Equality Home: Promoting and Protecting the Inheritance rights of Women, A Survey of Law and Practice in Sub-Saharan Africa”, 2004, p. 21, and Commission on Human Rights, Women and Adequate Housing, Study by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living”, 25 Feb. 2005, E/CN.4/2005/43, para. 68.

³⁵⁶ Human Rights Watch, *Rwanda Lasting Wounds: Consequences of Genocide and War for Rwanda's Children*, March 2003, pp. 47–48.

³⁵⁷ See CEDAW, Articles 14(2)(g), 16(1)(h).

³⁵⁸ See General Comment No. 7 of the Committee on Economic, Social and Cultural Rights on the right to adequate housing (Article 11.1): forced evictions; Guiding Principles on Internal Displacement, Principle 6; UN Principles on Housing and Property Restitution for Refugees and Internally Displaced Persons (Pinheiro Principles), Principle 5.

³⁵⁹ Guiding Principles on Internal Displacement, Principle 28; Pinheiro Principles, Principle 10.

5.8.2 Housing, land and property on return, continued

International legal standards and guidelines (continued)

The 2005 United Nations Principles on Housing and Property Restitution for Refugees and Internally Displaced Persons (also called the “Pinheiro Principles” after the Sub-Commission Special Rapporteur on Housing and Property Restitution, Paulo Sérgio Pinheiro) set out the applicable legal standards regarding the right of refugees and internally displaced persons to return to their housing, land, and property. An inter-agency Handbook on implementing the Principles was issued in March 2007.³⁶⁰

Responsibility

These UN Principles contain a number of provisions aimed at ensuring gender equality in relation to housing, land and property. They require States to adopt positive measures to ensure that women and girls are not discriminated against in the restitution process and the requirement to ensure the representation and inclusion of women and children, particularly unaccompanied children, in this process.

The Principles also outline the responsibilities of the international community, including international organizations such as UNHCR. These include the responsibility to:

- promote and protect the right to housing, land and property restitution, as well as the right to voluntary return in safety and dignity;
- work with national governments and share expertise on the development of national housing, land and property restitution policies and programmes, help ensure their compatibility with international human rights, refugee and humanitarian law and related standards, and support the monitoring of their implementation; and
- strive to ensure that peace agreements and voluntary repatriation agreements contain provisions related to housing, land and property restitution, including through the establishment of national procedures, institutions, mechanisms and legal frameworks.

How to respond

Suggestions for actions which UNHCR, together with local, national and international partners, should carry out in order to ensure the equal rights of men, women, boys, and girls to housing, land, and property restitution in the context of return include:

Response	Actions
Coordinate	• Identify all actors, in particular local authorities and UN agencies, including UN HABITAT and development agencies, involved in housing, land and property and coordinate with them to develop a strategy to support women's and girls' realization of their rights on this issue.
Assess, analyse and design	• Undertake an analysis of national law on property and inheritance from a gender perspective to review women's and girls' entitlements and work to address any gaps. • Ensure that land, housing, and property rights for internally displaced and refugee women and girls are included in peace agreements and integrated into repatriation plans.³⁶¹ • Ensure that women are involved in designing restitution processes and procedures.

³⁶⁰ The Pinheiro Principles are at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=41640c874> and at <http://www.cohre.org/store/attachments/Pinheiro%20Principles.pdf>, while the *Handbook on Housing and Property Restitution for Refugees and Displaced Persons: Implementing the 'Pinheiro Principles'*, March 2007, is at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=4693432c2&skip=&query='Pinheiro%20Principles'>.

³⁶¹ See generally, “Report of the Secretary-General on the Protection of Civilians in Armed Conflict”, S/2007/643, 28 October 2007, para. 59.

5.8.2 Housing, land and property on return, continued

How to respond (continued)

Response	Actions
Intervene to protect	• Intervene in individual cases to ensure that women and girls can enjoy their right to have restored to them any housing, land, and/or property of which they were deprived or to be compensated for any housing, land, and/or property that cannot be restored to them.
Strengthen national capacity	• Advocate and provide technical assistance to governments to abolish laws and practices that discriminate against women and girls on issues concerning inheritance and ownership of housing, land and property. • Advocate with and provide technical assistance to governments to ensure that restitution processes and procedures promote the equal rights of women and girls, particularly single women, widows, and unaccompanied and separated girls, to land, housing, and property upon return. • Establish legal counselling and advisory services to support women and girls in claiming their housing, land, and property on return.
Strengthen community capacity to support solutions	• Work with communities and governments to abolish harmful practices, such as wife inheritance, which violate the rights of women and girls and prevent them from accessing their right to land, housing, and property. • Raise awareness in the community of the importance of ensuring formal transfer of housing, land and property ownership and of having a will to secure housing, land and property for family members. • Ensure that centres where women can network, convene, and work on projects are available for women during return. Adolescent girls should also have access to centres where they are offered skills training and information on sexual and reproductive health. • Ensure that redistribution of land takes into consideration joint ownership of land instead of titling the land only to male heads-of-households. (See Guatemala field practice below.) • Train and build the capacity of community para-legal workers in return and reintegration situations who will provide support in setting up livelihood enterprises and help obtain restitution and compensation when property cannot be restored.
Monitor, report and evaluate	• Monitor the extent to which women with specific needs, such as older women, women with disabilities and women or girls who head households, are able to own property and cultivate their land. • Hold focus group discussions in urban contexts to ensure women have been able to access their property.

Continued on next page

5.8.2 Housing, land and property on return, continued

Field Practice: Rwanda

In 1996, UNHCR launched the Rwanda Women's Initiative (RWI), which supports the efforts of women to rebuild their houses and empowers them to take control of their households. Prior to the genocide, Rwandan women did not have the right to inherit property, a major obstacle in a country where over 90 per cent of the population depend on subsistence agriculture for their livelihood.

Recognizing the difficulties female heads of household encountered as they returned and attempted to reclaim their land, the Government of Rwanda took steps to change the law on this issue. UNHCR, the Ministry of Gender and Women in Development and RWI-funded local organizations were actively involved in the drafting of this legislation, and RWI supported its passage by promoting public awareness and providing forums for consultation with women at the grass-roots level on the law. RWI has also provided forums for women parliamentarians to meet and exchange experiences, critical not only to building a political presence of women in the country, but also to passing important laws on gender equality.³⁶²

Field Practice: Guatemala

In the context of the voluntary repatriation of 43,000 Guatemalan refugees from Mexico to Guatemala in the second half of the 1990s, UNHCR supported women's refugee organizations which mobilized to demand co-ownership of land allocated to returning refugee families (which might otherwise have been ceded through male heads of household).

UNHCR devised a strategy whereby male-dominated refugee organisations, through their legal advisors in conjunction with the Office in Guatemala, agreed to sign a document affirming that no legal impediments would remain in gaining equal ownership of land between men and women. Refugee women analysed this document at a workshop and it was subsequently made public in a conference where authorities were asked to formally respond to the women's request to be included as co-owners. After protracted negotiations between the parties, co-ownership for refugee couples was achieved.

This process of clarifying institutional policies and debate was difficult and challenging, but it enabled the refugee women's organizations and UNHCR to learn valuable lessons about women's land rights in the Guatemalan context. In particular, the process revealed the clear and discriminatory bias against women in the interpretation and application of institutional policies by government officials (most of whom were male); the need for appropriate models of implementing land acquisition; engaged male-dominated-refugee organizations in the public promotion of women's rights; and reinforced the women's decision to continue their struggle for co-ownership of land.

As a result, women gained equal access to resources and had to be considered beneficiaries of plots of land and/or full associates of cooperatives, if their marriage or common law relationship was dissolved or their husband/partner died. As part of this programme, UNHCR also supported women's participation in credit schemes to purchase land.³⁶³

³⁶² Study by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination, Miloon Kothari, in accordance with Commission resolution 2002/49, "Women and adequate housing", E/CN.4/2003/55, 26 March 2003, para. 68, at <http://daccessdds.un.org/doc/UNDOC/GEN/G03/123/81/PDF/G0312381.pdf?OpenElement>.

³⁶³ UNHCR, "Guatemala Reintegration, 1994–2000".



Kenya / A "Stop early marriage" billboard in Kakuma refugee camp reinforces the message that "traditional practices prejudicial to the health of children" must be abolished as stated in Article 24(3) of the 1989 Convention on the Rights of the Child / UNHCR / A. Webster / December 2006



Sri Lanka / Older internally displaced woman collecting water from a water pump in Kaluwankerny camp in Batticaloa District / Everyone is entitled to the enjoyment of fundamental human rights and freedoms without distinction of any kind, including as regards their sex and age / This includes the right to water, which "is indispensable for leading a life in human dignity [and] is a prerequisite for the realization of other human rights" / See UN Committee on Economic, Social and Cultural Rights, General Comment No. 15 (2002) / © Norwegian Refugee Council / S. de Silva / 2007

Chapter 6: The International and Regional Legal Framework

Overview

Introduction

Traditionally, international law focused on regulating relations between States, but the international legal system has been expanding its scope to cover a wider range of actors. These include international organizations, corporations, armed groups, other non-State entities and individuals.

This chapter reflects the evolution of both international and regional law, outlining both States' obligations and those of non-State actors, including UNHCR, regarding the protection of displaced, returnee, (re)integrating and stateless women and girls.

Purpose

The purpose of this Chapter is to highlight some of the most important international and regional legal instruments and provisions that promote and protect the rights of women and girls and work to eliminate violence against women.

More information

This chapter does not purport to be more than a very brief summary of the international and regional legal framework. For more information, see the CD-Rom accompanying the Handbook as well as

- UNHCR, "An Introduction to International Protection", Self Study Module 1, 1 August 2005,
- UNHCR, "Human Rights and Refugee Protection", Self-study Module 5, 15 December 2006, and
- UNHCR Collection of International Instruments and Other Legal Texts concerning Refugees and Others of Concern to UNHCR, November 2006.¹

For information on international legal principles that address specific rights of women and girls, such as their rights to birth registration, health, land, housing, property or education, see chapters 4 and 5.

Distinction between hard and soft law

In considering the international legal framework and the resulting responsibilities of the various actors, it is important to understand the distinction between what is referred to as "hard law", which is legally binding on States, and "soft law", which reflects the political, rather than the legal, commitment of States as shown in the table below.

Type of law	Consists of
Hard	• treaties/conventions which a State has ratified or acceded to, and • customary international law²
Soft	• declarations, conclusions, and recommendations, such as Conclusions of UNHCR's Executive Committee (ExCom) or ECOSOC Resolutions

Continued on next page

¹ See <http://www.unhcr.org/publ/PUBL/455c460b2.html>.

² For more on customary international law, see section 1 of this chapter which follows.

Overview, continued

Soft law

Despite its non-binding nature, soft law forms an important part of the international framework for the protection of women and girls.

While soft law is not legally binding on States, UN agencies such as UNHCR are bound by the provisions in soft law that relate to their mandates and activities.

Regional legal systems

Regional legal systems play an important role and complement international legal standards. Certain regions, especially Africa, the Americas and Europe, have well-developed regional legal frameworks, which can provide vital protection to women, girls, boys and men in addition to international mechanisms.

National legal systems

National legal systems can play an important role, too, especially in those countries in the Middle East, South Asia, and Southeast Asia that have not ratified many international instruments nor developed frameworks for the protection of refugees, internally displaced persons, and returnees.

Relevant national laws should always be analysed from a gender perspective to identify protection gaps for persons of concern, including women and girls, and to lobby governments and parliaments for change. This work should be undertaken in coordination with other UN agencies and women's NGOs and associations.

In this Chapter

This Chapter includes the following sections.

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6.1 International refugee, human rights, humanitarian and criminal law

Overview

Introduction

International law provides the overarching framework for the protection of women, girls, boys and men of concern. International law is made up of treaties, customary international law, general principles of law and judicial decisions.³

Treaty law and customary international law

When a State signs, ratifies or accedes and thereby becomes a party to an international instrument, such as a treaty or convention, it undertakes to guarantee to each individual in its territory or under its jurisdiction the rights set out in that instrument without discrimination and to provide effective remedies in case of violations of those rights.

States are also bound by customary international law. This term refers to international legal norms that, despite not being written, are legally binding on all States (with the exception of States which are “persistent objectors”). It is, for instance, generally accepted that the prohibition of *refoulement* is part of customary international law⁴ and must therefore be respected, even by States not party to the 1951 Refugee Convention.

Reservations

When a State becomes a party to an international instrument, it sometimes makes a reservation to certain of its provisions indicating that it will not be bound by those provisions. Some treaties expressly indicate, however, that reservations cannot be made to certain provisions.

International law also affirms that no reservation is permitted if it defeats the object and purpose of the treaty.⁵

Derogations

Under international human rights law, States party to a convention may derogate from (i.e. temporarily suspend their observance of) certain human rights, but only in exceptional circumstances and under certain strict conditions.

No derogations are permitted from certain core rights, such as the right to life or freedom from torture and from slavery. The Human Rights Committee has affirmed that a number of other rights cannot be subject to lawful derogation.

Among those particularly relevant to displaced women and girls are the right of all persons deprived of their liberty to be treated with humanity; the prohibition against taking of hostages, abduction or unauthorized

Continued on next page

³ For more information, see UNHCR, “An Introduction to International Protection”, Self Study Module 1, 1 August 2005.

⁴ See Declaration of States Parties to the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees, Ministerial Meeting of States Parties, Geneva, 12–13 December 2001, and Sir Elihu Lauterpacht and Daniel Bethlehem, “The Scope and Content of the Principle of *Non-refoulement*: Opinion” in *Refugee Protection in International Law: UNHCR’s Global Consultations on International Protection*, (eds Feller, Türk and Nicholson), Cambridge University Press, 2003, pp. 87–179.

⁵ See 1969 Vienna Convention on the Law of Treaties, Articles 19–23.

Overview, continued

Derogations (continued)

detention; and the prohibition of deportation or forcible transfer of population without grounds permitted under international law in the form of forced displacement by expulsion or other coercive means.⁶

Under international humanitarian law, no derogations are permitted.⁷

In this section

This section includes the following topics.

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⁶ See ICCPR, Article 4; ICESCR, Article 5; Human Rights Committee, General Comments no. 29, 2001.

⁷ See the four 1949 Geneva Conventions, Common Article 1 "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances"; Additional Protocol I, Article 1(1); ICRC, *Customary International Humanitarian Law, Volume 1: Rules*, J.M. Henckaerts and L. Doswald-Beck, Cambridge University Press, 2005, p. 495. Rule 139 "Each party to the conflict must respect and ensure respect for international humanitarian law by its armed forces and other persons or groups acting in fact on its instructions, or under its direction or control."

6.1.1 International refugee law

Introduction

The 1951 Convention relating to the Status of Refugees and its 1967 Protocol form the foundation of international refugee law and set out the principles upon which the regime of international protection for refugees is built. They provide a general definition of a refugee⁸ and establish the main rights and obligations of refugees and the treatment, by the country of asylum, to which they are entitled. These provisions apply to women, girls, boys, and men.

The refugee definition and gender

The Convention and its Protocol do not refer specifically to gender in relation to the refugee definition. As a result, “historically the refugee definition was interpreted through a framework of male experiences, which meant that many of the claims of women went unrecognized.”⁹

Over the past 15 years, however, “the analysis and understanding of sex and gender in the refugee context have advanced substantially in case law, State practice, and academic writing. These developments have run parallel to, and have been assisted by, developments in international human rights law and standards, as well as in related areas of international law... Even though gender is not specifically referenced in the refugee definition, it is widely accepted that it can influence, or dictate, the type of harm suffered and the reasons for this treatment. The refugee definition, properly interpreted, therefore covers gender-related claims.”¹⁰

Gender-related claims

The recognition of gender-related claims by States and by UNHCR under its mandate has greatly enhanced the protection of refugee women and girls. Although gender-related claims may be brought by women and men, they are more commonly brought by women. Those claims “have encompassed, but are by no means limited to, acts of sexual violence, family/domestic violence, coerced family planning, and female genital mutilation”.¹¹

Age-related claims

In recent years, there has also been growing recognition that age, like gender, is an important factor to be considered when deciding refugee status.

Children may, for instance, be subjected to persecution in ways or for reasons that are influenced by their age, lack of maturity or specific needs. They may also experience the same forms of persecution as those perpetrated against adults, but in addition may experience these forms differently, or they may be imposed on children for different reasons.

Note: For more on gender, age and refugee status, see chapter 4, section 2.6 on refugee status determination.

⁸ The 1951 Convention defines a refugee as a person who is outside his or her country of origin or habitual residence and is unable or unwilling to return there owing to a well-founded fear of persecution on the grounds of race, religion, nationality, membership of a particular social group or political opinion.

⁹ UNHCR, “Guidelines on International Protection: Gender-related persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees”, HCR/GIP/02/01, May 2002, p. 3.

¹⁰ Ibid.

¹¹ Ibid., p. 2.

6.1.2 International human rights law

Introduction

International human rights law addresses the rights and dignity of all human beings – women, men, boys, and girls – at all times¹² and without discrimination.

Under international human rights law, States are obliged to respect, protect, and fulfil the human rights of all those within their jurisdiction regardless of age or sex, not just those who are its nationals. Consequently, international human rights principles are important not only for the protection of internally displaced, returnee and stateless women and girls, but also for female asylum-seekers and refugees.

International Bill of Human Rights

The rights of women and girls of concern are protected under general human rights instruments, particularly the

- 1948 Universal Declaration of Human Rights (UDHR);
- 1966 International Covenant on Political and Civil Rights (ICCPR); and
- 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR).

Together with the two protocols to the ICCPR, these instruments form what is known as the International Bill of Rights. The Universal Declaration and the Covenants each state that the rights they set out apply without distinction of any kind and prohibit discrimination, including discrimination on grounds of sex or other status. The Covenants also explicitly recognize the equal right of women and men to enjoy all the rights that they contain.¹³

General Comments

Both the Human Rights Committee and the Committee on Economic, Cultural and Social Rights, the supervisory bodies for the ICCPR and ICESCR respectively, have issued General Comments on the equal rights of women and men, providing further clarification of the scope and content of the principle of gender equality in relation to the rights guaranteed under those Covenants.

It has, however, long been recognized that the rights of women have not been adequately addressed by the general international human rights framework. As a result specific instruments have been adopted to provide further protection to women and girls.

Human rights mechanisms

While this section focuses on international human rights standards, it is important to recognize that the international human rights system consists not only of standards, outlined in treaties and other instruments, but also of mechanisms to promote their implementation.

Continued on next page

¹² Some human rights instruments allow States to suspend their obligations in certain circumstances, such as war. However derogations are exceptional and temporary in nature and subject to strict requirements. Some rights are non-derogable, which means that they may not in any circumstances be derogated from. In addition, States may make reservations from particular treaties, through which they exclude or alter the legal effect of certain provisions of a treaty as it applies to that State. Such reservations may not, however, be incompatible with the object and purpose of the treaty. A number of States have made reservations to treaties concerning the extent to which certain rights apply to non-nationals, such as asylum-seekers and refugees. There are also a number of reservations both to CEDAW and to the CRC, for example, that reflect widespread resistance to the concept of full equality of women and men and boys and girls and that are arguably incompatible with the object and purpose of these treaties.

¹³ See UDHR, Article 2; ICCPR, Articles 2 and 3; and ICESCR, Articles 2 and 3.

6.1.2 International human rights law, continued

Human rights mechanisms (continued)

Human rights mechanisms are bodies that have been established to oversee the implementation of, and investigate alleged violations of, human rights obligations. While a discussion of these mechanisms is beyond the scope of this Handbook, they include mechanisms established under the conventions (the treaty bodies),¹⁴ and mechanisms established outside the conventions (United Nations special rapporteurs, representatives, experts, and working groups).¹⁵ UNHCR works with these mechanisms to enhance the protection of persons of concern.

UNHCR staff should be familiar with some of these mechanisms, as they can provide an additional avenue to enhance the protection of displaced and returnee women and girls.

