



**UNHCR**  
United Nations High Commissioner for Refugees  
Haut Commissariat des Nations Unies pour les réfugiés

# UNHCR Handbook for the Protection of Women and Girls

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## Acronyms and Abbreviations

1951 Refugee Convention	Convention Relating to the Status of Refugees
AGDM	Age, gender and diversity mainstreaming
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
CRC	Convention on the Rights of the Child
CRS	Convention on the Reduction of Statelessness
CSSP	Convention Related to the Status of Stateless Persons
DEDAW	Declaration on the Elimination of All Forms of Discrimination Against Women
DEVAW	Declaration on the Elimination of Violence Against Women
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
ICRC	International Committee of the Red Cross
ICVA	International Council of Voluntary Agencies
IDPs	Internally displaced persons
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
IPCD	International Conference on Population and Development
IRC	International Rescue Committee
MDGs	Millennium Development Goals
MFTs	Multi-functional teams
MISP	Minimum initial service package
NGO	Non-governmental organization
OHCHR	United Nations High Commissioner for Human Rights
RSD	Refugee status determination
SCFUK	Save the Children UK
SCHR	Steering Committee for Humanitarian Response
SGBV	Sexual and gender-based violence
UN	United Nations
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 Coordination of Humanitarian Affairs
WFP	World Food Programme
WHO	World Health Organization





# Introduction and Overview

## 1.1 Introduction

Conflict, war, persecution, and displacement are devastating for individuals, families, communities, and countries. People are torn apart from their loved ones and often lose their livelihoods, their land, and 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 after the conflict has ended, they usually face still more obstacles to resuming a normal life.

As this Handbook illustrates, in every country and community in which UNHCR works, women and girls<sup>1</sup> are less likely than men and boys to have access to even the most fundamental of their rights, such as food, health care, shelter or documentation. Girls are less likely than boys to attend school; instead, they spend their time burdened with domestic chores.

Violence against women and girls is endemic not only in conflict, but during its aftermath, as women and girls try to re-establish their daily lives. Such human rights violations are not only a result of displacement: they are directly related to the violence women and girls endure during times of peace.<sup>2</sup> In most societies, women do not enjoy equal status with men. Armed conflict often serves to exacerbate discrimination and violence against women.<sup>3</sup> 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 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.<sup>4</sup>

For these reasons, the protection of women and girls is both a core activity and an organizational priority for UNHCR. While most recently elaborated in UNHCR's Agenda for Protection,<sup>5</sup> the need to devote attention and resources to help ensure the protection of women has been recognized by UNHCR since 1985.<sup>6</sup> UNHCR's Guidelines on the Protection of Refugee Women, issued in 1991, have been an important tool in raising awareness among UNHCR staff and partners about the particular protection problems faced by refugee women, and the possible ways of resolving those problems. Innovative for their time, the Guidelines recognized how assistance affected the protection of women, and emphasized the importance of women participating in decision-making and planning processes.

However, the dynamics of displacement have changed radically in the 15 years since those Guidelines were issued. While these changes have affected everyone fleeing violence and persecution, they have particularly affected women and girls, raising additional protection concerns. At the same time new standards, mechanisms, and approaches have been developed at the international level aimed at promoting gender equality and eliminating 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.

<sup>1</sup> This Handbook refers to the protection of women and girls with the understanding that we are referring to all women and girls of concern to UNHCR, namely asylum-seeking, refugee, internally displaced, returnee, and stateless women and girls, as well as women and girls who have integrated into new communities.

<sup>2</sup> 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.

<sup>3</sup> *Women, Peace and Security*, Study Submitted by the Secretary-General pursuant to Security Council Resolution 1325 (2000), 2002, available at <http://www.un.org/womenwatch/daw/public/eWPS.pdf>, para. 6.

<sup>4</sup> *Women, Peace and Security*, Study Submitted by the Secretary-General pursuant to Security Council Resolution 1325 (2000), 2002, para. 338.

<sup>5</sup> See Agenda for Protection, Goal 6, "Meeting the Protection Needs of Refugee Women and Children."

<sup>6</sup> ExCom Conclusion No. 39 (XXXVI), 1985.

## 1.2 Objectives and purpose of the Handbook and accountability for its implementation

This new Handbook aims to help staff to carry out their responsibilities to protect women and girls more effectively. Specifically, the objectives of the Handbook are to:

- improve the understanding among UNHCR staff and partners about the challenges and barriers women and girls confront in accessing and enjoying their rights during displacement, return, and integration.
- ensure that all UNHCR staff are familiar with the international legal standards that form the normative framework for our work to protect women and girls.
- ensure that all UNHCR staff understand their responsibilities in protecting women and girls during displacement, return or integration.
- provide guidance on ways of working and types of activities that might be carried out to fulfill our responsibilities.
- enable staff to access and use additional resources, guidelines, and tools that may be used to enhance the protection of women and girls.

The Handbook is primarily for use by UNHCR staff, as it focuses on UNHCR's particular responsibilities for the protection of women and girls of concern as part of its mandate for international protection and as a United Nations (UN) agency. However, protection partners will also find it a useful source of information and guidance.

All staff are expected to read the Handbook, understand their responsibilities for protecting women and girls, and act accordingly. The Handbook can be used in situations of asylum, internal displacement, return, and integration, and is equally applicable in both urban and rural contexts.

### 1.2.1 What you will find in the Handbook

The Handbook sets out the principles and approaches that guide our work to protect women and girls and shows how different activities and tools might be used in this respect. It provides examples of innovative practices from the field to illustrate how these principles, approaches, and tools can be applied. Additional reference materials are included in Annex II of the Handbook. These should be used as a complement to the Handbook as they provide more detailed guidance in relation to particular issues.

Following this introductory **Chapter**, **Chapter 2** provides an overview of UNHCR's responsibilities to protect women and girls and the international legal standards which guide our work. It also emphasizes the importance of adopting a rights- and community-based approach, of mainstreaming age, gender, and diversity, and of protection partnerships. **Chapter 3** shows how a number of different concepts can be used in combination to establish a more effective system to protect women and girls.

**Chapter 4**, the longest Chapter, discusses the range of rights to which women and girls are entitled but are frequently denied. The aim of this Chapter is to provide more in-depth guidance in relation to particular rights. Each section describes the challenges confronting women and girls in exercising these rights, the applicable international legal standards, and a set of recommended actions intended to enhance women's and girls' enjoyment of these rights.

**Chapter 5** highlights some of the most important instruments and provisions in the international legal framework that aim to promote and protect the rights of women and girls and to eliminate violence against women.

The Chapters should be read in conjunction with the **Annexes**. **Annex 1** lists the specific international legal principles of relevance to the activities and rights referred to in Chapters 2, 3 and 4. **Annex 2** lists

essential reference materials and **Annex 3** contains relevant UNHCR standards and indicators.<sup>7</sup> In addition to the Annexes, there is also a Glossary that defines some of the key terms used.

## 1.3 Displacement today and its impact on women and girls

### 1.3.1 Displacement

*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, age 17, Sierra Leonean internally displaced girl<sup>8</sup>

During the past 15 years, the number of internal armed conflicts has increased dramatically and civilians have become the targets of the warring parties. No one is spared from the violence, but women and girls are particularly affected because of their status in society and their sex. Sexual and gender-based violence – 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. Women and girls, like men and boys, also risk abduction and forced recruitment by armed groups. The number of child-headed households increases during conflict, and female adolescent heads-of-households are particularly at risk of lack of protection and marginalization.<sup>9</sup>

### 1.3.2 Accessing territory and asylum procedures

*Three hours before the accident, the engine began to slow down. It was at this time that we sighted dolphins following the boat. The little children were screaming with happiness because they thought the dolphins meant we were close to Australia and that they would see their fathers soon. Now I have been told by the Indonesians that those dolphins probably saved us all from being eaten by sharks when the boat sank, so they were saviours for some of us after all.*

*When the water rushed in, first we threw all weight off the boat and then those who could swim jumped off. I lost consciousness as the boat was sinking, and when I woke up I was trapped under the hull of the boat with children drowning all around me. I could not swim but managed to float up and then later found a floating cadaver to hold onto. I saw my son also floating in the water and kissed him goodbye. He pulled a lifejacket from a dead man and gave it to me, just before the waves separated us.*

Amal, Survivor of SIEV X, a boat carrying asylum-seekers from Indonesia to Christmas Island, Australia, which sunk en route, resulting in the death of 146 children, 142 women, and 65 men<sup>10</sup>

<sup>7</sup> These are from the *Practical Guide to the Systematic Use of Standards and Indicators in UNHCR's Operations*, UNHCR, February 2006.

<sup>8</sup> 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.

<sup>9</sup> *Women, Peace and Security*, Study Submitted by the Secretary-General pursuant to Security Council Resolution 1325 (2000), 2002, para. 87.

<sup>10</sup> Human Rights Watch, "By Invitation Only: Australian Asylum Policy," 2002, p. 31. An Indonesian fisherman rescued Amal, who persuaded him to return to look for her son, who was found alive.

Finding protection in another country has become increasingly difficult. The number of refugees has almost halved in the past 15 years, from approximately 17.3 million in 1990 to 8.4 million in 2005.<sup>11</sup> As States restrict access to their territory, women and adolescent girls in search of protection are at greater risk of being trafficked into forced prostitution and other forms of forced labour. More restrictive asylum procedures have also reduced the ability of women and girls to make asylum claims, although there have also been some advances. For instance, a growing number of States recognize that a determination in favour of refugee status can be given following gender-related persecution.

### 1.3.3 Asylum

*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 in New Delhi, India, on the identification and protection of women at risk, September 2005

Female asylum-seekers and refugees 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, women risk sexual exploitation by landlords. Some refugee women and girls are virtually imprisoned indoors, fearing arrest and deportation, or their husband's wrath, if they leave their homes. Urban asylum-seeking and refugee women and girls employed as domestic workers often face violence and exploitation at the hands of their employers.

*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 woman in Tanzania<sup>12</sup>

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<sup>13</sup> in 38 countries in the world, mostly in Africa.<sup>14</sup> Increasingly lengthy stays in camps, which are often located in insecure areas and may be subject to cross-border attacks, declining international attention and resources, lack of privacy and livelihood opportunities, and restricted access to fundamental rights lead to a host of protection risks for women and girls. Sexual and gender-based violence, including domestic violence, increases in such circumstances. Lack of, or biases in, judicial systems and/or the application of traditional justice mechanisms leave women and girls 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, prostitution becomes the only means of supporting themselves and their families.

<sup>11</sup> While this drop in refugee numbers is due to a variety of factors, including large numbers of refugees returning in recent years, the application of restrictive asylum policies and procedures has also contributed to this trend.

<sup>12</sup> Human Rights Watch, "Seeking Protection: Addressing Sexual and Domestic Violence in Tanzania's Refugee Camps," 2000, p. 49.

<sup>13</sup> "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.

<sup>14</sup> UNHCR, "Protracted Refugee Situations," EC/54/SC/CRP.14, Standing Committee, 10 June 2004.

### 1.3.4 Return

*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 Kosovo<sup>15</sup>

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 the post-conflict period, where chaos adds to the many frustrations that were not resolved by war.<sup>16</sup> Frequently excluded from peace processes, women and girls suffer continued violence and discrimination in reconstruction and rehabilitation activities.<sup>17</sup> National priorities often do not address women's concerns, particularly when countries are just emerging from conflict. Mechanisms to identify and respond to those concerns may not be in place or may lack sufficient expertise. Once home, women and girls may face obstacles in accessing their land or property, education, and other essential services that may, in turn, undermine the sustainability of their return.

## 1.4 Initiatives within the UN system and UNHCR to enhance the protection of 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

Over the past 15 years, the international community has made concerted efforts to promote and protect the rights of women and girls. Of critical importance has been the recognition that women's rights are human rights, and that States and other actors, including UN agencies such as UNHCR, have clear responsibilities to ensure that these are respected. In addition, there has been universal and global recognition that violence against women and girls, whether in war or in peace, at the hands of family members, the community or the State, is a human rights violation that should incur individual criminal responsibility.

During this time, UNHCR has also acted to promote and protect the rights of women and girls. Our work has focused on **promoting gender equality**, through **age, gender, and diversity mainstreaming**, and taking **targeted action to empower women**. This approach is elaborated in the

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

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

<sup>17</sup> 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.

Agenda for Protection,<sup>18</sup> and has been endorsed by UNHCR's Executive Committee.<sup>19</sup> It has also been complemented by efforts to **prevent and respond to sexual and gender-based violence**.

## 1.4.1 Promoting gender equality: Integral to ensuring protection

Gender equality is first and foremost a human right<sup>20</sup> and the promotion of gender equality is an integral part of ensuring protection. Gender equality refers to the equal rights, responsibilities, treatment, and valuation of women and men, and boys and girls. Women and girls generally have fewer opportunities, fewer resources, lower status, and less power and influence than men and boys. Attaining gender equality therefore requires "recognition that current social, economic, cultural, and political systems are gendered, that women's unequal status is systemic, and that this pattern is further affected by race, ethnicity, and disability."<sup>21</sup>

### 1.4.1.1 Empowerment of women and girls

Empowerment allows all individuals to take control over their lives by gaining skills, setting their own agendas, and building self-confidence and self-reliance. Since it is predominantly women and girls who suffer inequality, empowering them helps them to become more aware of the unequal power relations all around them, and to improve their skills, capacities, resources, opportunities, and decision-making powers so that they can attain a level of control over their own environment and livelihood.

UNHCR has implemented activities and programmes aimed at empowering refugee and returnee women for many years. These have ranged from actions to encourage the participation of women in all refugee committees<sup>22</sup> to efforts to support the participation of refugee women as negotiators in peace processes and projects. The empowerment of women and girls is discussed in more detail in Chapter 3, section 3.2.

### 1.4.1.2 Mainstreaming age, gender, and diversity

Experience has shown that, in some cases, empowerment initiatives have little impact other than on the women directly involved, and that it is necessary to strengthen the public voice of women and increase their participation and influence in societal decision-making. Moreover, while empowerment activities may enhance women's economic power, this may not necessarily lead to a shift in power relations between women and men or to changes in traditional roles inside the home.

For these reasons, the UN system has adopted a policy of gender mainstreaming. Gender mainstreaming complements women's empowerment as it recognizes that gender equality is not simply a women's issue. By focusing also on men and boys, as well as institutions, policies, and programmes, it holds great potential for societal change. It also clearly recognizes that gender equality can only be achieved through partnership between women and men.

Gender mainstreaming or mainstreaming a gender perspective is defined by ECOSOC 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

<sup>18</sup> See Goal 6, "Meeting the protection needs of refugee women and children."

<sup>19</sup> See ExCom Conclusions Nos. 92 (LIII) of 2002 and 99 (LV) of 2004.

<sup>20</sup> See 1979 Convention on the Elimination of all Forms of Discrimination against Women, Article 3.

<sup>21</sup> Gender Equality at the Canadian International Development Agency (CIDA), [www.acdi-cida.gc.ca/equality](http://www.acdi-cida.gc.ca/equality).

<sup>22</sup> UNHCR's Five Commitments to Refugee Women include encouraging the participation of women in all refugee committees in urban, rural, and camp settings and in return areas. The final aim is to ensure that 50 per cent of the representatives are women. Ensuring that women participate in the management and distribution of food and non-food items is another of the Five Commitments.



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.”<sup>23</sup>

All UN agencies are required to mainstream a gender perspective in their programmes, policies, and operations and to establish clear plans of action for doing so. In 1999, UNHCR adopted a strategy to mainstream a gender perspective in all its programmes and reporting activities.<sup>24</sup> The process of implementing this approach, as well as conducting independent evaluations of UNHCR’s activities in relation to the protection of women, children, and community services, made it evident that in addition to gender, factors such as age, race, language, ethnicity, culture, religion, disability, family, and socio-economic status can also create barriers to achieving equality.

Consequently, in 2004, UNHCR adopted and began implementing an **age, gender, and diversity mainstreaming strategy (AGDM)** throughout the organization. This strategy aims to ensure that the meaningful participation of all girls, boys, women, and men of concern to UNHCR is integral to the design, implementation, monitoring, and evaluation of all UNHCR’s policies and programmes.<sup>25</sup> This strategy is outlined in Chapter 2, section 2.3.

This Handbook recognizes that both the empowerment of women and age, diversity, and gender mainstreaming are integral to achieving gender equality and the fulfillment of UNHCR’s protection mandate. It further clarifies these concepts, outlines UNHCR’s responsibilities in relation to both, and provides practical examples of how to implement these concepts in UNHCR’s operations.

## 1.4.2 Preventing and responding to sexual and gender-based violence: A protection imperative

Sexual and gender-based violence (SGBV) remains the most widespread and serious protection problem facing displaced and returnee women and girls. For this reason, preventing and responding to SGBV are integral parts of UNHCR’s strategy to enhance the protection of women and girls. A number of Executive Committee Conclusions and the Agenda for Protection have highlighted the need for States and UNHCR to take action to prevent and respond to SGBV.<sup>26</sup> The development of “integrated country-level strategies to address sexual violence, including domestic violence, against refugee women” is one of UNHCR’s Five Commitments to Refugee Women.

Clear policy and operational guidance in this area is provided in UNHCR’s 1997 Policy on Harmful Traditional Practices, as well as in UNHCR’s 2003 *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response*.<sup>27</sup> These Guidelines provide practical guidance on implementing prevention and response activities using an inter-agency, multi-sectoral approach to SGBV, as do the 2005 Inter-Agency Standing Committee *Guidelines for Gender-based Violence in Interventions in Humanitarian Settings*.<sup>28</sup> In addition, UNHCR’s Operating Procedures for the Prevention and Response to SGBV will be issued shortly.

*Research covering 16 rural communities where non-governmental agencies had mainstreamed gender in their work by involving women and men during implementation of their projects, “documented dramatic economic, social, and cultural changes as a result, including greater agricultural yield, improved sanitation, improved health status, sharing of agricultural and domestic chores, expanded school enrollment, especially for girls, and a reduction in harmful traditional practices, especially female genital mutilation... With greater gender equality there was more money in the family, greater respect between the sexes, and a reduction of domestic violence in several communities.”*

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. 19.

<sup>23</sup> ECOSOC Resolution 1997/2, “Agreed Conclusions on Gender Mainstreaming.”

<sup>24</sup> UNHCR, “Refugee Women and a Gender Perspective Approach,” Standing Committee, EC/49/SC/CRP.22, 3 September 1999.

<sup>25</sup> Agenda for Protection, Goal XX, Objective XX.

<sup>26</sup> See, for example, ExCom Conclusion No. 39 (XXXVI) of 1985, ExCom Conclusion No. 73 (XLIV) of 1993, ExCom Conclusion No. 85 (XLVIX) of 1998, ExCom Conclusion No. 98 (LIV) of 2003, ExCom Conclusion No. 99 (LV) of 2004, and Goal 4, Item 4 of the Agenda for Protection.

<sup>27</sup> These Guidelines build on earlier guidelines on preventing and responding to SGBV, which were issued in 1991.

<sup>28</sup> Inter-Agency Standing Committee, *Guidelines for Gender-based Violence in Interventions in Humanitarian Settings*, September 2005.

## 1.5 What about 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.*

*Masculinities: Male Roles and Male Involvement in the Promotion of Gender Equality, A Resource Packet, Women's Commission for Refugee Women and Children, September 2005*

Protecting women and girls is an organizational priority for UNHCR, but 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. 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.<sup>29</sup>

Prioritizing the protection of women and girls does not mean doing so at the expense of, or to the exclusion 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 change in both men's and women's attitudes about their own gender roles, as well as a shift in power relations between men and women.

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 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 Handbook 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. It provides examples of such programmes from the field and suggests actions that can be taken.

## 1.6 The challenge of implementation

*It is clear that UNHCR's slow progress in implementing its guidelines across the board is not solely a matter of resources. Apathy and discriminatory attitudes among some UNHCR staff remain a stumbling block to consistent and routine implementation... Staff also did not understand that the implementation of these guidelines on the protection of refugee women was not a choice, but an integral obligation on their part as UNHCR employees.*

*"Seeking Protection: Addressing Sexual and Domestic Violence in Tanzania's Refugee Camps," Human Rights Watch, 2000, pp. 68–69*

*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, Malawi<sup>30</sup>*

<sup>29</sup> 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.

<sup>30</sup> 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.



Over the years, UNHCR has been criticized for its failure to consistently implement its guidelines relating to the protection of women and girls. There are a number of reasons for this.

**First**, protection of women and girls often demands that we look at issues of sex and violence – taboo topics in public or private conversation. It is often extremely difficult for women and girls to discuss these issues with us; we, too, may also not feel comfortable talking about these issues.

**Second**, because women are often fully occupied in domestic and agricultural work, and because their language and literacy skills tend to be poorer than men's, we may have less interaction with them than we do with men. This is particularly the case with adolescent girls, who may not be part of any formal women's groups. The problem is further exacerbated in urban situations, where a host of factors, including the cost of transportation, refusal by husbands to let their wives or daughters leave their homes, and a lack of familiarity with the asylum country and urban environment, make it difficult for refugee women and girls to reach UNHCR. Disabled women, both in urban and refugee settings, face additional obstacles in this respect. Protecting women and girls therefore requires an extremely proactive approach.

**Third**, as violations of the rights of women and girls often occur within the family and the community, they remain invisible to us. 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 of, and working in partnership with, displaced and returnee communities are critical in order to enhance the protection of women and girls. Yet many of us lack the knowledge and skills for this type of work and others do not believe it is a high priority.

**Fourth**, in our efforts to protect women and girls, we often focus on the immediate response rather than look at longer-term solutions or try to address the protection risks in the wider protection environment.

**Fifth**, in carrying out our mandate we often do not coordinate among ourselves and with our partners. The absence of a coordinated and integrated approach, involving protection, programme, and community-services staff and partners is a serious impediment to our efforts to protect women and girls.

**Sixth**, as already noted, we have often failed to engage men in promoting gender equality. As highlighted above, change will only occur by working with men and boys in the communities with whom and for whom we are working. We must also engage male humanitarian workers more fully in promoting and protecting women's and girl's rights.

**Finally**, protecting women and girls 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 perceptions of our own identities affect 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 with us to the workplace.

*Refugee workers, community leaders or officials may avoid confronting, remedying, and preventing actions 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.*

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



# Guiding Principles and Approaches for the Protection of Women and Girls

## 2.1 Introduction and overview of international law and UNHCR's responsibilities for the protection of women and girls

The concept of protection 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 spirit of the relevant bodies of law, including international refugee law, international human rights law, and international humanitarian law.

One of the most significant developments in international law in the past 15 years has been the elaboration of international legal standards aimed at better promoting and protecting the rights of women and girls. These include the recognition that women's and girls' rights are **human rights**, that gender equality and the empowerment of women **are essential preconditions for development, peace, and security**, and that violence against women, whether in private or public life, is a **grievous violation of human rights**, as well as a serious impediment to the enjoyment of other rights. Rape and other forms of violence against women and girls are explicitly recognized as constituent acts of **war crimes and crimes against humanity**. Enhanced standards in relation to specific rights, such as women's and girls' rights to health, land, and housing, have also been developed.

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), and in declarations made by States.<sup>31</sup>

Protection of women and girls, like that of men and boys, is first and foremost a **State responsibility**. These international legal standards establish the responsibilities of host States to protect asylum-seeking and refugee women and girls, and of governments to protect their own female citizens, including displaced and returnee women and girls.

These developments also have implications for UNHCR. UNHCR's core mandate, as set out in its Statute,<sup>32</sup> 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 also extend to asylum-seekers, stateless persons, returnees,<sup>33</sup> and, in certain circumstances, internally displaced persons.<sup>34</sup>

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

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<sup>31</sup> The specific provisions of these various instruments are considered in detail in Chapter 5.

<sup>32</sup> UNHCR's Statute was adopted by the General Assembly in 1950, and is included as an Annex to GA Resolution 428(V) of 1950.

<sup>33</sup> Returnees are former refugees or internally displaced persons who have returned to their areas or countries of origin.

<sup>34</sup> Internally displaced persons are people 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 in within the territory of their own country.

followed and measures to be taken by UNHCR in this respect.<sup>35</sup> 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 as integral parts of our protection mandate.**<sup>36</sup>

*“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

Our protection work is also guided by the principles set out in international law, including international refugee law, international human rights law, and international humanitarian law. **International law sets out the basic normative framework for our work.**<sup>37</sup> This is reflected in UNHCR’s *Code of Conduct*, which states that we must “actively promote adherence to the principles of international refugee law, international human rights law, and international humanitarian law.”<sup>38</sup> This means that in all of our work – from setting operational objectives to advocating with States to building capacities within communities – we should respect and promote international legal principles.

This section summarizes the general international legal principles that are of particular relevance to the protection of women and girls. For a more detailed overview of the international legal framework, please see Chapter 5. Specific international legal principles relating to particular rights or responsibilities will be discussed in the various chapters of this Handbook.

## 2.1.1 Equality and non-discrimination

The principles of **equality** of women and men, and boys and girls, 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 recognize that factors such as age, language, ethnicity, culture, religion, disability, family and socio-economic status, and rural or urban background can create other barriers against gender equality.
- ensure that our operations, policies, and programmes promote the equal rights of all individuals and do not directly or indirectly discriminate against women and girls.
- mainstream a gender perspective in all our operations, policies, programmes, and activities in order to achieve gender equality. Accountability systems and the strong commitment of senior managers are integral to the fulfillment of gender-mainstreaming responsibilities.
- 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.
- work to ensure that a gender perspective is mainstreamed in UN peacekeeping operations, post-conflict processes and UN reporting activities.

<sup>35</sup> UNHCR’s 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. ExCom Conclusions are binding, however, on UNHCR.

<sup>36</sup> These are outlined below but discussed in greater detail in Chapter 5.

<sup>37</sup> UNHCR, Human Rights Policy Paper (forthcoming).

<sup>38</sup> UNHCR, *Code of Conduct and Explanatory Notes*, June 2004, p. 3.

## 2.1.2 Participation and empowerment of women and girls

Participation and empowerment of women and girls are essential to ensuring gender equality and to enhancing the protection of women and girls. Given this, we must:

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

*"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 a 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 High Commissioner for Human Rights

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.

## 2.1.3 Best interests of the child<sup>39</sup>

The best interests of the child shall be a primary consideration in all protection and care issues involving UNHCR, and should be applied systematically in all planning and policy-making that affects a child of concern.<sup>40</sup> This principle applies to decisions affecting individual children, as well as to broader policy matters, decisions, and activities that affect children generally. Sex, age, and the particular protection risks faced by girls must be considered in this regard.

## 2.1.4 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. Customs, traditions, and practices in the name of religion or culture cannot be used to justify 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 in our efforts to eliminate violence against women and girls, including, but not limited to, awareness-raising, capacity-building, technical support, training, monitoring, and reporting.
- We must work to establish coherent inter-agency strategies to work towards the elimination of violence against women and girls, in close collaboration with local communities and civil society groups.
- We must ensure that all of our activities, including programming and funding decisions, do not contribute to violence against women and girls.

<sup>39</sup> See also the section on Best Interests Determinations in Chapter 3, which covers individual best interest determination procedures.

<sup>40</sup> UNHCR, *Guidelines on Formal Determination of the Best Interests of the Child* (provisional release, May 2006).