Key conventions relevant to women and girls

Under international human rights law there are two key conventions that specifically address discrimination against women, the rights of the child and violence against women. These are the:

- 1979 Convention on the Elimination of All Forms Of Discrimination Against Women (CEDAW) and
- The 1989 Convention on the Rights of the Child and its 2000 Optional Protocols (CRC)

A brief summary of these, their purpose and key principles is given in sections 1.2.1 and 1.2.2 which follow.

Other conventions: Indigenous peoples

Other conventions may also be helpful. For instance, with regard to indigenous peoples, the 1989 ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries affirms in Article 3 that they shall enjoy “the full measure of human rights and fundamental freedoms without hindrance or discrimination” and that the “provisions of the Convention shall be applied without discrimination to male and female members of these peoples”. These standards are reaffirmed in the 2007 UN Declaration on the Rights of Indigenous Peoples.¹⁶

Further material

For more detailed information on international human rights law and its relevance to our work, see UNHCR’s updated “Human Rights Policy” (forthcoming) and UNHCR’s *Human Rights and Refugee Protection, Self-study Module 5*, (Volumes I and II, 15 December 2006).¹⁷

¹⁴ The treaty-monitoring bodies, which are composed of independent experts elected by States Parties, monitor compliance with UN human rights instruments. Of particular importance in our work to protect women and girls are the Committees on the Elimination of Discrimination against Women and on the Rights of the Child.

¹⁵ A number of procedures have been established under the extra-conventional mechanisms to monitor compliance with human rights norms. Thematic procedures include: the Representative of the Secretary-General on the human rights of internally displaced persons and the Special Representative of the Secretary-General for children and armed conflict, and Special Rapporteurs who address the sale of children, child prostitution and child pornography; violence against women; harmful traditional practices; trafficking in persons, especially women and children; and since November 2007, violence against children.

¹⁶ UN Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly, A/61/L.67, 7 September 2007.

¹⁷ Available at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=466942032> and <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=4669434c2> respectively.

6.1.2.1 Convention on the Elimination of All Forms of Discrimination Against Women

Introduction

The Convention on the Elimination of All Forms of Discrimination Against Women¹⁸ (CEDAW) and its Optional Protocol¹⁹ are referred to as the international bill of rights for women. Structured around the concepts of equality and non-discrimination, the Convention affirms:

“... the equality of women and men and the right of women to be treated equally in every sphere of life. Focusing on civil and political as well as economic and social rights, the Convention urge[s] States to take positive measures in the field of public administration, education, health, employment and the family to ensure that women enjoy full equality with men.”²⁰

Purpose

Under CEDAW States condemn discrimination against women in all its forms and agree to end discrimination against women.²¹ Although violence against women is not mentioned in CEDAW, in its General Recommendation No. 19, the Committee on the Elimination of Violence against Women recognizes that gender-based violence amounts to discrimination under CEDAW.

Principle of non-discrimination

The principle of non-discrimination covers actions by non-State actors. In particular, States are required to “take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise”.²² States must take action to end discrimination against women, including through customary or traditional practices, in the private and public spheres.²³

The principle of non-discrimination requires States to take affirmative action or protective measures to prevent or compensate for structural disadvantages faced by women and girls.²⁴ These measures, which entail special preferences, are not considered discriminatory because they are designed to remove obstacles to the advancement of women and girls and to encourage their equal participation.

Themes: Participation and equal rights

The themes of participation and equal rights in decision-making run throughout CEDAW, which refers to the right of women to participate in the political and public sphere, to participate in recreation, sports, and all aspects of cultural life, to participate in all community activities, and to participate on an equal basis with men in decision-making related to marriage and family life.

Continued on next page

¹⁸ CEDAW was adopted by the General Assembly in 1979 and entered into force in 1981.

¹⁹ The Optional Protocol to CEDAW was adopted by the General Assembly in 1999 and entered into force in 2000. It provides for the submission of individual complaints concerning violations of rights under CEDAW to the Committee on the Elimination of Discrimination Against Women and also allows the Committee to initiate confidential investigations of grave or systematic violations of the Convention.

²⁰ Commission on Human Rights, “Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women, Report of the Special Rapporteur on Violence Against Women”, E/CN.4/2003/75, 6 January 2003, para. 9.

²¹ CEDAW, Article 2. Discrimination against women is defined as “any distinction, exclusion or restriction made on the basis of sex, which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”²¹

²² CEDAW, Article 2(e).

²³ In particular, Article 5 obligates States to take measures “to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”

²⁴ See Article 4(1) of CEDAW.

6.1.2.1 Convention on the Elimination of All Forms of Discrimination Against Women, continued

**Themes:
Participation and
equal rights
(continued)**

In this respect, the CEDAW Committee has stressed the importance of the right to a nationality, which it defines critical to full participation in society.²⁵ The Convention contains an important safeguard against statelessness of women as it provides that States parties “shall grant women equal rights with men to acquire, change or retain their nationality” and “shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.” Similarly, there is protection against a major cause of statelessness of children as the Convention also establishes that “States Parties shall grant women equal rights with men with respect to the nationality of their children.”

**Reservations to
certain CEDAW
provisions**

A significant number of States parties to CEDAW have entered reservations to certain of its provisions indicating that they will interpret a particular provision in a certain way or that they will not be bound by a particular provision. Article 28 expressly provides, however, that a reservation which is incompatible with the object and purpose of the Convention shall not be permitted. This rule is also generally accepted in international law.²⁶

²⁵ CEDAW Committee, General Recommendation No. 21, 1994, para. 6.

²⁶ See 1969 Vienna Convention on the Law of Treaties, Article 19.

6.1.2.2 Convention on the Rights of the Child and its Optional Protocols

Introduction

The Convention on the Rights of the Child (CRC) and its Optional Protocols establish a comprehensive set of standards for children i.e. individuals below the age of 18 “unless, under the law applicable to the child, majority is attained earlier” (Article 1). As the most widely ratified treaty in the world,²⁷ the CRC is an important protection tool for displaced and returnee girls.

There are three fundamental principles underlying the CRC, which combine to reach the objective of the survival and development of the child (Article 6):

- the right to non-discrimination;
 - the child’s best interests; and
 - the right to participation.
-

Principle: Non-discrimination

The CRC prohibits discrimination not only on grounds of sex, but also on other grounds, including birth or other status.²⁸ Consequently the Convention applies to asylum-seeking, refugee, internally displaced, and returnee girls and boys. This general principle of non-discrimination is complemented by a specific obligation on States Parties to take measures to ensure that asylum-seeking and refugee children receive appropriate protection and assistance in the enjoyment of their rights. States are also required to cooperate with UN agencies that provide protection and assistance, including UNHCR.²⁹

Principle: Best interests

Article 3 provides that “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” This principle must be applied both to decisions affecting individual children and to broader policy matters and decisions and activities that affect groups of children. (See Chapter 4, section 2.5 for more details on the principle of the child’s best interests.)

Principle: Participation

Participation is a theme that runs throughout the CRC. Article 12 stipulates that States Parties must respect the right of children who are capable of forming their own views to express those views freely in all matters affecting their lives, and that a child’s views are given due weight in accordance with the child’s age and level of maturity. Article 12 is complemented by rights concerning access to information and freedom of expression, thought, conscience, religion, and association.³⁰ Children with disabilities and other special needs also have the right to participate in making decisions that affect their lives.³¹ (See Chapter 2, section 5 for more on child participation, particularly the participation of girls.)

Continued on next page

²⁷ The CRC was adopted by the General Assembly in 1989, entered into force in 1990, and has been ratified by 192 countries (i.e. all except for the United States of America and Somalia). The Optional Protocols are the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution, and child pornography. Both were adopted by the General Assembly in 2000 and entered into force in 2002. See also African Charter on the Rights and Welfare of the Child, Article 4.

²⁸ CRC, Article 2.

²⁹ CRC, Article 22.

³⁰ See CRC, Articles 13, 14, 15, and 17.

³¹ CRC, Article 23.

6.1.2.2 Convention on the Rights of the Child and its Optional Protocols, continued

Other provisions

A number of the provisions of the CRC and its Optional Protocols address rights violations which can be especially relevant to girls of concern. These include the requirement that States Parties:

- “take all feasible measures to ensure protection and care of children who are affected by an armed conflict” in accordance with their “obligations under international humanitarian law to protect the civilian population in armed conflicts”;³²
 - protect children from violence, exploitation, abuse, abduction, and trafficking;³³
 - “take all effective measures with a view to abolishing traditional practices prejudicial to the health of children”;³⁴
 - take all appropriate measures to promote the physical, psychological, and social reintegration of children who have been victims of any form of neglect, exploitation, or abuse, torture or armed conflicts;³⁵ and
 - “ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child’s achieving the fullest possible social integration and individual development”.³⁶
-

CRC and refugees

Article 22 of the CRC specifically requires States Parties to “take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee ... shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance” in the enjoyment of her or his rights under international human rights and humanitarian law.³⁷

Guidance on implementation

The General Comments issued by the Committee of the CRC constitute useful lobbying tools for the protection of girls of concern, including notably No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin.

UNICEF’s *Implementation Handbook for the Convention on the Rights of the Child* of 1998 provides a detailed reference on how to implement law, policy and practice to promote the protection the rights of girls and boys. A new edition of the Handbook is to be published in 2008.

³² See CRC, Article 38.

³³ See CRC, Articles 19, 32, 33, 34, 35, and 36, as well as the Optional Protocol on the sale of children, child prostitution, and child pornography.

³⁴ See CRC, Article 24(3).

³⁵ See CRC, Article 39.

³⁶ See CRC, Article 23.

³⁷ See CRC, Article 22.

6.1.3 International law regarding stateless persons

Introduction

The right to a nationality is firmly anchored in international human rights law,³⁸ but it does not prescribe the specific nationality to which a person is entitled. The two main treaties designed to regulate this are the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.³⁹

Neither Convention specifically addresses the protection of stateless women and girls or the prevention and reduction of statelessness among them, but both instruments should be interpreted in light of other human rights standards.

They form part of a larger body of international standards that include many rights relating to nationality. For example, the ICCPR and CEDAW may be invoked when statelessness occurs due to inequality between men and women in relation to the acquisition, change or retention of nationality and passing on of nationality to children, while the ICCPR and CRC both guarantee the right of children to acquire nationality.

Definition: statelessness

The 1954 Convention includes a strictly legal definition of a stateless person: “a person who is not considered as a national by any State under the operation of its law”. The decision as to whether someone is entitled to the benefits of the Convention is made by each State Party in accordance with its own established procedures. As with refugee status determination, these procedures should be age- and gender-sensitive and adjudicators should be aware of causes of statelessness which particularly impact women and girls.

As outlined in greater detail elsewhere in this Handbook, these causes include:

- discrimination in the issuance of registration or identity documentation (see chapters 4, section 2.1 and 5, section 2.1);
 - lack of birth registration and/or documentation (see chapters 4, section 2.2 and 5 section 2.1); and
 - lack of registration of certification of marriage or divorce (see chapters 4, section 2.3 and 5, sections 2.1 and 2.2).
-

Provisions: 1954 Convention

The 1954 Convention relating is the primary international instrument that aims to regulate the status of stateless persons and to ensure that they are accorded their fundamental rights and freedoms without discrimination. The provisions of the Convention are, in many respects, very similar to those of the 1951 Refugee Convention.

Acceding to the Convention is not a substitute for granting nationality to those born and habitually resident in a State's territory. No matter how extensive the rights granted to a stateless person may be, they are not the equivalent of acquiring citizenship.

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³⁸ See UDHR, Article 15; ICCPR, Article 24; CEDAW Article 9; CRC, Article 7.

³⁹ As for the 1951 Refugee Convention, this also provides protection to refugees who are stateless.

6.1.3 International law regarding stateless persons, continued

**Provisions:
1961 Convention**

The 1961 Convention on the Reduction of Statelessness aims to avoid statelessness at birth, but does not prohibit the possibility of revoking nationality under certain circumstances, nor of retroactively granting citizenship to all currently stateless persons. In seeking to reduce the incidence of statelessness, the 1961 Convention requires that States Parties adopt legislation that reflects prescribed standards relating to the acquisition or loss of nationality. The Final Act of the Convention includes a recommendation much like the one contained in the Final Act of the 1954 Convention that encourages States Parties to extend the provisions of the Convention to de facto stateless persons whenever possible.

The Convention provides for the creation of a body to which someone who may benefit from the provisions of the Convention may apply to have her or his claim examined and to seek assistance in presenting the claim to the appropriate authority. The General Assembly has subsequently asked UNHCR to fulfil this role.

UNHCR's role

UNHCR has been involved in statelessness issues since its inception, including not least in the context of assisting and protecting refugees who are stateless. In addition, it has increasingly been recognized that possession of an effective nationality and the ability to exercise the rights inherent in nationality help to prevent involuntary and coerced displacement.

UNHCR's role in helping to reduce the incidence of statelessness is mandated by the 1961 Convention, UN General Assembly resolutions and ExCom. Through its representations/offices or its services at Headquarters, UNHCR is available to provide advice on how to create and implement these procedures, if requested.

Note: For more information see UNHCR, Inter-Parliamentary Union, *Nationality and Statelessness: A Handbook for Parliamentarians*, 2005,⁴⁰ including in particular in relation to women and girls, pp. 31–34.

⁴⁰ Available at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=436608b24>.

6.1.4 International humanitarian law

Introduction

International humanitarian law predates both refugee law and international human rights law. It applies during international and non-international armed conflict, aims to protect persons who do not or no longer take part in hostilities, and to regulate the means and methods of warfare.

As more and more refugees and internally displaced persons are caught up or targeted in the midst of conflict, this body of law is becoming increasingly important for our protection work. International human rights law and international refugee law continue to apply during armed conflict, although some human rights can be limited or subject to derogation.⁴¹

Core instruments

International humanitarian law consists of both convention and customary rules. The core instruments concerning the victims of armed conflict are the four Geneva Conventions of 1949,⁴² which are universally accepted, and their two additional Protocols of 1977.

The Geneva Conventions all address international armed conflict, but Article 3, which is common to all four Conventions, also relates to non-international armed conflict, a term which includes civil wars. This Article sets out the minimum rights of everyone “taking no active part in the hostilities”. These include the right to life, to humane treatment, dignity and protection from torture, humiliating and degrading treatment. It is to be applied “without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria”.

Additional Protocol I is concerned solely with international armed conflict; Additional Protocol II focuses on non-international armed conflict.

Customary international humanitarian law

There is also a large body of customary international humanitarian law, including a significant number of rules governing the treatment of persons not or no longer taking a direct part in hostilities. These rules are binding upon all States regardless of whether or not they have ratified relevant instruments and can be important in securing the protection of refugees and internally displaced persons. This is especially so in non-international armed conflicts, as the written rules governing such conflicts are far fewer.

Provisions

As under international refugee and international human rights law, women are entitled to the same protection as men under international humanitarian law, whether they are civilians, combatants, or *hors de combat*. Some provisions, such as those relating to the maintenance and restoration of family ties, are particularly relevant to the protection of women and girls.

International humanitarian law also contains a number of provisions granting women and children special protection. Some 40 out of 560 Articles of the Conventions and the Protocols are of specific concern to women.⁴³ The goal of these specific provisions has been described as “to either reduce the

Continued on next page

⁴¹ See section 1 of this chapter above for more on derogations from international human rights law.

⁴² These are: First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; Second Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; Third Geneva Convention Relative to the Treatment of Prisoners of War; and Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War.

⁴³ Françoise Krill, “The Protection of Women in International Humanitarian Law”, *International Review of the Red Cross*, no. 249, 1989, p. 363.

6.1.4 International humanitarian law, continued

Provisions (continued)

vulnerability of women to sexual violence, to directly prohibit certain types of sexual violence, or to protect them when pregnant or as mothers of young children”.⁴⁴

A similar number of provisions aim at providing special protection to children in relation to the following: evacuation and special zones; assistance and care; identification, family reunification and unaccompanied children; education and cultural environment; arrested detained and interned children and exemption from the death penalty.⁴⁵ In addition, Additional Protocols I and II contain measures to prevent children under the age of 15 from participating in hostilities.⁴⁶

Requirement and responsibilities

International humanitarian law is binding on States, their armed forces, armed groups (whether guerrilla groups opposing the government or groups such as paramilitary groups supported by the State), and troops participating in multilateral peacekeeping and peace-enforcement operations if they take part in hostilities.⁴⁷

It also binds each individual and holds individuals responsible for “grave breaches” of international humanitarian law, even if they are ordered to do so. States have a responsibility to prosecute and punish those responsible for such violations.⁴⁸

While there is no explicit reference to sexual and gender-based violence in the list of “grave breaches” of international humanitarian law,⁴⁹ These breaches nevertheless include “torture or inhuman treatment, including ... wilfully causing great suffering or serious injury to body or health” against civilians, which clearly include rape and other forms of sexual abuse.⁵⁰

Other sources of guidance

A more detailed discussion of these provisions is beyond the scope of this Handbook. With regard to children, the International Committee of the Red Cross (ICRC) has issued both a “Summary Table of IHL Provisions Specifically Applicable to Children”,⁵¹ as well as a fact sheet on the “Legal Protection of Children in Armed Conflict”.⁵²

A detailed list of international humanitarian law provisions on the protection of women is given in the annex to the ICRC Guidance Document *Addressing the Needs of Women Affected by Armed Conflict* (2004).⁵³ The ICRC’s *Women Facing War* (2001) also provides an excellent overview of international humanitarian law as it applies to women in armed conflict.⁵⁴

⁴⁴ Judith Gardham and Michelle Jarvis, *Women, Armed Conflict and International Law*, Kluwer Law International, 2001, p. 63.

⁴⁵ ICRC, Legal Protection of Children in Armed Conflict, Advisory Service on International Humanitarian Law. Some of these provisions may overlap with those for women as a number of those provisions provide special protection to nursing mothers or mothers with small children.

⁴⁶ These provisions are further strengthened in the 2000 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed forces and by the Rome Statute of the International Criminal Court which defines conscription, enlistment or use in hostilities of children under the age of 15 years as a war crime. See also, chapter 5, section 3.4 “Military Recruitment and DDR” under “international legal standards”.

⁴⁷ While international humanitarian law binds all parties to a conflict, responsibility for its implementation rests primarily with States. See also generally, Charlotte Lindsay, *Women Facing War*, ICRC, 2001, p. 18, at <http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/p0798?OpenDocument>.

⁴⁸ See Articles 49, 50, 129 and 140 respectively of the Four Geneva Conventions and Article 85 of Additional Protocol I.

⁴⁹ See Fourth Geneva Convention, Article 147.

⁵⁰ Charlotte Lindsay, *Women Facing War*, ICRC, 2001, p. 58. See also section 1.5 of this chapter which follows for more on the Statute of the International Criminal Court which explicitly defines rape and other forms of sexual abuse as war crimes and crimes against humanity.

⁵¹ Issued in March 2003, available at <http://www.icrc.org/web/eng/siteeng0.nsf/html/5FFLJ5>.

⁵² Issued in February 2003, available at <http://www.icrc.org/web/eng/siteeng0.nsf/html/57J0US>.

⁵³ See pp. 167–207, available at <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/66uh37?opendocument>.

⁵⁴ Charlotte Lindsay, *Women Facing War*, ICRC, 2001, at <http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/p0798?OpenDocument>.

6.1.5 International criminal law

Introduction

Developments in international criminal law increasingly have an impact on the protection women, girls, boys and men. Judgments of the International Criminal Tribunals for the former Yugoslavia and Rwanda have, for instance, clearly identified rape and other forms of sexual and gender-based violence (SGBV) as war crimes and crimes against humanity.⁵⁵

The fact that the first person to be committed for trial before the International Criminal Court (ICC) is a militia leader accused of enlisting and conscripting children as war crimes also raises the prominence of this issue, to which displaced children, including girls, are particularly at risk.⁵⁶

War crimes and crimes against humanity

As a result of these developments, rape and other forms of SGBV, sexual slavery, including trafficking of women,⁵⁷ enforced prostitution, forced pregnancy, and enforced sterilization are now considered to be war crimes and crimes against humanity.

The 1998 Rome Statute of the ICC includes rape, sexual slavery, enforced prostitution, forced pregnancy, and enforced sterilization as war crimes and crimes against humanity.⁵⁸ Conscripting, enlisting or using children under the age of 15 years in hostilities is also defined as a war crime.⁵⁹

The ICC Statute further contains age- and gender-sensitive measures to protect victims and witnesses involved in the criminal proceedings before the Court. The ICC may also order individual or collective reparations to be made through restitution, indemnification, and rehabilitation.

Genocide

According to the ICC Statute, “causing serious bodily harm to members of a group or imposing measures to prevent births within the group”⁶⁰ is considered to be genocide if committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group.

Forcibly transferring the children of the group to another group with such intent is also considered to be genocide.⁶¹

Victims Trust Fund

The ICC Statute also established a Victims Trust Fund, which began operations in early 2007. It is devoted to advocating for, and assisting, the most vulnerable victims of genocide, crimes against humanity, and war crimes.

⁵⁵ Jurisprudence from the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) has recognized rape and other forms of sexual violence as serious offences. Within the context of non-international armed conflicts, the *Akayesu* judgment of the ICTR was the first international case to define rape as “a physical invasion of a sexual nature, committed on a person under circumstances which are coercive”. The Tribunal considered “sexual violence, which includes rape, as any act of a sexual nature which is committed on a person under circumstances which are coercive. Sexual violence is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact... Threats, intimidation, extortion and other forms of duress which prey on fear or desperation may constitute coercion, and coercion may be inherent in certain circumstances.” See *Prosecutor v. Akayesu*, ICTR-96-4-T, September 1998, at <http://69.94.11.53/ENGLISH/cases/Akayesu/index.htm>. See also, the ICTY decision in *Prosecutor v. Furundzija*, IT-95-17/1, December 1998. Such decisions have contributed substantially to the acceptance of rape as a grave breach of international humanitarian law.

⁵⁶ International Criminal Court, “Pre-Trial Chamber I commits Thomas Lubanga Dyilo for trial”, press release, 29 January 2007.

⁵⁷ See the 2000 United Nations Protocol to Prevent, Suppress and Punish the Trafficking of Persons (the Palermo Protocol).

⁵⁸ See Rome Statute of the International Criminal Court, adopted in 1998 and entered into force in 2002, in particular Articles 7 and 8.

⁵⁹ Rome Statute of the International Criminal Court, Article 7.

⁶⁰ *Ibid.*, Article 6.

⁶¹ *Ibid.*, Article 6.

6.2 Other Relevant Principles, Conclusions, Resolutions and Declarations

Overview

Introduction

This section outlines the other principles, conclusions, resolutions and declarations that are part of the international legal framework and contain specific provisions for the protection of women and girls.

In this section

This section covers the following topics.

Topic	See Page
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6.2.1 Declaration on the Elimination of Violence Against Women (DEVAW)

"Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and ... violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men."

1993 Declaration on the Elimination of Violence Against Women, GA resolution 48/104

Introduction

Because violence against women is a taboo subject in many societies, the issue only recently found its place on the international agenda. The General Assembly's adoption of DEVAW in 1993 and the appointment by the Human Rights Commission of a Special Rapporteur on violence against women, its causes and consequences in 1994 signalled the acknowledgement that violence against women, once considered a private matter, is a public human rights issue.

Purpose

DEVAW and numerous subsequent instruments recognize that violence against women and girls is not only a grievous human rights abuse in itself, but is a serious impediment to the realization of many other rights for women and girls.

Although DEVAW is not legally binding on States,⁶² it sets out international norms that States have recognized as fundamental to our efforts to eliminate all forms of violence against women.⁶³

Definition: Violence against women

DEVAW defines "violence against women" as "any act of gender-based violence that results in or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life."⁶⁴ DEVAW further defines the term as encompassing, but not limited to, various types of violence occurring in the family, within the general community, and perpetuated and condoned by the State.⁶⁵

In its preamble and as quoted above, DEVAW recognizes violence against women is a result of historically unequal power relations between women and men. It also recognizes that "some groups of women, such as women belonging to minority groups, indigenous women, refugee women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women and women in situations of armed conflict, are especially vulnerable to violence".

Continued on next page

⁶² As noted above, however, the Special Rapporteur on violence against women, its causes and consequences has determined that the obligation of States to prevent and respond to acts of violence against women with due diligence is a principle of customary international law, and therefore binding on all States.

⁶³ Preliminary Report submitted by the Special Rapporteur on violence against women, its causes and consequences, Commission on Human Rights, E/CN/1995/42, para. 95.

⁶⁴ DEVAW, Article 1.

⁶⁵ Article 2 of DEVAW provides that violence against women shall be understood to encompass, but not be limited to, the following: (a) Physical, sexual, and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation, and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; (b) Physical, sexual, and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment, and intimidation at work, in educational institutions, and elsewhere, trafficking in women and forced prostitution; (c) Physical, sexual, and psychological violence perpetrated or condoned by the State, wherever it occurs.

6.2.1 Declaration on the Elimination of Violence Against Women (DEVAW), continued

Continuing violence against women and girls

In 2006, more than a decade later, the Secretary-General issued two reports on violence against women and on the elimination of discrimination and violence against the girl child.⁶⁶ These highlight that violence against women and girls “persists in every country in the world as a pervasive violation of human rights and a major impediment to achieving gender equality”.⁶⁷ The UN Study on Violence against Children also concludes that much remains to be done and recommends that States “should address all forms of gender discrimination as part of a comprehensive violence-prevention strategy”.⁶⁸

Responsibility: States

Article 4 of DEVAW requires States to take various measures to eliminate violence against women. These include exercising “due diligence to prevent, investigate, and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons”.

It also proclaims that “States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations” to eliminate such violence. States should also “adopt all appropriate measures ... to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices, and all other practices based on the inferiority or superiority of either of the sexes and on stereotyped roles for men and women”.

“The United Nations system is obligated to respect and uphold the principles of the Organization. While international organizations clearly have direct obligations not to commit or contribute to violence against women in their programming or funding decisions, they also have additional duties to cooperate and to establish coherent inter-agency strategies to work towards the elimination of violence against women in close collaboration with local communities and relevant civil society groups. The responsibilities of these organizations are in addition to the individual responsibilities of the States that are members of such organizations.”
Special Rapporteur on Violence against Women, its causes and consequences⁶⁹

Responsibility: UN agencies

Article 5 of DEVAW outlines the responsibilities of UN entities. These include cooperating to develop regional strategies to eliminate violence against women, raising awareness, analysing trends, incorporating the issue of violence against women into our programmes, formulating guidelines and manuals, and cooperating with NGOs to address the issue.

UN agencies are also required to “consider the elimination of violence against women, as appropriate, in fulfilling their mandates with respect to the implementation of human rights instruments”. UNHCR has a responsibility to ensure that human rights are respected and promoted in its operations. Consequently, promoting the elimination of violence against women and girls is an integral part of UNHCR’s protection activities.

⁶⁶ See respectively, “In-depth Study on All Forms of Violence against Women: Report of the Secretary-General”, A/61/122/Add.1, 6 July 2006, at <http://www.un.org/womenwatch/daw/vaw/SGstudyvaw.htm#more>, and “The Elimination of All Forms of Discrimination and Violence against the Girl Child: Report of the Secretary-General”, E/CN.6/2007/2, 12 December 2006, at <http://www.un.org/womenwatch/daw/csw/csw51/OfficialDocuments.html>.

⁶⁷ “In-depth Study on All Forms of Violence against Women”, *ibid.*, para. 1.

⁶⁸ “Report of the Independent Expert for the United Nations Study on Violence against Children”, A/61/299, 29 August 2006, at <http://www.violencestudy.org/a555>, paras. 90 and 106.

⁶⁹ Commission on Human Rights, Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women, “The Due Diligence Standard as a Tool for the Elimination of Violence Against Women”, Report of the Special Rapporteur on violence against women, its causes and consequences, 20 January 2006, E/CN.4/2006/61, para. 98.

6.2.2 ECOSOC conclusions and resolutions

Introduction	In 1997, ECOSOC adopted the landmark Agreed Conclusions on Gender Mainstreaming as Resolution 1997/2.
Definition: Gender mainstreaming	The Agreed Conclusions define gender mainstreaming as follows: “Mainstreaming a gender perspective is the process of assessing the implication for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring, and evaluation of policies and programmes in all political, economic, and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.”⁷⁰
Purpose	These Conclusions identify principles for mainstreaming a gender perspective throughout the UN system and contain specific actions that should be implemented by UN agencies to institutionalize gender mainstreaming. UNHCR's Executive Committee is also explicitly encouraged to monitor the way in which UNHCR implements gender mainstreaming in its medium-term plans and programme budgets, including at the field level.⁷¹ The Agreed Conclusions highlight that gender mainstreaming does not replace the need for targeted, women-specific policies and programmes or positive actions. Consequently, gender mainstreaming and targeted actions complement each other, and share the single objective that women and girls, and men and boys have access to and can enjoy their rights.
Responsibility: UN agencies	In its Resolution 2005/31, ECOSOC called on all UN bodies to develop action plans for gender mainstreaming with clear guidelines on and timelines for the practical implementation of gender perspectives in policies and programmes.

⁷⁰ Available at <http://www.un.org/womenwatch/asp/user/list.asp-ParentID=10537.htm>.

⁷¹ ECOSOC, Agreed Conclusions 1997/2, Part II, para. A.

6.2.3 Security Council resolution 1325 on women, peace, and security

Introduction

The adoption of Security Council resolution 1325 on women and peace and security in October 2000 marked the first time that the Security Council addressed the disproportionate impact of armed conflict on women and stressed the importance of their equal and active participation as agents for peace and security.⁷²

Purpose

Security Council Resolution 1325 draws on and complements recent developments in international law aimed at promoting the rights of women and girls. It calls for action from a wide range of entities, including governments, parties to armed conflict, the UN Secretary-General, and other bodies to:

- increase the participation of women at all levels of decision-making in conflict prevention, management, and resolution;
 - focus on the specific rights and needs of women and girls in conflict, including refugee women and girls;
 - end impunity for war crimes against women, including sexual and gender-based violence; and
 - mainstream a gender perspective in UN peacekeeping operations, post-conflict processes, and UN reporting and Security Council missions.
-

Responsibility: UN agencies

Subsequent Security Council Presidential Statements reaffirm the Council's commitment to the full implementation of this Resolution.⁷⁴

In October 2005, the Secretary-General presented an Action Plan for the implementation of Security Council Resolution 1325 throughout the UN system. This Action Plan,⁷⁵ to which UNHCR's contributed, sets out a series of specific activities which UNHCR is required to take to implement the Resolution.⁷⁶ UNHCR, like other UN agencies, also reports annually to the Secretary-General on progress on women and peace and security, who then presents his report to the Security Council.

⁷² The Security Council, entrusted by the United Nations Charter to maintain peace and security, is made up of representatives from 15 UN Member States, five of which are permanent members (China, France, the Russian Federation, the United Kingdom, and the United States of America). The other two members of the Security Council are elected to the Security Council for two-year terms.

⁷³ For information on the UN Peacebuilding Commission, see chapter 4, section 3.1.

⁷⁴ See Statements of the President of 31 October 2001 (S/PRST/2001/31), 31 October 2002 (S/PRST/2002/32), 28 October 2004 (S/PRST/2004/40), 27 October 2005 (S/PRST/2005/52), 8 November 2006 (S/PRST/2006/42), and 24 October 2007 (S/PRST/2007/40).

⁷⁵ The Action Plan is contained in the Report of the Secretary-General on Women, Peace, and Security, UN Doc. S/2005/636, 10 October 2005, at <http://daccessdds.un.org/doc/UNDOC/GEN/N05/534/82/PDF/N0553482.pdf?OpenElement>.

⁷⁶ These include actions to mainstream a gender perspective and promote the rights of women and girls in relation to the following areas: conflict-prevention and early warning; peace-making and peace-building; peacekeeping operations; humanitarian response; post-conflict reconstruction and rehabilitation; disarmament, demobilization and reintegration; preventing and responding to gender-based violence in armed conflict; preventing and responding to sexual exploitation and abuse by UN staff, related personnel, and partners; gender balance; coordination and partnership; monitoring and reporting; and financial resources.

6.2.4 Security Council resolutions on children and armed conflict

Introduction

Beginning with the adoption of Security Council Resolution 1261 in 1999, which identified the issue of children in armed conflict as a global priority, the Security Council has adopted a series of six resolutions on children and armed conflict, including most recently Resolutions 1539 (2004) and 1612 (2005).⁷⁷

As with Security Council Resolution 1325, these Resolutions call for governments, parties to a conflict, and other organizations, including UN bodies, to take wide-ranging action to protect children during and after armed conflict and to prohibit the recruitment and use of child soldiers in hostilities.

Security Council Resolution 1539 calls for all parties to armed conflict who recruit and use children to immediately devise action plans, with the UN country teams, for the separation of children associated with their armed forces and to end new recruitments. Resolution 1612 is important because it created a standing Working Group of the whole to assess and make recommendations on situations of concern submitted by the Secretary-General. If State government forces or non-state armed groups fail to comply this measures can be taken against them.

Purpose

The resolutions emphasize the need to take action to protect and respect the rights of girls, particularly refugee and internally displaced girls. These include actions to:

- protect and respect the rights of girls during armed conflict, particularly to protect girls from all forms of violence and abuse, including sexual exploitation and abuse;
 - ensure that the human rights, protection, and welfare of girls is incorporated into peace agreements, peace processes, and policies and programmes, including those for conflict-prevention, disarmament, demobilization, and reintegration;
 - mainstream the protection of children, particularly girls, and to ensure that a gender perspective is integrated into all policies, programmes, and projects; and
 - include child protection advisers in peacekeeping missions where appropriate.
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Responsibility: UN agencies

Security Council Resolution 1612 establishes a comprehensive mechanism for monitoring, reporting on, and punishing those responsible for grave violations against children in conflict initially in priority countries where this is an issue, focusing in particular on the six most grave violations against children in armed conflict.⁷⁸ Information on violations gathered under these mechanisms in priority countries is to be presented to a working group which

Continued on next page

⁷⁷ These are Security Council resolutions 1261 of 25 August 1999, 1314 of 11 August 2000, 1379 of 20 November 2001, 1460 of 30 January 2003, 1539 of 20 April 2004, and 1612 of 26 July 2005. Also relevant are the three Security Council resolutions on the protection of civilians in armed conflict: 1674 of 28 April 2006, 1296 of 19 April 2000, and 1265 of 17 September 1999.

⁷⁸ These are defined as the killing or maiming of children; recruiting or using child soldiers; attacks against schools or hospitals; rape and other grave sexual violence against children; the abduction of children; and the denial of humanitarian access for children. See "Report of the Secretary-General on children and armed conflict, A/59/695-S/2005/72, 9 February 2005, para. 68.

6.2.4 Security Council resolutions on children and armed conflict, Continued

**Responsibility:
UN agencies**
(continued)

can recommend measures to be taken against a party involved in using children in a situation of armed conflict with the endorsement of the Security Council or other UN bodies.⁷⁹

This Resolution formally assigns responsibility for follow-up to UN peacekeeping missions and UN country teams. These responsibilities are further outlined in an action plan, developed by the Secretary-General, for the establishment of a monitoring, reporting and compliance mechanism.⁸⁰

Under the action plan UNHCR has child-protection monitoring responsibilities at the field level as part of a task force on monitoring and reporting, to be chaired by UNICEF or the Special Representative of the Secretary-General on Children in Armed Conflict.⁸¹ Together with the Special Representative of the Secretary-General, UNICEF, OCHA, and OHCHR, UNHCR is also part of the task force on children and armed conflict at the headquarters level and has specific responsibilities, including reporting responsibilities, at this level as well.⁸²

⁷⁹ Such mechanisms have now been established in Burundi, the Democratic Republic of the Congo, Côte d'Ivoire, Nepal, Somalia, Sri Lanka, and Sudan. See "Report of the Secretary-General on children and armed conflict, A/61/529-S/2006/826, 26 October 2006, para. 117.

⁸⁰ See "Report of the Secretary-General on Children and Armed Conflict", A/59/695-S/2005/72, 9 February 2005.

⁸¹ Ibid., paras. 82–89.

⁸² Ibid., paras. 92–106.

6.2.5 Executive Committee Conclusions

Introduction

Each year, the Executive Committee (ExCom) of the High Commissioner's Programme adopts a number of Conclusions by consensus. These articulate a number of principles to be followed and measures to be taken by ExCom Member States as well as by UNHCR to enhance the protection of women and girls of concern.

Conclusions on women and children

The principles and guidance they contain are set out in General Conclusions, in Conclusions that focus exclusively on women or children, and in Conclusions on specific themes, such as preventing and responding to sexual and gender-based violence.⁸³

ExCom Conclusion No. 105 (LVII) on women and girls at risk of 2006 establishes a framework to identify and respond to the situation of women and girls at risk. This is developed further in ExCom Conclusion No. 107 (LVIII) on children at risk of 2007.

Both are discussed in greater detail in chapter 3, sections 1 and 2 and are reproduced in Annexes 1 and 2 of this Handbook.

Binding nature

While ExCom Conclusions are not legally binding on States, they are unanimously approved by all ExCom members, and are an important advocacy tool, particularly with those States that have not ratified the 1951 Refugee Convention or any regional refugee instrument, but are members of ExCom.

ExCom Conclusions are binding on UNHCR and are an important source of guidance for us in our work.⁸⁴

⁸³ For further details, see UNHCR, *Thematic Compilation of Executive Committee Conclusions on International Protection*, 2nd edition, 2005.

⁸⁴ For an overview of the ways UNHCR offices implement ExCom Conclusions, see Informal Consultative Meeting, Second note on Review of the Process for Drafting ExCom Conclusions on International Protection, 10 February 2006.

6.2.6 Guiding Principles on Internal Displacement

“The Principles identify the rights and guarantees relevant to the protection of the internally displaced in all phases of displacement. They provide protection against arbitrary displacement, offer a basis for protection and assistance during displacement, and set forth guarantees for safe return, resettlement, and reintegration. Although they do not constitute a binding instrument, these Principles reflect and are consistent with international human rights law, international humanitarian law, and by analogy international refugee law.”⁸⁵

Introduction

Recognizing the need for a more comprehensive international response to the problem of internal displacement, the UN Secretary-General appointed a Special Representative on Internally Displaced Persons in 1992.⁸⁶ Six years later, the Special Representative presented the Guiding Principles on Internally Displaced Persons to the Commission on Human Rights.

The Guiding Principles

The Guiding Principles apply to all internally displaced persons; they also include a number of provisions that specifically relate to women’s and girls’ rights.⁸⁷ These are discussed at relevant points of Chapters 4 and 5.

Certain countries, such as Angola, Colombia and Peru, have incorporated the Guiding Principles into their national laws. In the case of Colombia, the Constitutional Chamber of the Supreme Court has ruled that the Guiding Principles form an integral part of the constitutional legal framework of the country and are therefore binding on the State and its institutions.

Purpose

The Guiding Principles are an important source of guidance to governments, other competent authorities, UN bodies, and NGOs in their work with internally displaced persons.

UNHCR has recognized that the Guiding Principles “provide a useful set of standards against which to measure protection objectives and promote dialogue with State and non-State actors of violence.”⁸⁸

In the 2005 World Summit Outcome document, world leaders recognized the Guiding Principles as an important international legal framework and resolved to take effective measures to increase the protection of internally displaced persons.⁸⁹

Responsibility

Principle 3 of the Guiding Principles affirms national authorities have “the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction”.

In addition, Principle 25, states: “International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced” and such an offer “shall not be regarded as an unfriendly act or an interference in a State’s internal affairs”.

⁸⁵ Introductory Note to the Guiding Principles by the Representative of the Secretary-General on Internally Displaced Persons, Francis Deng, 1998.