- We must work to prevent and respond to sexual and gender-based violence (SGBV) in conflict and post-conflict situations.
- We must work to prevent and respond to sexual exploitation and violence committed by United Nations staff, related personnel, and partners.
- We must participate in UN efforts to monitor and report on grave abuses against girls and boys in armed conflict, including rape and other grave sexual violence against children.

## 2.2 A rights- and community-based approach

*Operationalizing protection is ... a participatory, bottom-up process, as there can be no effective protection without listening, responding to, and engaging with the beneficiaries, in close partnership with States, NGO and IGO partners. It is also a rights-based process that most effectively proceeds within a framework of clearly articulated rights and responsibilities, in full respect for the rule of law.*

Erika Feller, Assistant High Commissioner for Protection<sup>41</sup>

Both a rights-based and a community-based approach are founded on the international legal framework for protection. While the rights-based and community-based approaches have developed separately within UNHCR, many of the principles that underlie the two are the same. This section outlines the two approaches and then details the essential elements of a rights- and community-based approach that should be applied in our work. For more information on how to implement a rights- and community-based approach, including methods for ensuring the participation and empowerment of women and girls, and working with men and boys to promote gender equality, please see Chapter 3, section 3.2.

### 2.2.1 A rights-based approach

A rights-based approach is a **conceptual framework**<sup>42</sup> that integrates the norms, standards, and principles of the international human rights system into the policies, programmes, and processes of development and humanitarian actors. Because UNHCR has a mandate for international protection, international law has always formed the conceptual framework for our work, including assistance activities. It is only recently, however, that UNHCR explicitly recognized a rights-based approach as the **framework for programming**.<sup>43</sup>

*"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. ... A rights-based approach 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."*

Joachim Theis, "Challenges for a Rights-based Approach," Children's Rights Information Newsletter no. 18, March 2005, p. 28.

A rights-based approach is, however, more than a framework. It is founded on the principles of **participation and empowering individuals and communities** to promote change and respect for rights. This requires an attitudinal shift in the 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 ensuring that rights are respected. We must also work

<sup>41</sup> Operationalizing Protection," Statement by Erika Feller, then Director of the Department of International Protection, to UNHCR's Executive Committee, Geneva, 5 October 2005

<sup>42</sup> 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.

<sup>43</sup> This recognition is clearly articulated in the *Practical Guide to the Systematic Use of Standards and Indicators in UNHCR's Operations*, UNHCR, February 2006.

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 protecting and promoting the rights of women and girls.

Given the inequalities and discrimination that women and girls face, **their empowerment is an important aspect of a rights-based approach.**

## 2.2.2 A community-based approach

UNHCR's community-development policy emphasizes that all persons of concern should be considered as resourceful and active partners. A community-based approach is an inclusive partnership strategy, a process, and a way of working with persons of concern that recognizes their individual capacities and resources and builds on these to ensure their protection. The Agenda for Protection emphasizes the importance of establishing community-based systems for protection and empowering refugees so that they can help to protect themselves and their community.<sup>44</sup>

A community-based approach seeks to understand the community's concerns, capacities, and priorities and to engage women, men, girls, and boys of all ages and diverse backgrounds as partners in protection and programming. The role of UNHCR is to build, rebuild or strengthen the capacity of the community to make decisions regarding its present situation and its future. This requires understanding the cultural and socio-economic situation and gender roles within a particular community.

### Field Practice

In 2004, UNHCR implemented a pilot project in partnership with Nike in Dadaab refugee camps in northern **Kenya**. 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. One of the obstacles to implementing this project was the traditional dress worn by the Somali refugee girls: the clothing made it difficult to participate in sports. To resolve this problem, UNHCR and community representatives met and decided that a women's group would design and produce clothes that were culturally appropriate but that allowed the girls to participate freely in sports. As a result of this project, the participation of girls in sports has increased dramatically, as has the enrollment and retention of girl pre-schoolers.

A community-based approach aims to reinforce the dignity and self-esteem of the members of the community. It seeks to empower the community as a whole and individuals within it to access and enjoy their rights. Consequently, **the empowerment of women and girls is integral to a community-based approach.**

UNHCR's draft *Manual for Applying a Community-based Approach in UNHCR's Operations* and UNHCR's *Guidelines on Prevention and Response to Sexual and Gender-based Violence* contain a number of suggestions as to how to involve the community in promoting gender equality and/or preventing and responding to SGBV.

## 2.2.3 Communities, culture, tradition, and rights

Community values may foster or even facilitate violence against women and girls and may violate their rights. The universality of human rights is often challenged by members of the community on the grounds that local culture and tradition should take precedence. Some UNHCR staff have resisted taking action to promote and protect the rights of women and girls on the grounds that it would interfere with local culture. As highlighted by the Special

<sup>44</sup> Agenda for Protection, Goal 3, Objective 4.



Rapporteur on violence against women, cultural relativism is the greatest challenge to women's rights and the largest obstacle to eliminating harmful traditional practices.<sup>45</sup>

Cultural beliefs, including those that concern the role of women, are not, however, 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; and views will differ among

women and among men. Other factors, such as age, class, socio-economic status, or rural or urban orientation can also play a role.

*"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 possible. 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. 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."*

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.

Moreover, cultures are not static; they are continually being renewed and reshaped.<sup>46</sup> Cultural change implies changes in gender identities and gender relations. Change is shaped by many factors, particularly conflict and displacement. Change also results from deliberate efforts to influence values through revisions of law or government policy.

International law provides that States are obliged to take measures to modify cultural patterns of conduct with the aim of eliminating customary and other practices that are based on the superiority or inferiority of either sex or on stereotyped roles for women and men.<sup>47</sup> UNHCR's policy on harmful traditional practices<sup>48</sup> clearly provides that "UNHCR's concern with harmful traditional practices is an integral part of its protection responsibility for persons under its mandate." It further asserts that "UNHCR staff have an obligation to uphold

the freedoms enshrined in international instruments," and that "a harmful traditional practice that violates the individual rights of refugees will normally require the intervention of UNHCR." UNHCR's *Code of Conduct* provides that "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."<sup>49</sup>

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 that they have endured, it is only by working with communities that we will be able to achieve gender equality. Consequently, adopting a community-based approach is critical for our work to protect women and girls. This point has been strongly emphasized by the Special Rapporteur on Violence against Women.

<sup>45</sup> 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.

<sup>46</sup> This paragraph is adapted from "Addressing Cultural Relativism in Relation to Gender Equality and Women's Rights: An Approach by CIDA" contained in *Gender Training Kit on Refugee Protection*, UNHCR, 2002, pp. 175–180.

<sup>47</sup> CEDAW, Article 5; DEVAW, Article 4; General Comment No. 28, Equality of rights between men and women (Article 3), 2000, para. 5.

<sup>48</sup> UNHCR/IOM/83/97, UNHCR/FOM/90/97, UNHCR Policy on Harmful Traditional Practices, 19 December 1997.

<sup>49</sup> UNHCR, *Code of Conduct and Explanatory Notes*, Core Values and Guiding Principles, p. 4



## 2.2.4 Summary of a rights- and community-based approach

- All of UNHCR's programmes, policies, and operations should further the realization of the equal rights of women, men, girls, and boys of concern, of diverse backgrounds, as set out in international legal instruments.
- International legal standards should form the framework for UNHCR's protection strategies and programme assessments, analyses, planning, design (including setting goals, objectives, and strategies), implementation, monitoring, and evaluation. Protection objectives should be at the forefront of programme planning.
- Our work should help to develop the capacity of States, as duty-bearers, to meet their obligations, and the capacity of women, men, girls, and boys of concern, as rights-holders, to claim their rights.
- We must 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.
- Women, men, girls, and boys should be engaged as partners in protection and programming activities. Our work should reinforce the dignity and self-esteem of the members of the community. It should help to empower the community as a whole, and individuals within the community, particularly women and girls, to access and enjoy their rights.
- Empowerment of women and girls is an integral part of a community- and rights-based approach.
- Practices within a community, including traditional, cultural or religious practices that violate the rights of women and girls, should not be tolerated or overlooked. UNHCR has a responsibility to work towards the prevention and elimination of such practices at the individual and community levels, and to take action to ensure that individual women and girls whose rights have been, or are at risk of being, violated are protected. International legal standards should guide our work in this respect.
- It is crucial that UNHCR work closely with individual community members and different groups within the community in order to prevent and eliminate traditional, cultural or religious practices that violate the rights of women and girls.

## 2.3 Age, gender, and diversity mainstreaming (AGDM)

### 2.3.1 An overview of UNHCR's AGDM strategy

UNHCR's AGDM strategy aims to ensure that the meaningful participation of all persons of concern to the office is integral to the design, implementation, monitoring, and evaluation of UNHCR's policies and programmes. Through dialogue with women, men, girls, and boys of diverse backgrounds and ages, facilitated by multi-functional teams, this strategy aims to place persons of concern at the heart of operational planning and, in doing so, helps to break down the traditional divide between protection and programme.

UNHCR's AGDM strategy is composed of six elements:

- The establishment of multi-functional teams in the field, and at Headquarters;
- Facilitated participatory assessments in the field followed by age, gender, and diversity analysis of the findings for inclusion in protection strategies and programming;
- Inclusion of participatory assessments in programming instructions and in the results-based management database, in order to ensure sustainability and to link participatory assessment to planning, monitoring, and evaluation;
- The sharing of knowledge, information, ideas, and lessons learned through an electronic community of practice connecting over 300 multi-functional team members;

- The development of an accountability framework to support transparent reporting and clear responsibilities for action; and
- The establishment of a longer-term training strategy to consolidate initial progress and support multi-functional teams and staff, combined with mainstreaming AGDM into other learning programmes, emergency work, and training.

## 2.3.2 A multi-functional team approach

**Multi-functional teams** are responsible for guiding the implementation of UNHCR's AGDM strategy. A multi-functional team is, at a minimum, composed of protection, programme, and community-service staff. Ideally, it should include female and male staff, both national and international, and of different levels.

A successful multi-functional team approach requires the involvement and commitment of the management, especially Heads of Office, and the engagement of all members of the team. Offices should ensure that multi-functional teams include the wider circle of actors on the ground, such as partners, government counterparts, NGOs, other UN agencies, and donors, as appropriate. Multi-functional teams play an important role in promoting gender equality and eliminating violence against women.

## 2.3.3 Participatory assessment

*"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 ... a lot of work, but rewarding and - I hope - effective."*

UNHCR staff member, Nepal

Participatory assessment is a process of building partnerships with displaced persons and returnees of all ages and backgrounds by promoting participation through structured dialogue. Participatory assessment includes holding separate discussions with women, girls, boys, and men, including adolescents, in order to gather accurate information on the specific protection risks they face and the underlying causes of those risks, to identify their capacities and resources, and to hear their proposed solutions.

Participatory assessment helps to mobilize communities to take collective action to enhance their own protection. It is the basis for the implementation of a rights and community-based approach. Participatory assessment is one phase of a comprehensive situation analysis and is an integral part of UNHCR's age, gender, and diversity mainstreaming strategy. While participatory assessment is a critical tool used to ensure that all persons of concern are protected, it is particularly important in ensuring that women and girls of different ages and backgrounds are given the opportunity to identify and voice their own protection risks, priorities, and solutions, and thus help to develop the annual country programme established for their benefit.

While there are many different types of participatory assessments available, UNHCR has developed a participatory assessment tool<sup>50</sup> to support UNHCR Branch and Field Offices in conducting participatory assessments together with partners. The *UNHCR Tool for Participatory Assessment in Operations* should be used throughout the programming cycle and should be linked to programme planning, resource allocation, implementation, monitoring and

<sup>50</sup> UNHCR, *The UNHCR Tool for Participatory Assessment in Operations*, May 2006.

reporting, and evaluation. While the focus of the Tool is to link participatory assessments to the programming cycle, it is also important for protection monitoring and can and should be used to plan all aspects of repatriation, reintegration, and local settlement operations.

## 2.5 Partnerships for protection

*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, partnership in various forms and with a wide range of actors has been a pivotal aspect of UNHCR's modus operandi over the years, enhancing protection in all its dimensions.*

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

### 2.5.1 Protection partners in asylum, internal displacement, and return

UNHCR, governments, other UN agencies, non-governmental agencies, and all persons of concern<sup>51</sup> all have a vital role to play in protection. While UNHCR has always recognized the importance of protection partners, in recent years it has dramatically increased efforts to work with a variety of actors in order to enhance the protection of persons of concern. Beginning with the Reach-Out Consultations in 1997, followed by the Global Consultations in July 2000, and as reflected in the Agenda for Protection,<sup>52</sup> UNHCR has worked to engage a diverse range of actors in protection.

**Governments:** Protection is first and foremost the responsibility of States. While the nature of States' protection responsibilities differ depending on the situation, States have an obligation to cooperate with UNHCR in carrying out its protection activities during asylum, internal displacement or return.<sup>53</sup> Given their responsibilities<sup>54</sup> to promote gender equality and eliminate violence against women and girls, States are critical partners in our efforts to protect women and girls.

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 close dialogue and multi-lateral ownership in order to ensure that burdens and responsibilities for refugee protection can be shared more equitably.<sup>55</sup> A variety of mechanisms can be put in place to enhance the protection of refugee women and girls through cooperation and burden-sharing arrangements, including through resettlement. ExCom Conclusion No. 98 (LV) explicitly recognizes the importance of international solidarity, cooperation, and burden- and responsibility-sharing in order to prevent sexual abuse and exploitation.

*Perhaps one of the most important results of the participatory assessments was that refugee women finally felt confident enough to talk about their problems with sexual and gender-based violence. Before the participatory assessments, women simply did not talk about these problems. It took the relationship of trust created through the focus-group discussions with UNHCR and partner staff for women refugees finally to confide in matters of SGBV.*

UNHCR, "Summary Report: Age, Gender, and Diversity Mainstreaming 2004–2005: Analysis of impact of participatory assessment in India," p. 15.

<sup>51</sup> Working in partnerships with persons of concern is an underlying theme of this Handbook. Chapter 3, section 3.2, focuses in greater detail on how to work with persons of concern in order to enhance the protection of women and girls. Many of the recommended actions in Chapter 4 are also to be carried out in partnership with persons of concern.

<sup>52</sup> Agenda for Protection, Goal 3.

<sup>53</sup> See Article 56 of the UN Charter, Article 4 of UNHCR's Statute, Article 35 of the 1951 Convention, Article 2 of the International Covenant on Economic, Social and Cultural Rights, and General Comment 6 of the Committee on the Rights of the Child.

<sup>54</sup> These are outlined in more detail in Chapter 6.

<sup>55</sup> Declaration of States Parties adopted at the Ministerial Meeting in Geneva, December 2001, Preamble para. 8 and Operative Paragraph 12; and the Agenda for Protection, Goal 3.

In situations of **internal displacement**, partnerships with governments in the country of displacement are more complex, particularly when governments may be responsible for the persecution and displacement of the individuals and communities that they are responsible for protecting. Advocacy and capacity-building are particularly important in these situations. Building partnerships with governments is often difficult, and factors such as the political climate, the impact that our actions might have on our access to internally displaced persons and on their safety, and our own security and safety 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, with governments in countries of internal displacement. UNHCR must work to enhance such partnerships.

**NGOs:** NGOs play an important role in the protection of women and girls, 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. The Agenda for Protection emphasizes strengthening partnerships for protection with civil society, including NGOs.<sup>56</sup> Women's organizations, within both the displaced and host communities, are key protection partners.

All staff should be familiar with IOM/57/2004 FOM/59/2004 on Partnerships for Protection – the importance of regular dialogue and cooperation with our NGO partners. This IOM/FOM 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.

**UN and other international agencies:** UNHCR also works in cooperation with a wide variety of international 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. Regional agencies are also important protection partners.

While partnership is important in all our work, there are considerable differences in partnership arrangements during asylum, internal displacement, and return. Some of these are highlighted below. UNHCR has always worked with partners in asylum and refugee situations. During these operations, UNHCR is the lead and coordinating humanitarian agency. Partnership arrangements are different, however, in the context of return and internal displacement.

## 2.5.2 Additional considerations relating to institutional collaboration during internal displacement

*I cannot over-emphasize the need to build effective partnerships with governments, with UN agencies, inter-governmental organizations, and especially with NGOs and affected populations in this endeavour. 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.*

Antonio Guterres, High Commissioner for Refugees, "UNHCR's Involvement with New IDP situations," IOM/FOM 035/06, para. 10, 6 April 2006

<sup>56</sup> Agenda for Protection, Goal 3, Item 3.

Since no single agency has a mandate to protect and assist internally displaced persons, it is essential that agencies work in partnership to help ensure the protection of such persons. UNHCR is an active member of the Inter-Agency Standing Committee (IASC), a forum established in 1992 for coordination, policy development, and decision-making in relation to humanitarian response in which key UN and non-UN humanitarian actors are involved.

The “collaborative approach”<sup>57</sup> undertaken through the IASC was strengthened in 2005 when the IASC developed a cluster-leadership approach in order to achieve more predictable, timely, and effective responses to humanitarian crises. This 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. Cluster leads<sup>58</sup> are established at the global and country levels. UNHCR has assumed the cluster lead for protection, camp management and coordination, and emergency shelter during conflict-generated internal displacement.<sup>59</sup> Gender is a cross-cutting issue in all sectors, and gender mainstreaming guidelines are being developed for each cluster. The IASC is developing a gender handbook that will complement this Handbook.<sup>60</sup>

Age, gender, and diversity must be mainstreamed in all the cluster activities that UNHCR leads.<sup>61</sup> In particular, participatory assessment must be at the core of needs assessments and analyses. 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. UNICEF has focal-point responsibility for child protection and UNFPA has focal-point responsibility for SGBV. 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 and UNFPA, and joint capacity-building with all cluster members.

*The Inter-Agency Standing Committee (IASC), established in 1992, is 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 division of responsibility for the various aspects of humanitarian assistance, identifies and addresses gaps in response, and advocates for effective application of humanitarian principles. The following agencies are members of the IASC: FAO, OCHA, UNDP, UNFPA, UNHCR, UNICEF, WFP, WHO, while standing invitees are ICRC, ICVA, IFRC, American Council for Voluntary International Action (Inter-Action), IOM, OHCHR, the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, and the World Bank.*

### 2.5.3 Additional considerations relating to institutional collaboration during returns

Partnership has been critically important in return situations. UNHCR has promoted the “four Rs” – Repatriation, Reintegration, Rehabilitation, and Reconstruction – as the overarching framework for institutional collaboration during returns. This

<sup>57</sup> 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 United Nations Resident Coordinator). The results of the implementation of the collaborative approach have 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.

<sup>58</sup> The clusters are camp coordination and camp management, early recovery, 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.

<sup>59</sup> 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 is only obliged to assume cluster lead responsibilities for conflict-generated situations of internal displacement. However, that does not prevent UNHCR from assuming the lead in other situations based on agreements with other protection-mandated agencies, namely UNICEF and OHCHR. See the IASC Principals Outcome Statement, discussed at the IASC Principals meeting in September 2005 and endorsed in December 2005.

<sup>60</sup> *IASC Gender Handbook: Different Needs-Equal Opportunities* (Draft)

<sup>61</sup> Antonio Guterres, High Commissioner for Refugees, “UNHCR’s Involvement with New IDP Situations,” IOM/FOM 035/06, 6 April 2006, para. 6.

requires the engagement of the UN Country Team and bilateral and multilateral donors, with the government assuming ownership of the entire process. The four Rs approach is an important component in the transition process that includes peace-building, reconstruction, and development.

The promotion of gender equality and the empowerment of women is an integral aspect of the four R's approach. Chapter 4 outlines the protection challenges during returns and describes recommended 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.

# Activities and Tools for Enhancing the Protection of Women and Girls

## 3.1 Introduction

*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 Note on International Protection<sup>62</sup>

This chapter brings together a number of different concepts to show how they can be used in combination to establish a more effective protection system which addresses the protection concerns of women and girls in a given situation. Essentially these involve actions:

- to ensure that age, gender and diversity are mainstreamed into all our protection activities, so that risks in the wider protection environment and in relation to individual cases can be reduced;
- to strengthen the participation and empowerment of women and girls and the participation of men and boys to promote gender equality
- to ensure protection tools we have available to us are used to maximize the protection of individual women and girls, particularly those who are at heightened risk.

Together these approaches and tools form part of an interlinked whole and are mutually reinforcing.

## 3.2. Mainstreaming a gender perspective in our protection activities and addressing protection risks in the wider protection environment

UNHCR's Statute, subsequent ECOSOC and General Assembly Resolutions, and ExCom Conclusions authorize UNHCR to carry out a wide range of activities to protect asylum-seekers, refugees, returnees, and internally displaced persons.<sup>63</sup> The specific activities that UNHCR and its partners carry out may vary, depending on the situation, but our protection response normally consists of activities that fall under the broad categories defined below.

While activities are often couched in gender-neutral terms, no activity is, in fact, gender neutral. We must ensure that, whatever we do, we consider the impact of our action on women, men,

<sup>62</sup> See UNHCR, "Note on International Protection", A/AC.96/930, 7 July 2000, para. 4.

<sup>63</sup> Article 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. Article 9 provides that the High Commissioner may "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.



girls, and boys of diverse backgrounds. We must also work to ensure that all individuals benefit equally and that gender inequality is not directly or indirectly perpetuated by our actions.

**Strategizing protection activities:** Strategizing protection activities includes conducting an initial situational analysis, which involves participatory assessment as an integral part,<sup>64</sup> and developing a protection strategy. A situational analysis assesses displacement situations within their wider social, economic, political, legal, and cultural context. The information obtained during the analysis is gathered from a variety of sources. It is then analyzed with the aim of systematically developing an integrated protection strategy. A situational analysis must include age- and sex-disaggregated data. Gender analysis must inform all aspects of a situational analysis and the development of protection strategies. The activities listed below will normally form part of our overall protection strategy.

**Promoting physical security:** Promoting physical security involves maintaining the civilian and humanitarian character of camps and settlements for displaced persons, and ensuring the physical safety of women, men, girls, and boys. Since States have the primary responsibility for ensuring the civilian and humanitarian character of asylum,<sup>65</sup> UNHCR's advocacy work with governments is critical. In addition, camp layout and design needs to take account of women's and girls' concerns regarding the safe and accessible placement of water and distribution points and separate latrines for males and females. Well-lit camps enhance protection after dark. The deployment of camp security personnel and of female staff also reduces risks. Safe houses can provide immediate security in the short term.<sup>66</sup> 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.

**Monitoring, reporting, and following-up on protection issues, including follow-up on individual cases:** Protection monitoring, reporting, and follow-up refers to the collection and analysis of information relating to the protection, rights, and well-being of women, men, girls, and boys of concern. Monitoring is used to identify and respond to individual protection risks and rights violations, assess the impact of UNHCR's activities and programmes, and modify or change those activities or programmes in order to better prevent and address protection risks and rights violations and their underlying causes.

Identification, assessment, and response to the particular protection risks faced by women and girls must form an integral part of our monitoring and reporting system and of our follow-up interventions. We must identify risk factors in the wider protection environment as well as individual risk factors. Our actions must include preventive strategies and approaches to tackle risks arising in the wider protection environment, as well as responses to individual risks. Section 3.3.6 below provides guidance on identifying, assessing, and responding to individual women and girls at risk.

**Promoting fair and efficient refugee status determination and participation in procedures when necessary:** Participating in national refugee status determination procedures and/or undertaking the determination of refugee status, when necessary, are also core protection activities for UNHCR. As outlined in section 3.4.7 below on refugee status determination, decisions should recognize gender-related forms of persecution in the context of the refugee definition as constituting grounds for refugee status. Moreover, such determinations must be carried out in an age- and gender-sensitive manner.

**Building capacity:** Capacity-building aims to strengthen the capacity of governments, NGOs, civil society, and displaced and returnee communities so as to enhance these communities' protection. It seeks to reinforce human, institutional and community performance, strengthen

<sup>64</sup> Participatory assessment is described in detail in Chapter 2, section 2.3.2.

<sup>65</sup> ExCom Conclusion No. 94 (LIII) of 2004, para. (a).

<sup>66</sup> For further details on these issues see also chapter 4, sections 4.4 on personal liberty and security and 4.9 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.



skills and promote positive attitudes. Many activities are involved, including providing technical support, training, advisory services, specialized expertise and material and financial assistance, mainstreaming a gender perspective in the work of targeted groups and organizations, and empowering women and girls.<sup>67</sup>

**Advocacy:**<sup>68</sup> Advocacy with governments, NGOs, civil society, and displaced and returnee communities for the enhanced protection of women, men, girls, and boys can take many forms, from persuasion to denunciation. Mobilizing networks to promote change is also an important form of advocacy.<sup>69</sup> Advocacy activities range from working with traditional dispute-resolution mechanisms to strengthen their respect for the rights of women and girls, to promoting legislative changes that enhance respect for those rights. The Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women can also be engaged to ensure that issues of concern are raised and incorporated in their concluding observations in country reports or in General Comments.

**Promoting and facilitating durable solutions:** These 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. Of particular importance in countries of origin is ensuring that conditions are conducive to voluntary return in safety, including legal, material, and physical safety, and with dignity.<sup>70</sup> Gender and age sensitive analysis must form part of our assessment on the conditions for return in the country of origin. It is important to recognize that while decisions related to durable solutions must be made on an individual basis, women and girls often lack the information that would allow them to make informed decisions. Chapter 4 outlines actions to be taken to ensure that women and girls have access to adequate information in this respect. In addition, women and girls often face different protection challenges to men and boys during repatriation, local integration, or resettlement. These differences, outlined in section 3.4.8 below and in chapter, section 4.10, must also be considered when we promote and facilitate durable solutions.

**Providing material assistance and services:** Many of the above-mentioned activities have an assistance component, and most of UNHCR's operations include material-assistance programmes. The United Nations' medium-term plan for 2002–2005 affirms: "Assistance is one aspect of international protection and is a means of facilitating it. It is rooted in and grows out of the protective nature of the work of [UNHCR]. In its operational activities, UNHCR seeks to integrate protection and humanitarian assistance. The pursuit of durable solutions to the problems of refugees is the heart of protection, and the principal purpose of this programme."<sup>71</sup>

As highlighted in Chapter 4, women and girls often have less access to assistance and services than men and are at risk of sexual abuse and exploitation as a result. Ensuring that women and girls have equal access to assistance and services is integral to our work.

The choice of activities to be carried out will vary depending on the context, including whether the situation is one of asylum or internal displacement, whether conflict is on-going, the extent of our access to women, men, girls, and boys, and the activities being carried out by other actors. Each of these factors will affect the range of activities we undertake. Access is more often a problem in situations of internal displacement, particularly when the security

<sup>67</sup> 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.

<sup>68</sup> The Oxford English Dictionary defines advocacy as "... pleading in support, supporting or speaking in favour of (someone, a cause or policy) ...".

<sup>69</sup> 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.

<sup>70</sup> See e.g., ExCom, Conclusion No. 101 (LV) of 2004 on Legal Safety Issues in the Context of Voluntary Repatriation of Refugees.

<sup>71</sup> United Nations, "Medium-Term Plan for the Period 2002–2005," A/55/6/Rev.1, 2001, Programme 21, Protection and Assistance to Refugees, para. 21.1.

situation is unstable. Regardless of the situation, however, we must ensure that gender, age, and diversity are mainstreamed into all of our activities and that the protection of women and girls is an integral part of our protection response.

## 3.3 Strengthening participation and empowerment for the protection of women and girls

While UNHCR has worked with women for many years to help to empower them, the Office has less experience working with boys and girls and men on this subject. In order to achieve our goal of empowering women and girls, we must work in partnership with all individuals and with different groups within the community.

### 3.3.1 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 Colombia<sup>72</sup>

#### 3.3.1.1 Participation

UNHCR emphasizes the full participation of refugee, returnee, and internally displaced women in all decisions affecting their lives and in the planning, implementation, evaluation, and monitoring of all of its programmes.<sup>73</sup>

In 2001, UNHCR committed itself to supporting women's equal participation in decision-making structures.<sup>74</sup> 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 might be inaccurately targeted and the protection problems women and girls face regarding both their security and their access to services might be exacerbated. In June 2005,<sup>75</sup> many field offices reported that women's participation in camp committees was often limited by cultural practices related to gender roles. Consequently, it is essential to adopt a rights-

*"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."*

*Representative of the Secretary-General on the human rights of internally displaced persons*

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.

and community-based approach, as outlined in Chapter 2, to overcome such obstacles.

<sup>72</sup> UNHCR, "Forced Displacement in Colombia: A Woman's Story," see [www.unhcr.org](http://www.unhcr.org), 8 March 2006.

<sup>73</sup> UNHCR, *Guidelines on the Protection of Refugee Women*, July 1991, including paras. 11–12, 44; ExCom Conclusions Nos. 54 (XXXIX) of 1988 and 64 (XLI) of 1990.

<sup>74</sup> For further information on the High Commissioner's December 2001 Five Commitments to Refugee Women, see "Report on the Dialogue with Refugee Women," UNHCR and Women's Commission for Refugee Women and Children, Geneva, 20–22 June 2001.

<sup>75</sup> UNHCR, "Report on the High Commissioner's Five Commitments to Refugee Women," EC/55/SC/CRP.17, 13 June 2005.

### 3.3.1.2 Empowerment

Participation is also a way of empowering women and girls to achieve other rights and change their status in society.<sup>76</sup> While participation is essential to achieving empowerment, it is not, in itself, empowerment. 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 any 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 refers to a range of activities, from individual self-assertion to collective resistance, protest, and mobilization, that 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."*

Srilatha Batiwala, quoted in Lisa VeneKlasen, 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.

Generally, however, men have more power than women. As the 1993 Declaration on the Elimination of Violence notes in its preamble, "historically unequal power relations between women and men have led to the domination over and discrimination of women by men, and the prevention of the full advancement of women." Violence against women is one way in which such unequal power relations are maintained.

#### Field Practice

At monthly meetings with Liberian refugee women in **Sierra Leone**, the women indicated that they were tired of making soap and tie-dye garments. They explained to UNHCR and its implementing partner which ran this income-generating activity that they wanted to become drivers, as they felt that this would provide them with excellent employment opportunities on return. The women themselves contacted and held a meeting with the drivers' licensing organization in Freetown, which agreed to provide driving lessons. UNHCR and its implementing partners 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.

Displacement and return present both challenges and opportunities for women's empowerment.<sup>77</sup> On the one hand, displacement can be a disempowering experience for women. Traditionally responsible for children, the elderly, and domestic work, women are often overburdened during displacement. An increase in violence against women, including domestic violence, and the absence of policing or judicial mechanisms mean that violence against women often goes undetected or is not addressed. When women are excluded from decision-making processes, they are unable to voice their opinions about decisions affecting their lives or take control of their environment. Relegated to the domestic sphere, women must often depend on male relatives for access to the basic necessities provided in camps.

On the other hand, displacement and return can be an empowering experience for women. Every day, displaced and returnee women actively challenge traditional gender roles that hinder their participation in the political, economic, and social realms. Women have organized to claim their right to participate in different aspects of camp life and in return communities. The inclusion of women in camp management, return processes, economic life, and peace negotiations widens the range of choices available to women, provides them with discretion

<sup>76</sup> 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.

<sup>77</sup> The following paragraphs are taken from UNHCR, "Good Practices on Gender-equality Mainstreaming: A Practical Guide to Empowerment," 2001.

over their futures, and enhances the quality of their lives and those of their families and communities.

### The Main Principles of Women's Empowerment

**Awareness:** Awareness refers to the 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 the subordination of women is imposed by a system of discrimination that is socially constructed and can be altered.

**Participation:** Participation<sup>78</sup> refers to the full and equal 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.

**Mobilization:** Mobilization is the 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.

**Access and Control:** Access and control refer to the capacity of women to be able to have access to or have control over services, resources, and the distribution of benefits.

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. They 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.<sup>79</sup>

## 3.3.2 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"<sup>80</sup>

Child participation is integral to a rights- and community-based approach. The core purpose of children's 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.<sup>81</sup>

<sup>78</sup> The themes of participation and equal rights in decision-making runs through CEDAW, which refers to the right of women to participate in the political and public spheres, to participate in recreation, sports, and all aspects of cultural life, to participate in all community activities, and in decision-making in relation to marriage and family life.

<sup>79</sup> 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.

<sup>80</sup> 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.

<sup>81</sup> This is the draft definition used by Save the Children Alliance as reproduced in Save the Children Sweden, *Creating an Enabling Environment: Capacity-building in children's participation*, Save the Children Sweden, Vietnam, 2002–2004, pp. 15–16.

The consequences of displacement and the loss of their normal social and cultural environment are devastating for children. Girls may be particularly affected as they are 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. 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.<sup>82</sup>

Ensuring the meaningful participation of girls, particularly adolescent girls, in decisions and activities that affect their lives is therefore essential. Participation will help to ensure that girls have some control over their lives, and will enable them to take action to improve their circumstances and their futures. Participation also 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. Participation is also 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. Participation is also a right that can lead to the access and enjoyment of other fundamental rights, including the right to education.

*UNHCR's office in Australia organized a writing competition in which school children were invited to interview refugees living in their community, write a story about the child interviewed, and reflect on their own responses to the story. The exercise promoted dialogue between refugee children and their classmates and proved empowering for the refugees involved. The winners, Sophie Weldon and Adut Dau Atem (who is resettled from Sudan), 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.*

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.

### Child participation

Participation by children can be achieved in three ways:<sup>83</sup> through

- **Consultative processes.** These 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<sup>84</sup> is an example of a consultative process with children.
- **Participatory processes.** Participatory processes give children opportunities to be actively involved in developing, implementing, monitoring, and evaluating programmes, research or activities. Such processes 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 processes.** Self-initiated processes are those in which 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 facilitative role.

<sup>82</sup> 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.

<sup>83</sup> This is adapted from Lansdown and Gerison, "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.

<sup>84</sup> See Chapter 2, section 2.3.2.

In practice, however, it has been difficult to ensure that children participate in UNHCR's protection and programme activities. We often lack an appropriate methodology 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, and play, to allow them to express themselves.<sup>85</sup>

### Field Practice

During 2005, UNHCR in **South Africa** conducted a research study 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. The methodology developed for the study, 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 the 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 Study on Violence against Children.

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. A community-based approach is therefore essential.

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. If individual protection problems are identified, they must be addressed. See Annex II to the Participatory Assessment Tool for more detailed information.

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

## 3.3.3 Working with men and boys to promote gender equality and strengthen SGBV prevention and response

*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 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, Tanzania<sup>86</sup>

*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 Maleyka) 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 Republic<sup>87</sup>

<sup>85</sup> 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.

<sup>86</sup> UNHCR film, "Living within the Limit".



Engaging men and boys in the process of achieving gender equality requires raising awareness about the positive effects that gender equality can have for them. It also involves reinforcing masculine norms and behaviours that are positive and non-violent.<sup>88</sup> 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.

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 these expectations influence the way that men relate to their wives, children, and other women and men.<sup>89</sup> Women play an important role in this socialization process, too. The privileging of boys begins early, with different child-rearing practices and expectations for boys and girls, often fostered by their mothers.<sup>90</sup> 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.

*"... 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."*

UNFPA, State of the World's Population, 2005, Chapter 6, [www.unfpa.org](http://www.unfpa.org).

Because men wield greater power in all spheres of public and private life, however, "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."<sup>91</sup> Other barriers to men's involvement<sup>92</sup> include lack of opportunities for them to engage in open discussion about gender and violence, fear of being derided and ridiculed by other men, and the failure of humanitarian actors to engage men on these issues. Resistance by women to male engagement may also be a factor.

Yet gender inequities and unequal power relations negatively affect men, too, particularly their health, as they strive to live up to the male "norm". Displacement and violence also have a devastating impact on men and boys.<sup>93</sup> When men lose their traditional role as provider 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, which is a major problem in almost every camp where UNHCR works, and contributes to violence against women and girls.

Displacement can, however, provide an opportunity for men to realize the advantages and benefits gender equality may hold for them. Displacement may result in a better understanding of, and empathy for, women's experience of violence and discrimination. 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 households. Establishing this link enabled many of the participants to empathize with the position of many women and view

<sup>87</sup> 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.

<sup>88</sup> 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.

<sup>89</sup> Ibid.

<sup>90</sup> 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. 8.

<sup>91</sup> Ibid.

<sup>92</sup> Ibid., p. 13.

<sup>93</sup> 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.

domestic violence in a different way. Subsequent discussions highlighted how domestic violence negatively affects children, the survivor, the perpetrator, and the community.”<sup>94</sup> In addition, during displacement, some men share household responsibilities more equitably with their wives. Others support their wives’ employment outside the home, recognizing the

benefits for the family as a whole.

*“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 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... 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.”*

*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.

Men may also provide an ideal entry point for discussions on certain types of rights violations against women and girls that women may not be willing to discuss. In Sierra Leone, UNHCR and its partners were not able to engage women’s groups on the issue of harmful traditional practices, including female genital mutilation, because of the women’s strongly held

beliefs in witchcraft and mysticism. It was the men who appeared much more open and willing to discuss and confront this issue.

## Field practices

In **Sierra Leone**, UNHCR worked with men’s groups for gender equality and the prevention of SGBV. The project involved the use of 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 vulnerable families. Community leaders acted as peer counsellors on questions concerning domestic violence.

In one refugee camp in **Chad**, an older 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.

Reaching boys and young men early is of critical importance in efforts to achieve gender equality and eliminate violence against women. Boys who grow up around positive male role models are more likely to question gender inequities and harmful stereotypes. Young males aged between 15 and 24 generally exhibit the riskiest behaviours related to HIV transmission, including having intercourse with multiple partners.<sup>95</sup> It is thus essential to engage boys and young men at an early age.

<sup>94</sup> Alex Mundt, “Training and Mobilization of Men’s Groups for Gender Equality and the Prevention of SGBV-Final Report,” UNHCR, 25 April 2004.

<sup>95</sup> UNFPA, *State of the World’s Population, 2005*, Chapter 6, [www.unfpa.org](http://www.unfpa.org).



### Field practice

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.

### Guiding principles for the involvement of men and boys

- We need to understand male gender roles and identities and the impact of displacement on those roles and identities.
- Programmes and projects should appeal to men and emphasize the positive norms and values that are part of masculine identities in the cultures and communities concerned.
- Programmes that involve men and women working together and that build on men's skills and capacities may help to redress the disempowerment felt by men as a result of displacement, and may mitigate male resentment over an apparent focus on women.
- The involvement of respected male community leaders in promoting gender equality and eliminating violence against women is essential.
- Boys of all ages, particularly adolescents, must be engaged in efforts to promote gender equality and the rights of women and girls.

### Practical actions to involve men and boys<sup>96</sup>

- Share and analyze good practices of working with boys and men to promote gender equality and prevent gender-based violence and abuse.
- Find 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.
- Call on and organize boys and men to protest against violence and abuse and to take initiatives for more equal gender roles and relationships.
- Address violence from a rights-based approach, including power and gender analysis.
- Question narrow definitions and perceptions of gender roles and relations, including the concept of masculinity.
- Promote programmes on parenting and responsible sexual behaviour for men.
- Advocate that governments draft and implement laws against gender-based violence.
- Network with human rights and women's rights organizations and encourage them to address gender-based violence against children and to implement programmes involving men and boys.
- Raise awareness about gender issues among professionals and support its inclusion in school curricula.
- Promote educational materials for men and boys, and women and girls on gender, reproductive-health issues, and on the unacceptability of violence and abuse.
- Stress the benefits to society of men playing a more active role in nurturing their children and abandoning the culture of violence as a proof of masculinity.

<sup>96</sup> Adapted from Child Rights Information Network, CRIN Newsletter, No. 19, May 2006.

## 3.4 Protection tools to strengthen the protection of women and girls

*“UNHCR needs to invest in initiatives not merely addressing ... women’s short-term needs, but rather those that have a potential to facilitate women’s empowerment in the long term.”*

from “Respect Our Rights: Partnership for Equality”<sup>97</sup>

In carrying out our work to protect women and girls, we often focus on addressing particular problems or rights violations, such as responding to an individual case of SGBV or ensuring that a returnee woman can access her property. We tend to spend less time working to change the environment itself, in an effort to reduce some of the underlying causes of protection risks for women and girls. 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. Nevertheless, 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. Inter-agency discussions on protection<sup>98</sup> have led to the development of a conceptual framework that groups protection actions or activities into three types of action: responsive action, remedial action, and environment-building action.<sup>99</sup>

UNHCR has recently emphasized the need to address both risk factors in the wider protection environment and individual risk factors in order to enhance the protection risks faced by women and girls.<sup>100</sup> This approach is informing negotiations on an ExCom Conclusion on women and girls at risk.

The subsections below set out how some of UNHCR’s protection tools can be used both to improve the wider protection environment and to address individual protection concerns of displaced and returnee women and girls.

### 3.4.1 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 Nepal<sup>101</sup>

Registration and documentation are critical tools for protecting all individuals of concern. Registration is important in identifying the protection problems and risks faced by individual refugees, ensuring family unity, and identifying, tracing, and reunifying separated and unaccompanied children with their families. Registration and documentation help to ensure that women, men, girls, and boys have access to and enjoy their fundamental human rights,

<sup>97</sup> Recommendations from the dialogue with refugee and returnee women in Sierra Leone, in “Respect Our Rights: Partnership for Equality,” Report on the Dialogue with Refugee Women, Geneva, 20–22 June 2001, p. 35.

<sup>98</sup> This framework emerged from inter-agency discussions on protection led by ICRC. For more information on this framework, see A. Bonwick and H. Slim, *Protection: An ALNAP Guide for Humanitarian Agencies*, 2005, pp. 42–43.

<sup>99</sup> Responsive action is defined as any activity undertaken in connection with an established pattern of abuse and intended to prevent its recurrence, end it, and/or alleviate its immediate effects. Remedial action is any activity intended to restore a person’s dignity and ensure adequate living conditions through rehabilitation, restitution, compensation, and reparation following a pattern of abuse. Environmental action is defined as any activity intended to create and/or consolidate an environment, including political, social, cultural, institutional, economic, and legal aspects, conducive to the full respect of the rights of the individual.

<sup>100</sup> UNHCR, “Proposed Executive Committee Conclusion on Women at Risk, Follow-up paper,” 4 May 2006.

<sup>101</sup> Human Rights Watch, “Trapped by Inequality: Bhutanese refugee women in Nepal,” 2003, p. 8.

including health care and education. Registration is also essential for determining resource allocations, planning programmes, and finding durable solutions.

It is the State's responsibility to register individuals and provide them with identity documents in situations of asylum, internal displacement, and return.<sup>102</sup> In asylum situations, it is the responsibility of the country of asylum; during displacement and return, it is the responsibility of the country of origin. However, in many countries UNHCR has registered asylum-seekers and refugees.

For many years, UNHCR only registered and documented the "head of the family," which was usually the eldest male. This created a host of protection problems for refugee women and girls, including denial of the freedom of movement and other fundamental human rights. Because they were not registered and had no individual identity documents, refugee women, particularly those who were separated from their husbands, had no access to food or essential services and were unable to seek support for their children or claim or inherit property when they returned home. Girls faced greater risks of sexual exploitation, early and forced marriage, slavery, trafficking, permanent separation from families, and unauthorized and illicit adoption.

Registration of women and girls is thus an important protection tool. Registration must be conducted in an age- and gender-sensitive manner, and the rights of displaced women and girls must be respected at all times. The process must not directly or indirectly discriminate against women and girls; and all women and girls, regardless of their age or background, must be able to participate.

Refugee girls are at risk of being excluded from the registration process. Parents or caretakers may not want to register girls to avoid interference when marrying them at a young age for dowries. Other adults may not want to declare girls who are separated from their normal caretakers and who are living with them and working as unpaid servants. Sometimes, registration is organized in such a way that it is impossible to bring all children to the registration centre and thus parents are forced to leave girls at home. In some locations, registration has been linked with sexual exploitation.

It is equally important to register female asylum-seekers and refugees living in urban areas. As discussed in Chapter 1, women and girls often do not come to UNHCR offices, so we must find ways to reach and register them. The failure to register asylum-seeking and refugee women and girls makes them particularly vulnerable to arrest, detention, and deportation.

UNHCR's ExCom Conclusion No. 91 (LII) on registration reaffirms the importance of registration as a refugee protection tool and sets out certain basic guidelines for all registration processes, including the principle of individual registration, respect for confidentiality and the safety and dignity of the refugee, accessibility of registration, and the inclusion of female registration staff.<sup>103</sup> UNHCR's 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.

Internally displaced women and girls face obstacles in obtaining government-issued documentation in their own names.<sup>104</sup> These include fees, requirements to return to their places of origin, and lack of knowledge about their rights. In some cases, internally displaced

<sup>102</sup> ExCom Conclusion No. 35 (XXXV) of 1984 recognizes that States have the primary responsibility to register and document refugees.

<sup>103</sup> Other relevant ExCom Conclusions regarding registration and identity documentation include Conclusions Nos. 22 (XXXII) of 1981 and 35 (XXXV) of 1984.

<sup>104</sup> 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, available at <http://www.womenscommission.org/archive/04/statements/CSW.shtml>.

women and girls may be among populations being targeted by governments or other groups for ethnic, cultural or other reasons. Trying to obtain documentation may place them at risk.

The commitment to individually register and document all refugee women and men is one of UNHCR's Five Commitments to Refugee Women and is emphasized in the Agenda for Protection.

### Field practice

In **Malaysia**, UNHCR adopted innovative approaches to registration that resulted in improved protection for all asylum-seekers and refugees, but particularly for women and girls. Registration teams were deployed to detention centres and lock-ups in jungle areas and in the highlands to register persons of concern. In this way, those individuals with urgent protection needs who were not able to reach UNHCR's office were identified and assisted. Survivors of SGBV, female heads-of-households, and unaccompanied women and children were identified early and targeted for refugee status determination. All women received individual documentation and are re-interviewed when this documentation is reviewed so that protection concerns that arise can be urgently addressed.

States also have a responsibility to register the births, marriages, divorce, and deaths of displaced and returnee persons and to provide them with the appropriate certification.<sup>105</sup> When States fail to assume this responsibility, UNHCR should to the extent possible record such events for refugees, asylum-seekers, and stateless persons. A UNHCR attestation can sometimes be essential to assuring protection and solutions. Principle 20 of the Guiding Principles on Internal Displacement requires State authorities to issue new documents to internally displaced persons or replace existing documents that have been lost as a result of displacement, including identity documents, birth certificates, and marriage certificates. This principle emphasizes the equal rights of women and men to obtain such documents and to have them issued in their own names.

While documentation is an important means of facilitating access to many rights, lack of documentation should not prevent woman and girls from having access to and enjoying those rights.

## 3.4.2 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 Nepal<sup>106</sup>

Birth registration is a fundamental right that not only establishes a child's identity, but also confers rights and privileges, such as access to education, food, and health care, based on nationality and civil status. Birth registration and certification are often essential for citizenship; a lack of birth registration can lead to statelessness. In situations of displacement, birth registration and certification are important tools in preventing human rights abuses such as military recruitment, early marriage, and child labour. Without birth registration and certification, many children face an uncertain future. For example, children who are not registered as refugees may not be able to obtain birth registration documentation when they return to their countries of origin. (For more information on how discriminatory nationality laws can result in statelessness for the children of refugees, see Chapter 4, section 4.3.1.2.)

<sup>105</sup> Agenda for Protection, Goal 1, Objective 11.

<sup>106</sup> Human Rights Watch, "Trapped by Inequality: Bhutanese Refugee Women in Nepal," 2003, pp. 29–30.

States are responsible for birth registration and certification. In asylum situations, it is the responsibility of the host country; in situations involving internal displacement, it is the responsibility of the country concerned. While most, if not all, States respect the principle of equality between boys and girls regarding birth registration, in situations of 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, UNHCR should maintain a record of all births and provide the individuals concerned with birth certificates.<sup>107</sup>

Even when birth registration and certification is possible, displaced and returnee women may face obstacles in registering the births of their children. Because some nationality laws discriminate against women,<sup>108</sup> some women may not be able to pass on their nationality to their children, and consequently may not be able to register the birth of their children. Sometimes, women may face gender discrimination that prevents them from registering the birth of their children. For example, some countries require that women produce a marriage certificate before permitting birth registration. In other countries, a birth must be registered by the child's father, regardless of any nationality issues.

*In a recent survey by UNICEF and the Angolan National Statistical Institute, most people cited the excessive cost of birth registration in Angola as the biggest impediment to registering their children, followed by the distance to the civil registry. UNICEF is urging the Government of Angola to make free birth registration permanent; but as of this writing, UNICEF plans to limit its support to the birth-registration campaign to children under five years of age in 2005. In addition to funding constraints, the birth-registration campaign is also being strangled by red tape.*

Adapted from Human Rights Watch, "Coming Home: Return and Reintegration in Angola," March 2005, p. 13.

Other obstacles to birth registration include:<sup>109</sup>

- political opposition from governments, particularly governments of asylum who fear that birth registration would provide additional rights to refugee children
- lack of physical access to registration facilities, including long distances and high costs for transport
- the fact that many women deliver at home and not in hospitals
- linguistic, financial, legal, and administrative barriers
- lack of awareness about the importance of birth registration among displaced communities

Since both UNHCR and UNICEF have roles to play in promoting birth registration, the two agencies should work closely together on this issue.

### 3.4.3 Registration and certification of marriage and divorce

Registration and certification of marriages, particularly traditional and customary marriages, are also important for ensuring the protection of women and girls. Lack of marriage registration can interfere with the legal rights accorded through marriage, including nationality and civil status, lawful residence, property rights, and the legal status of children born during the marriage. Ensuring that all marriages are registered and that the names of both spouses are included in the registration certificate can help to prevent statelessness and will affect voluntary repatriation and resettlement. (See Chapter 4, section 4.3.1 for more information on these issues.)

<sup>107</sup> UNHCR, *Handbook for Registration*, 2003, p. 61.

<sup>108</sup> See Chapter 4 in relation to civil status and family relation, which also covers nationality.

<sup>109</sup> T. Thonhauser, "Birth Registration of Refugee Children," internal UNHCR paper, 2003, pp.15–25.

It is the State's responsibility to register and certify marriages and divorces; however, UNHCR may have to maintain a record of marriages and divorces and issue attestations if the State concerned is unable or unwilling to do so.

Certifications of divorce and custody arrangements are also important, particularly in the event that the durable solutions for the husband and wife are different. In many cases, however, 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.<sup>110</sup> We must ensure that a lack of documentation does not hinder decisions about durable solutions that respect the rights of the women concerned and the best interests of their children.

### 3.4.4 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-grandmother<sup>111</sup>

*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 also reunited with her mother and brother. She is now studying medicine.<sup>112</sup>

Family separation, caused by the chaos of conflict and/or pressures in displacement, increases the protection risks for women and girls. Single women and girls, including those who head families, are at increased risk of exploitation and abuse, such as abduction, trafficking, forced labour, and SGBV, including forced marriage. Elderly women without family support have difficulty accessing many of their basic rights, including food, shelter, and health care. Women and girls who suffer domestic violence, and those who are disabled, often find support in their extended families. When families are separated during displacement, these women and girls no longer have that vital refuge.

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, it is usually the girls who shoulder the largest burden, as they assume additional household responsibilities, which, in turn, makes it more difficult for them to attend school. Under these stressful living conditions, girls are at greater risk of domestic violence, whether within their own depleted family or within a foster family.

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.<sup>113</sup> The equal rights and responsibilities of women and men to care for and raise their children<sup>114</sup> are essential components of the principle of family unity. Protection of the right to family unity requires not

<sup>110</sup> For more information on divorce and custody and on resettlement, see Chapter 4 on civil status and family relations.

<sup>111</sup> From "Inadequate Response to Child Protection for Refugees," Refugees International, 14 April 2005, [www.refugeesinternational.org](http://www.refugeesinternational.org).

<sup>112</sup> Adut Dau Atem, interview in Australian magazine, *Dolly*, 2006.

<sup>113</sup> For a discussion of the relevant legal principles as provided for in international refugee law, international human rights law, international humanitarian law, see UNHCR. "Summary Conclusions on Family Unity," Global Consultations on International Protection, Geneva Expert Roundtable, 8–9 November 2001.

<sup>114</sup> CEDAW, Article 5; CRC, Articles 5, 7, 8 and 9.

only that States take actions to prevent family separations, but also that they take positive steps to maintain the unity of the family, including by reuniting family members.<sup>115</sup>

UNHCR, working in partnership with other organizations, particularly UNICEF, ICRC, and NGOs, should support efforts to maintain family unity and reunify families. Such actions must be initiated as early as possible after displacement has occurred. We must also ensure that our own actions do not result in the unintentional separation of family members.

*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, Malawi<sup>116</sup>

While family unity and family reunification should generally be promoted, there may be circumstances when it is not appropriate. For example, some girls may not want to be reunited with their family members. UNHCR should then conduct a best-interests determination to decide on the appropriate solution for the girl concerned (see section 3.4.6 below).

Women and girls may face violence or be at risk of violence, including domestic violence and harmful traditional practices, such as forced marriage and female genital mutilation, at the hands of family members. In such cases, UNHCR should work to ensure the immediate safety and security of the women and girls involved and work with them to find a solution that respects their rights. In cases involving women, 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 takes precedence over family unity – subject always to the wishes of the woman concerned. In cases involving girls, a best-interest determination must be made immediately.

Key standards applicable in these contexts 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 of 2005.

### 3.4.5 Identification and assessment of women and girls at risk

*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*<sup>117</sup>

<sup>115</sup> 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.

<sup>116</sup> 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.



In the past, the concept of “women at risk” was primarily seen in UNHCR practice as a resettlement criterion to protect individual women and girls. Recognizing that the concept has potential as a protection tool in a wider range of situations, UNHCR is developing a framework to identify displaced and returnee women and girls who are at heightened risk.

Identifying women and girls at risk in any given situation requires also identifying the “risk factors” that threaten their rights. These factors can be present in the wider protection environment and/or result from the individual’s particular circumstances.