⁸⁶ In 2004, the mandate of the Representative of the Secretary-General on Internally Displaced Persons expired. Pursuant to Resolution 2004/55, the Commission on Human Rights asked the Secretary-General to establish a new mechanism that would build on the work of the Representative of the Secretary-General on Internally Displaced Persons and address the complex problem of internal displacement, particularly by mainstreaming the human rights of internally displaced persons into all relevant parts of the UN system. The Secretary-General appointed a Representative on the human rights of internally displaced persons in September 2005.

⁸⁷ Women and children are specifically referred to in Principles 4, 11, 13, 17, 18, 19, 20, and 23.

⁸⁸ UNHCR, “Internally Displaced Persons: The Role of UNHCR”, EC/50/SC/INF.2, 20 June 2000.

⁸⁹ World Summit Outcome, A/Res/60/1, 24 October 2005, para. 132.

6.2.7 Beijing Declaration and Platform for Action

Introduction

The Fourth World Conference on Women, held in Beijing, China, in September 1995, represented a milestone in international efforts to improve the status of women and achieve gender equality worldwide.

The Beijing Declaration and Platform of Action, adopted unanimously by 189 countries, sets as its goal the empowerment of women, recognizing that the full realization of all human rights and fundamental freedoms of all women is essential for achieving this objective. They provide a detailed framework for action and have set the agenda for subsequent years.

Purpose

The Beijing Declaration and Platform of Action provide valuable guidance for our work to protect women and girls.

The Platform of Action identifies 12 priority areas⁹⁰ and emphasizes the importance of women working together, and also with men, to address gender inequality. The principles it sets out are reflected in UNHCR's age, gender, and diversity-mainstreaming strategy.

Responsibilities: States

In adopting the Beijing Declaration and Platform of Action, governments committed themselves to implementing the Platform of Action and ensuring that a gender perspective is reflected in all their policies and programmes.

Requirements and responsibilities for UN agencies

The Platform of Action delineates clear responsibilities for UN bodies. It stipulates that all UN bodies and organizations must implement the Platform of Action and integrate a gender-equality perspective in all their policies and programmes.⁹¹

It also asks UN bodies and organizations to take specific actions in relation to the 12 critical areas of concern.⁹² Five- and ten-year reviews of the Beijing Platform for Action resulted in reaffirmations and further commitments to implement it.⁹³

The Commission on the Status of Women⁹⁴ recently “called upon the United Nations system, international and regional organizations, all sectors of civil society, including non-governmental organizations, as well as women and men, to fully commit themselves and to intensify their contributions to the implementation of the Declaration and the Platform for Action and the outcome of the 23rd special session of the General Assembly”.⁹⁵

⁹⁰ These areas are: women and poverty; education and training of women; women and health; violence against women; women and armed conflict; women and the economy; women in power and decision-making; human rights of women; women and the media; women and the environment; and the girl child.

⁹¹ See particularly paras. 305–311.

⁹² See particularly para. 337.

⁹³ See particularly General Assembly Resolution S-23/3 of 16 November 2000 on actions and initiatives to implement the Beijing Declaration and Platform for Action, adopted at the special session of the General Assembly entitled “Women 2000: Gender equality, development, and peace for the 21st Century”, and the Declaration adopted by the Commission on the Status of Women at its 49th session, 3 March 2005.

⁹⁴ The Commission on the Status of Women is a functional commission of ECOSOC dedicated exclusively to gender equality and advancement of women. It is the principal global policy-making body. After the Beijing conference it was mandated to follow-up on the conference and review critical areas of concern regularly.

⁹⁵ Declaration adopted by the Commission on the Status of Women at its 49th session, 3 March 2005.

6.2.8 Millennium Declaration and Millennium Development Goals

Introduction

When UN member States adopted the Millennium Declaration in 2000,⁹⁶ they committed themselves, amongst other things, to promoting gender equality and the empowerment of women, since they recognized that they are essential to efforts to combat poverty, hunger, and disease, and to achieve sustainable development.⁹⁷

Purpose

The UN Millennium Development Goals (MDGs), issued by the Secretary-General in 2001, are a road map for implementing the Millennium Declaration.

The MDGs consist of eight goals accompanied by 18 time-bound targets and 48 indicators. Goal three calls for the promotion of gender equality and women's empowerment. Goal five calls for improving maternal health.⁹⁸

Responsibility: UN agencies

Recognizing that the MDGs apply to everyone and promoting the MDGs in humanitarian emergencies and post-conflict situations help to create a sound foundation for development over the long term.⁹⁹ UNHCR is now fully engaged in international efforts to promote the MDGs.¹⁰⁰

UNHCR encourages States to ensure that national MDG strategies include displaced persons and returnees and that, given that many of the poorest people live in countries steeped in or just emerging from conflict, they consider the relationship between conflict and the MDGs.¹⁰¹

⁹⁶ The Millennium Summit was attended by 147 heads of government. The Millennium Declaration has been adopted by 191 governments.

⁹⁷ United Nations General Assembly Resolution A7RES/55/2.

⁹⁸ The other Goals are eradicating extreme poverty and hunger; achieving universal primary education; combating HIV/AIDS, malaria, and other diseases; ensuring environmental sustainability; and building a global partnership for development.

⁹⁹ Relevance of UNHCR's Activities to the Millennium Development Goals, EC/55/SC/INF.1. 13 September 2005, para. 9.

¹⁰⁰ The UN Development Group (UNDG), of which UNHCR is a member, is tasked with coordinating UN efforts to support the implementation of the MDGs through practical assistance, country-level and global monitoring, research, and advocacy.

¹⁰¹ Relevance of UNHCR's Activities to the Millennium Development Goals, EC/55/SC/INF.1. 13 September 2005, para. 10.

6.2.9 World Summit and World Summit Outcome document

Introduction

At the World Summit in 2005, governments reaffirmed the commitments made in the Millennium Declaration and agreed to take action on a broader range of global challenges, based on a set of proposals outlined by the UN Secretary-General in his March 2005 report, "In Larger Freedom".

Purpose

The World Summit Outcome document, adopted by the General Assembly on 24 October 2005, contains a number of provisions of relevance to our work to protect women and girls. These include the reaffirmation or strengthening of a number of commitments, including those

- to promote gender equality, the empowerment of women, and the elimination of all forms of discrimination and violence against women and girls;¹⁰²
- that include women in work to prevent and resolve conflicts and to build peace;¹⁰³
- that aim to protect children in situations of armed conflict;¹⁰⁴
- aimed at mainstreaming human rights throughout the UN system;¹⁰⁵ and
- that focus on advancing the rights of women and children.

States also resolved to take effective measures to improve the protection of internally displaced persons¹⁰⁶ and committed themselves to safeguarding the principle of refugee protection and to help to resolve the plight of refugees.¹⁰⁷

Responsibility: UN agencies

As noted in a report by the UN Secretary-General,¹⁰⁸ the Summit Outcome document provides comprehensive guidance for the work of the UN Secretariat and UN agencies, funds, and programmes, including UNHCR. All UN agencies are required to review their programmes in light of this guidance.

Of particular relevance to UNHCR in its work to protect displaced and returnee women and girls is the Secretary-General's emphasis on the requirement for all UN entities to review and strengthen gender-mainstreaming programmes,¹⁰⁹ to enforce the zero-tolerance policy on sexual exploitation and abuse,¹¹⁰ and to implement the proposals developed by the Inter-Agency Standing Committee (IASC) to strengthen the humanitarian response capacity.¹¹¹

¹⁰² 2005 World Summit Outcome, A/Res/60/1, 24 October 2005, paras. 58–59.

¹⁰³ Ibid., para. 116.

¹⁰⁴ 2005 World Summit Outcome A/Res/60/1, 24 October 2005, paras. 117–118.

¹⁰⁵ Ibid., para. 126.

¹⁰⁶ Ibid., para. 132.

¹⁰⁷ Ibid., para. 133.

¹⁰⁸ United Nations, "Implementation of Decisions from the 2005 World Summit Outcome for Action by the United Nations", Report of the Secretary-General, A/60/430, 25 October 2005.

¹⁰⁹ Ibid., para. 39.

¹¹⁰ Ibid., para. 38.

¹¹¹ Ibid., para. 43.

6.3 Regional Legal Framework

Introduction

Regional refugee law and human rights law are also part of the international legal framework for protection. The regional legal framework is outlined very briefly below. A detailed analysis of all the regional standards applicable to the different issues and rights relevant to the protection of women and girls of concern is beyond the scope of this Handbook.

Purpose

Regional legal frameworks can provide useful tools to strengthen the protection of women and girls, especially where:

- States are not party to international instruments but are to regional ones;
- regional legal standards provide more detailed and/or higher standards; and
- regional courts are able to provide wider protection than the 1951 Refugee Convention, for instance, for women and girls who are in need of international protection but whose claims for asylum do not fall within the refugee definition.

It is nevertheless important to remember, as already indicated in chapter 1, section 2, that UNHCR's protection work is guided by the standards set out in international law and that it is these international standards which set out the basic normative framework for our work.

Regional instruments to protect refugees

Key regional instruments to protect refugees include the:

- Organization of African States (now African Union) Convention Governing the Specific Aspects of Refugee Problems in Africa (1969);
 - Cartagena Declaration on Refugees (1984);
 - Arab Convention on Regulating Status of Refugees in the Arab Countries (1994);
 - Bangkok Principles on the Status and Treatment of Refugees (1966, revised 2001); and
 - the various European Union directives and regulations that together form the Common European Asylum System.¹¹²
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Regional human rights instruments

Key regional human rights instruments that can be used to enhance the protection of women, girls, boys and men of concern include the:

- African Charter on Human and Peoples' Rights (Banjul Charter) (1981);¹¹³
 - American Convention on Human Rights (1969);
 - European Convention for the Protection of Human Rights and Fundamental Freedoms and its various protocols (1950);¹¹⁴
 - Commonwealth of Independent States Convention on Human Rights and Fundamental Freedoms (1995); and
 - Arab Charter on Human Rights (1994).
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¹¹² These include directive and regulations on temporary protection, minimum standards for the reception of asylum-seekers, the "Qualification Directive" on common minimum standards regarding the concept of refugee and subsidiary or complementary protection, and the "Procedures Directive" on common minimum standards for status determination procedures. For further details, see UNHCR, "an Introduction to International Protection", Self-study module 1, 1 August 2005, p. 28.

¹¹³ The text and status of ratifications of the various regional African instruments mentioned can be found at <http://www.africa-union.org/root/au/Documents/Treaties/treaties.htm>.

¹¹⁴ See <http://conventions.coe.int/Treaty/Commun/ListeTraites.asp?MA=3&CM=7&CL=ENG>.

6.3 Regional Legal Framework, continued

Enforcement mechanisms

The first three of these regional human rights instruments has a Court and/or Commission entrusted with protecting the rights set out in the instrument concerned.¹¹⁵ Individuals may appeal to these bodies once national remedies have been exhausted. These bodies can issue binding judgments and can award compensation.

Of particular relevance to women and girls of concern are rulings concerning, for instance, the obligation not to return anyone to torture; the situation of women in society,¹¹⁶ the guarantees that must be respected when determining children's refugee status;¹¹⁷ detention; family unity; and housing, land and property.

Regional instruments to protect women and girls

Regional instruments especially relevant to the protection of women and girls include the:

- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003);
 - African Charter on the Rights and Welfare of the Child (1990);¹¹⁸
 - African Youth Charter (2 July 2006);
 - Inter-American Convention on the Prevention Punishment and Eradication of Violence against Women (Convention of Belem do Para) (1994);¹¹⁹
 - Inter-American Convention on International Traffic in Minors 1994);
 - Inter-American Convention on the Elimination of all Forms of Discrimination against Persons with Disabilities (1999);
 - Organization of the Islamic Conference (OIC) Covenant on the Rights of the Child in Islam and
 - Council of Europe Council Convention on Action against Trafficking in Human Beings (2005).
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Protection afforded by these instruments

These various regional instruments establish important standards including, for instance, in relation to

- the principle of non-discrimination and equality between women and men;¹²⁰
 - women's and young people's participation,¹²¹
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¹¹⁵ African Commission and Court on Human and Peoples' Rights; Inter-American Commission and Court of Human Rights; European Court of Human Rights.

¹¹⁶ See Inter-American Commission on Human Rights, *Maria Eugenia Morales de Sierra v. Guatemala*, case 11.625, IACHR Report 4/01, 19 January 2001, at <http://www.cidh.oas.org/annualrep/2000eng/ChapterIII/Merits/Guatemala11.625.htm>.

¹¹⁷ Inter-American Court, Advisory Opinion OC-17/02 on the juridical condition and human rights of the child, 28 August 2002.

¹¹⁸ The Charter obliges States Parties to take specific protective measures for refugee and internally displaced children (Article 23). States Parties must also ensure these children's enjoyment of all the rights set forth in the Charter and in any other international human rights and humanitarian instrument to which the State is party. As with Article 22 of the CRC, States also agree to cooperate with international organizations that protect and assist refugees in protecting and assisting child refugees and asylum-seekers, and to help to trace the parents or other close relatives of an unaccompanied refugee child in an effort to achieve family reunification.

¹¹⁹ The Convention recognizes the right of every woman to be free from any physical, sexual, or psychological violence in both the public and private spheres. States Parties assume the obligation to pursue, by all appropriate means and without delay, policies to prevent, punish, and eradicate such violence. Significantly, the Convention specifically mentions refugee and internally displaced women. States Parties are obliged "to take special account of the vulnerability of women to violence by reason of, among others, their race or ethnic background or their status as migrants, refugees or displaced persons. Similar consideration shall be given to women subjected to violence while pregnant or who are disabled, of minor age, elderly, socio-economically disadvantaged, affected by armed conflict or deprived of their freedom" (Article 9).

¹²⁰ African Charter on Human and People's Rights, Articles 2, 3 and 18(3); American Convention on Human Rights, Article 1; European Convention on Human Rights, Article 14; and, in relation to children, the OIC Covenant on the Rights of the Child in Islam, Article 5.

¹²¹ 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Article 9; African Youth Charter, Articles 11 and 23; Andean Charter for the Promotion and Protection of Human Rights, Article 43.

6.3 Regional Legal Framework, continued

Protection afforded by these instruments (continued)

- strengthen women's and young people's participation in and capacity for peace building, conflict prevention and conflict resolution;¹²²
- the minimum age for all recruitment and participation in hostilities;¹²³
- the protection of women in armed conflict,¹²⁴
- child labour;¹²⁵
- juvenile justice and children of imprisoned mothers;¹²⁶
- sexual exploitation and abuse,¹²⁷
- harmful traditional practices,¹²⁸
- refugee and internally displaced children,¹²⁹
- female heads of household,¹³⁰
- the protection of victims of trafficking;¹³¹ and
- the right to own and inherit property.¹³²

Regional standards on girls' education

As one more detailed example relating to education for girls of concern in Africa, various regional standards build upon those at the international level.

Under the 1990 African Charter on the Rights and Welfare of the Child, States Parties are obliged to take all appropriate measures "to encourage the development of secondary education in its different forms and to progressively make it free and accessible to all" (Article 11(3)) and "to ensure that children who become pregnant before completing their education shall have an opportunity to continue with their education on the basis of their individual ability" (Article 11(6)).

The 2006 African Youth Charter echoes this provision in Article 13(4), while its Article 23(1) concerns girls and young women and affirms that States Parties will guarantee "universal and equal access to and completion of a minimum of nine years of formal education". Both Charters require States to take all appropriate measures to "encourage regular school attendance and reduce drop-out rates" (Article 11(3) of the former and 13(4) of the latter).

Responsibility: UNHCR staff

It is therefore essential for UNHCR staff, including especially protection staff, to be familiar with regional instruments applicable in their area of operations so that they can use them to advocate for the rights of women and girls of concern, secure their protection and support solutions for them.¹³³

¹²² 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Article 10; African Youth Charter, Article 17.

¹²³ African Charter on the Rights and Welfare of the Child, Article 22; Andean Charter for the Promotion and Protection of Human Rights, Article 45.

¹²⁴ 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Article 11.

¹²⁵ African Charter on the Rights and Welfare of the Child, Article 15; OIC Covenant on the Rights of the Child in Islam, Article 18.

¹²⁶ African Charter on the Rights and Welfare of the Child, Articles 17 and 30.

¹²⁷ African Charter on the Rights and Welfare of the Child, Article 27; Optional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Article 3(4); African Youth Charter, Article 23(1).

¹²⁸ Optional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Articles 2 and 5; African Charter on the Rights and Welfare of the Child, Article 21; African Youth Charter, Articles 20 and 25.

¹²⁹ African Charter on the Rights and Welfare of the Child, Article 23, including regarding States Parties' cooperation with international organizations to protect and assist displaced children and regarding family tracing and reunification.

¹³⁰ Protocol to the African Charter on the Rights of Women in Africa, Article 24.

¹³¹ African Charter on the Rights and Welfare of the Child, Article 29 Council of Europe Convention on Action against Trafficking in Human Beings,

¹³² Protocol to the African Charter on the Rights of Women in Africa, Article 22; African Youth Charter, Article 9.

¹³³ As a starting point, the most relevant instruments can be found in volumes 3 and 4 of UNHCR, *Collection of International Instruments and Legal Texts Concerning Refugees and Others of Concern to UNHCR*, June 2007, at <http://www.unhcr.org/publ/PUBL/455c460b2.html>.

Annexes

Annex 1: Executive Committee Conclusion No. 105 (LVII), 2006, Women and Girls at Risk

The Executive Committee,

Recalling its Conclusions Nos. 39 (XXXVI), 54 (XXXIX), 60 (XL) and 64 (XLI) on refugee women; Nos. 47 (XXXVIII), 59 (XL) and 84 (XLVIII) on refugee children and/or adolescents; Nos. 73 (XLIV) and 98 (LIV) on refugee protection and sexual violence and protection from sexual abuse and exploitation respectively, and No. 94 (LIII) on the civilian and humanitarian character of asylum,

Recalling that Security Council resolution 1325 (2000) on women and peace and security and the subsequent Action Plan (S/2005/636) provide an integrated framework for a consolidated international and UN-wide response to this challenge, that Security Council resolution 1261 (1999) and five subsequent resolutions on children and armed conflict, call on governments, parties to a conflict and other organizations, including UN bodies, to take wide-ranging action to protect children in armed conflict and afterwards, and that Security Council resolutions 1265 (1999), 1296 (2000) and 1674 (2006), similarly call on parties to armed conflict to ensure the protection of affected civilians, including women and children,

Acknowledging that, while forcibly displaced men and boys also face protection problems, women and girls can be exposed to particular protection problems related to their gender, their cultural and socio-economic position, and their legal status, which mean they may be less likely than men and boys to be able to exercise their rights and therefore that specific action in favour of women and girls may be necessary to ensure they can enjoy protection and assistance on an equal basis with men and boys,

Recalling that the protection of women and girls is primarily the responsibility of States, whose full and effective cooperation, action and political resolve are required to enable UNHCR to fulfil its mandated functions; and that all action on behalf of women and girls must be guided by obligations under relevant international law, including, as applicable, international refugee law, international human rights law and international humanitarian law,

Bearing in mind Conclusion No. 75 (XLV) on internally displaced persons and *noting* that the protection challenges for internally displaced persons (IDPs) and refugees may differ, that the normative legal frameworks for their protection are different, that humanitarian access to internally displaced persons can be more difficult, that internally displaced women and girls are more likely to be caught in armed conflict and may face specific protection risks as a result and that the responses and solutions available to refugee and internally displaced women and girls may be different,

Recognizing that, while women and girls may be exposed to certain risks, such as trafficking, in any location, the different nature of camp and urban environments can expose women and girls to different protection risks and that in camps, for example, their freedom of movement and capacity to earn a livelihood may be more restricted and they may be more exposed there to sexual and gender-based violence (SGBV), whereas in urban situations, they may be less able to exercise their rights effectively, to access protection and services or reach UNHCR or implementing partner offices,

Acknowledging that the challenges involved in securing the protection of women and girls at risk must be addressed in a holistic manner and that protection partnerships with governments, UNHCR, other UN agencies, other international organizations and non-governmental organizations, together with displaced and host communities, are integral to effective identification, responses, monitoring and solutions,

Acknowledging that each community is different and that an in-depth understanding of religious and cultural beliefs and practices is required to address the protection risks women and girls face in a sensitive manner while bearing in mind obligations under international refugee, human rights and humanitarian law,

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Annex 1: Executive Committee Conclusion No. 105 (LVII), 2006, Women and Girls at Risk, Continued

Reaffirming its call to the international community, in cooperation with UNHCR and other international organizations, to mobilize the financial and other resources necessary, including in support of host communities, to ensure the provision of protection and material assistance, and of durable solutions, based on international solidarity, cooperation, burden and responsibility sharing and the understanding that inadequate protection, or inadequate, inappropriate or poorly distributed assistance can increase the risks women and girls face,

Acknowledging that forced displacement tends to expose individuals to particular risks, *recognizing* the specific needs of women and girls, *noting* that this Conclusion applies to women and girls who are refugees, asylum-seekers or IDPs assisted and protected by UNHCR, who find themselves in situations of heightened risk, and *further* that it could also be applied, as appropriate, to returnees of concern to UNHCR,

(a) *Adopts* this Conclusion regarding the identification of women and girls at risk, prevention strategies and individual responses and solutions and *recommends* that UNHCR include a more detailed elaboration of these issues in the UNHCR Handbook on the Protection of Women and Girls.