Among the risk factors in the wider protection environment that can arise as a result of, and after, women and girls flee their homes are:

- **security problems threatening or exposing them to SGBV or other forms of violence**, particularly when such dangers arise from inadequate housing, the need to collect fuel and water and to tend to crops/animals, or, in urban settings as a result of isolation, problems with housing/landlords, or because displaced children are living on the streets;
- **problems accessing and enjoying assistance and services**, resulting from inadequate food and/or material assistance; inadequate access to health care, especially given their sexual and reproductive roles and disproportionate vulnerability to HIV/AIDS; lack of access to, or unsafe or poor educational opportunities; child labour; abuse by those in positions of authority controlling access to assistance and services; lack of livelihood or income-generating opportunities;
- the **position of women and girls in society**, which results in discrimination against them; marginalization; camp management, community, and leadership structures that do not sufficiently include them; unequal gender and power relations; changes in gender roles; continuing harmful practices; the breakdown of family, community structures, and values;
- **legal systems that do not adequately uphold their rights**, including justice systems that do not fully address harmful traditional practices or domestic violence or that restrict their rights to marriage and divorce and to 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; asylum systems that are not sensitive to the needs and claims of female asylum-seekers;
- **protection systems that do not uphold their rights**, because refugee and asylum-seeking women and girls are not individually registered; disaggregated data on displaced women and girls are not available; systems to identify, monitor, and support women and girls at risk are inadequate and slow to respond; there are insufficient numbers of female and international staff or female law enforcement officers present; a lack of awareness about women’s and girls’ rights; reporting systems are not clear; relations between staff and displaced communities need strengthening; monitoring of unaccompanied and separated girls and other women with specific needs is weak.

These more general factors may be combined with individual risk factors. They can be grouped as relating to:

- their **status or situation in society**, including as women who are alone, are single heads-of-household including grandmothers, in mixed and/or polygamous marriages, or are without documentation; as widows without family support; as girls, including adolescents, who are unaccompanied or separated, heads-of-household or out of school; as women and girls who challenge social norms, are stateless, are without access to assistance or in detention;

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<sup>117</sup> 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.

- their **exposure, or risk of exposure, to SGBV or other forms of violence**, including rape, torture, other serious physical harm, domestic violence, abduction, trafficking, female genital mutilation, early or forced marriage, forced contraception, abortion or sterilization, maltreatment by foster families or relatives, forced recruitment by armed factions, whether as (child) combatants or sex and labour slaves;
- **additional health care or other support**, because they are physically or mentally disabled, traumatized, pregnant or teenage mothers, affected by HIV/AIDS or suffering from medical conditions particular to their sex or gender.

In certain cases, the presence of one factor alone may be sufficient to require an urgent protection intervention. In others, the presence of a combination of individual and wider-environment factors will result in heightened protection risks for displaced and returnee women and girls. In still other cases, if women and girls have been subjected to SGBV in the place of origin or during flight, they may be at heightened risk in the area of displacement. Finally, threat levels may change and may thereby expose women and girls to heightened (or reduced) risk, for example during the crisis or emergency phase or if the situation becomes protracted.

Responding more effectively to these protection problems requires a holistic approach that combines preventive strategies and individual responses. 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 displaced and returnee women and girls.

Strategies to prevent protection risks from arising in the wider environment include actions to identify, assess, and monitor the wider protection environment, establish and strengthen secure environments, and empower displaced and returnee women and girls.

Responses to individual women and girls at risk can be grouped under three themes, which are listed non-exhaustively below.

**Identification and immediate response** involves:

- working in partnership with states and partners to establish mechanisms, based on the wider protection environment and individual risk factors outlined above, to identify individual women and girls at risk, determine and implement appropriate immediate responses and subsequent solutions;
- providing women and girls at risk with information, counselling, and medical and psychosocial care;
- providing 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; offering them emergency voluntary relocation to another town or camp, or emergency resettlement;
- determining the best interests of girls at risk and providing alternative accommodation, physical protection, and interim foster care, as required;
- initiating family tracing and ensuring family reunification for separated and unaccompanied girls so that they can rejoin their families wherever possible and in their best interests.
- ensuring that refugee status determination procedures, whether carried out by States or, if necessary, by UNHCR provide female asylum-seekers with access to gender-sensitive procedures, and that decisions recognize gender-related forms of persecution in the context of the refugee definition as constituting grounds for refugee status.

**Medium-term responses** include:

- monitoring initiatives implemented, including through ongoing best interests assessments for displaced girls at risk and monitoring foster care to ensure interim care arrangements provide protection and accountability for the actions taken;
- advising, accompanying, and supporting women and girls who wish to bring their cases before judicial systems, whether formal or informal, and promoting initiatives, such as women's legal clinics, to assist them, including through local women's associations and universities;
- promoting the establishment of mobile courts in remote refugee camps, where access to national courts is impracticable to reduce impunity, including for attacks against women and girls, and to secure justice, including by establishing witness-protection schemes;
- providing education, vocational training, and recreational programmes with childcare;
- promoting community-based livelihood strategies that target women and girls at risk so that they can take care of themselves and their families, especially in prolonged displacement situations, as a prelude to one of the three durable solutions.

**Longer-term responses** include:

- promoting respect for women's and girls' rights to make a free and informed choice to repatriate voluntarily and to equal access to land, property, and inheritance so as to enable female refugees to return, and incorporating measures in tripartite voluntary repatriation agreements to ensure adequate ongoing assistance and support for those who were at risk;
- strengthening the use of resettlement as a protection and durable solutions tool for refugee women and girls at risk by using other resettlement criteria in addition to the women-at-risk criterion; enhancing identification of refugee women and girls at risk, including through training; streamlining processing further, including by establishing measures to enable the departure of women-at-risk and their dependants;
- considering using special evacuation programmes for internally displaced women and girls at risk, given that resettlement is not as such presently available to them;
- 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; 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;
- ensuring support, such as medical and psycho-social 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.

### 3.4.6 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, Guinea<sup>118</sup>

The principle of best interests of the child<sup>119</sup> is a fundamental principle of protection. It should be applied systematically in all UNHCR planning and policy-making that affects children of concern to the Office.<sup>120</sup> This principle applies to decisions affecting individual children and to broader policies and activities that affect children generally. The best interests principle requires that UNHCR not only assesses what is best for each child during every phase of displacement, but also to conduct formal best interests determinations for some children.

A **best interests assessment** involves considering what is best for the individual child, in all decisions and actions that affect him/her, including identification and registration, family tracing, deciding on the most appropriate temporary-care arrangements, appointing a guardian, monitoring temporary-care arrangements, and family reunification. These considerations are particularly important when working with separated or unaccompanied children. Gender and age considerations, the child's views, and other factors all have an impact on the best-interests assessment.<sup>121</sup>

In some cases, a best-interests assessment is not sufficient, and so **formal best-interests determinations** must be carried out for individual girls and boys of concern. These are used 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 his/her parents against their will.

Best interests determinations can be important for ensuring the protection of girls. They may be required for girls who are being exploited in foster families or who are at risk of domestic violence. They are also important in relation to resettlement when, for example, a girl or her mother are victims of domestic violence and are applying for resettlement. They may be appropriate, for example, when a decision by a traditional justice mechanism clearly violates a girl's rights.<sup>122</sup>

Best interests assessments and formal best interest determinations must be conducted by staff with the appropriate knowledge, skills, and expertise. Although not every UNHCR staff member will be involved in such assessments and procedures, all are required to have a general understanding of these procedures and to be able to identify when a best-interests determination may be required and how to make the necessary referrals. UNHCR's Guidelines on Formal Determination of the Best Interests of the Child of May 2006 should guide the process.

<sup>118</sup> Human Rights Watch, "Forgotten Children of War: Sierra Leonean Refugee Children in Guinea," 1999, p. 31.

<sup>119</sup> The principle of the best interests of the child is contained in Article 3 of the CRC. See Chapter 5 on the international legal framework.

<sup>120</sup> UNHCR, "UNHCR Guidelines on Formal Determination of the Best Interests of the Child," (provisional release, May 2006).

<sup>121</sup> 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.

<sup>122</sup> For further information on traditional justice systems, see Chapter 4, section 4.5.1.2.

### 3.4.7 Refugee status determination

*It is widely accepted that gender can influence, or dictate, the type of persecution or harm suffered and the reasons for this treatment... The continuous abuse and severe beatings inflicted upon the woman by her husband in this case violated a number of her fundamental human rights. These include the right not to be subjected to torture, inhuman or degrading treatment and the right to life, liberty, and security of person. The harm she suffered as a result of these human rights violations was found to be a direct result of her gender and her status as a married woman and was thus seen to constitute gender-specific persecution.*

UNHCR news report about a 38-year-old woman unable to find protection in her own country from decades of abuse at the hands of her husband, whom she had been forced to marry, and who fled to Spain and was recognized as a refugee there<sup>123</sup>

Refugee status determination (RSD) is a core protection function. It is, in principle, the responsibility of states to determine refugee status, but when the authorities are unable or unwilling to do so, UNHCR may conduct RSD and provide documentation attesting to refugee status when appropriate.<sup>124</sup> The determination of refugee status has profound implications for the life and security of the women, men, girls, and boys concerned. It also defines the rights and obligations of UNHCR towards the individuals concerned and may determine the obligations and responsibilities of governments and other actors with whom UNHCR works to protect refugees.

It is by now a well established principle 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 as well as the UN General Assembly.<sup>125</sup> UNHCR's Guidelines on International Protection on gender-related persecution<sup>126</sup> 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 has also issued 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.<sup>127</sup> These also reflect gender and age concerns in both substance and procedures.

At a practical level, a number of obstacles may prevent women and girls from making and pursuing a claim for refugee status. Some women and girls may not even know that it is possible to make such a claim. Others may be discouraged from doing so by their husbands or other family members, or they may not want their husband and family to know about the persecution they have suffered. Language difficulties, lack of confidence in engaging with officials or a lack of familiarity with formal procedures may also deter them. UNHCR's *Procedural Standards for Refugee Status under UNHCR's Mandate*<sup>128</sup> contain a number of provisions aimed at ensuring that refugee women and girls have independent and confidential access to UNHCR

<sup>123</sup> See UNHCR News Story of June 2005, available at <<http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&page=home&id=42a849eb4>>.

<sup>124</sup> See Rick Stainsby, "Individual Refugee Status Determination (RSD) in UNHCR's Protection Activities and Operations," internal UNHCR study, April 2006.

<sup>125</sup> See for instance, ExCom Conclusion No. 87 of 1999, para. (n).

<sup>126</sup> 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.

<sup>127</sup> 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.

<sup>128</sup> 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, above footnote 126, paras. 35–38.

registration and RSD procedures. The Procedural Standards and the Guidelines referred to above also contain information on how to carry out RSD in an age- and gender-sensitive manner, including by providing female interviewers and interpreters.

### 3.4.8 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 hoopla 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 from view. Abduction and forced marriage was common, and many girls were caught in a cycle of exploitation and abuse.*<sup>129</sup>

Resettlement is an important tool of refugee protection, as well as being a durable solution and a burden and responsibility sharing tool.<sup>130</sup> Its primary purpose is to provide individual protection for those who are not adequately protected in a first country of asylum.

UNHCR's *Handbook on Resettlement* sets out eight criteria for resettlement.<sup>131</sup> 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 with legal and physical protection needs, be survivors of violence and torture, have medical needs, require family reunification, be older refugees or be refugees without local integration prospects. Girls, including adolescent girls up to the age of 18, may also be eligible for resettlement under the criterion relating to children and adolescents.

In addition, refugee women and girls may be eligible for resettlement under the women-at-risk criterion. For the purpose of resettlement, "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."<sup>132</sup>

Despite these provisions, and 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. The women-at-risk programme is underutilized and quotas are not always filled. There are a number of reasons for this. Many women and girls may not even be aware of the possibility of resettlement. In some cases, women may be living in hiding or in insecure locations and/or may be too afraid to approach individuals in authority or may be pressured not to do so. In addition, as the example of the Sudanese girls above indicates, some of the violations endured by women and girls are perpetrated by the community or within families and may remain invisible to us.

<sup>129</sup> Adapted from "The Lost Girls of Sudan," *Refugees magazine*, Vol. 1, No. 126, 2002, pp. 8–9.

<sup>130</sup> 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. This section of the Handbook discusses resettlement as a protection tool. For issues related to durable solutions more generally, see the various sections of Chapter 4 on exercising and enjoying rights, particularly section 4.10.2 on the rights and needs of women and girls in voluntary repatriation and reintegration processes.

<sup>131</sup> UNHCR, *Handbook on Resettlement*, November 2004, Chapter 4.

<sup>132</sup> *Ibid.*, Chapter 4.5, p. IV/16.

Sometimes, UNHCR staff may find it difficult to identify women at risk, particularly because so many female refugees are potentially at risk. Conversely, if staff believe that refugee women are exaggerating claims of sexual and gender-based violence in order to gain resettlement, they may colour their response to cases of sexual and gender-based violence. 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 special protection measures. In other situations, refugee women and their families may provide inaccurate information in order to qualify for resettlement as single heads-of-households, thus committing fraud. Sometimes refugee women with resettlement prospects may be forced to add dependents – a husband or children – who are not family members to their application. Such practices must be discouraged by providing counselling and information on the criteria for resettlement and on refugees’ rights and obligations.

Problems relating to divorce and child custody can also impede the resettlement of women and girls. In some circumstances, resettlement may be the only protection solution available to women who are victims of domestic violence. Yet many of these women would not want to be resettled without their children. Discriminatory laws and cumbersome and lengthy procedures may prevent them from obtaining a divorce or custody of their children. Even if divorce and/or custody has been granted, the women may not have documentation that confirms this and/or the decision may not have been implemented. In these cases, UNHCR should 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.

### Field practice

For the “lost girls of Sudan” mentioned at the start of this section, it was recognized that they needed to be individually and systematically interviewed to identify who was at risk and eligible for resettlement. The “lost boys” were a more easily identifiable group because they had stayed together and faced a common protection threat of forced conscription as child soldiers. Identifying the girls required a more labour-intensive approach because the girls were living dispersed among different families. They were thus less visible to humanitarian agencies.

The individual girls were first assessed by psycho-social counsellors. Only later were they profiled for possible resettlement. Interviewing had to be conducted discretely, in accordance with local customs, which also meant the process took longer to be initiated and to complete. It also had to be discretely administered with awareness of the prevailing social customs, so that the girls concerned, who were by then sometimes women, were not exposed to greater risk.<sup>133</sup> Ultimately, the exercise has provided a useful methodology which is now being applied to regular case referral mechanisms in Kakuma camp, Kenya.

Women in polygamous marriages may also face obstacles to resettlement. As outlined in Chapter 4, 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. However, most resettlement countries will only accept one spouse because their own national legislation forbids polygamy. In such cases, UNHCR does 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. It would normally be more appropriate to explore the possibility of resettling the woman in a country that would allow the family to remain together.<sup>134</sup> This problem is particularly acute when UNHCR has recognized the refugee status of family members only on a derivative basis, emphasizing the importance of granting refugee status to each individual family member who applies for

<sup>133</sup> Profiles of girls and women identified as being at high 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.

<sup>134</sup> UNHCR, *Resettlement Handbook*, chapter 4, p. IV/28.



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.

For children who are unaccompanied or separated, or when resettlement would involve separation from a parent, for instance, in the context of emergency resettlement in cases of domestic violence, there should be a formal best interests determination.<sup>135</sup> As provided for in UNHCR's Guidelines on Formal Determination of the Best Interests of the Child, the Office's first step must be to ensure that a decision on custody rights is made by the competent authorities before departure. Where no custody decision exists, UNHCR should encourage the competent authorities of the country of asylum to decide on the custody of the child before departure for resettlement. When this is not possible, for instance, in emergency cases, UNHCR will undertake a formal best-interests determination before the resettlement submission. The resettlement country should also be formally asked to decide on custody rights as soon as possible after the resettlement of the child. At the same time, the parent with whom the child is resettled should be informed about how to acquire custody rights upon arrival in the resettlement country.<sup>136</sup>

While resettlement is not the only solution for women and girls with serious protection concerns in countries of asylum, it may be the only way to ensure protection for some of them. Resettlement is a specialized task that is carried out by those staff who have been specifically trained. However, all staff involved in protection, including community-services officers, should be familiar with the categories and criteria for resettlement, should be able to identify women and girls who may be eligible for resettlement, and should coordinate with the appropriate officers for follow-up.

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<sup>135</sup> UNHCR, "UNHCR Guidelines on Formal Determination of the Best Interests of the Child," provisional Release, May 2006, p. 10.

<sup>136</sup> For further details see, "UNHCR Guidelines on Formal Determination of the Best Interests of the Child," UNHCR, provisional release May 2006, p. 19.



# Exercising and Enjoying Rights

## 4.1 Introduction

The extent to which women and girls are able to enjoy one right or set of rights often affects their enjoyment of other rights. For example, if women are not able to exercise their right to pass on nationality to their children, they may lose their custody rights. If teenage girls are not able to exercise their right to reproductive health, they may not be able to enjoy their right to education. Women's lack of access to their right to their land and property may result in a host of other rights violations, including violation of their right to food and to adequate shelter.

This chapter explores the extent to which women and girls are able to exercise and enjoy specific rights, which are grouped under themes. While the list of themes is not exhaustive and not all rights are covered, the chapter considers some of the gaps in protection, and the differences between access to rights in asylum and in internal displacement, and in urban and rural settings. Under each theme, key relevant international legal standards and possible actions to be taken by UNHCR and its partners are outlined.

The chapter is complemented by materials in the Annexes which provide further detail on the international legal standards, essential reference materials, and standards and indicators.

## 4.2 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

*"There can be no democratic participation in decision-making without transparency and sharing information."*

UNDP, *Right to Information: Practical Guidance Note*, July 2004, p. 9

*"The best information for refugees is no information."*

UNHCR staff member, Dar Es Salaam, Tanzania<sup>137</sup>

Sharing information is an important means of empowering a community. It helps its members take responsibility for their lives and reduces tensions when the situation may become difficult due to changes in security, reductions in assistance, the late delivery of food and non/food items, modifications in the availability of medicines or changes in community structures or programmes. Treating displaced persons and returnees as partners requires us to place much

<sup>137</sup> Article 19, "Left to their Own Devices: The Impact of Informal Information and Communication Networks on Security in the Tanzanian Refugee Camps", December 2003, available at <http://www.article19.org/pdfs/publications/refugees-left-to-their-own-devices.pdf>, p. 23.

greater importance on finding a variety of mechanisms to share information with all members of the community. Information sharing is a two way process, the more information we share with people the more we will learn from them as they respond to the greater transparency demonstrated by UNHCR and its partners.

Information is a means for women and girls to protect themselves. It is important that women and girls, as well as men and boys, are able to obtain knowledge about decision making structures, assistance, services, rights, including women 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, return programmes and who is accountable for delivering in each of these areas. Women and girls living in urban settings are often more isolated from information channels and services.

Sharing information helps to empower a community. 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 in partnership with the community to build effective protection strategies.

*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 and believing they have no individual right to assistance and individual documentation.*

It is also important to recognise that women and girls are not able to represent their interests if they have not had the access to education and information opportunities which allows them to make informed choices regarding their rights, gender roles, power relations, their present day reality and their future.

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.

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 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 the displaced 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 even when we have offices who work closely with women, the focus is on certain leaders.

The concentration of information with a few representatives creates elites and paves the way for manipulation of others in the community by giving them greater power particularly over those who are regularly marginalised or discriminated against such as minority ethnic or religious groups, women and men with disabilities, unaccompanied and separated girls and boys and older women and men. Such manipulation can become quite evident in return situations when leaders have political allegiances to one group or another. Women and girls are often also entirely dependent on husbands and leaders for information and the type of information provided may not relate to their particular interests.

### Field practice

UNHCR in New Delhi, **India**, began holding "community protection days" to complement existing mechanisms for liaising with refugees. Twice a month, UNHCR protection staff visit the refugee community to hear from refugees and provide information. These visits include spontaneous door-to-door drop-ins, which have proven particularly successful in reaching women and girls who would not

usually come to UNHCR with their problems. A new Women's Centre, established next to the local crèche, provides a place for refugee women to come and approach UNHCR confidentially with specific problems. Because meetings with refugee women take place in a variety of settings and because different types of meetings are held at the Centre, women entering the Centre are not automatically stigmatized as being victims of sexual or gender-based violence.

Information sharing in situations of internal displacement is made more complex by the fact that informants for security forces may be intermixed with the displaced population. 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.

Together with our partners, UNHCR faces two specific challenges in sharing information with displaced and returnee communities:

- ensuring that 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.

There are no easy prescriptions, but the first step is to talk with different members of and groups in the community on what they would like to know and how the information should be disseminated. Women and girls must guide us on how best to ensure the information reaches them and on which mechanisms they consider trustworthy. Informal information and communication networks are often particularly useful in this respect.

#### 4.2.1 International legal standards *related to access to information*

Article 19 of the ICCPR guarantees the right to freedom of information, which includes the right to seek, receive, and impart ideas of all kinds. Article 17 of the CRC specifies the right of children to receive information from various national and international sources. Access to information is essential for enabling women and girls to access and enjoy all other rights.

#### 4.2.2 Actions to ensure that women and girls have access to information

In order to ensure that women and girls have access to information, UNHCR, together with local, national and international partners, should carry out the following activities:

- Ensure that women and girls are fully informed about asylum procedures, registration and documentation, decision-making procedures, opportunities to participate in camp activities, such as in food distribution, 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.
- Hold focus-group discussions with women and girls from diverse backgrounds to understand what they know and do not know, and determine with them what information is important to them.
- Identify and analyze the obstacles confronting women and girls in accessing information and work with them to devise ways of overcoming these obstacles, including by developing appropriate communications channels.
- Ensure women and girls are fully aware of whom they should approach if they need information and further support.

- 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 church in the community, where women and girls can meet and share ideas and information without feeling threatened.
- Target locations frequented by women and girls, such as water points, for disseminating information and ensure that, if the area is also frequented by men and boys, the information does not cause embarrassment, particularly when the prevailing culture demands that women and men should be separated. When necessary, ensure that female staff lead the discussions.
- 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.
- Design information campaigns with women and girls.
- Ensure that all information avoids portraying women, girls, boys, and men in stereotyped gender roles.
- Build women's and girls' leadership skills and information-sharing techniques and encourage them to be the main disseminators of information.
- Ensure that all information is shared verbally, in written form in the appropriate languages, and in pictorial form, for those who cannot read and 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 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 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 rights.
- Ensure that women and girls can participate in computer classes and other activities that improve their knowledge of and access to information.
- 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.

## 4.3 Nationality, civil status, and family relations

The principle of 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 the attainment or sustainability of durable solutions.

### 4.3.1 Nationality

*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. Nationality should be capable of change by an adult woman, and should not be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality.*

Committee on the Elimination of Discrimination Against Women, General Comment No. 21, Equality in Marriage and Family Relations, 1994, para. 6

*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 stateless<sup>138</sup>

In some countries, refugee women who marry nationals of the country of asylum may be granted their husband’s nationality, which, in turn, can lead to local integration as a durable solution. However, in some countries, when refugee women marry men of a different nationality, they may lose their own nationality, even if they have not yet acquired their husband’s nationality and end up becoming stateless. As a result, they may, for instance, be prevented from exercising their right to voluntarily return 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 land, property, and fundamental services. In the event of divorce, women may lose their husband’s nationality and, having already lost their own, thus become stateless.

In some countries, refugee women may not lose their nationality when they marry men in the asylum country, but they may have to reside in the country for a specified period before being granted their husband’s nationality through naturalization. This creates another legal limbo of not having the nationality of the country in which they reside. Due to their economic, social, cultural, and even linguistic dependence on their husbands, these women may be vulnerable to violence and abuse.<sup>139</sup>

Some refugee women married to nationals of the country of asylum cannot pass on their nationality to their children because of discriminatory laws that provide for nationality by descent based only on the father’s nationality.<sup>140</sup> In these cases, women may not be able to

<sup>138</sup> UNHCR and the Inter-Parliamentary Union, *Nationality and Statelessness: A Handbook for Parliamentarians*, 2005, p. 6.

<sup>139</sup> 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>.

<sup>140</sup> 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.



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 the father or losing their children.<sup>141</sup> Children may be prevented from repatriating with their mothers; but even if they do so, they may not be able to go to school or have access to fundamental services because they are not nationals.

## 4.3.2 Marriage

### 4.3.2.1 Early and/or forced marriage

*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 dowry 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 into marriage at 11, and gave birth to Madiha three years later, stepped in to prevent the marriage.*

*Standing up to her husband came with 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. However, the dowry paid by the groom was long gone. Once more Madiha's mother took action and sold her jewelry to pay back the dowry.*

Madiha, 11-year-old refugee girl in Mile camp, Chad<sup>142</sup>

Early marriage<sup>143</sup> and forced marriage are common in many countries in the world. They are also serious problems 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 parents receive for their daughters are often used to enable their sons to marry. 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.

*"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."*

OCHA/IRIN, *Broken Bodies, Broken Dreams: Violence Against Women Exposed*, 2005, pp. 67–68.

Early marriages rob girls of their childhood time to develop physically, emotionally, and psychologically. They inflict great emotional stress on girls who are removed from their parents' home and go to live with their husbands and in-laws.<sup>144</sup> 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 fistulas,<sup>145</sup> and maternal death. Girls who are married as children are at greater risk of HIV/AIDS infection and domestic abuse.<sup>146</sup>

<sup>141</sup> Ibid.

<sup>142</sup> This quote is adapted from a UNHCR news story of 1 December 2005, available 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.

<sup>143</sup> Early marriage is defined as marriage of children and adolescents under the age of 18 (children are defined in Article 1 of the Convention on the Rights of the Child as "every human being below the age of eighteen years.") See UNICEF, "Early Marriage: Child Spouses," Innocenti Digest No. 7, 2001, p. 2.

<sup>144</sup> OHCHR, Fact Sheet 23: Harmful Traditional Practices Affecting the Health of Women and Children, pp. 11–12.

<sup>145</sup> 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.

<sup>146</sup> OCHA/IRIN, *Broken Bodies, Broken Dreams: Violence Against Women Exposed*, 2005, pp. 64–68.

Through a traditional practice known as “wife inheritance,” widows are forced to marry their husbands’ brothers or cousins, or risk losing custody of their children, land, and property, creating serious protection risks for women returning to their homes after displacement.<sup>147</sup>

#### 4.3.2.2 Polygamy

*My husband took a ... girl as a second wife. Now he beats my four children. My children are treated badly by the second wife and are not given their share of food.*

Refugee woman, Nepal<sup>148</sup>

*My husband threw me and our three children off the plot of land where we lived. 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 request four weeks ago.*

Burundian refugee woman, Tanzania<sup>149</sup>

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. Often during displacement, husbands do not support their wives and families, as required by tradition, but 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.

#### 4.3.2.3 Divorce and custody

*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.*

Afghani woman married 20 years ago at the age of 10<sup>150</sup>

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 a second time.

<sup>147</sup> For more on this practice, see section 4.9 of this chapter on housing, land, and property.

<sup>148</sup> Human Rights Watch, “Trapped by Inequality: Bhutanese Refugee Women in Nepal,” September 2003, available at <http://www.hrw.org/reports/2003/nepal0903/>, p. 35.

<sup>149</sup> Human Rights Watch, “Seeking Protection: Addressing sexual and gender-based violence in Tanzania’s refugee camps,” October 2000, available at <http://www.hrw.org/reports/2000/tanzania/>, p. 69.

<sup>150</sup> Amnesty International, “Afghanistan: Women Still under Attack – A Systematic Failure to Protect,” 2005, p. 6.

### 4.3.3 International legal standards related to nationality, civil status, and family relations

Under international law, women and men have equal rights to acquire, change or retain their nationality and to pass on their nationality to their children.<sup>151</sup> Women and men also have equal rights in marriage and family relations.<sup>152</sup> 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, and 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 are always a primary consideration.<sup>153</sup>

Polygamy violates the principles of equality of women and men in marriage. The Human Rights Committee has noted that “polygamy violates the dignity of women. It is an inadmissible discrimination against women. Consequently, it should be definitely abolished wherever it continues to exist.”<sup>154</sup> The Committee on the Elimination of Discrimination against Women, in its General Recommendation No. 21, notes that polygamy is a violation of Article 5 of CEDAW, and “contravenes a woman’s right to equality and can have serious emotional and financial consequences for her and her dependents.”<sup>155</sup>

Children have the rights to acquire a nationality and to know and be cared for by both parents.<sup>156</sup> Children shall not be separated from 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.<sup>157</sup> Child marriage is explicitly prohibited under international law, and the marriage of a child shall have no legal effect.<sup>158</sup> Child marriage is considered to be a form of violence against girls.

### 4.3.4 Actions to promote equality in relation to nationality, civil status, marriage, and family relations

UNHCR’s mandate to provide international protection to refugees covers stateless refugees as well. In addition, Article 11 of the 1961 Convention on the Reduction of Statelessness and UN General Assembly resolutions adopted in 1974, 1976, and 1996 specifically request that UNHCR work to prevent and reduce the incidence of statelessness and protect non-refugee stateless persons.

UNHCR thus has an important role to play in the prevention and reduction of statelessness in situations of asylum, internal displacement, and return. To these ends, UNHCR works closely with OHCHR, UNICEF, UNFPA, UNIFEM, UNDP, ILO, and NGOs. Providing birth and marriage registration and documentation help to prevent and avoid statelessness. These issues are discussed in Chapter 3, section 3.4.2 and 3.4.3.

<sup>151</sup> ICCPR, Art. 24, CEDAW, Art. 9

<sup>152</sup> ICCPR Art. 23, ICESCR, Art. 10, CEDAW, Art. 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 which are listed in Annex II.

<sup>153</sup> CRC, Arts. 3, 9.

<sup>154</sup> Human Rights Committee, General Comment No. 28, para. 24.

<sup>155</sup> See CEDAW Committee, General Recommendation No. 21, Equality in Marriage and Family Relations, 1994, para. 14.

<sup>156</sup> CRC, Art. 7

<sup>157</sup> CRC, Arts. 9 and 10

<sup>158</sup> CEDAW, Art. 16, ICCPR, Art. 24, CRC, Art. 24. 3. Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages. As highlighted in this section early marriage also results if further violations of the rights of children.

In order to promote equality of women in relation to nationality, civil status, marriage, and family relations, UNHCR, together with local, national and international partners, should carry out the following activities:

- Coordinate with the national office/ministry for gender, women, and family affairs, relevant UN agencies, and NGOs, including women's rights organizations, to identify discriminatory provisions in legislation relating to civil status, including nationality, marriage, divorce, and custody.
- Advocate at high levels within UNHCR and 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.
- On nationality issues, work with relevant ministries and other partners to analyze 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.
- Work with partners, including the government and displaced and returnee communities, to identify and analyze the causes of practices that violate the rights of women and girls, including polygamy and under-age marriages, and find solutions to address such violations.
- Work with communities to understand and address the health risks associated with under-age marriage, including early pregnancy and fistula.
- Work with partners, including relevant ministries, social services, other UN agencies, other international and non-governmental organizations, and 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 forced marriages and on problems associated with polygamous relations.
- Ensure that the above system enables action to be taken to address those risks and problems and includes ongoing monitoring of these actions and the situation of the women and girls concerned.
- Where a case of under-age, forced marriage comes to the attention of UNHCR, work with national authorities to see that a best-interests determination is made and appropriate action taken.
- Identify key individuals in the community who can identify those who are at risk and work with them to develop mediation and counselling mechanisms that respect the equal rights of women and men in marriage, divorce, and custody proceedings.
- Use training sessions and communication networks 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.
- Help to empower women and girls to exercise and enjoy their rights in relation to civil status and family relations, including by improving registration and access to documentation.

## 4.4 Personal liberty and security

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 may become 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 the military.

### 4.4.1 Sexual and gender-based violence

*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 Federation<sup>159</sup>

*Here in the camp, we have protection. You can report if your husband beats you and you can stay in safe heaven. But when we go back to Sudan, there is no one we can report to.*

Sudanese Refugee women, Kakuma camp, Kenya

Women and girls are often exposed to SGBV. The term refers to violence that is directed against a person in the basis of 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. While women, men, boys, and girls can be victims of gender-based violence, women and girls are the main victims.<sup>160</sup> International legal standards are outlined in Chapter 5.

More detailed information on this issue is found in UNHCR's Guidelines on prevention and response to SGBV of 2003 and in those issued by the Inter-Agency Standing Committee in 2005.<sup>161</sup>

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. These forms of SGBV may also occur during flight at the hands of bandits, traffickers, border guards, and/or other individuals in authority. They may continue during displacement, where prior exposure often leads to continuing problems, including further violence. This is particularly true if women and girls have to travel long distances in search of fuel and water, if camps are raided by militia, and during protracted displacement. Women and girls may be attacked or otherwise abused during or after they return to their homes, especially if the peace is tenuous.<sup>162</sup> As highlighted throughout this Handbook, when women and girls are unable to enjoy other rights, the risk of exposure to SGBV increases.

In **urban settings**, women and girls may be sexually harassed or abused when they look for employment or if they are obliged to work in unsafe conditions. Their often-uncertain status leaves them more vulnerable to violence, including forced prostitution. Too often, UNHCR is not aware of these kinds of incidents and generally has limited resources and capacity to

<sup>159</sup> 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.

<sup>160</sup> This definition is based on the 1993 Declaration on the Elimination of Violence against Women, Article 2. For further details, see Chapter 5, section 5.3.3.

<sup>161</sup> See UNHCR, *Sexual and Gender-based Violence against Refugees, Returnees, and Internally Displaced Persons: Guidelines for Prevention and Response*, May 2003; and Inter-Agency Standing Committee, *Guidelines for Gender-based Violence in Interventions in Humanitarian Settings*, September 2005.

<sup>162</sup> 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.

monitor and provide protection. While women and girls should have access to the health and security services available to the host population, this may be insufficient or access may not be possible, especially if they are discriminated against because they are female and/or because they are refugees or internally displaced.

The dangers and uncertainties of displacement place great strain on families and communities which can, in turn, provoke **domestic violence**, in both camps and urban settings. High levels of violence that result from the flight from conflict, the 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 are all factors that contribute to the domestic violence that is inflicted upon women and children. Women and girls may feel obliged to stay in violent and abusive relationships because they see no other way of surviving independently or because there is social or religious pressure to remain in a family. Domestic violence is rarely reported and remains hidden from view. It is often regarded as a private matter, including by UNHCR, NGOs, and community members, which makes it more difficult to intervene on behalf of the women and children involved.

When communities flee, they bring with them their customs and traditions. Among these are **harmful traditional practices**, such as female genital mutilation (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 may even result in death. FGM reinforces the inequities suffered by girls and women in the communities where it is practised. 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 cultural traditions that should be respected, these harmful practices are human rights violations. Sometimes, such practices are permitted under national laws.<sup>163</sup> Even if they have been banned in law, there may be few, if any, prosecutions. As outlined in chapter 2, section 2.2.4, UNHCR has a responsibility to protect the woman or girl concerned and to work to prevent and eliminate such practices at the community and individual levels. In this respect, we must be guided by international legal standards.

However, if measures to eradicate these practices are to be effective, we must work with the communities themselves and in conjunction with our partners. 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.

Women who are single heads-of-households and lone women without family support are among those most at risk of SGBV. Girls particularly at risk include unaccompanied girls, girls in foster families, girls in detention, girl soldiers, female adolescents, mentally and physically disabled girls, working girls, girl mothers, girls born to rape victims/survivors.<sup>164</sup> A more detailed listing of risk factors is provided in Chapter 3, section 3.3.5.

Gender inequality and discrimination are the root causes of SGBV, but displacement increases risk at the hands of armed groups, the host community, and other displaced persons. Perpetrators are sometimes the very people upon whom the individual concerned depends upon to assist and protect them, including humanitarian workers and peacekeepers. The sexual exploitation scandals in refugee camps in West Africa and Nepal of the early 2000s, involving humanitarian workers, raised awareness of this problem and resulted in the issuance by the Secretary-General of a Bulletin on special measures for protection from sexual

<sup>163</sup> Under Article 4 of the 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.

<sup>164</sup> UNHCR, *Sexual and Gender-based Violence against Refugees, Returnees, and Internally Displaced Persons: Guidelines for Prevention and Response*, May 2003, p. 71.



exploitation and sexual abuse.<sup>165</sup> The Bulletin applies to all staff of the UN, UN forces conducting operations under UN command and control.

The consequences of SGBV are devastating. Women and girls face possible death, including from HIV/AIDS, or acute and chronic physical injury,<sup>166</sup> reproductive health problems, emotional and psychological trauma, stigmatization, rejection, isolation, and increased gender inequality.<sup>167</sup> Securing redress is often very difficult. Women and girls who have been raped may be treated as criminals, as some have been in Darfur, Sudan, where some have been imprisoned and fined by police for illegal pregnancy.<sup>168</sup> In camps, traditional dispute-resolution systems do not generally provide adequate redress to women and girls (see section 4.5.1.2 below for more details).

## 4.4.2 Smuggling, trafficking, and abduction

Like men and boys fleeing conflict and persecution, women and girls 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 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.

### 4.4.2.1 Smuggling

*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.<sup>169</sup>

<sup>165</sup> Secretary-General, "Bulletin on special measures for protection from sexual exploitation and sexual abuse," ST/SGB/2003/13, 9 October 2003, available at <http://daccessdds.un.org/doc/UNDOC/GEN/N03/550/40/PDF/N0355040.pdf?OpenElement>.

<sup>166</sup> 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 particularly severe. When fistula results from rape, survivors are routinely rejected and ostracized by their husbands, parents, and communities.

<sup>167</sup> UNHCR, *Sexual and Gender-based Violence against Refugees, Returnees, and Internally Displaced Persons: Guidelines for Prevention and Response*, May 2003, pp. 23–24.

<sup>168</sup> Médecins sans Frontières, "The Crushing Burden of Rape: Sexual Violence in Darfur," 8 March 2005, p. 6.

<sup>169</sup> 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



Women and girls who pay smugglers to take them out of their country may be hoping to escape conflict and human rights violations, but they can all too easily find themselves in dangerous and/or degrading situations. Unlike trafficking, smuggling is essentially a voluntary act 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 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.

#### 4.4.2.2 Trafficking

*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"<sup>170</sup>

*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 Nepal<sup>171</sup>

The trafficking of people is a modern form of slavery that treats human beings as a commodity to be bought and sold.<sup>172</sup> Eighty per cent of all people trafficked are women and girls.<sup>173</sup> 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, including 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 used by traffickers to keep their victims in thrall.

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middle level had families, and the top level had men only. No one survived from the bottom level. As the boat capsized, people were trapped with little air. I was inside with the children; there remained a small area where air was trapped. I had a lifejacket and was able to swim to safety, but the others, the children and the women, had no chance." See <http://sievxmemorial.org/accounts.htm>.

<sup>170</sup> Women's Commission for Refugee Women and Children, "Abuse without End: Burmese Refugee Women and Children at Risk of Trafficking," January 2006, p. 22.

<sup>171</sup> From Human Rights Watch, "Trapped by Inequality: Bhutanese Refugee Women in Nepal," September 2003, pp. 58–59.

<sup>172</sup> For a definition see, 2000 Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, Article 3.

<sup>173</sup> OCHA, "Violence Threatens Women in All Stages of Life," 9 Dec. 2005.

Women and girls may be trafficked from their homes and villages of origin because they are poor, disabled or separated from their family or other support networks, because they are part of a single-headed household or because they are of a particular caste or ethnicity. They may have paid smugglers to bring them across borders, but then find that their uncertain situation leads to 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 they lack adequate protection, assistance and/or livelihood opportunities, they are exposed to a 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.

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, in turn, can lead to a cycle of renewed trafficking and abuse. 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. If they are able to seek asylum, they may find that procedures are not sufficiently age- and gender-sensitive to recognize their claim.

#### 4.4.2.3 Abduction

Abduction involves the removal of someone, temporarily or permanently, by force, threat or deception. It can be perpetrated to coerce involvement in armed forces or armed groups, for participation in hostilities, for sexual exploitation, forced marriage, forced adoption, or forced labour. Women and girls are likely to be abducted and pressed into prostitution, sexual slavery, forced marriage, female genital mutilation, and domestic labour. Boys are more vulnerable to abduction for forced military recruitment, although 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 forced marriage.

Women and girls may be abducted in places where they are alone, when, for example, they are walking to and from school or the market 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 to take part in armed conflict.<sup>174</sup>

#### 4.4.3 Restrictions on freedom of movement, including detention

Many women and girls are subject to detention or restrictions on their freedom of movement in different parts of the world. Women and girls who are seeking asylum or are stateless can be particularly affected, as can mandate refugees in States that have not acceded to the 1951 Convention relating to the Status of Refugees.

<sup>174</sup> 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; and World Vision International, “Abduction of Children in Africa,” January 2006.

## 4.4.3.1 Detention

*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 in Australia

*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, UK<sup>175</sup>

In a number of countries, asylum-seeking women and girls, like men and boys, are detained, whether because of their mode of arrival, because their claim is being decided in accelerated procedures or because they are awaiting removal. Procedures can be lengthy; there may be difficulties in removals to third countries of asylum. Thus detention can last a long time. Others are automatically detained if they arrive illegally and claim asylum. 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. There may be only limited privacy, access to fresh air, public phones, and washing facilities, for example. In remote locations, including custody facilities at the border, there may not be sufficient female police or immigration staff. In other situations, women have reported sexual abuse by male medical officers. In some cases, the detention facilities may not allow women and children to be held separately from men. In most cases, husbands and wives and other family members in detention are not permitted to stay together. Asylum-seeking women and girls in detention often have no access to adequate health services. They 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 and inadequate safe disposal for materials stained with blood. The special dietary needs of pregnant and lactating mothers are often not met.

In some situations, families are separated and unaccompanied children may be kept with other adults they do not know, thus increasing the risk of abuse or violence. Asylum-seeking and refugee children who are detained often suffer psychological and even physical harm, and they may have limited or no access to education or recreation. When men are detained but the rest of the family is not, women have to take care of the family without male protection, which may expose them to a greater risk of abuse and violence.

<sup>175</sup> Johann Hari, "We've been taught to hate the innocent," *The Independent*, UK, 20 April 2006.

#### 4.4.3.2 Other restrictions on freedom of movement

*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

*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 woman 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

In many countries, refugees and internally displaced persons are confined to camps or settlements located in isolated and insecure areas, often in border regions. These restrictions on freedom of movement make it difficult to seek employment and other income-generating activities outside the camp or settlement. Displaced women and girls who do manage to leave the camp to look for work to support themselves or their families face higher risks of exploitation and SGBV. Asylum-seeker and refugee women placed in temporary facilities located in remote areas may also have difficulty gaining access to adequate medical and psychosocial support.

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, the resources in these areas are soon depleted, and the women and girls may be forced to go further away, thus exposing themselves to greater risks.

The 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, and any protection concerns, particularly domestic violence, are likely to go unreported and unnoticed.

Women and girls who do not have individual documentation certifying their status may also find their freedom of movement curtailed. In urban situations, for instance, they may fear arbitrary arrest and deportation.

Freedom of movement for displaced and returnee women and girls is often restricted by the security situation in the places in which they live. Such restrictions do not violate international law, but they may be a serious barrier to education, health care, and other civil, economic, and social rights. It is therefore important that UNHCR is aware of these issues when planning its programmes.

#### 4.4.4 Military recruitment and demobilization

*"They found me amongst the rocks, pounding maize, and alone. There were 15 of them, all with weapons... They just take you... Leave the corn they said."*

Girl child soldier<sup>176</sup>

*"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, Liberia<sup>177</sup>

Girls and boys under the age of 18 – some as young as seven – are actively participating in hostilities in over 20 countries worldwide. Some children have been abducted at gunpoint and forced to serve. Others enlist as their only means of survival in the face of extreme poverty, abuse or exploitation.<sup>178</sup> Estimates suggest that of the approximately 300,000 children<sup>179</sup> involved in conflicts around the world, up to 40 per cent (120,000) are girls.<sup>180</sup>

Women and girls associated with armed groups and forces play a variety of roles during conflict. They may act as porters, cooks, and "sex-slaves" in addition to carrying guns. Many become pregnant and lack the means to support or care for their children.

Disarmament, demobilization, and reintegration (DDR) programmes often discriminate against women and girls. Even when women and girls are able and willing to access DDR programmes, they may find that their needs and the needs of their children are not addressed. Stigmatization, psychological and physical trauma, and responsibility for dependents – all common for women and children in post-conflict settings – are rarely discussed during these programmes. Without viable alternatives, women and girls formerly associated with armed groups and forces may be forced into hazardous and exploitative means of survival, including prostitution, theft, and drug-dealing, and may risk re-recruitment, as well.

*"States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to it elimination..."*

*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 the principles set forth in the present Declaration..."*

From the UN General Assembly Declaration on the Elimination of Violence against Women

#### 4.4.5 International legal standards related to personal liberty and security

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; the right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment; the right to equality, including to equal protection according to international humanitarian norms in time of war; the right to liberty and security of person; the right to equal protection under the law; the right to be free from all forms of discrimination; the right to

<sup>176</sup> Yvonne E. Keairns, *The Voices of Girl Child Soldiers: Summary*, Quaker UN Office, 2002.

<sup>177</sup> 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.

<sup>178</sup> 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.

<sup>179</sup> 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 exact figures are impossible to determine.

<sup>180</sup> Save the Children, *Forgotten Casualties of War: Girls in Armed Conflict*, 2005.

equality in the family; the right to the highest attainable standard of physical and mental health; and the right to just and favourable conditions of work.<sup>181</sup>

**Trafficking** is a crime. It is a form of enslavement<sup>182</sup> 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 even their right to life. Trafficking of children violates the right of a child to be free from all forms of abuse and exploitation.

The focus of international efforts to combat human trafficking, including those under the 2000 Trafficking Protocol, has been on prevention, prosecution, and protection. Equally important are measures to rescue, rehabilitate, and reintegrate victims of trafficking.<sup>183</sup>

Smuggling and abduction are also crimes that can result in serious violations of women's and girls' rights, including their right to life, even though smuggling is an arrangement that has been entered into voluntarily.

The protection of the **right to liberty and security** and the **prohibition against arbitrary arrest or detention** are anchored in Article 9 of the ICCPR. The psychological effects of detention and prolonged or indefinite detention may also violate the CAT. Article 31 of the 1951 Refugee Convention also obliges States 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.

In its 1986 Conclusion on detention of refugees and asylum-seekers,<sup>184</sup> UNHCR's Executive Committee stated 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. This Conclusion also identified the need for national legislation and administrative practices to distinguish between refugees/asylum-seekers and other aliens. It noted that detention of the former should be subject to judicial or administrative review.

Detainees have a right to be treated according to internationally accepted norms and standards. Among these are those established in the UN Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment,<sup>185</sup> the UN Rules for the Protection of Juveniles Deprived of their Liberty,<sup>186</sup> and the UN Standard Minimum Rules for the Treatment of Prisoners.<sup>187</sup> Many of these rules are reflected in the national legislation of several countries. UNHCR's Executive Committee has stressed the need to ensure that refugees and asylum-seekers are not detained with individuals who are incarcerated as common criminals.<sup>188</sup>

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 forth in the 1951 Refugee Convention and Article 12 of the ICCPR. Indirectly, keeping refugees in camps often bars access to basic social and economic rights, particularly the right of everyone to have an opportunity to earn their living by work that is enshrined in Article 6 of the ICESCR, in the 1951 Refugee Convention, and in Article 11 of CEDAW.

<sup>181</sup> 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.

<sup>182</sup> See Rome Statute of the International Criminal Court, 1998, Article 7(2)(c).

<sup>183</sup> See the Council of Europe Convention on Action against Trafficking in Human Beings.

<sup>184</sup> A/AC.96/688, para. 128.

<sup>185</sup> UNGA res. 43/173 of 9 December 1988.

<sup>186</sup> UNGA res. 45/113 of 14 December 1990.

<sup>187</sup> 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.

<sup>188</sup> See ExCom Conclusions Nos. 44 (XXXVII) of 1986, para. (f) and 85 (XLIX) of 1998, para. (ee).



In its General Comment No. 27, 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.”<sup>189</sup>

Since 1999, the UN Security Council has issued six resolutions on **children and armed conflict**, thus identifying the problem as a global priority.<sup>190</sup> Recommendations related to the issue include taking action to protect the rights of girls, including refugee and internally displaced girls. Resolution 1379 recommended that the Secretary-General begin a “naming and shaming” list of groups accused of using child soldiers, a practice that has continued in all subsequent special reports. The most recent Security Council resolution, no. 1612 of 2005, introduced a comprehensive mechanism for monitoring, reporting on, and punishing those responsible for grave violations against children in conflict.

#### 4.4.6 Actions to ensure personal liberty and security

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, together with local, national and international partners, should carry out the following activities:

##### Actions to prevent and respond to SGBV

- Identify and engage a group of multi-sectoral actors to devise and implement a coordinated plan of action covering prevention and response. They will also form the team to coordinate SGBV interventions.
  - In refugee settings, UNHCR is the coordinating agency for SGBV in collaboration with a lead SGBV NGO and a number of multi-sectoral actors.
  - In settings where no actions to prevent and respond to SGBV have been taken, UNHCR should take the lead in coordinating and establishing activities to address SGBV as part of its core mandate.
  - Where there is already a coordinating agency, UNHCR staff shall participate in and support the inter-agency response and prevention mechanisms.
  - UNHCR staff shall support governments in meeting their responsibility to protect against and provide remedies for acts of violence against women.<sup>191</sup> In particular, UNHCR shall support the implementation of appropriate legislative frameworks, policing systems, and judicial procedures to address SGBV.
- Develop a plan of action for prevention and response based on the guiding principles set out in the SGBV Guidelines to ensure that the rights and dignity of women and girls are respected.
- Develop a set of SGBV Standard Operating Procedures that will define the standards and the roles for prevention and response of all actors in your specific setting.
- Conduct regular participatory assessment with displaced women, men, boys, and girls, in order to gather information and understand SGBV-related issues in the context of

<sup>189</sup> Human Rights Committee, “General Comment No. 27, Freedom of Movement (Art. 12),” CCPR/C/21/Rev.1/Add.9, 2 November 1999, p. 6.

<sup>190</sup> For more information please see Chapter 5.

<sup>191</sup> 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.



community capacities, cultural practices, and available services. Use this information to feed into the annual protection report, country report, and country operation plans.

- Ensure that inter-agency collaboration, including collaboration with government actors and civil society, is a key component of your programme. Often, nationals in the country face similar SGBV problems and some national NGOs may have already galvanized efforts to address the issue. 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.

#### Actions to protect women and girls from smuggling, trafficking and abduction

- Raise awareness, 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
- Establish children's clubs where children can learn about their rights and educate their peers
- Launch information campaigns for women and girls in women's groups and schools about the dangers of trafficking, warn them not to accept marriage proposals or job offers from strangers, especially when they promise jobs in neighbouring countries with all travel costs met.
- Work with parents to change the belief that girls are inferior to boys and that they are only fit for marriage.
- Establish safe houses for women and girls who have been trafficked or abducted so that they can find immediate safety and can begin to recover from and reflect on their ordeal before any return to their country or place of origin. This will help to reduce the risk of further abuse or trafficking.
- Establish centres where children from urban or rural areas, who would otherwise risk abduction at night, can safely stay overnight.
- Establish reporting mechanisms with partners to ensure a coordinated and ongoing response to the needs of victims of trafficking.
- Ensure that registration identifies displaced women and girls most at risk of trafficking and abduction and monitor their situation regularly.
- Establish and/or support social workers to identify and provide health care, psycho-social support, legal advice, and other assistance to women and girls who have been smuggled, trafficked or abducted.
- Promote the provision of legal assistance and the establishment of victim-support and witness-protection schemes so that perpetrators can be brought to justice.
- Support law enforcement measures that prevent, deter, and combat trafficking. Support measures to criminalize trafficking and bring perpetrators to justice that include protection procedures to assess the protection needs of victims, and provisions to permit a period of reflection before returning to the country of origin.
- Organize training for border guards and immigration and camp officials to raise their awareness of protection concerns related to trafficking and enable them to recognize victims and potential victims.
- Work with the different arms of government to ensure that victims of trafficking receive adequate care and support to enable their recovery and rehabilitation.

For information on other actions, refer to UNHCR's 2003 *Sexual and Gender-based Violence against Refugees, Returnees, and Internally Displaced Persons: Guidelines for Prevention and Response* and the IASC's 2005 *Guidelines for Gender-based Violence Interventions in Humanitarian Settings*.

- Support anti-trafficking initiatives and ensure that they are aware that victims of trafficking may fear return to their country of origin and may have a claim for asylum.
- Promote education and vocational training for trafficking victims to help reintegration and rehabilitation and thereby reduce the risk that victims will be trafficked again.
- Promote skills training and livelihood opportunities to reduce dependency on assistance and promote independence and empowerment.
- Establish programmes to provide health care, psychological counselling, legal advice, and reintegration assistance to women and girls who have been trafficked and/or abducted.
- Provide water supplies close to where women live so that they do not have to go far for water.
- Lobby governments to include explicit asylum safeguards in anti-trafficking legislation to ensure victims of trafficking can be identified, assisted, counselled, allowed a reflection period, and have to access asylum before any return is undertaken.
- Promote use of UNHCR's Guidelines on International Protection on trafficking by decision-makers in asylum procedures.

#### **Actions to protection problems arising from detention and restrictions on freedom of movement**

- Cooperate 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 reduce protection gaps arising from detention and conditions of detention.
- Advocate with States in favour of freedom of movement for refugees and detention policies that conform to international legal standards.
- Promote the use of alternatives to detention, particularly for asylum-seeking women and girls.
- Monitor detention facilities regularly, including those at the border and at airports, and focus on the specific protection risks faced by women and girls.
- In cooperation with partners, establish mechanisms to help individuals of concern who are detained gain access to health care, legal remedies, and psycho-social support.
- Ensure separate facilities for women and men, except for family members.

#### **Actions to prevent forced military recruitment of women and girls, promote their demobilization in post-conflict situations, and enable their rehabilitation**

- Promote the release of girls and boys from armed groups and forces at the first available opportunity, independently of a formal DDR process.
- Encourage girls formerly associated with armed groups and forces to help plan DDR programmes to ensure that their experiences and recommendations are taken into account.
- Create an inclusive, community-based approach to DDR to ensure that the programme is well-integrated in the community, that all members of the community affected by the conflict participate, that networks are established to provide emotional support, and that the community is empowered to protect its children.