Identification of women and girls at risk

(b) Forced displacement can expose women and girls to a range of factors which may put them at risk of further violations of their rights. These can be present in the wider protection environment and/or be the result of the individual's particular circumstances, as outlined below.

(c) Identification and analysis of the presence and severity of these different factors help determine which women and girls are at heightened risk and enable targeted responses to be devised and implemented. Identification can present particular challenges because women and girls are often less visible in displaced populations than men and boys, they may not be or feel able to report protection incidents, particularly if these occur in the private domain. It is therefore important to ensure an enabling environment which supports continuing identification and analysis of the situation.

(d) In certain cases, the presence of one factor or incident may alone be sufficient to require an urgent protection intervention. In others, the presence of a combination of individual and wider protection environment factors will expose women and girls to heightened risk. In still others, if women and girls have been subjected, for instance, to SGBV in the area of origin or during flight, this may leave them at heightened risk in the place of displacement. Continuing assessment is required to monitor threat levels, as they may change over time.

(e) Risk factors in the wider protection environment can arise as a result of and after flight for women and girls and may include problems resulting from insecurity and armed conflict threatening or exposing them to SGBV or other forms of violence; inadequate or unequal access to and enjoyment of assistance and services; lack of access to livelihoods; lack of understanding of women's and men's roles, responsibilities and needs in relation to reproductive healthcare, and lack of understanding of the consequences of SGBV on women's and girls' health; the position of women and girls in the displaced or host community which can result in their marginalization and in discrimination against them; legal systems, which do not adequately uphold the rights of women and girls under international human rights law, including those relating to property; those informal justice practices which violate the human rights of women and girls; asylum systems which are not sensitive to the needs and claims of female asylum-seekers; and mechanisms for delivering protection which do not adequately monitor and reinforce women's and girls' rights.

(f) These factors related to the wider protection environment may be combined with individual risk factors which increase the risks for these women and girls. Individual risk factors can be grouped non-exhaustively under factors relating to their individual civil status or situation in society; their having already been subject to SGBV and/or their risk of exposure to SGBV or other forms of

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violence; and their need for specific health and/or other support services, including in the case of women and girls with disabilities.

(g) Responding more effectively to protection problems faced by women and girls at risk requires a holistic approach that combines preventive strategies and individual responses and solutions. It involves collaboration between, and the involvement of, all relevant actors, including men and boys, to enhance understanding and promote respect for women's and girls' rights.

Preventive strategies

(h) Recommended preventive strategies to be adopted by States, UNHCR, other relevant agencies and partners may include the identification, assessment and monitoring of risks.

(i) Identification, assessment and monitoring of risks faced by women and girls in the wider protection environment are to be strengthened by partnerships and actions to:

- (i) provide disaggregated data by sex and age; ensure registration on an individual and ongoing basis for refugees, recognizing the need to protect the confidential nature of personal data, and promote mechanisms to identify the internally displaced; strengthen protection monitoring of individuals by working with the community; monitor access to and enjoyment of protection, assistance and services by women and girls;
- (ii) incorporate gender issues into early warning mechanisms, alerts and contingency plans, conduct a rapid situation analysis at the start of a new emergency and integrate gender-based risk analysis into inter-agency assessments;
- (iii) mobilize women, men, girls and boys of all ages and diverse backgrounds as equal partners together with all relevant actors in participatory assessments to ensure their protection concerns, priorities, capacities and proposed solutions are understood and form the basis of protection strategies and solutions;
- (iv) mainstream age, gender and diversity analysis into all programmes, policies and operations to ensure all can benefit equally from activities and inequality is not perpetuated;
- (v) promote gender balance in staff recruitment and take active measures to increase the number of female professionals working in the field;
- (vi) identify and prevent SGBV and strengthen the capacity of national and local authorities to carry out their protection functions more effectively.

(j) Secure environments are to be established and strengthened, including by partnerships and actions to:

- (i) prevent and respond to SGBV in accordance with international standards set out in UNHCR and other relevant guidelines,¹ including through provision of quality health services to address the specific needs of women and girls at risk;
- (ii) maintain the civilian and humanitarian character of asylum, which is a primary responsibility of host States;
- (iii) ensure the individual documentation of refugee women and separated and unaccompanied refugee girls and register births, marriages and divorces in a timely manner;
- (iv) strengthen dispute resolution skills in the displaced community and take measures to assure confidentiality, so as to enable women and girls at risk to remain safely in their community and build relations between host and displaced communities to create a safe and non-exploitative environment;
- (v) strengthen justice systems to uphold the rights of women and girls and bring perpetrators of SGBV to justice, combat trafficking and protect victims; and

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¹ See for example UNHCR, [Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response](#); 2003; Inter-Agency Standing Committee (IASC), [Guidelines for Gender-based Violence Interventions in Humanitarian Settings](#), 2005.

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- (vi) establish and/or implement codes of conduct, including on the elimination of sexual exploitation and abuse, for all humanitarian staff, including those working in the delivery of services and for other staff in authority, such as border guards, and ensure that confidential and accessible complaints systems are in place which include investigation and follow-up, so as to encourage the reporting of abuse and exploitation where codes of conduct are breached.

(k) The empowerment of displaced women and girls is to be enhanced including by partnerships and actions to:

- (i) strengthen women's leadership, including by enhancing their representation and meaningful participation in displaced community and camp management committees, in decision making, and in dispute resolution systems, by enhancing their access to and control over services and resources, promoting their rights and leadership skills and supporting implementation of UNHCR's Five Commitments to Refugee Women;
- (ii) strengthen women's and girls' capacities, including by enabling their access to quality education, including secondary education, in safe school environments and by enhancing food security, livelihood opportunities, freedom of movement and economic independence, including where appropriate through access to labour markets; and
- (iii) work with the displaced community, including men and boys, to rebuild family and community support systems undermined by conflict and flight and to raise awareness of the rights of women and girls and understanding of gender roles.

(l) Financial and other necessary resources should also be mobilized, as appropriate, including by action to ensure the provision of protection and material assistance and timely durable solutions based on international solidarity, cooperation and burden and responsibility sharing.

Individual responses and solutions

(m) Recommended actions by States, UNHCR, other relevant agencies and partners to respond to the situation of individual women and girls at risk are listed non-exhaustively below.

(n) Ensuring early identification and immediate response involves partnerships and actions to:

- (i) establish mechanisms, based on an analysis of the risk factors outlined above, to identify individual women and girls at risk, determine and implement appropriate immediate responses and subsequent solutions;
- (ii) provide women and girls at risk with information, counselling, medical and psychosocial care, as well as access to safe houses if they face domestic violence and abuse or attack by other members of the community, especially where there are no mechanisms to remove perpetrators; provide emergency voluntary relocation, e.g. to another town or camp, or emergency resettlement;
- (iii) determine the best interests of girls at risk, provide alternative accommodation, physical protection and interim foster care as required, as well as initiate family tracing and ensure family unity wherever possible and in their best interests; and
- (iv) ensure that refugee status determination procedures provide female asylum-seekers with effective access to gender-sensitive procedures and recognize that gender-related forms of persecution in the context of Article 1A (2) of the 1951 Convention relating to the Status of Refugees may constitute grounds for refugee status.

(o) Developing medium-term responses for individuals includes partnerships and actions to:

- (i) monitor on an ongoing basis initiatives taken with regard to individual safety, well-being and needs and ensure accountability for actions taken;

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- (ii) help secure the access of women and girls at risk to justice and reduce impunity, including by advising, accompanying and supporting them through initiatives such as women's legal clinics, local women's associations, witness relocation programmes and mobile courts in remote areas; and
- (iii) strengthen identified individuals' access to education, vocational training and recreational programmes with childcare and promote community-based livelihood strategies which target women and girls at risk, especially in prolonged displacement situations.

(p) Recommended longer-term responses and solutions include partnerships and actions to:

- (i) promote respect for women's and girls' equal rights to make a free and informed choice to return voluntarily and to their equal access to land and property in the country of origin, and incorporate measures to ensure adequate ongoing assistance and support in the country of origin for those at risk into tripartite voluntary repatriation agreements;
- (ii) strengthen the use of resettlement as a protection and durable solutions tool for refugee women and girls at risk; enhance identification of refugee women and girls at risk for resettlement, including through training; streamline processing further, including by establishing measures to enable the speedier departure of refugee women at risk and their dependants;
- (iii) consider using special evacuation programmes for internally displaced women and girls at risk, if necessary, given that resettlement is very rarely available to them;
- (iv) establish mechanisms, where voluntary repatriation for individual refugee women and girls at risk is not a safe option and resettlement is not available, to enable them, where appropriate, to integrate locally and safely in the country of asylum, including by examining possibilities for voluntary relocation elsewhere in the country; for internally displaced women and girls at risk, examine possibilities for allowing them to relocate elsewhere in their own country if they wish and if their safety cannot be ensured where they are; and
- (v) ensure support, such as medical and psychosocial care, is available to women and girls at risk to facilitate their recovery and integration, whether this be in the context of local integration, return, resettlement or other humanitarian programmes.

(q) Efforts to ensure the progressive implementation of the above-mentioned mechanisms and standards can benefit greatly from partnerships and the development of relevant public policies, supported as appropriate by the international community.

Annex 2: Executive Committee Conclusion No. 107 (LVIII), 2007, Children at Risk

The Executive Committee,

Recalling its Conclusions Nos. 47 (XXXVIII), 59 (XL) and 84 (XLVIII), specifically on refugee children and/or adolescents, Conclusion No. 105 (LVI) on Women and Girls at Risk, Conclusion No. 106 (LVI) on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons, Conclusion No. 94 (LIII) on the Civilian and Humanitarian Character of Asylum, Conclusion No. 98 (LIV) on Protection from Sexual Abuse and Exploitation, Conclusion No. 100 (LV) on International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations as well as all provisions of relevance to the protection of refugee children set out in other Conclusions, many of which are relevant for other children of concern to UNHCR,

Taking note of the more recent international developments in relation to the protection of children, in particular the two Optional Protocols to the 1989 Convention on the Rights of the Child (CRC), Security Council resolutions 1612, 1674, and 1325, the Paris Commitments to Protect Children from Unlawful Recruitment or Use by Armed Forces or Armed Groups and the United Nations Secretary-General's Study on Violence against Children,

Recognizing the important work done by the United Nations Children's Fund (UNICEF) and non-governmental organizations (NGOs) in relation to the protection of children,

Affirming that children, because of their age, social status and physical and mental development are often more vulnerable than adults in situations of forced displacement; *recognizing* that forced displacement, return to post-conflict situations, integration in new societies, protracted situations of displacement, and statelessness can increase the vulnerability of children generally; *taking into account* the particular vulnerability of refugee children to being forcibly exposed to the risks of physical and psychological injury, exploitation and death in connection with armed conflict; and *acknowledging* that wider environmental factors and individual risk factors, particularly when combined, can put children in situations of heightened risk,

Acknowledging that, while both girls and boys face many of the same protection risks, they also experience protection challenges specific to their gender, and *reaffirming* that, while many risks may be prevalent in all settings, camp and urban environments may generate different protection needs,

Noting that this Conclusion applies to children, as defined under Article 1 of the CRC, who are asylum-seekers, refugees, are internally displaced or returnees assisted and protected by UNHCR, or are stateless, particularly addressing the situation of those at heightened risk,²

Recalling that the protection of children is primarily the responsibility of States, whose full and effective cooperation, action and political resolve are required to enable UNHCR to fulfil its mandated functions,

Recognizing the varied means and capacity of host countries; and *reaffirming* its call to the international community, in cooperation with UNHCR and other international organizations, to mobilize the financial and other resources necessary, including in support of host communities, to ensure the provision of protection and material assistance and the achievement of durable solutions, based on international solidarity, cooperation and burden and responsibility sharing, as well as on the understanding that inadequate protection, or inadequate, inappropriate or poorly distributed assistance, can increase the risks children face,

(a) *Adopts* this Conclusion which provides operational guidance for States, UNHCR and other relevant agencies and partners, including through identifying components that may form part of a comprehensive child protection system, with the aim of strengthening the protection of children at risk;

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² Hereinafter referred to as "children" or "a child".

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Fundamentals of child protection

(b) *Recognizes* that strategies and actions under this operational guidance should be underpinned by the following principles and approaches, amongst others:

- (i) Children should be among the first to receive protection and assistance;
- (ii) States should promote the establishment and implementation of child protection systems, in accordance with international obligations of States concerned, and to which children under their jurisdiction should have non-discriminatory access;
- (iii) The support provided by UNHCR and other relevant agencies and partners in helping States fulfil their obligations should supplement and strengthen the national child protection system in areas where gaps exist, and be delivered in a spirit of partnership by building on each actor's comparative advantages to reinforce the beneficial impact on the protection of children;
- (iv) States, UNHCR, and other relevant agencies and partners shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child, and that mechanisms exist to inform children and adults alike of children's rights and options;
- (v) The principle of the best interests of the child shall be a primary consideration in regard to all actions concerning children;
- (vi) Due consideration should be given to the importance of the family and family support structures for the protection of children;
- (vii) Non-discriminatory enjoyment of rights and each child's right to life should be ensured, while also assuring to the maximum extent possible each child's survival and development, supported by a caring and protective family environment and zero tolerance for all forms of violence against children;
- (viii) The active promotion of gender equality is essential to the protection of girls and boys, particularly those at heightened risk;
- (ix) Emphasis should be given to children in the prioritization of financial and other necessary resources;
- (x) A rights-based approach, which recognizes children as active subjects of rights, and according to which all interventions are consistent with States' obligations under relevant international law, including, as applicable, international refugee law, international human rights law and international humanitarian law, and acknowledgement that the CRC provides an important legal and normative framework for the protection of children;
- (xi) In recognition that detention can affect the physical and mental well-being of children and heighten their vulnerability, States should refrain from detaining children, and do so only as a measure of last resort and for the shortest appropriate period of time, while considering the best interests of the child;
- (xii) A two-pronged approach comprising: (1) mainstreaming of age, gender and diversity into all UNHCR programmes, policies and operations, and (2) targeted action, to ensure that all children, girls and boys of diverse backgrounds, can enjoy protection on an equal basis; and
- (xiii) A collaborative approach whereby all relevant actors work together to: identify risks faced by children; undertake participatory situation and comprehensive gap analyses to identify, assess and respond to the wider environmental and individual factors placing children at heightened risk; and document and share information with due respect for rules of confidentiality;

Identification of children at risk

(c) *Calls on* States, UNHCR and other relevant agencies and partners to put in place modalities, as appropriate, for early and continuous identification of children at heightened risk. Risk factors that put children in a situation of heightened risk can include both risks in the wider protection

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environment and risks resulting from individual circumstances, taking into account the cumulative effects of being exposed to several risk factors, such as:

- (i) Wider environmental risk factors including, but not limited to: an insecure environment; lack of access to child-sensitive asylum procedures; situations of displacement, particularly protracted situations; statelessness; lack of sustainable solutions; poverty and families' lack of self-reliance opportunities; inadequate access to and use of services such as education and health care; disruption of family and community support structures; prevalence of traditional practices that are harmful to children; discrimination, intolerance, xenophobia, and gender inequality; and lack of documentation of the parent-child relationship through birth registrations and issuance of birth certificates; and
- (ii) Individual risk factors, including, but not limited to: unaccompanied and separated children, particularly those in child-headed households as well as those accompanied by abusive or exploitative adults; stateless children; adolescents, in particular girl mothers and their children; child victims of trafficking and sexual abuse, including pornography, pedophilia and prostitution; survivors of torture; survivors of violence, in particular sexual and gender-based violence and other forms of abuse and exploitation; children who get married under the age specified in national laws and/or children in forced marriages; children who are or have been associated with armed forces or groups; children in detention; children who suffer from social discrimination; children with mental or physical disabilities; children living with or affected by HIV and AIDS and children suffering from other serious diseases; and children out of school;

(d) *Recognizes* the challenges involved in identifying children at heightened risk as they are frequently less visible than adults and may not have the opportunity or feel able to report protection incidents, particularly if these occur in the private domain and/or are associated with social stigmas or taboos; *acknowledges* the need to provide children access to adults with expertise in age-appropriate and gender-sensitive interviewing and communication skills to ensure that children's views are taken into account and their needs and protection risks are adequately identified and responded to;

(e) *Recognizes* that individual, careful and prompt registration of children can be useful for States, UNHCR and other relevant agencies and partners in identifying children at heightened risk;

(f) *Recognizes* that the systematic collection and analysis of age- and sex-disaggregated data, and of data on children with specific needs, such as unaccompanied and separated children, can be useful for States, UNHCR and other relevant agencies and partners in identifying children at heightened risk;

Prevention, response and solutions

(g) *Recommends* that States, UNHCR and other relevant agencies and partners work in close collaboration to prevent children from being put at heightened risk, and respond, as necessary, through the general prevention, response and solution measures listed non-exhaustively below:

- (i) Within the framework of the respective child protection systems of States, utilize appropriate procedures for the determination of the child's best interests which facilitate adequate child participation without discrimination: where the views of the child are given due weight in accordance with age and maturity; where decision makers with relevant areas of expertise are involved; and where there is a balancing of all relevant factors in order to assess the best option;
- (ii) In the case of UNHCR, conduct best interests determinations respecting child protection systems of States in cooperation with other relevant agencies and partners;
- (iii) Incorporate needs and rights of children into early warning mechanisms, alerts and contingency plans, and ensure integration of child-based risk analysis into inter-agency assessments relevant to children at risk and development cooperation strategies and plans;