- Work with partners to promote enrolment in schools and training centres for boys and girls and ensure that such sites are protected from attack and recruitment.
- Help establish and maintain livelihoods, particularly for girls with children who are most at risk of abuse, exploitation, and rejection.
- Ensure that former child soldiers receive medical assistance, especially related to sexual and reproductive health and sexually transmitted diseases (STDs), and psycho-social follow-up.<sup>192</sup>
- Ensure that programmes for child soldiers address the particular concerns of young mothers and their children.
- Ensure that all allegations of rape and other forms of SGBV are promptly, thoroughly, and independently investigated and followed up.
- Promote other measures, including family reunification and recreational activities, both as preventive measures and for girls and boys who have been demobilized.

## 4.5 Administration of justice

*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 Tanzania<sup>193</sup>

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. While the principle of equality before the law and equal access to courts is firmly embedded in international law, 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 also be less informed about their rights, because they lack education and/or literacy skills, or because of cultural biases against women being involved in legal matters or other aspects of public life. Women and girls face numerous obstacles in accessing national and, in some cases, traditional judicial procedures. They often face bias and discrimination against them by police and adjudicators.

As outlined throughout this Handbook, displacement places women and girls at greater risk of violations of their rights. At the same time, displacement often exacerbates the inequalities and discrimination that they face in relation to the administration of justice, with the result that they often have little or no redress for the violations that they have suffered. The impunity that so often is part of displacement leaves women and girls at increased risk of violence and rights violations. It is therefore essential to understand the formal and informal justice systems, and to work with them to promote the equal rights of women and girls and the best interests of children.<sup>194</sup>

Ensuring accountability for gross violations of human rights and international humanitarian law is an important element of international efforts to strengthen the rule of law in post-conflict situations and in reconciling divided communities. However, while there has recently been

<sup>192</sup> Save the Children, *Forgotten Casualties of War: Girls in Armed Conflict*, 2005.

<sup>193</sup> “Within the Limit: Refugees in Tanzania”, UNHCR film.

<sup>194</sup> See Chapter 3, section 3.3.5 on identifying women and girls at risk.

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."<sup>195</sup> 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.

#### 4.5.1 Administration of justice during displacement<sup>196</sup>

*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, Thailand<sup>197</sup>

*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"<sup>198</sup>

Refugees are subject to the laws of their host country. The 1951 Refugee Convention provides that refugees must respect provisions for law and order in the country of asylum. At the same time, the Convention obliges States to provide refugees with access to their courts on the same basis as nationals. However, 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:

- **Host-country domestic laws and regulations:** These include 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.<sup>199</sup>

These laws are enforced by the **formal State legal system** of the host country, which includes the police and the judiciary, including courts of law. In some cases, quasi-judicial structures, such as chief district officers and government camp managers, also exist at the local level.

<sup>195</sup> Johnson-Sirleaf, E. and Rehn, E., *Women, War and Peace: The Independent Experts' Assessment*, Progress of the World's Women, 2002.

<sup>196</sup> This section and the examples in it are largely drawn from Rosa da Costa, "The Administration of Justice in Refugee Camps: A Study of Practice," Legal and Protection Policy Research Series, Division of International Protection Services, UNHCR, March 2006. This study was based on a questionnaire sent to 21 UNHCR operations in 18 countries. Thirteen of the operations were selected as samples for the study.

<sup>197</sup> "The Silence that is Everyone's Secret," Film produced by UNHCR Thailand and refugee women's groups in Thailand.

<sup>198</sup> 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, available at <http://www.ids.ac.uk/ids/law/pdfs/eanyamu.pdf>.

<sup>199</sup> Host countries also often have customary traditional rules, which may be applied to refugees.

- **Refugees' customary or traditional rules:** These are often unwritten rules regulating behaviour and providing methods for resolving disputes within and among groups of refugees. These traditions and codes of behaviours can consist of religious, cultural, ethnic, national, and tribal practices or other values and customs.

Customary or traditional rules are often applied by **traditional or customary justice mechanisms**. These mechanisms can consist of persons from elected refugee bodies or religious structures. They may be run by elders or tribal, clan, village, zone or camp leaders.

- **Refugee camp by-laws:** These are 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 counterparts or other actors.

Refugee camp by-laws may be managed by **refugee camp management systems** that may include government camp managers, leaders in the refugee communities, and in some cases, UNHCR.

In internal displacement situations, formal and informal laws and mechanisms may also apply. However, the laws of the country and the formal State law enforcement and judicial systems may not be functioning, due to conflict. 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 are not usually 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.

#### 4.5.1.1 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"<sup>200</sup>

The complexities involved in ensuring that women and girls have access to equality before the law and legal remedies is clearly illustrated in relation to our efforts to address SGBV – arguably

<sup>200</sup> OHCHR, "Access to Justice for Victims of Sexual Violence, Report of the United Nations High Commissioner for Human Rights," 29 July 2005.

the most widespread protection problem faced by women during displacement.<sup>201</sup> 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.)

There are many reasons why women are not able to access formal national judicial systems. Police and camp officials often do not take SGBV, particularly domestic violence, seriously. As was the case in Darfur, police and government security forces may, in some cases, be the perpetrators of the violence. Women may lack knowledge of, or familiarity with, the legal system, particularly in countries of asylum. They may lack legal representation and they may not have the means to travel the distance to the courts or the money to pay for court-related costs. In addition, complicated procedural and evidentiary laws may discourage women from starting proceedings for which there is little chance of success. In refugee situations, there is often a lack of willingness on the part of prosecutors to prosecute crimes against refugees, particularly those in camps, as they are foreigners and the judicial systems is already overloaded. Often justice delayed means justice denied.

One of the greatest barriers facing women in accessing formal judicial systems is community pressure, combined with fear of social ostracism and physical reprisal. Women and girls often do not want to disclose the violations they suffer as, 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 under traditional justice mechanisms and may threaten them if they proceed under national legal systems. 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.

*Many obstacles prevent women from seeking justice. They may not have enough money to travel to a trial or the ability to take time off from work or to leave their families; they may be intimidated or disillusioned by the justice system. Support services and legal aid are rarely provided to women, and 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.*

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.

### Field practice

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, whose proceedings 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.

#### 4.5.1.2 Traditional justice mechanisms

<sup>201</sup> In the study by da Costa, referred to in footnote 196 above, it appeared 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 in the study and as the most common form of SGBV reported.



*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 <sup>202</sup> 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 Nepal<sup>203</sup>

Given the inaccessibility of formal justice systems, cases such as Nar Maya's 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."

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 are 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. This is frequently the solution proposed by traditional justice mechanisms to rape and other forms of SGBV against children.

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,<sup>204</sup> eloping, non-performance of marital and family duties, and transgression of other social mores, norms, and customs.

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.

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 "minor offences" will 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. Domestic violence is often characterized as a minor crime. Women and girls may be charged with, and sentenced for, "offences" that are not crimes

<sup>202</sup> The Refugee Coordination Unit is the Nepalese government authority that implements government policy in the camp.

<sup>203</sup> Human Rights Watch, "Trapped by Inequality: Bhutanese Refugee Women in Nepal," September 2003.

<sup>204</sup> In some societies, men can be accused of witchcraft as well.



under national or international law. 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,<sup>205</sup> and rule against the best interests of the child.

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.
- UNHCR should work to try 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.

### Field practice

UNHCR's office in Thailand discovered that there were a considerable number of crimes, including SGBV and rape and murder of children, being committed in the refugee camps that were not being investigated or prosecuted by the Thai authorities. This was due both to the reluctance of the Thai government to become involved in the administration of justice in the refugee camps, and the desire of refugee leaders to maintain control of justice issues in the camps. Consequently, UNHCR began to systematically and comprehensively address the issue of administration of justice in the camps, particularly in relation to violations of the rights of women and children.

UNHCR launched a four-pronged approach to make the formal Thai justice system more accessible to refugees and ensure that the traditional justice mechanisms in the camps adhered to Thai law and international legal principles. The approach included: 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.

This approach was complemented by a variety of measures aimed at supporting victims of crimes, particularly SGBV crimes, including providing legal counsel and establishing legal aid centres in the camps; implementing Standard Operating Procedures for SGBV in each camp; producing a film, with refugee women's groups, to raise awareness about SGBV and provide information on the options available for survivors of SGBV; and strengthening child-protection networks in the camps.

<sup>205</sup> See section 4.3 above.

## 4.5.2 Transitional justice and the administration of justice in return situations<sup>206</sup>

*"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"<sup>207</sup>

Transitional justice can be defined as encompassing 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.<sup>208</sup> Justice mechanisms and processes include international tribunals, "mixed" international and national mechanisms, national courts, national truth commissions, and traditional justice mechanisms.

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,<sup>209</sup> and they are rarely involved when the tribunals are being established. Cases of sexual violence tend to be under-reported in truth commissions, where women often focus their testimony on their husbands, children, and loved ones, rather than their own experiences. The granting of amnesties, including for crimes of SGBV, and gender-blind reparations policies can also result in the denial of justice to women and impede their healing, rehabilitation, and reintegration into their society. The problems that women face when trying to gain access to national courts, as discussed above, or when they use traditional justice mechanisms, also apply in the context of transitional justice.

Despite these obstacles, women have made important contributions in the area of transitional justice, and we must work to promote such initiatives in return situations. This is part of our role as cluster leader for protection of internally displaced persons. In addition, some of the innovative approaches used to promote the participation of women and their rights in relation to transitional justice can be adapted to our work with both formal and informal justice mechanisms in situations of displacement. These approaches include advocacy work to ensure gender balance in tribunal judges and truth-commission commissioners, providing gender training, and ensuring that these bodies acquire expertise in specific issues, such as violence against women. In an effort to ensure that women and girls participate in truth commissions, preparatory workshops have been organized, particularly for rural women, and special women-only sessions have been convened. Gender-sensitive reparations policies have been implemented in truth commissions and in the Statute of the International Criminal Court (ICC). As a result of advocacy by women's groups, the ICC also provides for guaranteed witness protection, support, and counseling through a Victims and Witnesses Unit.

<sup>206</sup> This section is drawn from Sanam Naranghi Anderlini, Camille Pampell Conaway and Lisa Kays, "Transitional Justice and Reconciliation" in The Initiative for Inclusive Security and International Alert, *Inclusive Security, Sustainable Peace: A Toolkit for Advocacy and Action*, 2004 <http://www.womenwagingpeace.net/toolkit.asp>, 2004.

<sup>207</sup> Binaifer Noworjee, "Making the Invisible Crime Visible: Post-Conflict Justice for Sierra Leone's Rape Victims," *Harvard Human Rights Journal*, Vol. 18, 2005.

<sup>208</sup> 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.

<sup>209</sup> 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.

**Field practice**

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 *gacaca*.<sup>210</sup> These include advocacy for the integration of a gender perspective in implementation of *gacaca* law and awareness-raising sessions for 100,000 women leaders, local government representatives, and persons in detention centres.

### 4.5.3 International legal standards

Under the 1951 Refugee Convention, every refugee is obliged to comply with the laws and regulations of the host country. Refugee law also requires that States provide refugees with free access to courts on the same basis as nationals.

Article 14 of the ICCPR provides that everyone shall be equal before the courts and tribunals and sets out related rights, including the right to be entitled to a fair and public hearing by a competent, independent and impartial tribunal. In addition, Article 16 provides that everyone shall have the right to recognition everywhere as a person before the law. These rights are complemented by Article 15 of CEDAW, which provides that women are equal to men before the law, and that women should be treated equally in all stages of procedures in courts and tribunals.

As outlined in more detail in Chapter 5, the Rome Statute of the International Criminal Court includes rape, sexual slavery, enforced prostitution, forced pregnancy, and enforced sterilization as war crimes and crimes against humanity. It contains age- and gender-sensitive measures to protect victims and witnesses involved in the criminal proceedings before the Court. The ICC will also establish reparations through compensation, restitution, and rehabilitation, which may take the form of communal reconstruction and healing programmes. A Trust Fund will be established for victims.

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.”

### 4.5.4 Actions to promote the equality of women and men, and girls and boys, before the law and equal access to judicial systems

In order to promote the principle of equality before the law and equal access to judicial systems, UNHCR and its local, national, and international partners should carry out the following activities:

#### **In formal legal and judicial systems**

- Review the formal laws of the national legal system to establish the extent to which such laws comply with the country's international commitments in relation to women and girls equality with men and boys before the law, and equal access to judicial systems.

<sup>210</sup> *Gacaca* is the traditional justice mechanism in Rwanda.

- Work with lawyers' and judges' associations, human rights groups, and women's groups to determine which, if any, relevant laws do not meet international legal standards. Work with the authorities to ensure that relevant national laws adhere to those standards and provide technical advice where needed.
- 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 refugee and/or internally displaced and returnee women and girls.
- Provide materials and training to personnel in the formal legal system (police, prosecutors, judges, district officials) 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.
- 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, through, for example, mobile courts.
- Promote equal numbers of male and female police officers, or at least the presence of some female police officers, in refugee and internal displacement settings.
- Provide 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.
- 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.
- In some cases involving displaced children, including girls whose rights have been violated by the decisions of traditional justice mechanisms, it may be necessary to make a best interests determination.<sup>211</sup> Support government authorities in their efforts to carry out such a determination, in line with international legal principles, particularly those set out in the CRC.
- 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.
- Obtain and record statistics on court proceedings involving refugees and IDPs, disaggregated by age and sex covering types of cases, number of cases, and, for criminal cases, sentences. Note any statements by judges, prosecutors or other officials that indicate gender-based discrimination or lack of gender sensitivity.
- Provide legal literacy training to different members of the community, including women.
- Encourage gender balance in the staffing of the country's rule of law institutions.

<sup>211</sup> See Chapter 3, section 3.3.6 on best interests determinations.

### For dispute resolution in camps and traditional justice mechanisms

- Ensure that any rules and by-laws in the camps promote international legal principles, including the equality of women and men and boys and girls and the best interests of the child.
- 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.
- 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.
- 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 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.
- 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.
- 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.
- Strengthen the interplay between formal judicial structures and traditional justice mechanisms:
  - 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.

- In the event that a decision made by a traditional justice mechanism does not appear to be in the best interests of a child, and the national judicial system is unwilling or unable to carry out a best-interests determination, UNHCR should conduct a best-interests determination.

#### For transitional justice mechanisms

- Work to ensure that women are directly involved in the design and establishment of these mechanisms, and that there is gender balance among adjudicators in them.
- 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.
- Encourage the appointment of judges and advisers who have expertise in considering violations of the rights of women and girls.
- Consider how to link such mechanisms with other longer-term forms of reconciliation and rehabilitation, such as counselling and community healing.

## 4.6 Health and HIV/AIDS

*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 Chad<sup>212</sup>*

The impact of conflict and displacement on health is profound. Health and sanitation systems are often destroyed and health services unavailable. Diseases such as measles, meningitis, and cholera often become epidemics, causing high rates of illness and death among displaced populations. The conditions characteristic of displacement also favour the rapid transmission of infectious diseases, such as HIV and other sexually transmitted infections. Quality health services, including reproductive health services, are often not available. When they are, women and girls may not have access to them. 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.<sup>213</sup>

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 to sick family members, and 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. This section focuses on three areas of health: reproductive health, HIV/AIDS, and psycho-social support.

<sup>212</sup> 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*<sup>212</sup>, August 2004, p. 21.

<sup>213</sup> This paragraph is adapted from Johnson-Sirleaf, E. and Rehn, E., *Women, War, and Peace: The Independent Experts Assessment*, Progress of the World's Women, 2002, Vol. 1, pp. 35 – 43.

### 4.6.1 Reproductive health

*Reproductive health conditions are the leading cause of death and illness in women worldwide.*  
UNFPA, Reproductive Health Fact Sheet<sup>214</sup>

*During the first two months of an emergency, reproductive health does not apply.*  
Humanitarian worker, Aceh, Indonesia<sup>215</sup>

*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*<sup>216</sup>

The reproductive health of women and girls is at great risk during displacement. SGBV during and after conflict, including domestic violence, can result in unwanted pregnancies, complications from unsafe abortions, and an increase in sexually transmitted diseases, including HIV. Women fleeing violence and conflict often lack access to quality maternal health care and emergency obstetric care. This can lead to high maternal mortality rates, still births, low birth weight, and infant mortality. Malnourishment and infectious disease, often prevalent during displacement, can compromise reproductive health even further.

Displaced adolescent girls are particularly at risk of SGBV, including forced and early marriage, sexual exploitation, unwanted pregnancies, and pregnancies at a young age, with severe risks to their health and that of their children, and increased risks of becoming infected with HIV/AIDS. This is compounded by lack of knowledge about reproductive health and lack of access to basic and fundamental necessities, such as sanitary materials.

In 2004, only 10 refugee camps out of 53 were able to distribute adequate sanitary materials. The lack of sanitary materials has critical implications for the health, safety, and well-being of women and girls. The lack of sanitary materials undermines women's opportunity to participate in community activities, training programmes, and employment opportunities. In order to obtain money to buy these materials, some girls resort to prostitution, putting them at risk of HIV, pregnancy, and exclusion from their communities. 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.

**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.

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*.

<sup>214</sup> See [http://www.unfpa.org/swp/2005/presskit/factsheets/facts\\_rh.htm](http://www.unfpa.org/swp/2005/presskit/factsheets/facts_rh.htm).

<sup>215</sup> Women's Commission for Refugee Women and Children, "Reproductive Health Priorities in An Emergency: Assessment of the Minimum Initial Service Package in Indonesia," February/March 2005, p. 9.

<sup>216</sup> UNHCR, WHO, UNFPA, *Reproductive Health in Refugee Situations: An Inter-Agency Field Manual*, 1999.



*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*

Lack of access to quality reproductive health services during pregnancy and delivery can also result in serious health and protection consequences – and even death – for women and their babies. Unattended deliveries, childbirth at an early age, and rape can result in fistula, a serious, but treatable, condition.<sup>217</sup> Women with fistula become incontinent and often live an isolated existence in refugee camps, abandoned by their husbands and shunned by society. Women and girls with fistula 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."

### Field practice

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. 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.<sup>218</sup>

Many women, 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 include "inadequate levels of knowledge about human sexuality, inappropriate or poor quality RH 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."

Additional reasons for lack of access to reproductive health care during displacement include:

- Loss of income that reduces the ability of displaced persons to make choices;
- The focus on life-saving measures, while reproductive health is not considered to be a priority;
- Limited access, such as when women are not able to get health care without their husband's permission;
- Lack of privacy and confidentiality in health care facilities;
- Poor or no roads, insufficient transport, and great distance to health facilities;
- Lack of security en route to health facilities;
- Perceived low quality of health services and inconvenient hours of operations; and
- Humanitarian workers who do not think that reproductive health care generally and family planning in particular is a priority. Some staff do not want to offer family

<sup>217</sup> 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.

<sup>218</sup> UNHCR, "UNHCR, UNFPA fund surgery for refugee and local women in Chad," 17 March 2005, available at <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&page=home&id=4239519f4>

planning because they believe that it is against the culture of the communities concerned.

These reasons often apply after return, as well, as reproductive health care is often not a priority activity in reconstruction and rehabilitation programmes.

#### 4.6.2 HIV/AIDS

*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)<sup>219</sup>

*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/AIDS. 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 Chad*<sup>220</sup>

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 which they interact.

Women and girls are more susceptible to HIV infection because of gender discrimination and violence, biology,<sup>221</sup> insufficient access to HIV prevention information and services, inability to negotiate safer sex, and lack of female-controlled HIV prevention methods.<sup>222</sup>

These factors may be more pronounced for displaced women and girls because of their vulnerability to exploitation and violence throughout displacement.

*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 know less than men about how HIV/AIDS is transmitted and how to prevent infection, and what little they do know is often rendered useless by the discrimination and violence they face.*

UNAIDS, UNFPA, UNIFEM, *Women and HIV/AIDS: Confronting the Crisis*, 2004, Preface.

<sup>219</sup> The Global Coalition on Women and AIDS, *Stop Violence Against Women*, Issue No. 2, available <http://womenandaids.unaids.org/themes/docs/UNAIDS%20VAW%20Brief.pdf>.

<sup>220</sup> 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.

<sup>221</sup> Male-to-female transmission of HIV during sex is twice as likely as female-to-male transmission.

<sup>222</sup> The information in this paragraph and those that follow is adapted from the following sources: 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.”

Because of food insecurity and lack of livelihoods, women and girls may turn to prostitution to gain access to food and other fundamental needs. The breakdown of communities and families can result in high-risk behaviour.

Women bear the burden of the pandemic in many other ways. They are more likely to take care of children who have been orphaned due to HIV/AIDS and to care for sick relatives and neighbours. Elderly women, whose own children have died of AIDS, often care for their grandchildren. In such circumstances, in order to augment or compensate for loss of income, girls tend to be removed from school to compensate for loss of income 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.

### Field Practice

In response to a study that discovered major shortcomings in access to sexual and reproductive health services for adolescents, the refugee programme in **Tanzania** set out to create accessible, culturally-acceptable, and youth-friendly adolescent sexual and reproductive health (ASRH) services delivered from multi-purpose youth centres. The centres are open five days a week and occasionally on weekends. Young people are trained as peer educators, receive information on HIV prevention, and are encouraged to talk about substance abuse and receive counselling and treatment for STIs. They watch videos, dance, perform plays, do sports, and take language classes. Nutrition and hygiene advice is offered with training in vocational skills such as gardening, tailoring, and cooking.

Girls were hardly seen at the youth centres, however. Parents were concerned about girls attending the programme and rumours spread that only “bad girls” would go to the centres. More and more activities were targeted at boys, while the girls, trapped at home with domestic duties and forbidden, by their parents, to go to the centre, were ignored.

Consultations were held with community leaders, parents, and religious leaders who agreed to allow the girls to go to the youth centre when they boys weren’t there. The youth centres were opened for girls only two half-days a week. More and more girls began to attend the programme, where they received information on sexual and reproductive health and were offered skills training.

While this schedule represents a step forward, the ultimate goal of the programme must be that girls and boys should benefit equally from the centre. Consultations with the girls, their parents, and other community leaders should be held in an effort to achieve this objective.

Men and women 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*, lack 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.

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.<sup>223</sup>

### 4.6.3 Psycho-social 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.<sup>224</sup>*

It is widely recognized that forced displacement, conflict, and human rights violations have a significant negative impact on the mental health of those affected.<sup>225</sup> 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 war's aftermath, has severe psychological effects on women and girls. Left untreated, the psychological scars can destroy a woman's quality of life and even threaten the community as a whole.<sup>226</sup>

While the physical hardships suffered by displaced persons are often well-documented by aid agencies, their mental health needs are less obvious. Psycho-social needs are rarely subject to the same rigorous assessments as those conducted to determine the level of food, shelter, or physical-health assistance.<sup>227</sup>

Women and girls subjected to sexual and gender-based violence often do not come forward to ask for psycho-social support because they might not know that it exists or because they are too embarrassed to admit that they are in need of help. As the story of Panchita and her family shows, refugee women tend to carry a double burden: They must deal with their own traumatic experiences of displacement and violence and also, in their role as caregivers, they must endure the consequences of men's and children's traumas. There are many indications that exposure to combat and post-traumatic stress in men lead to higher levels of violence and

<sup>223</sup> See UNFPA website, [www.unfpa.org](http://www.unfpa.org).

<sup>224</sup> 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, available at <http://www.crr.unsw.edu.au/documents/The%20Ultimate%20Betrayal%20-%20An%20Occasional%20Paper%20Sept%202005.pdf>.

<sup>225</sup> 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.

<sup>226</sup> E. Johnson-Sirleaf and E. Rehn, *Women, War and Peace: The Independent Experts' Assessment*, Progress of the World's Women, 2002.

<sup>227</sup> 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.

*Dr Lynne Jones, an expert on the effects of war on children, spent 10 days assessing the mental state of refugees in two camps, Guereda and Am Nabak, in Chad, on behalf of International Medical Corps (IMC). She found that 50 per cent of the refugees she examined had serious neuro-psychiatric disorders, such as psychosis, severe depression or epilepsy, requiring medical intervention and continuing supervision. Eighteen percent suffered from mental handicaps requiring social support, and 25 per cent were grieving women or traumatized children in need of mourning and psycho-social support.*

Alertnet, "Eyewitness: Darfur war leaves invisible scars," 17 Nov. 2004, available at <http://www.alertnet.org/thefacts/reliefresources/110071398135.htm>.

sexual abuse towards women and girls. It is also 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. Many women suffer from tremendous feelings of guilt and helplessness because they are unable to protect their children and relatives from violence and hardship.<sup>228</sup>

#### 4.6.4 International legal standards related to the right to the highest attainable standard of physical and mental health

Women and girls have the right to the highest attainable standard of physical and mental health, which includes the right to reproductive health,<sup>229</sup> including HIV and AIDS prevention, treatment, care and support, and psycho-social support.<sup>230</sup> In displacement situations, the right to the highest attainable standard of health entails non-discriminatory access to health-care services that are equivalent to those available to surrounding host communities. The Guiding Principles on Internal Displacement provide that special attention shall be paid to the health needs of women, including 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 Declaration of Commitment on HIV/AIDS<sup>231</sup> 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, that States must address the gender and age based dimensions of the epidemic, that they must integrate a gender perspective into efforts to combat HIV and AIDS, and that women must participate in developing programmes to prevent the spread of HIV/AIDS. 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.

Reproductive health care and psycho-social support must be available from the beginning of an emergency. 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. In addition, the Declaration of Commitment on HIV/AIDS states that HIV and AIDS awareness, prevention, care, and treatment must be incorporated into programmes and actions that respond to emergency situations.

<sup>228</sup> E. Johnson-Sirleaf and E. Rehn, *Women, War and Peace: The Independent Experts' Assessment*, Progress of the World's Women, 2002.

<sup>229</sup> Reproductive rights are based on a number of separate rights contained in various international instruments. Read together, the ICESCR, CEDAW, and the CRC, 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 of Population and Development (IPCD) Programme of Action, the Beijing Plan of Action, the Millennium Development Goals and the World Summit Outcome Document.

<sup>230</sup> See in particular paras. 14, 37, 58–62.

<sup>231</sup> See in particular paras. 14, 37, 58–62.

### 4.6.5 Actions to be taken to ensure women and girls are able to enjoy their right to the highest attainable standard of physical and mental health

In order to ensure that women and girls are able to enjoy their right to the highest attainable standard of physical and mental health, UNHCR and its local, national and international partners should carry out the following activities:

- Reproductive health interventions should be guided by the following principles: community participation, quality of care, integration of services, information, education, and communication activities, advocacy for reproductive health, and coordination among relief agencies.
- Reproductive health should be offered in the early, emergency phase of a displacement situation by implementing the MISIP.<sup>232</sup>
- A reproductive-health focal point should be established at the beginning to an emergency in order to ensure that reproductive health issues are addressed and that the MISIP is implemented.
- Men as well as women should be involved in the reproductive health programme. Although men may be poorly informed about reproductive health matters, 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.
- Culturally appropriate sanitary packs should be provided to all women and girls from at least 13 to 49 years of age. Sanitary materials and separate washroom facilities should be available for girls in schools.
- HIV gender-sensitive programming must be available in situations of displacement as well as return, in concert with national programmes. Such programmes should:
  - 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 young people are part of regular HIV coordination and planning meetings;
  - Include access to HIV and AIDS programmes, including prevention, support, care, and treatment of all individuals affected by HIV/AIDS;
  - Ensure that women have access to programmes focusing on prevention of mother-to-child transmission when they are available for the surrounding communities;
  - Ensure that young people have sufficient understanding of HIV and are able to protect themselves against the infection;
  - Focus on unaccompanied children, orphans, and other children made vulnerable by HIV and AIDS, provide necessary support, family tracing, and family reunification, and work towards durable solutions;
  - Include support to caregivers of AIDS patients and orphans;
  - Ensure that all persons who have been raped have access to Post-Exposure Prophylaxis to prevent transmission of HIV; and

<sup>232</sup> The MISIP can be implemented without any needs-assessment since documented evidence already justifies its use. The MISIP aims to identify an organization(s) and individual(s) to facilitate and coordinate the implementation of the MISIP, 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.