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- (iv) Establish confidential, accessible and child and gender-friendly complaints and referral systems, in coordination with national authorities when necessary, with clear roles for receiving, referring and addressing complaints from or about a child while ensuring the safety of the child, and for managing case files; children should be adequately informed about the availability of complaint and remedial mechanisms;
- (v) Promote the implementation of mechanisms for monitoring the protection of children at risk, particularly of those in alternative care arrangements;
- (vi) Strengthen or promote the establishment of child protection committees, as appropriate, with equal and meaningful participation of girls and boys;
- (vii) Facilitate access to administrative or judicial procedures of States that are in accordance with their international obligations and that allow for the prosecution of perpetrators of crimes committed against children, and in which decisions on whether a child should be separated from her or his abusive or negligent parents or caretakers are made based on a determination of the child's best interests;
- (viii) Develop child and gender-sensitive national asylum procedures, where feasible, and UNHCR status determination procedures with adapted procedures including relevant evidentiary requirements, prioritized processing of unaccompanied and separated child asylum-seekers, qualified free legal or other representation for unaccompanied and separated children, and consider an age and gender-sensitive application of the 1951 Convention through the recognition of child-specific manifestations and forms of persecution, including under-age recruitment, child trafficking and female genital mutilation;
- (ix) Ensure that age assessments are only carried out in cases when a child's age is in doubt, and take into account both the physical appearance and the psychological maturity of the individual; that they are conducted in a scientific, safe, child and gender-sensitive and fair manner with due respect for human dignity; and that they consider the individual as a child in the event of uncertainty;
- (x) Establish and/or implement codes of conduct, including stipulating zero tolerance for child exploitation and abuse for all humanitarian staff, including those working in the delivery of services, and for other staff in authority such as border guards, and ensure that confidential and accessible complaints systems are in place which include child and gender-sensitive investigation and follow-up, so as to encourage the reporting of abuse and exploitation where codes of conduct are breached;
- (xi) Address, on a priority basis, the concerns of children in protracted refugee situations, including through intensifying efforts for durable solutions which will reduce the risks they face;
- (xii) Support the efforts of host countries to enhance education, health care and provision of other basic services in refugee-impacted areas as well as expand national protection capacities for addressing the needs of children in particular; and
- (xiii) Mobilize financial and other necessary resources, as appropriate, including by action to ensure the provision of protection and material assistance and timely durable solutions based on international solidarity, cooperation and burden and responsibility sharing;

(h) *Further recommends* that States, UNHCR and other relevant agencies and partners undertake the following non-exhaustive prevention, response and solution measures in order to address specific wider environmental or individual risks factors:

- (i) Provide, where possible, asylum-seeking and refugee children with individual documentation evidencing their status;
- (ii) Register births and provide children with birth or other appropriate certificates as a means of providing an identity;

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- (iii) Facilitate children's enjoyment of family unity through putting in place procedures to prevent separation, and in respect of unaccompanied and separated children, facilitate tracing and family reunification with their family members in accordance with the respective child's best interests, with due respect for the national legislation of respective States;
- (iv) Promote the provision of alternative care and accommodation arrangements for unaccompanied and separated children, and facilitate the appointment of a guardian or adviser when an unaccompanied or separated child is identified;
- (v) Make all efforts to provide a secure environment including through selecting safe locations for camps and settlements as close to local facilities as possible, undertaking child and gender-sensitive protection-based site planning;
- (vi) Take appropriate measures to prevent the unlawful recruitment or use of children by armed forces or groups, and work towards the unconditional release from armed forces or groups of all children recruited or used unlawfully by armed forces or groups, and their protection and reintegration;
- (vii) Take effective and appropriate measures, including legislative, administrative and judicial, to prevent and eliminate traditional practices that are harmful to children taking into account the physical and mental harm caused to the child, and the different impact on girls and boys;
- (viii) Encourage the inclusion of all children in education programmes and strengthen children's capacities, including by enabling their equal access to quality education for girls and boys in all stages of the displacement cycle and in situations of statelessness; promote learning and school environments that are safe, do not perpetuate violence, and promote a culture of peace and dialogue; designate child-friendly spaces in camp and urban environments; and promote access to post-primary education wherever possible and appropriate, life-skills and vocational trainings for adolescents and support recreational activities, sports, play and cultural activities;
- (ix) Make all efforts to ensure integrated nutrition and health interventions and access to adequate food through measures that address the root causes of food insecurity and malnutrition, including by enhancing families' enjoyment of self-reliance, age and gender-sensitive food distribution systems, targeted nutrition programmes for pregnant women and children during their critical first years of development, and by providing treatment for malnourished children;
- (x) Make all efforts to ensure access to child-friendly health services, which provide appropriate medical and psycho-social care for child survivors of violence, including for children with disabilities, take steps towards realizing access to HIV and AIDS prevention, treatment, care and support, including antiretroviral treatment and prevention of mother to child transmission; and for adolescents access to age-sensitive reproductive healthcare as well as health and HIV information and education;
- (xi) Establish and provide access to appropriate psychological support and training programmes as required to prepare children better for social reintegration;
- (xii) Give high priority to enabling children with disabilities to have access to special assistance and to adequate health and social services, including psychosocial recovery and social reintegration;
- (xiii) Develop capacities and competencies on child protection issues through training of government officials, UNHCR staff and implementing and operational partners to enhance knowledge of the rights of children, the fundamentals of child protection and gender analysis;

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- (xiv) Facilitate the provision of child-friendly information on the conditions in places of return to enable refugee and internally displaced children, in particular those unaccompanied and separated and others at heightened risk, to participate in decision-making on their return; promote respect for protection of children's inheritance rights; and provide, where possible and appropriate, child- and gender-sensitive/adapted reintegration support on integration and participation in the communities to which they are returning, targeting and recognizing the specific needs of the returning child;
 - (xv) In the context of voluntary repatriation of refugees, take appropriate steps to ensure that unaccompanied or separated children are not returned prior to the identification of adequate reception and care arrangements;
 - (xvi) Facilitate the integration of internally displaced children in places of settlement through targeted action in support of their integration as fully included members of the community, including by taking measures to address discrimination faced by internally displaced children;
 - (xvii) Whether in the context of resettlement or local integration, facilitate the integration of refugee children through targeted support in schools, particularly for adolescents, and through providing language classes and education on the culture and social structures in the host country for refugee children; provide support for refugee children at heightened risk that is targeted at addressing their specific needs; and where integration is being implemented, facilitate, as far as possible, the naturalization of refugee children in accordance with national laws and regulations;
 - (xviii) Enhance the use of resettlement as a protection and durable solutions tool for children at risk; where appropriate, take a flexible approach to family unity, including through consideration of concurrent processing of family members in different locations, as well as to the definition of family members in recognition of the preference to protect children within a family environment with both parents; and recognize UNHCR's role in the determination of the best interests of the child which should inform resettlement decisions including in situations where only one parent is being resettled and custody disputes remain unresolved due to the unavailability or inaccessibility of competent authorities, or due to the inability to obtain official documents from the country of origin as this could jeopardize the safety of the refugee or his/her relatives; and
 - (xix) Safeguard the right of every child to acquire a nationality, and ensure the implementation of this right in accordance with national laws and obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless; and consider the active dissemination of information regarding access to naturalization procedures.
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Glossary

Term	Meaning ¹
Abduction	The removal, seizure, apprehension, taking custody, detention or capture of a child (under 18 years) temporarily or permanently by force, threat or deception for involvement in armed forces or armed groups, for participation in hostilities, for sexual exploitation and forced labour. Outside the context of children in armed conflict, individuals may also be abducted for sexual exploitation, child or early marriage, forced marriage, forced adoption, or forced labour. (UN Task Force on Children in Armed Conflict, "Rights of the Child: Report of the UNHCHR on the Abduction of Children in Africa", E/CN.4/2006/65, 8 February 2006, para. 10, for first sentence)
Abuse	The misuse of power through which the perpetrator gains control or advantage of the abused, using and causing physical or psychological harm or inciting fear of that harm. Abuse prevents persons from making free decisions and forces them to behave against their will. [See also <i>Sexual Abuse</i> and <i>Sexual Exploitation</i>] (UNHCR, <i>Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Responses</i>, May 2003)
Accession	The act whereby a State that has not signed a treaty expresses its consent to become a party to that treaty by depositing an "instrument of accession" with the Secretary-General of the United Nations. Accession has the same legal effect as ratification, acceptance or approval. However, unlike ratification, which must be preceded by signature to create binding legal obligations under international law, accession requires only one step, namely, the deposit of an instrument of accession. The Secretary-General, as depositary, has tended to treat instruments of ratification that have not been preceded by signature as instruments of accession, and the States concerned have been advised accordingly.[See also <i>Ratification, Reservation and Treaty</i>] (OHCHR, Glossary of Treaty Body Terminology)
Accountability	The means by which power is used responsibly. In addition to the process of reporting upon, or accounting for, decisions and actions, accountability involves taking account of the needs, concerns, capacities and dispositions of affected parties, and explaining the meaning and implications of, and the reasons for, actions and decisions. Accountability is thus a measure of the quality of the relationship between an agent (a body offering a service or product) and a principal (the person or group for whom the service or product is intended). The more powerful the agent, the greater potential there is for abuse and exploitation of the principals. Accountability is the countervailing force which confronts power and ensures that it is exercised responsibly. Humanitarian Accountability Partnership
Age, Gender and Diversity Mainstreaming	The meaningful participation of persons of concern to UNHCR, of all ages and backgrounds, in the design, implementation, monitoring and evaluation of all UNHCR policies and operations so that these impact equitably amongst them. The overall goals are gender equality and the enjoyment of the rights of all persons of concern of all ages and backgrounds. [See <i>Gender Mainstreaming</i>] (UNHCR, <i>Operational Protection in Camps and Settlements. A Reference Guide of Good Practices in the Protection of Refugees and Other Persons of Concern</i>, June 2006)
Agenda for Protection	A programme of action comprising six specific goals to strengthen international protection of refugees and asylum-seekers and improve implementation of the Convention relating to the Status of Refugees and its Protocol, agreed by UNHCR and State Parties as part of the Global Consultations on International

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¹ Sources on which definitions are based are given in brackets at the end of definitions where relevant.
Glossary

Glossary, Continued

Term	Meaning
Agenda for Protection, contd.	Protection process. The Agenda was endorsed by the Executive Committee and welcomed by the UN General Assembly in 2002. [See also <i>Global Consultations on International Protection</i>] (UNHCR, Report of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, 53rd session, A/57/12/Add.1, 4 October 2002)
Arranged Marriage	A marriage involving the intervention of someone outside the future couple, usually the parents of the future spouses or a broker. This brokerage can occur at the request of either or both future spouses or of the family, or at the parents' instigation. In certain communities and countries, it is customary for the parents to organise the marriage. Unlike with forced marriage, the ultimate choice of accepting the arrangement rests with each of the future spouses. It may, however, be difficult to ascertain how far it is possible for them to choose and to make up their minds in a properly informed manner. [See also <i>Child Marriage</i> and <i>Forced Marriage</i>] (Council of Europe, Parliamentary Assembly, Resolution 1468 (2005), Forced Marriages and Child Marriages)
Asylum	The grant, by a State, of protection on its territory to persons outside their country of nationality or habitual residence who are fleeing persecution or serious harm or for other reasons. Asylum encompasses a variety of elements, including <i>non-refoulement</i> , permission to remain on the territory of the asylum country, humane standards of treatment and eventually a durable solution. [See also <i>Asylum-Seeker</i>]
Asylum-Seeker	An asylum-seeker is an individual who is seeking international protection. In countries with individualized procedures, an asylum-seeker is someone whose claim has not yet been finally decided on by the country in which he or she has submitted it. Not every asylum-seeker will ultimately be recognized as a refugee, but every refugee in such countries is initially an asylum-seeker. [See also <i>Asylum</i>]
Capacity Building	A process by which individuals, institutions and societies develop abilities, individually and collectively, to perform functions, solve problems and set and achieve their goals.
Child	Any human being below the age of 18 years, unless under the law applicable to the child, majority is attained earlier. [See also <i>Child Soldier</i>] (Convention on the Rights of the Child 1989, Article 1)
Child Marriage	The union of two persons at least one of whom is under 18 years of age. [See also <i>Arranged Marriage</i> and <i>Forced Marriage</i>] (Council of Europe, Parliamentary Assembly, Resolution 1468 (2005), Forced Marriages and Child Marriages)
Child Soldier	Any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking or has taken a direct part in hostilities. Child soldiers are also referred to as child combatants or children associated with armed forces or fighting groups. [See also <i>Child</i>] (UNICEF, <i>The Paris Principles: Principles and Guidelines on Children Associated With Armed Forces or Armed Groups</i> , February 2007)

Continued on next page

Glossary, Continued

Term	Meaning
Citizen	See <i>National</i> .
Coercion	The act of compelling a person to do, or to abstain from doing, something by a show of physical force, threats, intimidation, extortion or other forms of duress which prey on fear or desperation. Coercion may be inherent in certain circumstances, such as armed conflict or military presence. (International Criminal Tribunal for Rwanda, <i>Prosecutor v. Akayesu</i> , ICTR-96-4-T, 1998)
Community	A group of people that recognizes itself or is recognized by outsiders as sharing common cultural, religious or other social features, backgrounds and interests, and that forms a collective identity with shared goals. (UNHCR, <i>A Community Based-Approach in UNHCR Operations</i> , provisional edition, 2008)
Confidentiality	The obligation that information pertaining to a person disclosed in a relationship of trust will not be disclosed or otherwise made available to unauthorized persons or entities in ways that are inconsistent with the understanding of the original disclosure or without prior permission.
Consent	Making an informed choice to agree freely and voluntarily to do something. Consent is not given if agreement is obtained through abuse of power, force or threat of force, and other forms of coercion, abduction, fraud, deception or misrepresentation.
Convention	See <i>Treaty</i> .
Convention Grounds	The refugee definition in the Convention relating to the Status of Refugees requires that the fear of persecution be linked to one or more of the following five grounds: race, religion, nationality, membership of a particular social group, or political opinion. (Convention Relating to the Status of Refugees, Article 1A(2))
Convention Refugee	A person who is outside his or her former country of origin owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, who is unable or unwilling to avail himself or herself of the protection of that country, or to return to it for reasons of fear of persecution, and who is not otherwise excluded from the refugee definition. [See also <i>Refugee</i> and <i>Mandate Refugee</i>] (Convention Relating to the Status of Refugees, Article 1)
Customary International Law	International legal norms that derive their authority from the constant and consistent practice of States, rather than from formal expression in a treaty or legal text. In order for State practice to contribute to the formation of customary international law, that practice should be conducted with a sense of legal obligation (<i>opinio juris</i>). Customary international law is binding on all States regardless of whether they have ratified any relevant treaty, save for States which are “persistent objectors”. [See also <i>Treaty</i>] (Statute of the International Court of Justice, Article 38(1)(b); see also UNHCR, <i>Human Rights and Refugee Protection – Self-study Module 5</i> , Vol. 1, 2006)
Cultural Relativism	The belief that no universal cross-cultural norms exist against which human practices can be judged.
Demobilization	The formal and controlled discharge of active combatants from armed forces or other armed groups. The first stage of demobilization may extend from the

Continued on next page

Glossary, Continued

Term	Meaning
Demobilization, contd.	processing of individual combatants in temporary centres to the massing of troops in camps designated for this purpose (cantonment sites, encampments, assembly areas or barracks). The second stage of demobilization, called reinsertion, encompasses a form of transitional assistance to help cover the basic needs of ex-combatants and their families and can include transitional safety allowances, food, clothes, shelter, medical services, short-term education, training, employment and tools. Demobilization is the second phase of a disarmament, demobilization and reintegration (DDR) process. [See also <i>Disarmament and Reintegration</i>] (UN Disarmament, Demobilization and Reintegration Resource Centre)
Derivative Refugee Status	See <i>Family Unity</i> .
Derogation	Under international human rights law, States party to a treaty may derogate from (i.e. temporarily suspend their observance of) certain human right rights, but only in exceptional circumstances and under certain strict conditions. No derogations are permitted from certain core rights, such as the right to life or freedom from torture and from slavery. [See also <i>Non-Derogable Rights</i>] (ICCPR, Article 4; ECOSOC, UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, "Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights", Annex, UN Doc. E/CN.4/1984/4, 1984, Articles 39–51)
Detention	Restriction on freedom of movement, usually through enforced confinement. Article 31 of the Convention relating to the Status of Refugees provides certain safeguards in relation to the restriction of freedom of movement for refugees who enter or reside in the country illegally. ExCom Conclusion No. 44 sets out standards applicable in such situations.
Disarmament	The collection, documentation, control and disposal of small arms, ammunition, explosives and light and heavy weapons of combatants and often also of the civilian population. Disarmament also includes the development of responsible arms management programmes. [See also <i>Demobilization and Reintegration</i>] (UN Disarmament, Demobilization and Reintegration Resource Centre)
Domestic Violence	Violence that occurs within the private sphere, generally between individuals who are related through blood, intimacy or law. Domestic violence is nearly always a gender-specific crime, perpetrated by men against women, and can take various forms, including physical, psychological and sexual violence. It can include economic deprivation and isolation which may cause imminent harm to the safety, health or well-being of the victim. (General Assembly, "Declaration on the Elimination of Domestic Violence against Women", GA/RES/58/147, February 2004)
Durable Solutions	The means by which the situation of persons of concern to UNHCR can be satisfactorily and permanently resolved to enable them to live normal lives. In the refugee context, this generally involves voluntary repatriation, local integration or resettlement. Achieving a durable solution to internal displacement means that displaced persons enjoy the full spectrum of human rights and, as a result, are able to rebuild their lives, whether through return to the place of origin; local settlement in the area where they have taken refuge; or settlement elsewhere the country. [See <i>Resettlement and Voluntary Repatriation</i>] (UNHCR, "Framework for Durable Solutions for Refugees and Persons of Concern", May 2003; Global Protection Cluster Working Group, <i>Handbook for the Protection of Internally Displaced Persons</i> , December 2007)

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Glossary, Continued

Term	Meaning
Early Marriage	<i>See Child Marriage.</i>
Empowerment	A process or phenomenon that allows people to take greater control over the decisions, assets, policies, processes and institutions that affect their lives. The five main principles of empowerment are awareness, participation, mobilization, access and control.
Evaluation	A systematic and objective analysis and assessment of the organization's policies, programmes, practices, partnerships and procedures, focused on planning, design, implementation and impacts. Evaluation is one component of UNHCR's broader performance review framework, which also includes activities such as inspection, audit, programme monitoring, and protection oversight.
Executive Committee of the High Commissioner's Programme (ExCom)	A committee charged with advising the High Commissioner for Refugees on the exercise of her/his functions. As of January 2008, ExCom was composed of representatives of 72 States with a demonstrated interest in refugee issues, and 15 States with observer status. A number of international, inter-governmental, and non-governmental organizations also have observer status on the Executive Committee. (General Assembly, "International Assistance to Refugees within the Mandate of the United Nations High Commissioner for Refugees", GA/RES/1166, November 1957, Article 5)
Executive Committee Conclusions on International Protection	The consensus on international protection issues reached by UNHCR's Executive Committee in the course of its discussions is expressed in the form of Conclusions on International Protection (ExCom Conclusions). Although not formally binding, they are relevant to the interpretation of the international protection regime. ExCom Conclusions constitute expressions of opinion which are broadly representative of the views of the international community. The specialist knowledge of ExCom and the fact that its Conclusions are taken by consensus add further weight.
Family Reunification	The process of bringing together families, particularly children and older dependants, with their family or previous care-provider for the purpose of establishing or re-establishing long-term care. [See <i>Family Unity</i>] (Inter-Agency Guiding Principles on Unaccompanied and Separated Children, January 2004)
Family Unity	The right to family unity and family life is inherent in the universal recognition of the family as the fundamental group unit of society. Respect for the right to family unity requires not only that States refrain from action which would result in family separations, but also that they take measures to maintain the unity of the family and reunite family members who have been separated. In order to uphold family unity in the refugee context, respecting family unity may include granting refugee status to the spouse and dependants of a person who is a refugee so that they are able to enjoy their right to family unity. When spouses and dependants acquire refugee status on this basis, they are said to enjoy "derivative refugee status". [See <i>Family Reunification</i>] (UNHCR, "Summary Conclusions: Family Unity", Global Consultations Expert Roundtable, Geneva, Switzerland, November 2001)
Female Genital Mutilation	A practice involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons. FGM is classified into four types: (i) partial or total removal of the clitoris and/or the

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Glossary, Continued

Term	Meaning
Female Genital Mutilation, contd.	prepuce (clitoridectomy); (ii) partial or total removal of the clitoris and the <i>labia minora</i>, with or without excision of the <i>labia majora</i> (excision); (iii) narrowing of the vaginal orifice with creation of a covering seal by cutting and appositioning the <i>labia minora</i> and/or the <i>labia majora</i>, with or without excision of the clitoris (infibulation); and (iv) all other harmful procedures to the female genitalia for non-medical purposes, for example: pricking, piercing, incising, scraping and cauterization. The term is also called "female genital cutting" and "female genital mutilation/cutting". (2008 Inter-Agency Statement on the Elimination of Female Genital Mutilation)
Five Commitments to Refugee Women	Commitments made by UNHCR in 2001 to (i) encourage the active participation of women in all management and leadership committees of refugees in urban, rural and camp settings, including return areas; (ii) register all refugee men and women individually and provide them with relevant documentation; (iii) develop integrated country-level strategies to address violence against refugee women, including in situations of domestic violence; (iv) ensure refugee women participate directly and indirectly in the management and distribution of food and non-food items; and (v) provide sanitary materials to all women and girls of concern as standard practice in assistance programmes. (UNHCR, <i>Respect Our Rights: Partnership for Equality. Report on the Dialogue with Refugee Women</i>, Geneva, Switzerland 20-22 June 2001, December 2001)
Fistula	Fistula occurs when the wall between the vagina and the bladder or bowel is ruptured during obstructed labour. Severe pain and chronic incontinence ensue. Fistula is found where health infrastructure and childbirth care are poor, and is common in girls subject to early marriage. It can also be caused by rape. The smell of leaking urine or faeces, or both, is constant and humiliating. Often this results in rejection and ostracism by family members and the community. Left untreated, fistula can lead to chronic medical problems, including ulcerations, kidney disease, and nerve damage in the legs. Yet surgery can normally repair the injury. (UNFPA Campaign to End Fistula)
Food Security	Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. (World Food Summit 1996; UN Food and Agriculture Organization)
Forced Marriage	The union of two persons at least one of whom has not given their full and free consent to the marriage. [See also <i>Arranged Marriage</i> and <i>Child Marriage</i>] (Council of Europe, Parliamentary Assembly, "Resolution 1468 (2005), Forced Marriages and Child Marriages")
Gender	The social attributes and opportunities associated with being male and female and the relationships between women and men and girls and boys, as well as the relations between women and those between men. These attributes are socially constructed and are learned through socialization processes. They are context/time-specific and changeable. Gender determines what is expected, allowed and valued in a woman or a man in a given context. In most societies there are differences and inequalities between women and men in responsibilities assigned, activities undertaken, access to and control over resources, as well as decision-making opportunities. Gender is part of the

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Glossary, Continued

Term	Meaning
Gender, contd.	broader socio-cultural context. Other important criteria for socio-cultural analysis include class, race, poverty level, ethnic group and age. (Office of the Special Adviser on Gender Issues and Advancement of Women (OSAGI), UN Department of Economic and Social Affairs)
Gender-Based Violence	Violence that is directed against a person or a group of persons on the basis of their gender or sex. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty whether occurring in public or private life. [See also <i>Sexual and Gender-Based Violence, Violence and Violence Against Women</i>] (General Assembly, "Declaration on the Elimination of Violence against Women", A/RES/48/104, December 1993)
Gender Equality	The equal rights, responsibilities and opportunities of women and men and girls and boys. Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration – recognizing the diversity of different groups of women and men. Gender equality is not a "women's issue" but should concern and fully engage men as well as women. [See <i>Age, Gender and Diversity Mainstreaming, Gender Mainstreaming and Gender Sensitivity</i>] (Office of the Special Adviser on Gender Issues and Advancement of Women (OSAGI), UN Department of Economic and Social Affairs)
Gender Mainstreaming	The process of assessing the implication for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experience an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality. [See <i>Age, Gender and Diversity Mainstreaming, Gender Equality and Gender Sensitivity</i>] (UN ECOSOC, "Agreed Conclusions 1997/2", 18 July 1997)
Gender-Related Persecution	A non-legal term encompassing the range of different claims in which gender is a relevant consideration in the determination of refugee status. Gender-related claims may be brought by either women or men, although due to particular types of persecution, they are more commonly brought by women. Typically, gender-related persecution encompasses, but is not limited to, acts of sexual violence, family/domestic violence, coerced family planning, female genital mutilation and other harmful traditional practices, punishment for transgression of social mores, and discrimination against homosexuals. (UNHCR, "Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees", HCR/GIP/02/01, May 2002)
Gender Sensitivity	The ability to perceive existing gender differences, issues and inequalities and to incorporate these into strategies and actions. [See <i>Age, Gender and Diversity Mainstreaming, Gender Mainstreaming, Gender Equality and Gender Mainstreaming</i>] (PRIME II partnership of leading global healthcare organizations dedicated to improving the quality and accessibility of family planning and reproductive healthcare services globally, <i>Gender Sensitivity Assessment Tool for Family Planning/Reproductive Health Curricula</i> , 2003)

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Glossary, Continued

Term	Meaning
Global Consultations on International Protection	A process launched by UNHCR in 2000 to reinvigorate the refugee protection framework by reaffirming its fundamental components, clarifying disputed notions, and developing further operational approaches to address contemporary challenges. UNHCR, States, international and non-governmental organizations, and refugees were all involved. Outcomes have included the 2001 Ministerial Declaration and the 2002 Agenda for Protection. [See <i>Agenda for Protection</i>]
Global Humanitarian Platform	A forum launched in July 2006 to bring together on an equal footing the three main families of the wider humanitarian community: non-governmental organizations, the Red Cross and Red Crescent Movement, and the United Nations and related international organizations in order to enhance the effectiveness of humanitarian action.
Harmful Traditional Practices	Traditional cultural practices which reflect values and beliefs held by members of a community for periods often spanning generations. Every social grouping in the world has specific traditional cultural practices and beliefs, some of which are beneficial to all members, while others are harmful to a specific group, such as women. These harmful traditional practices include female genital mutilation; forced feeding of women; early marriage; the various taboos or practices which prevent women from controlling their own fertility; nutritional taboos and traditional birth practices; son preference and its implications for the status of the girl child; female infanticide; early pregnancy; and dowry price. Despite their harmful nature and their violation of international human rights laws, such practices persist because they are not questioned and take on an aura of morality in the eyes of those practising them. [See also <i>Female Genital Mutilation</i> (OHCHR, Fact Sheet No. 23, "Harmful Traditional Practices Affecting the Health of Women and Children")]
Human Rights	Agreed international standards that recognize and protect the inherent dignity and the equal and inalienable rights of every individual, without any distinction as to race, colour, sex, language, religion, political or other opinion, national or social origins, property, birth or other status. They may form part of customary international law and/or may be set out in various national, regional and international legal instruments. (UDHR, Preamble and Article 2)
Humanitarian Assistance (Relief)	Aid that seeks to save lives and alleviate suffering of a crisis-affected population. Humanitarian assistance must be provided in accordance with the basic humanitarian principles of humanity, impartiality and neutrality. In addition, the UN seeks to provide humanitarian assistance with full respect for the sovereignty of States. Assistance may be divided into three categories – direct assistance, indirect assistance and infrastructure support – which have diminishing degrees of contact with the affected population. [See also <i>Inter-Agency Standing Committee (IASC)</i> (OCHA, "Glossary of Humanitarian Terms in relation to the Protection of Civilians in Armed Conflict", 2003)]
Inter-Agency Standing Committee (IASC)	The primary mechanism for inter-agency coordination of humanitarian assistance. Under the leadership of the Emergency Relief Coordinator, the IASC develops humanitarian policies, agrees on a clear division of responsibility for the various aspects of humanitarian assistance, identifies and addresses gaps in response, and advocates for effective application of humanitarian principles. [See also <i>Humanitarian Assistance (Relief)</i>]

Glossary, Continued

Term	Meaning
Internal Displacement	Forced or otherwise involuntary movement of persons or groups of persons within national borders, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters. [See also <i>Internally Displaced Persons</i>] (Report of the Representative of the UN Secretary-General, "Guiding Principles on Internal Displacement", E/CN.4/1998/53/Add.2, 1998)
Internally Displaced Persons	Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflicts, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border. [See also <i>Internal Displacement</i>] (Report of the Representative of the UN Secretary-General, "Guiding Principles on Internal Displacement", E/CN.4/1998/53/Add.2, 1998)
Livelihoods	The combination of the resources used and the activities undertaken in order to live. The resources might consist of individual skills and abilities (human capital), land, savings and equipment (natural, financial and physical capital, respectively) and formal support groups or informal networks that assist in the activities being undertaken (social capital). (Department for International Development, "Sustainable Livelihoods Guidance Sheets", 2001)
Local Integration	A durable solution to the problem of refugees that involves their permanent settlement in a country of first asylum, and eventually being granted nationality of that country. Local integration is a complex and gradual process, comprising three distinct but inter-related legal, economic, and social and cultural dimensions. [See <i>Durable Solutions</i>] (UNHCR, "Local Integration", EC/GC/02/6, 2002)
Mandate Refugee	A person who is determined to be a refugee by UNHCR acting under the authority of its Statute and relevant resolutions of the UN General Assembly and Economic and Social Council (ECOSOC). Mandate refugee status is especially significant in States that are not parties to the Convention or its 1967 Protocol. [See also <i>Convention Refugee</i> and <i>Refugee</i>]
Masculinities	Socio-cultural experiences of manhood. The plural derives from the acknowledgement that socio-cultural contexts vary, and that accordingly, there are various ways of being a "man". The predominant concept of "maleness" to which all men are expected to conform is most frequently about heterosexuality and male dominance over women; it is very much about male power and control. Contemporary literature on gender relations generally holds that it is in the interests of men to consider alternative expressions of maleness, i.e., a "re-gendering" that equalizes power between men and women, increases safety for both genders and improves relationships at home, work, play and school. (UNHCR, <i>Gender Training Kit on Refugee Protection and Resource Handbook</i>, 2002)
Mental Health and Psychosocial Support	A composite term to describe any type of local or outside support that aims to protect or promote psychosocial well-being and/or prevent or treat mental disorder. Although the terms "mental health" and "psychosocial support" are closely related and overlap, for many aid workers they reflect different, yet complementary, approaches. Aid agencies outside the health sector tend to speak of supporting psychosocial well-being. Health sector agencies tend to

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Glossary, Continued

Term	Meaning
Mental Health and Psychosocial Support, contd.	speak of mental health, yet historically have also used the terms psychosocial rehabilitation and psychosocial treatment to describe non-biological interventions for people with mental disorders. (IASC, <i>IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings</i>, 2007, p. 1)
Military Recruitment	Compulsory, forced or voluntary recruitment into national or other armed forces or armed group. The conscripting or enlisting of children under the age of fifteen into the national or other armed forces or armed group, or using them to participate actively in hostilities constitutes a war crime under the Rome Statute of the International Criminal Court. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict prohibits direct participation in armed conflict of persons below 18 years and establishes a ban on their compulsory recruitment. [See also <i>Child Soldier</i>] (OCHA, "Glossary of Humanitarian Terms in relation to the Protection of Civilians in Armed Conflict", 2003)
Millennium Development Goals (MDGs)	A set of time-bound and measurable goals and targets for combating poverty, hunger, disease, illiteracy, environmental degradation and discrimination against women adopted at the UN World Summit in 2000. The Summit's Millennium Declaration also outlined a wide range of commitments in human rights, good governance and democracy." (UN, "Implementing the Millennium Declaration Factsheet", October 2002)
Monitoring	An ongoing review and control of the implementation of a project to ensure that inputs, work schedules and agreed activities proceed according to plans and budgetary requirements. (UNHCR, <i>Handbook for Planning and Implementing Development Assistance for Refugees (DAR) Programmes</i>, January 2005)
Multi-Sectoral Approach	A framework for developing and implementing a plan to respond to the causes and consequences of a particular problem by comprehensively involving all sectors who have influence over that problem.
National	A person recognized as having a legal bond with a State as provided for under law. [See also <i>Nationality</i>]
Nationality	The legal bond between a person and a State. Nationality affords the State jurisdiction over the person, and affords the person the protection of the State. Generally, nationality can be established at birth by a person's place of birth (<i>jus soli</i>) and/or bloodline (<i>jus sanguinis</i>), or can be acquired through naturalization. The concept is also in certain national jurisdictions as "citizenship". [See also <i>National</i>] (European Convention on Nationality, Articles 2, 6 and 7)
Non-Derogable Rights	The human rights which cannot be subjected to any limitations or exceptions under any circumstances, particularly the right to life; the freedom from torture or cruel, inhuman or degrading treatment or punishment; the freedom from slavery and servitude; freedom of thought, conscience or religion. [See <i>Derogation</i>] (ICCPR, Article 4; ECOSOC, UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, "Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights", Annex, UN Doc. E/CN.4/1984/4, 1984, Articles 39–51)

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Glossary, Continued

Term	Meaning
Non-Discrimination	An approach that aims to ensure that all persons are equal before the law and are entitled to the equal protection of the law without distinction based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The term anti-discrimination implies a more proactive approach to tackling the causes and impacts of discrimination. (UDHR, Articles 2 and 7)
Non-Governmental Organization (NGO)	An organization that is functionally independent of, and does not represent, a government or State. Use of the term derives from Article 71 of the UN Charter permitting ECOSOC to grant consultative status to international, regional, sub-regional and national NGOs, provided they have recognized standing within their particular field of competence, an established headquarters, a democratically adopted constitution, authority to speak for their members, a representative structure, appropriate mechanisms of accountability to their members, who must exercise effective control over policies and actions, and resources derived primarily from independent contributions. ECOSOC Resolution 1996/31
Non-Refoulement	A core principle of international refugee law that prohibits any measure attributable to the State which could have the effect of returning refugees or asylum-seekers to the frontiers of territories where their life or freedom would be threatened, or where they are at risk of persecution, including interception, rejection at the frontier or indirect <i>refoulement</i> . The principle of <i>non-refoulement</i> is a part of customary international law and is therefore binding on all States, whether or not they are parties to the Convention relating to the Status of Refugees. Exceptionally, the principle of <i>non-refoulement</i> does not apply to a refugee or asylum-seeker whom there are reasonable grounds for regarding as a danger to the security and public safety of the country of asylum. This exception must, however, be interpreted very restrictively, subject to due process safeguards, and as a measure of last resort. In cases of torture, no exceptions are permitted to the prohibition against <i>refoulement</i> . (Convention Relating to the Status of Refugees 1951, Article 33; UNHCR, "Summary Conclusions on <i>Non-Refoulement</i> ", Global Consultations on International Protection, Cambridge Expert Roundtable, Cambridge, UK, July 2001)
Operational Partner	A governmental, inter-governmental and non-governmental organization or UN agency that works with UNHCR to secure protection including assistance for refugees and other persons of concern and to achieve durable solutions for them. (UNHCR, <i>Handbook for Emergencies</i> , February 2007)
Participatory Approach	An approach to development and/or government in which key stakeholders (and especially the proposed beneficiaries) of a policy or intervention are closely involved in the process of identifying problems and priorities and have considerable control over the analysis and the planning, implementation and monitoring of solutions. (UNHCR, <i>Handbook for Planning and Implementing Development Assistance for Refugees (DAR) Programmes</i> , January 2005)
Participatory Assessment	A process of building partnerships with women and men of concern of all ages and backgrounds by promoting meaningful participation through structured dialogue. (UNHCR, <i>UNHCR Tool for Participatory Assessment in Operations</i> , May 2006)

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Glossary, Continued

Term	Meaning
Peacebuilding	Efforts aimed at preventing the outbreak, recurrence or continuation of armed conflict and therefore encompassing a wide range of political, developmental, humanitarian and human rights programmes and mechanisms. These require short and long-term actions tailored to address the particular needs of societies sliding into conflict or emerging from it, and focused on fostering sustainable institutions and processes in areas such as sustainable development, the eradication of poverty and inequalities, transparent and accountable governance, the promotion of democracy, respect for human rights and the rule of law and the promotion of a culture of peace and non-violence. (UN Security Council, "Statement by the President of the Security Council on "Peacebuilding: Towards a Comprehensive Approach", S/PRST/2001/5, February 2001)
Perpetrator	Any person, group, or institution that directly inflicts, supports or condones violence or other abuse against a person or a group of persons. Perpetrators are often in a position of real or perceived power, decision-making and/or authority and can thus exert control over the victims/survivors. [See also <i>Survivor and Victim</i>] (UNHCR, <i>Sexual and Gender-Based Violence Against Refugees, Returnees and Internally Displaced Persons. Guidelines for Prevention and Response</i>, May 2003)
Persecution	The core concept of persecution was deliberately not defined in the Convention Relating to the Status of Refugees, suggesting that the drafters intended it to be interpreted in a sufficiently flexible manner so as to encompass ever-changing forms of persecution. It is understood to comprise human rights abuses or other serious harm, often, but not always, with a systematic or repetitive element. (UNHCR, "Interpreting Article 1 of the 1951 Convention Relating to the Status of Refugees", April 2001, paras. 16–17)
Persons of Concern to UNHCR	A generic term used to describe all persons whose protection and assistance needs are of interest to UNHCR. They include refugees, asylum-seekers, returnees, stateless persons, and, in many situations, internally displaced persons. UNHCR's authority to act on behalf of persons of concern other than refugees is based on General Assembly and ECOSOC resolutions and the 1954 and 1961 statelessness conventions. [See also <i>Internally Displaced Persons, Refugee, Returnee and Stateless Person</i>]
Power	The capacity to make decisions. All relationships are affected by the exercise of power. When power is used to make decisions regarding one's own life, it becomes an affirmation of self-acceptance and self-respect that, in turn, fosters respect and acceptance of others as equals. When used to dominate, power imposes obligations on, restricts, prohibits and makes decisions about the lives of others. (UNHCR, <i>Sexual and Gender-Based Violence Against Refugees, Returnees and Internally Displaced Persons. Guidelines for Prevention and Response</i>, May 2003)
<i>Prima Facie</i> Refugee	A person recognized as a refugee, by a State or UNHCR, on the basis of objective criteria related to the circumstances in his or her country of origin and his or her flight, which justify a presumption that he or she meets the criteria of the applicable refugee definition. A person recognized as a <i>prima facie</i> refugee enjoys the same status as a person who has been granted refugee status individually. (UNHCR, <i>Self-Study Module 2: Refugee Status Determination. Identifying Who is a Refugee</i>, September 2005)

Continued on next page

Glossary, Continued

Term	Meaning
Non-Discrimination	An approach that aims to ensure that all persons are equal before the law and are entitled to the equal protection of the law without distinction based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The term anti-discrimination implies a more proactive approach to tackling the causes and impacts of discrimination. (UDHR, Articles 2 and 7)
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Non-Refoulement	A core principle of international refugee law that prohibits any measure attributable to the State which could have the effect of returning refugees or asylum-seekers to the frontiers of territories where their life or freedom would be threatened, or where they are at risk of persecution, including interception, rejection at the frontier or indirect <i>refoulement</i> . The principle of <i>non-refoulement</i> is a part of customary international law and is therefore binding on all States, whether or not they are parties to the Convention relating to the Status of Refugees. Exceptionally, the principle of <i>non-refoulement</i> does not apply to a refugee or asylum-seeker whom there are reasonable grounds for regarding as a danger to the security and public safety of the country of asylum. This exception must, however, be interpreted very restrictively, subject to due process safeguards, and as a measure of last resort. In cases of torture, no exceptions are permitted to the prohibition against <i>refoulement</i> . (Convention Relating to the Status of Refugees 1951, Article 33; UNHCR, "Summary Conclusions on <i>Non-Refoulement</i> ", Global Consultations on International Protection, Cambridge Expert Roundtable, Cambridge, UK, July 2001)
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Participatory Approach	An approach to development and/or government in which key stakeholders (and especially the proposed beneficiaries) of a policy or intervention are closely involved in the process of identifying problems and priorities and have considerable control over the analysis and the planning, implementation and monitoring of solutions. (UNHCR, <i>Handbook for Planning and Implementing Development Assistance for Refugees (DAR) Programmes</i> , January 2005)
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Continued on next page