- 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.
- Efforts must be made to prevent and respond to protection risks faced by women and girls affected by HIV/AIDS, such as discrimination and violence.
- The right to psychological health should be addressed in situations of displacement and return.
- As stated in several ExCom Conclusions, UNHCR is obliged to provide adequate and culturally appropriate psycho-social care for women and girls who have been subjected to violence and different forms of exploitation and abuse.
- Interventions in mental health and psycho-social support should empower women and girls to play an active role in organizing their lives, in attaining self-sufficiency, and in reducing their dependency.
- 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, the following actions should be carried out:<sup>233</sup>
  - Establish good relations with the community in order to identify the support structures that exist in the community before and after displacement.
  - Help the community to rebuild support mechanisms to ensure that the rights of the individual are respected.
  - Advocate for and integrate appropriate community-based psycho-social support in programming, emergency preparedness, and contingency planning.
  - 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.
  - Encourage the reestablishment of normal cultural and religious events and activities in order to support social networks and recreational activities for children.
  - Ensure that women and girls participate in common-interest activities, such as constructing/organizing shelter, organizing family tracing, distributing food, and teaching children.

## 4.7 Livelihoods and food security

*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 growth in household agricultural productivity, greater income, and better food and nutrition security for all.*<sup>234</sup>

Displacement not only causes physical insecurities but also jeopardizes households' livelihoods. It can change gender roles and relationships between men and women. Women often have to assume new responsibilities for their families' safety and economic well-being and security, as their husbands may not have joined them during flight or they are seeking employment elsewhere or are conscripted into the armed forces. Girls are the first to be pulled

<sup>233</sup> 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.

<sup>234</sup> A. Quisumbing et al, *Tackling Hunger in a World Full of Food: Tasks ahead for food*, WFP and WFS.



out of school or face early marriage when household livelihoods are at risk, and women become more vulnerable to sexual abuse and exploitation or to entering into prostitution in order to protect their families' lives and livelihoods.<sup>235</sup>

Women often bear the brunt of food shortages, which not only affects their health but also the health of their unborn or young children. Women whose husbands are missing in war and or have disappeared are particularly at risk. A woman who is a widow or single or the head of a household often assumes new and additional roles and responsibilities, including that of primary breadwinner of the family.

#### 4.7.1 Livelihoods and linkages with 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"<sup>236</sup>

A livelihood provides an individual and her/his household members with the means of acquiring food and meeting immediate and long-term needs. Livelihood returns can be in the form of food grains and/or cash incomes. 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."<sup>237</sup>

Livelihood assets can be categorized into five groups.<sup>238</sup>

- **Natural assets:** The natural resource reserve. For example, agricultural and grazing land, water resources, livestock, lakes, trees, and fish.
- **Social-political assets:** Social resources, including kinship structures, religious groups, neighbourhoods, political leaders, legal systems, women's groups and networks, and youth clubs.
- **Human assets:** The resources innate to a human being, for example, strength and ability to work, skills, capacities, and knowledge.
- **Physical assets:** The important support factors that facilitate sustainable livelihoods. These include basic infrastructure, such as transport, shelter, energy, and communication, and other production items, such as farm implements, tools, and equipment.
- **Financial assets:** The financial resources that will be required to pursue various livelihood options. These include earnings and wages, savings, and access to loans and credit.

<sup>235</sup> WFP, "Food Aid and Livelihoods in Emergencies: Strategies for WFP," WFP/EB.A/2003/5-A, Rome, May 2003.

<sup>236</sup> UNHCR and the Women's Commission for Refugee Women and Children, "Report on the Dialogue with Refugee Women," Geneva, 2001.

<sup>237</sup> D. Carney (ed), *Sustainable Rural Livelihoods, Department of International Development*, London, 1998. Carney draws this explanation from the work of Robert Chambers and Gordon Conway.

<sup>238</sup> Ibid.

*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.

Socio-economic factors such as natural, financial, and physical assets, gender inequalities, and ethnicity, can determine whether groups of people 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 frequently demonstrated their resilience and survival skills.<sup>239</sup>

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.<sup>240</sup>

Women and children are the most at risk when faced with no livelihood opportunities. Not only do they

already bear heavy 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 violating behaviour norms by searching for a livelihood.

The collection of firewood is a survival strategy that frequently puts women and girls at risk of sexual assault and rape. Only small amounts of the firewood are used for household consumption; the rest is sold in local markets for cash that enables the women to buy other necessary household items, like food, clothing, and toiletries.

The collection of firewood is directly and indirectly related to numerous protection concerns in addition to potential violence. Women and children often have no time for education, skills training, income-generating activities or participation in leadership and decision-making bodies. In internal displacement and returnee situations, there is the added risk that women and children may look for firewood in area that has been mined.<sup>241</sup>

## Field Practice

In Cairo, **Egypt**, urban refugee men complained that they were unable to find wage labour that was fair and equal to what the local labourers earns. They explained that refugee women were better placed to find domestic work and other wage-earning work and were the major contributors to household livelihoods. Discussions with refugee women confirmed that, although they had not previously had jobs as domestic workers or wage-earners in their country of origin, they were forced to work in the country of asylum in order to sustain their families. Though they managed to find paid work, they did not receive fair wages and were exploited. Many of the women in the focus group discussion looked malnourished and complained of physical ailments that prevented them from working regularly. They explained that they had no access to vocational training to upgrade their skills because their responsibilities at work and at home left them with no time to take advantage of those opportunities. The women also explained that their family structures had changed significantly: the children and the sick and elderly members of the family were often neglected.

<sup>239</sup> UNHCR, "Framework for Durable Solutions for Refugees and Persons of Concern," EC/53/SC/INF.3, 16 September 2003.

<sup>240</sup> Naila Kabeer, "Safety Net and Opportunities Ladders: Addressing Vulnerabilities and Enhancing Productivity in South Asia," January 2002, Institute of Development Studies, University of Sussex.

<sup>241</sup> Adapted from Women's Commission for Refugee Women and Children, "Displaced Women and Girls at Risk: Risk Factors, Protection Solutions and Resource Tools," 2006.

Despite all of 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 and abuse.

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 persons are generally not permitted to cultivate the lands around the camps, to rear livestock, or to have access to the host community's grazing lands. Displaced persons living in fishing communities are generally not allowed to fish in lakes because they are seen as competition for the local fishermen.

In many asylum countries, refugees confined to camps in rural areas are not permitted to leave the camps for employment or education. As a result, refugees become dependent on subsistence-level assistance and become frustrated with their lives of poverty and unrealized potential.<sup>242</sup>

Participatory assessment findings have shown that young girls and women are forced to adopt negative coping mechanisms, such as engaging in sex in order to survive. Some are forced into prostitution while others may occasionally exchange sex for services. Sometimes, adolescent girls are given away in marriage to men twice their age so that the dowry received for the girl will enable a male member in the family to set up a small business.

#### 4.7.2 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.*

*from Tackling Hunger in a World Full of Food: Tasks ahead for food*<sup>243</sup>

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 in the first years of life and before birth 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.<sup>244</sup> 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.

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, women will often be the first to deny themselves food in favour of others, particularly their children and male partners. Whenever food aid is provided, it should both meet the short-term needs of the displaced population and help to restore the population's long-term food security. This can be

<sup>242</sup> The World Commission on Environment and Development (also known as the Brundtland Commission), 1987.

<sup>243</sup> Quisumbing et al, *Tackling Hunger in a World Full of Food: Tasks ahead for food*, WFP and WFS.

<sup>244</sup> Adapted from FAO, *Food: A Fundamental Human Right*, Rome, 2001.

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 the local markets.

Food insecurity is not only linked with malnutrition; it can also result in sexual exploitation. Those who possess a surplus of food 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 prostitution because they lack a livelihood and desperately need food for themselves and their families.<sup>245</sup> In some instances, humanitarian workers and peacekeepers have demanded sexual favours in return for food or money. UNHCR has thus committed itself to ensuring that women help to design food distribution plans and monitor the distribution process.

### 4.7.3 International legal standards in relation to livelihoods and food security

Under the 1951 Convention relating to Status of Refugees, refugees seeking work must be treated the same as non-nationals or aliens. Refugee women may engage in industrial and commercial activities as well as agriculture and handicrafts.

The ICESCR obliges States Parties to take appropriate steps to protect the right to work, which includes “the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.”<sup>246</sup> 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. CEDAW also provides that rural women be given the opportunity to obtain the training and education required to improve their technical proficiency.

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).

The United Nations has also identified the right to adequate food as another universal right. Under the ICESCR, States Parties “recognize the right of everyone to ... adequate food” and take measures to respect everyone’s right to freedom from hunger. The Covenant calls for improvements in methods of production, conservation, and distribution of food a ways of reducing hunger. The Rome Declaration on World Food Security, adopted at the 1996 World Food Summit, reaffirmed “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”.<sup>247</sup>

<sup>245</sup> 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.

<sup>246</sup> ICESCR, Article 6.

<sup>247</sup> FAO, *Food: A Fundamental Human Right*, May 2001

#### 4.7.4 Actions to promote equality in relation to livelihoods and food security

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, UNHCR and its local, national and international partners, should carry out the following activities:

##### Livelihoods<sup>248</sup>

- Through participatory assessments,<sup>249</sup> identify the various resources available to women and men of different age groups and backgrounds. Identify the groups with livelihoods too precarious to guarantee basic survival and those groups that manage to meet basic needs but need greater security for their livelihoods.
- Ensure that women have access to skills training, including literacy/numeracy education, credit, employment opportunities, and microfinance institutions. Focus specific activities on women, such as business skills training courses for women only.
- 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.
- Since women often play multiple roles, try not to overburden them with the responsibility for developing time-consuming or costly business ideas. Be sensitive about the specific needs of women, such as day care centres and women's organizations.
- Reduce the risk of friction within the family or community by raising awareness of the positive aspects of entrepreneurship for women, particularly among men. Work with male members of communities to enhance their understanding of the benefits derived from women being self-reliant and help them appreciate and support women's entrepreneurship activities.
- 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.
- Support governments that host return and reintegration operations in strengthening property rights, particularly, women's legal rights to property.
- Ensure that redistribution of land takes into consideration joint ownership of land instead of titling the land only to male heads-of-households.
- 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.
- Study and replicate traditional feeding mechanisms, so that women can feed their children without having to exchange sex for food.
- 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 to obtain restitution and compensation when property cannot be restored.

<sup>248</sup> Many of the recommended actions as related to livelihoods are taken from the *UNHCR Handbook for Self-Reliance*, August 2005.

<sup>249</sup> UNHCR, *Tool for Participatory Assessment in Operations*, May 2006, see also Chapter 2.

- Before launching out on 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.

#### Food security/Food aid<sup>250</sup>

- Address micro-nutrient deficiencies in certain vulnerable groups of women, children and adolescents and consider local eating and cooking habits in all operations.
- Let the displaced community participate in promoting a safe environment for all. Women leaders should be involved; and women's committees and groups should be established to represent women's interests and to help identify and protect those most vulnerable to sexual violence. These groups can help raise awareness of the problem, identify preventive measures and be at the forefront of providing assistance to survivors.
- Target relief food distributions to households, ensuring that women control the family entitlement. Women tend to have more control over food in the household than over cash. Women should be provided with individual ration cards for themselves and their children. Be sure that essential items, such as food, water and cooking fuel, are either given directly to women or are distributed through women. Make sure that these items are easily accessible so that women do not have to go into isolated areas to collect them.
- Ensure that women's committees are involved in monitoring distribution and post-distribution activities. Non-refugee internally displaced aid workers should always be present at the distribution sites to monitor the process.
- Issue separate ration cards for each wife and her dependants in polygamous families.
- 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 on special measures for protection from sexual exploitation and abuse.

#### Fuel

- Reduce fuel consumption by using, for example, fuel-efficient stoves.
- Implement strategies to increase safety and security during fuel collection, such as ensuring that regular patrols are present and/or that mixed groups of men and women go together to collect fuel.

#### Partnerships

- Work with grassroots women's organizations to strengthen the coping skills of displaced and returnee women, upgrade their livelihoods skills, and encourage their participation in decision making.

<sup>250</sup> Many of the recommended actions as related to Food Security/Food Aid are adapted from the WFP Progress Report on the Implementation of WFP's Commitments to Women and the WFP Food Aid and Livelihoods in Emergencies: Strategies for WFP.

## 4.8 Education

*What we want is the government to build a school especially for us. What we want is we also want to know how to read and write just as you have shown us. We also want when we grow up to teach those who are being born how to read and write.*

Refugee girls, 13–18, South Africa<sup>251</sup>

*We are teaching voluntarily our girls and women who dropped out primary schools 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, 25, a refugee teacher, Senegal<sup>252</sup>

Education is a basic human right for girls and women as well as boys and men. The international community has committed itself to eliminating gender disparities in primary and secondary education and to ensuring that the learning needs of adults, particularly women, are met.<sup>253</sup> In the context of flight, war, and displacement, education is essential for the protection of women and girls and for the sustainability of durable solutions. Educational activities can indeed be both “life-saving” and “life-supporting.”<sup>254</sup> They can protect women and girls from sexual abuse and recruitment and facilitate the identification of women and girls at risk. They also constitute a channel for sharing information and for conveying messages on HIV/AIDS and reproductive health. In addition, education is important for restoring a sense of normality and self-esteem during displacement and for facilitating the economic and social reintegration of women and girls in their country of origin.<sup>255</sup>

There is still a significant difference between girls’ and boys’ access to formal and non-formal education. As a result, girls and women are less educated than boys and men and lack knowledge about their rights. During displacement, these inequalities may be exacerbated. Separated and unaccompanied girls, teen mothers, and single mothers often have particular difficulties in gaining access to educational opportunities as they have no one to support them and cannot pay for school-related items. 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. This makes them more vulnerable to sexual harassment, trafficking, forced labour, recruitment or domestic violence.

Well-designed education programmes can help girls and women to exercise other rights and serve as a protection tool. However, poorly-designed programmes may sometimes endanger those rights. This section explores some of the obstacles women and girls face in gaining access to education and the risks they face when education is neither safe nor gender-sensitive, and does not meet minimum standards of quality.

<sup>251</sup> G. Clacherty, “Refugee and Returnee Children in South Africa: Perceptions and experiences of violence,” UNHCR, Geneva, 2005, p. 13.

<sup>252</sup> This quotation was recorded by M. Fresia, UNHCR Education Unit, during her field research on the coping strategy of Mauritanian refugees in Senegal.

<sup>253</sup> 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.

<sup>254</sup> INEE, *Minimum Standards on Education in Emergencies*, 2004.

<sup>255</sup> UNHCR, *Education Field Guidelines*, Geneva, 2003.



### 4.8.1 Gaining access to education

Poverty often impedes girls' access to education. Primary education is, in principle, free of cost. However, attending school 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” in comparison with early marriage.

For those girls who do go to school, some pay these costs by resorting to prostitution or working for low wages; others drop out. Many girls who attend school have so many household duties, as well, that they have no time for homework and so slip behind in their studies and drop out of school before they have acquired sufficient literacy and numeracy skills.

### 4.8.2 Access to safe learning environments

When schools are distant from children's homes or from camps, adolescent girls may face verbal, physical or sexual violence on their way to or from school because of their social status and/or their gender.

When national education systems are weak, violence against women and girls may occur within the learning environment. Poor school infrastructure and a lack of trained, paid, or female teachers may lead to teachers exploiting children. Some teachers ask adolescent girls to farm their land, carry out domestic chores or sexually exploit them, if they cannot afford their school fees. Within the school environment, the absence of separated and locked latrines and a lack of sanitary materials and soap may provoke physical and verbal harassment of girls by boys.<sup>256</sup>

In camp settings, refugee schools that are meant to protect children from violence have sometimes become easy targets for military recruitment.

### 4.8.3 Access to quality education

Educational curricula often do not incorporate programmes that raise awareness about women's and girls' rights, empowerment, and protection against sexually transmitted diseases, including HIV. Girls' secondary education and non-formal education are still given a low priority at the global level.<sup>257</sup> In addition, refugee children often do not have access to education in their own language.

### 4.8.4 International legal standards on education

Article 22 of the 1951 Refugee Convention clearly establishes that States should provide elementary education to refugees as they do to nationals. Higher levels of education should be accessible to refugees on the same, or better, basis as that available to aliens.

Under Article 28 of the CRC, States are required to make primary education compulsory and free for all, and to encourage regular school attendance and to reduce drop out-rates. Article 10 of CEDAW provides that States take a variety of 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. Measures should also be taken to reduce female student drop-out rates. Article 13 of ICESCR also recognizes the right of every one to education.

<sup>256</sup> UNHCR, *SGBV Guidelines on Prevention and Response*; INEE, *Minimum Standards for Education in Emergencies*.

<sup>257</sup> Jesuit Refugee Service, *Horizons of Learning: 25 Years of JRS Education*, 2005, p. 25.

The Guiding Principles on Internal Displacement also recognize the right to education and provide that special efforts should be made 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 they are living in camps, as soon as conditions permit.<sup>258</sup>

The Education for All strategy and the Millennium Development Goals for education, to which UNHCR is fully committed, represent renewed commitments by the international community to implement the right to education. They focus on the need to achieve gender parity, promote access to quality education, and meet the learning needs of adults, especially women.

#### 4.8.5 Actions to promote the access of women and girls to safe and quality education

UNHCR should ensure that women and girls are consulted when planning education programmes. The Inter-agency Network for Education in Emergencies, Chronic Crisis and Early Reconstruction (INEE), in which UNHCR plays an active role, also provides support in implementing a rights-based approach to education and in promoting gender equality in education, notably through its work in establishing and disseminating “minimum standards” and good practice.

In order to promote women’s and girls’ right to formal and non-formal education, UNHCR, together with local, national, and international partners should carry out the following activities:

- Advocate with States and education authorities for the fulfillment of national laws and international commitments, such as the CRC, which promote equal access to quality education for girls and boys regardless of their status, and access to learning opportunities for women and adolescent mothers.
- 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 don’t value the education of girls.
- In prolonged emergencies, in-service teacher training should be structured so that it will be recognized in the home country. This is particularly important for returnee women who want to work as teachers.
- 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 community, including parents and especially fathers, to find ways to promote girls’ right to education.
- Promote the active participation of girls and women in the design, monitoring, and evaluation of programmes that focus on improving girls’ access to education, on the quality of education, and on the safety of learning environments. Involve women’s and youth organizations in raising awareness of the need for girls’ and women’s education.
- Promote the equal access of girls to safe schooling, the establishment of safe learning environments, and the principle of girl’s education as follows:

<sup>258</sup> See Guiding Principle 23.

- Ensure that school infrastructures and locations are gender sensitive and meet minimum standards on walking distance between schools and home, separation of 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.
- Assist poorer families in enrolling and keeping their daughters in school. This may entail help with clothing, school materials, and child care, as well as providing additional coaching from peers or others. It may be possible to be exempt from fees. (There should be no fees for primary schools, according to international law, but schools sometimes levy fees for special purposes.)
- Advocate for partners and education authorities to provide support 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.
- Consider abolishing school uniforms when this policy leads to non-enrolment and early drop-out from poorer families.
- 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.
- Abolish age constraints and requirements for birth certificates for school enrolment, so that girls can enrol easily. In large primary schools, arrange separate classes for over-age students.
- Promote the participation of marginalized girls, such as teenage heads-of-households, teenage mothers, girls with disabilities, and girls from minority groups.
- 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.
- 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.
- Ensure that schemes for reintegration of children associated with armed forces provide for the education needs of girls and women, and their children, as well as boys and men.
- 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.
- Ensure that pregnant girls and adolescent mothers are allowed to continue their education, rather than be excluded by school rules or pressures.
- Collect and analyze gender-based education data, including sample data from schools on end-of-year examination results, drop-out during and between years, regularity of attendance, etc. Conduct focus group discussions with students and parents on gender issues and consult women and youth groups.

- When possible, provide all school materials free to girls and boys, to maximize participation and retention and to prevent stigmatization.
- Establish a Code of Conduct for teachers and other education personnel that is publicized and monitored. Girls and women teachers should be given and should understand reporting guidelines, which should be developed in a participatory manner. The code should be included in teachers' contracts and in-service training. Those behaving inappropriately should be dismissed.
- Promote gender-sensitive quality education programmes.
  - Promote gender-sensitive learning activities, school hours, and teacher training. Teachers should be trained in providing psycho-social support and in treating girls equally and with respect during and after lessons.
  - 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.
  - Give some lessons on reproductive health to boys and girls separately to enable freer discussion.
  - Encourage the establishment of girls' clubs.
  - Establish and enforce ethical assessment and examination processes that protect girls and women, i.e., ensure that teachers cannot demand favours in return for good marks or promotions.
- Work to ensure equal numbers of female and male teachers.
  - Give particular attention to the recruitment and training of female teachers, with a minimum number of these in each school, and a woman as head or deputy head. At least one female teacher should play a mentoring role for girls. Encourage the placement of women teachers in high-status positions, not just lower primary grades and for "soft" subjects.
  - 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.
  - Ensure that women teachers are able to participate fully in school meetings and in-service training.

## 4.9 Housing, land, and property

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 land 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 compounds these problems.

### 4.9.1 Lack of adequate housing during displacement

*We checked that it was the correct number and walked up the stairway, which was dark despite that 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.*<sup>259</sup>

*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"<sup>260</sup>

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. Lack of privacy can result in sexual and gender-based violence, including domestic violence. Many women and girls cannot leave violent family situations simply because they and their children have no place to go.<sup>261</sup> Inadequate housing usually means inadequate water, sanitation and safety.<sup>262</sup>

It is extremely difficult for **urban asylum-seekers and refugees** 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 is common. In such circumstances, women and girls, in particular those who are alone or who are heading families, are at great risk of SGBV, either by those with whom they are living or their 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.

In **camp situations**, overcrowding and a lack of privacy between and within dwellings can create protection risks for women and girls. Single women, disabled women, and unaccompanied 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.

Insufficient **non-food items**, 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

<sup>259</sup> "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.

<sup>260</sup> 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.

<sup>261</sup> 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.

<sup>262</sup> 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.

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 UNHCR's policy is 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.

Women and girls living in **transit centres** face additional protection risks. Transit centres are used both in asylum and return as a means of providing short-term accommodation. Because of their temporary nature, sanitation and cooking facilities are minimal and these accommodations often do not contain any partitions. With little or no privacy, the risk of SGBV increases. Returnees frequently remain in transit centres for longer than originally intended. This is particularly a problem for unaccompanied elderly or disabled women who may not have anywhere else to go.

Refugees and internally displaced persons in Europe have often been housed in collective centres, which also suffer from a lack of privacy and inadequate services. Some women, particularly those who are elderly and are not able rebuild their homes or cultivate their lands, have remained in these centres indefinitely.

#### 4.9.2 Access to housing, land and property upon 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 AIDS<sup>263</sup>

*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 Rwanda<sup>264</sup>

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. The risk of violence against women in such situations increases.<sup>265</sup>

Discrimination against women and girls in relation to land, property, and inheritance rights contributes enormously to this problem. 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.<sup>266</sup> Even when laws provide for women's right to inherit property and land, few women

<sup>263</sup> Human Rights Watch, "Coming Home: Return and Reintegration in Angola," 2005, p. 32.

<sup>264</sup> 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.

<sup>265</sup> Adapted from Centre on Housing Rights and Evictions, "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.

<sup>266</sup> Human Rights Watch, "Fact Sheet: Women's Property Rights Violations in Kenya," 2003, available at <http://www.hrw.org/campaigns/women/property/factsheet.htm>.

have the social and economic resources to pursue their claims, either through non-formal or statutory means.<sup>267</sup>

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, including the risk of HIV. 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 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.<sup>268</sup> Separated and divorced women may also lose their rights to their land and property. Even if they continue to have access to their land and property, elderly women may not have the capacity to farm it to support themselves and those for whom they are responsible.

*Children in child-headed households live a precarious existence. Ninety-five percent have no access to education or health care, and most live under plastic sheeting or in substandard housing. More than 60 percent live solely off agriculture: three-quarters of those own less than one hectare of land and one-quarter are landless. Average revenue per family per month rarely exceeds 2,500 Rwandan francs (U.S. \$5). They are at the mercy of neighbours, relatives, and local officials when they need assistance or protection, yet may be marginalized and ignored, partly due to conflicts over management of assets left by their own parents.*

Human Rights Watch, “Rwanda Lasting Wounds: Consequences of Genocide and War for Rwanda’s Children,” March 2003.

Separated and unaccompanied children, 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 their land and property as they are often unaware of their rights. Even when they have access to their land, they may not be able to build a home or shelter by themselves.

### 4.9.3 International legal standards related to housing, land, and property

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. 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.”<sup>269</sup>

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; location; and cultural adequacy. The Special Rapporteur 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.

<sup>267</sup> 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.

<sup>268</sup> Centre on Housing Rights and Evictions, “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 February 2005, E/CN.4/2005/43, para. 68.

<sup>269</sup> 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.



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 land and property are clearly established in international law.<sup>270</sup> These rights include the right not to be arbitrarily deprived of land and property in the first place.<sup>271</sup> 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.<sup>272</sup>

The recently adopted United Nations Principles on Housing and Property Restitution for Refugees and Internally Displaced Persons (the Pinheiro Principles) establish clear legal standards regarding the right of refugees and internally displaced persons to return to their housing, land, and property. The Principles contain a number of provisions aimed to gender equality, including the requirement 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 Pinheiro Principles also outline the responsibilities of the international community, including international organizations such as UNHCR.

*Due to the lack of involvement of women in the planning and recovery process, 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.*

Adapted from UNIFEM Press Release, “UNIFEM calls for greater role for women in reconstruction and recovery efforts,” 23 June 2005.

#### 4.9.4 Actions to be taken to promote women’s and girls’ rights to housing, land, and property during displacement and on return

In order to promote women’s and girls’ rights to housing, land and property, UNHCR, together with local, national, and international partners should carry out the following activities:

- During registration and participatory assessment, identify women and girls in need of shelter assistance and follow up to ensure that they receive the assistance needed.
- 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.
- When designing site plans, consider:
  - promotion of a sense of community and reinforcing community-based protection;
  - privacy of the family unit;
  - women and girls’ access to water, sanitation facilities, fuel, and other services;

<sup>270</sup> See CEDAW, Articles 14(2)(g), 16(1)(h).

<sup>271</sup> 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.

<sup>272</sup> Guiding Principles on Internal Displacement, Principle 28; Pinheiro Principles, Principle 10.