Glossary, Continued

Term	Meaning
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Persecution	The core concept of persecution was deliberately not defined in the Convention Relating to the Status of Refugees, suggesting that the drafters intended it to be interpreted in a sufficiently flexible manner so as to encompass ever-changing forms of persecution. It is understood to comprise human rights abuses or other serious harm, often, but not always, with a systematic or repetitive element. (UNHCR, "Interpreting Article 1 of the 1951 Convention Relating to the Status of Refugees", April 2001, paras. 16–17)
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Power	The capacity to make decisions. All relationships are affected by the exercise of power. When power is used to make decisions regarding one's own life, it becomes an affirmation of self-acceptance and self-respect that, in turn, fosters respect and acceptance of others as equals. When used to dominate, power imposes obligations on, restricts, prohibits and makes decisions about the lives of others. (UNHCR, <i>Sexual and Gender-Based Violence Against Refugees, Returnees and Internally Displaced Persons. Guidelines for Prevention and Response</i>, May 2003)
Prima Facie Refugee	A person recognized as a refugee, by a State or UNHCR, on the basis of objective criteria related to the circumstances in his or her country of origin and his or her flight, which justify a presumption that he or she meets the criteria of the applicable refugee definition. A person recognized as a <i>prima facie</i> refugee enjoys the same status as a person who has been granted refugee status individually. (UNHCR, <i>Self-Study Module 2: Refugee Status Determination. Identifying Who is a Refugee</i>, September 2005)

Continued on next page

Glossary, Continued

Term	Meaning
Protection	A concept that encompasses all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of human rights, refugee and international humanitarian law. Protection involves creating an environment conducive to respect for human beings, preventing and/or alleviating the immediate effects of a specific pattern of abuse, and restoring dignified conditions of life through reparation, restitution and rehabilitation. (OCHA, "Glossary of Humanitarian Terms in relation to the Protection of Civilians in Armed Conflict", 2003)
Protocol	See <i>Treaty</i> .
Psychosocial Support	See <i>Mental Health and Psychosocial Support</i> .
4Rs (Repatriation, Reintegration, Rehabilitation and Reconstruction)	An approach promoted by UNHCR as an overarching framework for institutional collaboration during repatriation and return in post-conflict situations. It aims to bring together humanitarian and development actors, create a conducive environment in countries of origin to prevent the recurrence of mass outflows, and facilitate sustainable repatriation and reintegration. [See also <i>Reconstruction, Rehabilitation, Reintegration and Voluntary Repatriation</i>] (UNHCR, <i>Handbook for Repatriation and Reintegration Activities</i> , May 2004)
Rape	The invasion of the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body. The invasion can be committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or against a person incapable of giving genuine consent. (ICC Elements of Crime, Articles 7(1)(g)-1, 8(2)(b)(xxii)-1 and 8(2)(e)(vi)-1)
Ratification	The act undertaken on the international plane, whereby a State establishes its consent to be bound by a treaty. Most multilateral treaties expressly provide for States to express their consent to be bound by signature subject to ratification, acceptance or approval. Providing for signature subject to ratification allows States time to seek approval for the treaty at the domestic level and to enact any legislation necessary to implement the treaty domestically, prior to undertaking the legal obligations under the treaty at the international level. Upon ratification, the State becomes legally bound under the treaty. [See also <i>Accession, Reservation and Treaty</i>] (OHCHR, <i>Glossary of Treaty Body Terminology</i>)
Reconciliation	An element of conflict resolution and peacebuilding involving the promotion of confidence building and co-existence. The process of achieving reconciliation generally involves five interwoven and related strands: (i) developing a shared vision of an interdependent and fair society; (ii) acknowledging and dealing with the past; (iii) building positive relationships; (iv) significant cultural and attitudinal change; and (v) substantial social, economic and political change. It can be a challenging and long-term process for communities deeply divided along political or ethnic lines. While reconciliation must grow between and within communities, it can benefit from international support, especially when people and/or political leaders are unable or unwilling to initiate it. (UNHCR, <i>Handbook for Repatriation and Reintegration Activities</i> , May 2004)

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Glossary, Continued

Term	Meaning
Reconstruction	Developmental interventions which not only seek to build or repair damage or return to the status <i>quo ante</i> , but also address medium and long-term needs and improvements in policies, programmes, systems and capacities to avert the recurrence of crisis and to reach higher levels of employment and standards of living. [See also <i>4Rs</i>] (ILO, <i>Generic Crisis Response Modules</i> , 2001)
Refoulement	See <i>Non-Refoulement</i> .
Refugee	A person who meets the eligibility criteria under the applicable refugee definition, as provided for in international or regional refugee instruments, under UNHCR's mandate, and/or in national legislation. [See also <i>Convention Refugee</i> and <i>Mandate Refugee</i>]
Refugee Status Determination	The legal and/or administrative process undertaken by States and/or UNHCR to determine whether a person should be recognized as a refugee in accordance with national and international law.
Registration	The process of recording, verifying, and updating of information on persons of concern to UNHCR with the aim of protecting and documenting them and of implementing durable solutions. (UNHCR, <i>UNHCR Handbook for Registration</i> , September 2003)
Rehabilitation	Actions which enable the affected population to resume more or less "normal" patterns of life. These actions constitute a transitional phase and can occur simultaneously with relief activities, as well as further recovery and reconstruction activities. [See also <i>4Rs</i>] (ILO, <i>Generic Crisis Response Modules</i> , 2001)
Reintegration	A process which enables returnees to regain the physical, social, legal and material security needed to maintain life, livelihood and dignity and which eventually leads to the disappearance of any observable distinctions vis-à-vis their compatriots. Reintegration is also a process by which ex-combatants acquire civilian status and gain sustainable employment and income as the final phase of a disarmament, demobilization and reintegration (DDR) process. [See also <i>4Rs</i>]
Repatriation	See <i>Voluntary Repatriation</i> .
Reproductive Health	Reproductive health is a state of complete physical, mental, and social well-being, and not merely the absence of disease and infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life, the capacity to reproduce, and the freedom to decide if, when, and how often to do so.
Reservation	A unilateral statement made by a State when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State. A State may formulate a reservation unless the reservation is prohibited by the treaty or the treaty provides that only specified reservations, which do not include the reservation in question, may be made. Furthermore, reservations cannot be contrary to the object and purpose of the treaty." [See also <i>Accession, Ratification and Treaty</i>] (Vienna Convention on the Law of Treaties 1969, Articles 2(1)(d) and 19)

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Glossary, Continued

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Protection	A concept that encompasses all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of human rights, refugee and international humanitarian law. Protection involves creating an environment conducive to respect for human beings, preventing and/or alleviating the immediate effects of a specific pattern of abuse, and restoring dignified conditions of life through reparation, restitution and rehabilitation. (OCHA, "Glossary of Humanitarian Terms in relation to the Protection of Civilians in Armed Conflict", 2003)
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Rape	The invasion of the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body. The invasion can be committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or against a person incapable of giving genuine consent. (ICC Elements of Crime, Articles 7(1)(g)-1, 8(2)(b)(xxii)-1 and 8(2)(e)(vi)-1)
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Glossary, Continued

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Reconstruction	Developmental interventions which not only seek to build or repair damage or return to the status <i>quo ante</i> , but also address medium and long-term needs and improvements in policies, programmes, systems and capacities to avert the recurrence of crisis and to reach higher levels of employment and standards of living. [See also <i>4Rs</i>] (ILO, <i>Generic Crisis Response Modules</i> , 2001)
Refoulement	See <i>Non-Refoulement</i> .
Refugee	A person who meets the eligibility criteria under the applicable refugee definition, as provided for in international or regional refugee instruments, under UNHCR's mandate, and/or in national legislation. [See also <i>Convention Refugee</i> and <i>Mandate Refugee</i>]
Refugee Status Determination	The legal and/or administrative process undertaken by States and/or UNHCR to determine whether a person should be recognized as a refugee in accordance with national and international law.
Registration	The process of recording, verifying, and updating of information on persons of concern to UNHCR with the aim of protecting and documenting them and of implementing durable solutions. (UNHCR, <i>UNHCR Handbook for Registration</i> , September 2003)
Rehabilitation	Actions which enable the affected population to resume more or less "normal" patterns of life. These actions constitute a transitional phase and can occur simultaneously with relief activities, as well as further recovery and reconstruction activities. [See also <i>4Rs</i>] (ILO, <i>Generic Crisis Response Modules</i> , 2001)
Reintegration	A process which enables returnees to regain the physical, social, legal and material security needed to maintain life, livelihood and dignity and which eventually leads to the disappearance of any observable distinctions vis-à-vis their compatriots. Reintegration is also a process by which ex-combatants acquire civilian status and gain sustainable employment and income as the final phase of a disarmament, demobilization and reintegration (DDR) process. [See also <i>4Rs</i>]
Repatriation	See <i>Voluntary Repatriation</i> .
Reproductive Health	Reproductive health is a state of complete physical, mental, and social well-being, and not merely the absence of disease and infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life, the capacity to reproduce, and the freedom to decide if, when, and how often to do so.
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Glossary, Continued

Term	Meaning
Resettlement	The selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed to admit them – as refugees - with permanent residence status. The status provided should ensure protection against <i>refoulement</i> and provide a resettled refugee and his/her family or dependants with access to civil, political, economic, social and cultural rights similar to those enjoyed by nationals. It should also carry with it the opportunity to eventually become a naturalized citizen of the resettlement country. As such, resettlement is a mechanism for refugee protection, a durable solution, and an element of burden and responsibility-sharing. [See also <i>Durable Solution</i>] (UNHCR, <i>Resettlement Handbook</i>, revised edition, March 2007)
Rights-Based Approach	A conceptual framework that integrates the norms, standards and principles of the international human rights system into the policies, programmes and processes of development and humanitarian actors. It focuses on both outcomes and processes and is founded on the principles of participation and empowering individuals and communities to promote change and respect for rights.
Self-Reliance	The social and economic ability of an individual, a household or a community to meet essential needs (including food, water, shelter, personal safety, health and education) in a sustainable manner and with dignity – developing and strengthening livelihoods of people of concern, and reducing their vulnerability and long-term reliance on humanitarian assistance. (UNHCR, <i>Handbook on Self-Reliance</i>, August 2005)
Separated Child	A child separated from both parents, or from his or her previous legal or customary primary care-giver, but not necessarily from other relatives. This may, therefore, include a child accompanied by other adult family members. (<i>Inter-Agency Guiding Principles on Unaccompanied and Separated Children</i>, January 2004)
Sex	The biological characteristics which define humans as female or male. These sets of biological characteristics are not mutually exclusive as there are individuals who possess both, but these characteristics tend to differentiate humans as males and females. In general use in many languages, the term sex is often used to mean "sexual activity", but for technical purposes in the context of sexuality and sexual health discussions, the above definition is preferred. (WHO, Draft working definition, October 2002)
Sexual Abuse	Any actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. [See also <i>Abuse</i> and <i>Sexual Exploitation</i>] (Secretary-General, "Bulletin Special Measures for Protection from Sexual Exploitation and Sexual Abuse", October 2003)
Sexual and Gender-Based Violence	Any act of violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to persons on the basis of their sex or gender, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. It encompasses, but it is not limited to: (i) physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence

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Glossary, Continued

Term	Meaning
Sexual and Gender-Based Violence, contd.	related to exploitation; (ii) physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution; (iii) physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs. [See also <i>Gender-Based Violence</i>, <i>Violence</i> and <i>Violence Against Women</i>] (UNHCR, <i>Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Responses</i>, May 2003)
Sexual Exploitation	Any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. [See also <i>Sexual Abuse</i>] (Secretary-General, "Bulletin Special Measures for Protection from Sexual Exploitation and Sexual Abuse", October 2003)
Smuggling of Persons	The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into (the territory of) a State of which the person is not a national or a permanent resident. (Protocol Against the Smuggling of Migrants by Land, Sea or Air, Supplementing the UN Convention Against Transnational Organized Crime, Article 3)
Stateless Person	A person who is not considered as a national by any State under the operation of its law. [See also <i>Statelessness</i>] (Convention Relating to the Status of Stateless Persons 1954, Article 1)
Survivor	Any person who has suffered acts of violence, including sexual and gender-based violence and who self-identifies with having lived through this violence. This term is used to highlight the strength and resilience of victims of violence and to acknowledge that the term victim may imply powerlessness and stigmatization. [See also <i>Survivor</i> and <i>Victim</i>]
Trafficking in Persons	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, of fraud, of deception, of the 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 purpose of exploitation. Such exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. (Protocol to Prevent, Suppress, and Punish Trafficking In Persons, Especially Women and Children, Article 3)
Transitional Justice	The full range of processes and mechanisms associated with a society's attempts to come to terms with the legacy of large-scale past abuses in order to ensure accountability, serve justice, and achieve reconciliation. These may include judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof. ("Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-conflict Societies", S/2004/616, August 2004, para. 8; "Study by the Office of the United Nations High Commissioner for Human Rights on Human Rights and Transitional Justice Activities Undertaken by the Human Rights Components on the United Nations System", E/CN.4/2006/93, February 2006, para. 5)

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Glossary, Continued

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Rights-Based Approach	A conceptual framework that integrates the norms, standards and principles of the international human rights system into the policies, programmes and processes of development and humanitarian actors. It focuses on both outcomes and processes and is founded on the principles of participation and empowering individuals and communities to promote change and respect for rights.
Self-Reliance	The social and economic ability of an individual, a household or a community to meet essential needs (including food, water, shelter, personal safety, health and education) in a sustainable manner and with dignity – developing and strengthening livelihoods of people of concern, and reducing their vulnerability and long-term reliance on humanitarian assistance. (UNHCR, <i>Handbook on Self-Reliance</i>, August 2005)
Separated Child	A child separated from both parents, or from his or her previous legal or customary primary care-giver, but not necessarily from other relatives. This may, therefore, include a child accompanied by other adult family members. (<i>Inter-Agency Guiding Principles on Unaccompanied and Separated Children</i>, January 2004)
Sex	The biological characteristics which define humans as female or male. These sets of biological characteristics are not mutually exclusive as there are individuals who possess both, but these characteristics tend to differentiate humans as males and females. In general use in many languages, the term sex is often used to mean "sexual activity", but for technical purposes in the context of sexuality and sexual health discussions, the above definition is preferred. (WHO, Draft working definition, October 2002)
Sexual Abuse	Any actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. [See also <i>Abuse</i> and <i>Sexual Exploitation</i>] (Secretary-General, "Bulletin Special Measures for Protection from Sexual Exploitation and Sexual Abuse", October 2003)
Sexual and Gender-Based Violence	Any act of violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to persons on the basis of their sex or gender, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. It encompasses, but it is not limited to: (i) physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence

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Glossary, Continued

Term	Meaning
Sexual and Gender-Based Violence, contd.	related to exploitation; (ii) physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution; (iii) physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs. [See also <i>Gender-Based Violence</i>, <i>Violence</i> and <i>Violence Against Women</i>] (UNHCR, <i>Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Responses</i>, May 2003)
Sexual Exploitation	Any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. [See also <i>Sexual Abuse</i>] (Secretary-General, "Bulletin Special Measures for Protection from Sexual Exploitation and Sexual Abuse", October 2003)
Smuggling of Persons	The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into (the territory of) a State of which the person is not a national or a permanent resident. (Protocol Against the Smuggling of Migrants by Land, Sea or Air, Supplementing the UN Convention Against Transnational Organized Crime, Article 3)
Stateless Person	A person who is not considered as a national by any State under the operation of its law. [See also <i>Statelessness</i>] (Convention Relating to the Status of Stateless Persons 1954, Article 1)
Survivor	Any person who has suffered acts of violence, including sexual and gender-based violence and who self-identifies with having lived through this violence. This term is used to highlight the strength and resilience of victims of violence and to acknowledge that the term victim may imply powerlessness and stigmatization. [See also <i>Survivor</i> and <i>Victim</i>]
Trafficking in Persons	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, of fraud, of deception, of the 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 purpose of exploitation. Such exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. (Protocol to Prevent, Suppress, and Punish Trafficking In Persons, Especially Women and Children, Article 3)
Transitional Justice	The full range of processes and mechanisms associated with a society's attempts to come to terms with the legacy of large-scale past abuses in order to ensure accountability, serve justice, and achieve reconciliation. These may include judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof. ("Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-conflict Societies", S/2004/616, August 2004, para. 8; "Study by the Office of the United Nations High Commissioner for Human Rights on Human Rights and Transitional Justice Activities Undertaken by the Human Rights Components on the United Nations System", E/CN.4/2006/93, February 2006, para. 5)

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Glossary, Continued

Term	Meaning
Treaty	A binding international agreement concluded between States or international organizations with treaty-making power and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation. Accordingly, conventions, agreements, protocols, and exchange of letters or notes may all constitute treaties. The fact that such agreement is not in written form does not affect its legal force. [See also <i>Accession</i>, <i>Customary International Law</i> and <i>Ratification</i>] (Vienna Convention on the Law of Treaties 1969, Articles 2(1)(a), 3 and 26; Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations 1986, Articles 2(1)(a), 3 and 26)
Unaccompanied Child	A child who has been separated from both parents and other relatives and is not being cared for by an adult who, by law or custom, is responsible for doing so. (<i>Inter-Agency Guiding Principles on Unaccompanied and Separated Children</i>, January 2004)
United Nations Commission on the Status of Women (CSW)	Commission consisting of 45 members, with the broad mandate of promoting gender equality and the advancement of women. The UN Division for the Advancement of Women functions as its secretariat. It meets annually for two weeks, and works on reports, studies, and recommendations on a diverse range of women's human rights issues. A special Communications Working Group of the Commission also reviews, in confidence, accusations relating to violation of women's rights.
United Nations Country Team	The ensemble of agencies of the UN System in a given country. The objective of inter-agency cooperation in general, and of UNHCR's participation in the UN Country Team in particular, is to ensure that a coherent approach is taken by UN bodies in their collective response to humanitarian, developmental, and other strategies relevant to the country in which they are operating.
Victim	A person who, individually or collectively, has suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitutes violations of international human rights law or international humanitarian law. [See also <i>Perpetrator</i> and <i>Survivor</i>] (General Assembly, "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law", GA/RES/60/147, 2005; "Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power", GA/RES/40/34, 1985)
Violence	An act that intentionally threatens, attempts, or actually inflicts harm on another person or group of others. It is a means of control and oppression including emotional, social or economic force, coercion or pressure, as well as physical harm. It can be overt, in the form of a physical assault or threatening someone with a weapon; it can also be covert, in the form of intimidation, threats, persecution, deception or other forms of psychological or social pressure. [See also <i>Gender-Based Violence</i>, <i>Sexual and Gender-Based Violence</i> and <i>Violence Against Women</i>]

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Glossary, Continued

Term	Meaning
Violence against Women	Any act of gender-based violence that results in, or it is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. It encompasses, but it is not limited to: (i) physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; (ii) physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution; (iii) physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs. [See also <i>Gender-Based Violence, Sexual and Gender-Based Violence</i> and <i>Violence</i>] (General Assembly, Declaration on the Elimination of Violence against Women, GA/RES/48/104, 1993, Articles 1 and 2)
Voluntary Repatriation	The free and voluntary return of refugees to their country of origin in safety and dignity. Voluntary repatriation may be organized, (i.e. when it takes place under the auspices of the concerned States and UNHCR), or spontaneous (i.e. when refugees return by their own means with UNHCR and States having little or no direct involvement in the process of return). [See also <i>Durable Solutions</i>] (UNHCR, <i>Handbook for Repatriation and Reintegration Activities</i>, May 2004)
Women at Risk	A concept previously primarily seen in UNHCR practice as a resettlement criterion to be used to protect individual refugee women and girls. It is now recognized as a concept with potential as a protection tool in a wider range of situations where forced displacement exposes women and girls to a range of factors which may put them at risk of violations of their rights. These risk factors may be present in the wider protection environment or be a result of individual circumstances. (UNHCR, Conclusion No. 105 (LVI), 2006, Women and Girls at Risk)