- providing a common area where children can play and that is visible from their families' homes;<sup>273</sup> and
  - adequate lighting in communal areas and for individual use.
- Ensure that housing maximizes the protection of women and girls by ensuring there are adequate partitions between families, single women and single men are not be accommodated together, and single women, girl-headed households, and women with specific needs are accommodated in safe and central locations with easy access to facilities.
- 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.
- 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.
- Ensure that safe housing alternatives are available for women and girls who are victims of SGBV, including domestic violence, and their children.
  - Establish confidential referral systems.
  - Ensure that women and their children may be accommodated together.
  - Ensure safety and security for those living at or managing the shelter.
  - As soon as a survivor is referred, develop plans for a longer-term arrangement. Formulate guidelines for limits to a stay in a shelter to avoid indefinite stays in shelters.
  - Ensure that women and children are able to enjoy fundamental human rights, including the right to an education.
  - Keep shelter locations confidential to avoid stigma and maximize security.
- Ensure that centres where women can network, convene, and work on projects are available for women during displacement and return. Adolescent girls should also have access to centres where they are offered skills training and information on sexual and reproductive health.
- Ensure the equal rights of men, women, boys, and girls to housing, land, and property restitution in the **context of return**.
  - 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.
  - 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 land and property.
  - Work with communities and governments to abolish harmful traditional 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.
  - 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 separated and unaccompanied girls, to land, housing, and property upon return.
  - 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

<sup>273</sup> 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.

compensated for any housing, land, and/or property that cannot be restored to them.

- Ensure that women are involved in designing restitution processes and procedures.
- Establish legal counselling and advisory services to support women and girls in claiming their housing, land, and property on return.
- Monitor the extent to which women with specific needs, such as elderly women and women with disabilities, and girls who head households, are able to cultivate their land.

## 4.10 Peace, security, return, and reintegration

*"As we travelled to different countries, we saw courageous women and dedicated UN staff working to prevent conflict, deal with its aftermath, and assist countries to re-build. Yet it is indisputable that, despite numerous UN resolutions passed by consensus by governments from around the world, the UN system still needs to improve staff capacity, organizational practices and systems, and high-level commitment to more effectively address the gender dimensions of war and peace... We saw the challenges that the UN system confronts when it tries to honour the commitments made by governments to gender equality and women's rights; and we saw lost opportunities from having inadequate resources, coordination and focus on protecting women and promoting their role in peace-building."*

Elisabeth Rehn and Ellen Johnson Sirleaf<sup>274</sup>

Security Council resolution 1325 emphasizes the important of women's equal participation as active agents in peace and security.<sup>275</sup> It calls for increased participation of women at all levels of decision-making in conflict prevention, management, and resolution, including support for local women's peace initiatives and indigenous processes for conflict resolution. It also emphasizes the importance of women's participation in peace-building processes and the implementation mechanisms of peace agreements. It calls for action from governments, parties to armed conflict, the UN Secretary-General, and other UN bodies to achieve this.

This section focuses on two specific areas in relation to UNHCR's responsibilities under Security Council resolution 1325: women's equal participation in peace processes and support to women and girls in repatriation.

### 4.10.1 Equal participation in peace processes and civil and political rights

*"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 50th anniversary of Security Council Resolution 1325, New York, October 2005.

<sup>274</sup> 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.

<sup>275</sup> For a detailed overview of Security Council Resolution 1325, see Chapter 5.

Peace agendas and reconstruction processes offer a unique opportunity to improve the protection of women and girls through the possibility of changing legislation related to property and inheritance and domestic violence and by working toward greater gender

*“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 Accords.*

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

balance in national and local decision-making structures, to name just two actions. Unfortunately, despite the recognition that peace is inextricably linked with equality between women and men,<sup>276</sup> and despite all the groundwork done by women, often in support of men, they are often excluded from high-level decision-making arenas and, as a result, their priorities disappear from the global agenda.<sup>277</sup>

“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.”<sup>278</sup>

Too often, women feel they have to change to adapt to the needs of negotiators – a belief that inadvertently supports and reinforce gender inequalities. UN agencies should work together to ensure that negotiation processes are adapted to consider the specific needs of women and to support women in strengthening their capacities to assume leadership roles.

Women and girls also have to overcome gender inequalities within their own environment and even hostility, including ridicule and violence, from their male counterparts in order to exercise their right to participate. UNHCR staff and partners should be aware of these challenges in what are normally highly-charged political processes and should work with male leaders and with women and girls in the community to overcome these obstacles.

All too often, women are given last-minute speaking time at the end of the process, when, with coordination, planning, and support from UN agencies and NGO partners, women could be seated in their rightful place at the negotiating table from the outset. 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.

<sup>276</sup> “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 UNIFEM, *Women, War and Peace*, 2002, p. 75.

<sup>277</sup> 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.

<sup>278</sup> *Ibid.*, p. 79.

UNHCR and its partners should take action 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 the women will, in itself, raise awareness among the male leaders and can strengthen work in favour of women and girls. Any failure to work with men and boys will undermine the process.

Organizations must be developed well before peace negotiations begin to ensure that the peace process includes gender analysis and women's participation and rights.<sup>279</sup>

*In South Africa, women across party lines agreed that each party should be one-third represented by women on their negotiating teams for the formal constitutional process. This resulted in important gains for women. The South African Constitution includes a comprehensive Bill of Rights with provisions that forbid discrimination on the basis of gender, sex, marital status or pregnancy and that uphold the right of women to make decisions about reproductive health and control over their own bodies, property rights, the right to health care, including reproductive health care, the right to education, and the right to enjoy and practice their own cultural and religious beliefs.*

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.

The inclusion of women into peace negotiations will ensure that human rights provisions that safeguard gender equality are incorporated into new constitutions and that national laws addressing such issues as domestic violence and the prosecution of perpetrators of gender-based violence are drafted.<sup>280</sup>

#### 4.10.2 The rights and needs of women and girls in voluntary repatriation and reintegration processes

*"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 Children<sup>281</sup>

*"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*<sup>282</sup>

<sup>279</sup> "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.

<sup>280</sup> Ibid. para. 202.

<sup>281</sup> 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, available at [http://www.womenscommission.org/archive/05/press\\_releases/103105.shtml](http://www.womenscommission.org/archive/05/press_releases/103105.shtml).

<sup>282</sup> 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.

Experience has shown that, although war changes the roles of women and men, many of these changes are subject to reversals in aftermath of the conflict. Men often seek to re-establish themselves as the decision-makers in the public arena and 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 for challenging the negative aspects of traditional justice systems. UNHCR and its partners should work with communities on both sides of the border to help women and girls to retain these hard-won changes. Coordination should begin long before repatriation starts. Verification of the individual and voluntary nature of repatriation for women and older girls, as required by UNHCR procedures, is key to supporting them in this process.

### Field practice

Providing documentation to individual women and men is an important way of supporting their civil and political rights on return. In Guatemala, UNHCR built the capacity of the municipalities and returnee “documentation promoters” to promote personal documentation, including birth certificates, in post-conflict areas to ensure that returnees could enjoy their political, civil, and socio-economic rights. The promotion campaign specifically targeted women, who were unaccustomed to having documentation, through the use of radio and other outreach media. Some 42,000 people were issued personal identity documents.

UNHCR internal draft document on reintegration, 2006.

One of the major challenges women face on return is maintaining their autonomy and consolidating their civil and political rights. In the late 1990s, when some women returnees to Guatemala opted to prioritize “the agenda of women and their rights,” they were met with hostility. Male leaders in some return areas questioned the legitimacy of the members of the women’s organizations and even sought to remove women from elected leadership positions and replace them with women who were likely to follow the accepted agenda.

This episode highlights the complexity of working on gender equality and respect for women’s rights, but also underscores the importance of working with men and boys, particularly male leaders, to ensure genuine support.

The design of reconstruction and assistance programmes and community-based economic project in return areas must involve women, men, girls, and boys and support women to ensure that they benefit equitably from the projects established. Discrimination against women and gender inequalities can persist or deepen in the post-conflict period, as men are anxious to re-establish their traditional roles. As in displacement, specific targeted actions will be required to support women and girls to ensure that they can sustain gains made during displacement and exercise their rights in their places of origin. Special attention should be given to women and girls who are single heads-of-households, disabled, unaccompanied, or separated, and to elderly women with no family. Economic and other projects must target groups of women with specific needs to ensure they are not exposed to exploitation and violence and to enable them to exercise their rights. The situation of women and girls should be carefully monitored in the post-conflict period when serious economic gaps and large influxes of foreign workers can easily lead to abuse and exploitation. It is important to work with the community on prevention campaigns and to establish clear complaints mechanisms.<sup>283</sup>

<sup>283</sup> Secretary-General’s Bulletin, 2004.



**Field practice**

In **Sierra Leone**, 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.

The Women's Resource Centre in **Afghanistan**, which opened in 2004, has created a public facility offering referrals, counselling, and mediation to women at risk. The Centre is managed by an Afghan NGO with technical support from a German NGO, the UN Assistance Mission to Afghanistan, OHCHR, UNHCR, and others. Mobile teams from the Centre are available to support grassroots and community-based initiatives to identify and build the capacity of female focal points and self-help groups which, in turn, identify and support women at risk in their communities.<sup>284</sup>

Receiving communities should be sensitized 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 women returnees are not targeted or ostracized upon return.

### 4.10.3 International legal standards related to women's and girls' rights in peace, return, and reconstruction processes

The themes of participation and equal rights in decision-making run through CEDAW and include the equal rights of women to participate in the political and public sphere. It 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.<sup>285</sup> CEDAW also requires States to incorporate the principle of equality of men and women in their legal systems, abolish discriminatory laws, and adopt appropriate legislation that prohibits discrimination against women.<sup>286</sup>

Similarly, the CRC, with its principles of non-discrimination, best interests, and participation, is an important instrument for ensuring gender equality for girls in peace and reconstruction processes.

The Guiding Principles on Internal Displacement also 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.

<sup>284</sup> UNHCR internal draft document on reintegration, 2005.

<sup>285</sup> CEDAW, Article 7.

<sup>286</sup> CEDAW, Article 3.



#### 4.10.4 Actions to support women and girls in exercising their rights in peace, return, and reconstruction processes

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 activities:

Ensure young and older women representatives are elected and participate in all go-and-see visits to return areas, 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.

- Work with women and girls to develop appropriate voluntary return methodologies that take into account the concerns of specific groups, particularly female-headed households, women and girls with disabilities, and women and girls who have been subject to rape and other forms of sexual and gender-based violence by persons in their area of return.
- Ensure that national authorities issue individual documentation to all adult women and unaccompanied and separated girls.
- Prepare women and girls for participation in peace processes through training programmes, lobby with partners, especially UN agencies, for women's direct participation in the decision-making bodies, and ensure cross-border support for women's organizations.
- Support women's representatives who have 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.<sup>287</sup>
- Support displaced women and girls in organizing themselves, and identify and work with local women's organizations, regional networks, and those in their place of origin who work for 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
- Sensitize men and boys on the value of women's and girls' participation in decision-making in family and community life.
- Work with male leaders to open channels for participation by women and avoid token representation, and lobby with high-profile male participants in the peace process.
- Ensure foreign mediator missions have a gender balance and work with all to gain support for the rights of displaced women and girls.
- Monitor the rights of women and girls in return situations to ensure that the gains made in displacement are not eroded, and work with UN agencies and the government to sustain and advance progress, particularly concerning access to documentation and training and the promotion of gender-sensitive national legislation.
- Raise awareness about women's rights among the judiciary and support the equal participation of women in all electoral processes, including the use of quotas.<sup>288</sup>
- Ensure that gender perspectives are considered when designing economic reconstruction programmes, and promote the inclusion of women and girls in local reconstruction processes.

<sup>287</sup> DPKO, "Gender Resource Peace-keeping Package for Peace-keeping Operations," 2005.

<sup>288</sup> 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.

# The International Legal Framework

## 5.1 Introduction

This chapter highlights some of the most important legal instruments and provisions that aim to promote and protect the rights of women and girls and to eliminate violence against women.

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, including international organizations, corporations, armed groups, individuals, and other non-State entities. This chapter reflects this evolution, outlining both States' obligations and those of non-State actors, including UNHCR, regarding the protection of women and girls.

Regional refugee law and human rights law are also part of the international legal framework for protection. National legal systems 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. However, since this Handbook focuses on UNHCR's responsibilities for protecting women and girls, all of which are based on international, rather than regional or national instruments, the regional and national standards and systems for protection will not be considered here.

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. Hard law consists of treaties that a state has ratified or acceded to and to customary international law. Soft law consists of declarations, conclusions, and recommendations, such as Conclusions of UNHCR's Executive Committee (ExCom) or ECOSOC Resolutions. 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 binding on States, UN agencies such as UNHCR are bound by the provisions in soft law that relate to their mandates and activities.

For information on international legal principles that address specific rights of women and girls, such as their rights to health, land, housing, property, and education, see Chapters 3 and 4.

## 5.2 International refugee law

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 refugee<sup>289</sup> 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 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.”<sup>290</sup> However, over the past 15 years, “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.”<sup>291</sup>

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.”<sup>292</sup> In recent years, there has been growing recognition that age, like gender, is an important factor to be considered when deciding refugee status.

Conclusions adopted by ExCom 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 displaced and returnees women and girls. These are contained 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.

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 Convention on Refugee Status 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.<sup>293</sup>

<sup>289</sup> 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.

<sup>290</sup> 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,” p. 3.

<sup>291</sup> Ibid.

<sup>292</sup> Ibid., p. 2.

<sup>293</sup> 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.

## 5.3 International human rights law

International human rights law addresses the rights and dignity of all human beings – women, men, boys, and girls – at all times<sup>294</sup> and without discrimination. Under international human rights law, States are obliged to respect, protect, and fulfill the human rights of all those within their jurisdiction, not just those who are its nationals. Consequently, international human rights principles are important not only for the protection of internally displaced and returnee women and girls, but also for female asylum-seekers and refugees.

The rights of displaced women and girls are protected under general human rights instruments, particularly the International Covenant on Political and Civil Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Both of these Covenants explicitly recognize the equality of women and men and prohibit discrimination, including discrimination on grounds of sex or other status.<sup>295</sup> Both the Human Rights Committee and the Committee on Economic, Cultural and Social Rights have issued General Comments on the equal rights of women and men, providing further clarification of the scope and content of the principle of equality of men and women in relation to the rights guaranteed under those Covenants. However, in the past fifteen years it has been recognized that the rights of women were not been adequately addressed by the general international human rights framework. As a result specific instruments have been adopted to provide further protection to the rights of women and girls.

While this section focuses on international human rights standards, it is important to recognize that international human rights law consists not only of standards, outlined in treaties and other instruments, but also mechanisms. 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, UNHCR staff should be familiar with some of the mechanisms, as they can enhance the protection of displaced and returnee women and girls. These include conventional mechanisms (the treaty bodies),<sup>296</sup> and extra-conventional mechanisms<sup>297</sup> (United Nations special rapporteurs, representatives, experts, and working groups). UNHCR works with these mechanisms to enhance the protection of persons of concern.

For more detailed information on international human rights law and its relevance to our work, see UNHCR's updated "Human Rights Policy" (forthcoming) and its updated *Self-study Module on Human Rights and Refugees* (Volumes I and II, forthcoming).

<sup>294</sup> Some human rights instruments allow States to derogate from 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 treaties contain reservations concerning the extent to which certain rights apply to non-nationals, such as asylum-seekers and refugees. There are 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.

<sup>295</sup> Article 3 of the International Covenant on Civil and Political Rights, and Article 3 of the International Covenant on Economic Social and Cultural Rights.

<sup>296</sup> 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 is the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child.

<sup>297</sup> 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; and trafficking in persons, especially women and children.

### 5.3.1 The Convention on the Elimination of All Forms of Discrimination against Women

The Convention on the Elimination of All Forms of Discrimination Against Women<sup>298</sup> (CEDAW) and its Optional Protocol<sup>299</sup> are referred to as the international bill of rights for women. Structured around the concepts of equality and non-discrimination, the Convention asserts:

“...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.”<sup>300</sup>

Under CEDAW States condemn discrimination against women in all its forms and agree to end discrimination against women.<sup>301</sup> Although violence against women is not mentioned in CEDAW, in its General Recommendation 19, the Committee on the Elimination of Violence against Women recognizes that gender-based violence amounts to discrimination under CEDAW.

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.”<sup>302</sup> States must take action to end discrimination against women, including through customary or traditional practices, in the private and public spheres.<sup>303</sup> 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.<sup>304</sup> 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.

The themes of participation and equal rights in decision-making runs 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.

<sup>298</sup> CEDAW was adopted by the General Assembly in 1979 and entered into force in 1981.

<sup>299</sup> 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.

<sup>300</sup> 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.

<sup>301</sup> Article 2, CEDAW. 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.”<sup>301</sup>

<sup>302</sup> CEDAW, Article 2(e).

<sup>303</sup> 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.”

<sup>304</sup> See Article 4(1) of CEDAW.

### 5.3.2 The Convention on the Rights of the Child and its Optional Protocols

The Convention on the Rights of the Child (CRC) and its Optional Protocols<sup>305</sup> establish a comprehensive set of standards for children below the age of eighteen. As the most widely ratified treaty in the world,<sup>306</sup> the CRC is an important protection tool for displaced and returnee girls.

There are three fundamental principles underlying the CRC: the right of non-discrimination, the right of participation, and the child's best interests.

**Non-discrimination:** The CRC prohibits discrimination not only on grounds of sex, but also on other grounds, including birth or other status.<sup>307</sup> 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.<sup>308</sup>

**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.<sup>309</sup> Disabled children and other children with special needs also have the right to participate in making decisions that affect their lives.<sup>310</sup> (See Chapter 3, section 3.2.2 for guidance measures for guidance on child participation, particularly the participation of girls.)

**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 3, section 3.3.6 for more details on the principle of the child's best interests.)

A number of the provisions of the CRC and its Optional Protocols address rights violations which disproportionately affect girls. These include measures to protect children from violence, exploitation, abuse, abduction, and trafficking,<sup>311</sup> and measures aimed to abolish traditional practices that are harmful to the health of the child.<sup>312</sup> The CRC also requires that States take measures to promote the physical, psychological, and social reintegration of children who have been victims of such abuse.<sup>313</sup>

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<sup>305</sup> The CRC was adopted by the General Assembly in 1989 and entered into force in 1990. 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 of which were adopted by the General Assembly in 2000 and entered into force in 2002.

<sup>306</sup> The CRC has been ratified by 192 countries. The only countries that have not ratified the Convention are the United States and Somalia.

<sup>307</sup> CRC, Article 2.

<sup>308</sup> CRC, Article 22.

<sup>309</sup> See Articles 13, 14, 15, and 17 of the CRC.

<sup>310</sup> CRC, Article 23.

<sup>311</sup> See Articles 19, 32, 33, 34, 35, and 36 of the CRC, as well as the Optional Protocol on the sale of children, child prostitution, and child pornography.

<sup>312</sup> Article 24(3).

<sup>313</sup> Article 39.

### 5.3.3 The Declaration on the Elimination of Violence against Women (DEVAW)

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 and the appointment<sup>314</sup> of a Special Rapporteur on violence against women, its causes and consequences, signaled the acknowledgement that violence against women, once a private matter, is a public human rights issue. 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.

*"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 consequences.*

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.

Although DEVAW is not legally binding on States,<sup>315</sup> it sets out international norms that States have recognized as fundamental to our efforts to eliminate all forms of violence against women.<sup>316</sup> More recently, the prohibition of violence against women has been recognized as a principle of customary international law.<sup>317</sup>

DEVAW defines the term "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."<sup>318</sup> DEVAW further defines violence against women 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.<sup>319</sup>

In its Preamble, DEVAW asserts that violence against women is a result of historically unequal power relations between women and men, and is one of the social mechanisms by which women are forced into a subordinate position compared with men. It also recognizes that refugee women and girls, and women and girls in armed conflict, are particularly vulnerable to violence.

DEVAW provides that States are required to take a number of measures to eliminate violence against women,<sup>320</sup> including exercising "due diligence to prevent, investigate, and, in accordance with national legislation, punish acts of violence against women, whether those

<sup>314</sup> The Special Rapporteur on violence against women, its causes and consequences, was appointed by the Human Rights Commission in 1994.

<sup>315</sup> 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.

<sup>316</sup> 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.

<sup>317</sup> See previous footnote.

<sup>318</sup> DEVAW, Article 1.

<sup>319</sup> 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.

<sup>320</sup> These are outlined in Article 4.



acts are perpetrated by the State or by private persons.”<sup>321</sup> It stipulates that States condemn violence against women and not invoke custom, tradition or practices in the name of religion or culture to avoid their obligations to eliminate such violence. This responsibility is complemented by a specific requirement to “adopt all appropriate measures ... to modify the social and cultural practices of women and men 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.”<sup>322</sup>

DEVAW also outlines responsibilities for UN entities.<sup>323</sup> These include responsibilities to cooperate in the development of regional strategies to eliminate violence against women, conduct awareness-raising activities, analyze trends, incorporate the issue of violence against women into our programmes, formulate guidelines and manuals, and cooperate with NGOs to address the problem of violence against women. Of particular importance is the provision that UN agencies “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.

## 5.4 International humanitarian law

International humanitarian law, which predates both refugee law and international human rights law and 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. International humanitarian law is binding on States, armed opposition groups, and troops participating in multilateral peacekeeping and peace-enforcement operations if they take part in hostilities.<sup>324</sup> 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.

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<sup>325</sup> and their two additional Protocols of 1977. The Geneva Conventions all address international armed conflict; however, Article 3, which is common to all four Conventions, also relates to non-international armed conflict. Additional Protocol I is concerned solely with international armed conflict; Additional Protocol II focuses on non-international armed conflict.

As is true under international refugee law and international human rights law, under international humanitarian law, women are entitled to the same protection as men, whether they are civilians, combatants, or persons *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.

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<sup>321</sup> DEVAW, Article 4.

<sup>322</sup> DEVAW, Article 4(j).

<sup>323</sup> DEVAW, Article 3.

<sup>324</sup> Charlotte Lindsay, *Women Facing War*, ICRC, 2001, p. 18. This book provides an excellent overview of international humanitarian law as it applies to women in armed conflict.

<sup>325</sup> These are: First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1949; Second Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949; Third Geneva Convention Relative to the Treatment of Prisoners of War, 1949; and Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949.

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 provide special protection to women.<sup>326</sup> The goal of these specific provisions has been described as “to either reduce the 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.”<sup>327</sup> A similar number of provisions<sup>328</sup> 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.<sup>329</sup> In addition, Additional Protocols I and II contain measures to prevent children under 15 from participating in hostilities.<sup>330</sup> These provisions are further strengthened in the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed forces. A detailed discussion of these provisions is beyond the scope of these Guidelines, however some of these provisions are considered in Chapter 4.

International humanitarian law holds individuals responsible for violating those laws, even if they are ordered to do so. Those responsible for serious violations are to be prosecuted and punished. While there is no explicit reference to sexual and gender-based violence in the list of grave breaches of international humanitarian law, torture and inhuman treatment are classified as grave breaches, and it can be argued that this includes rape and other forms of sexual abuse.<sup>331</sup>

## 5.5 International criminal law

As a result of recent developments in international criminal law,<sup>332</sup> rape and other forms of sexual and gender-based violence, sexual slavery, including trafficking of women, enforced prostitution, forced pregnancy, and enforced sterilization are now considered to be war crimes and crimes against humanity.<sup>333</sup> The conscription, enlistment or use in hostilities of children under the age of 15 years is also considered to be a war crime.<sup>334</sup>

According to the Statute of the International Criminal Court, “Causing serious bodily harm to members of a group or imposing measures to prevent births within the group”<sup>335</sup> 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.<sup>336</sup>

<sup>326</sup> Françoise Krill, *The Protection of Women in International Humanitarian Law*, International Review of the Red Cross no. 249, 1989, p.363

<sup>327</sup> Graham, Judith and Jarvis, Michelle, *Women, Armed Conflict and International Law*, Kluwer Law International, p. 63.

<sup>328</sup> 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.

<sup>329</sup> ICRC, *Legal Protection of Children in Armed Conflict*, Advisory Service on International Humanitarian Law

<sup>330</sup> The Rome Statute of the International Criminal Court provides that conscription, enlistment or use in hostilities of children under the age of 15 years is a war crime.

<sup>331</sup> Amnesty International, “Making Rights a Reality, Violence against women in armed conflict”, July 2005, p. 57.

<sup>332</sup> Jurisprudence from the International Criminal Tribunal for former Yugoslavia and the International Criminal Tribunal for Rwanda has recognized rape and other forms of sexual violence as serious offences.

<sup>333</sup> This is now codified in the Rome Statute of the International Criminal Court, adopted in 1998 and entered into force in 2002. See in particular Articles 7 and 8.

<sup>334</sup> Rome Statute of the International Criminal Court, Article 7.

<sup>335</sup> *Ibid.*, Article 6.

<sup>336</sup> *Ibid.*, Article 6.

## 5.6 The Guiding Principles on Internal Displacement

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.<sup>337</sup> Six years later, the Secretary-General's Special Representative presented the Guiding Principles on Internally Displaced Persons to the Commission on Human Rights. "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."<sup>338</sup> Certain countries, such as Angola and Colombia, have incorporated the Guiding Principles into their national laws.

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."<sup>339</sup> In the 2005 World Summit Outcome, 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.<sup>340</sup> The Guiding Principles apply to all persons; they also include a number of provisions that specifically relate to women's and girls' rights. These are discussed in Chapters 3 and 4.

## 5.7 ECOSOC conclusions and resolutions

In 1997, ECOSOC adopted the landmark Agreed Conclusions on Gender Mainstreaming as Resolution 1997/2. As noted in the introduction to this Handbook, 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 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.

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.<sup>341</sup>

<sup>337</sup> 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.

<sup>338</sup> Introductory Note to the Guiding Principles by the Representative of the Secretary-General on Internally Displaced Persons, Francis Deng, 1998.

<sup>339</sup> United Nations, "Internally Displaced Persons: The Role of UNHCR," EC/50/SC/INF.2, 20 June 2000.

<sup>340</sup> Para. 132.

<sup>341</sup> Agreed Conclusions 1997/2, Part II, Para. A.

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.

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.

## 5.8 Security Council Resolutions

### 5.8.1 Security Council Resolution 1325 on Women, Peace, and Security

The adoption of Security Council Resolution 1325 on women, peace and security, in October 2000, marked the first time that the Security Council<sup>342</sup> 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.

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.
- Mainstream a gender perspective in UN peacekeeping operations, post-conflict processes, and UN reporting and Security Council missions.

Subsequent Security Council Presidential Statements reaffirm the Council's commitment to the full implementation of this Resolution.<sup>343</sup> In October 2005, the Secretary-General presented a plan for the implementation of Security Council Resolution 1325 throughout the UN system. This action plan<sup>344</sup> describes a series of specific activities which UNHCR is required to take to implement the Resolution.<sup>345</sup>

<sup>342</sup> 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.

<sup>343</sup> 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).

<sup>344</sup> The action plan is contained in the Report of the Secretary-General on Women, Peace, and Security of 10 October 2005, UN Doc. S/2005/636.

<sup>345</sup> 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.

## 5.8.2 Security Council resolutions on children and armed conflict

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.<sup>346</sup> 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. 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.

The most recent Security Council resolution, Resolution 1612, also authorized the implementation of a comprehensive mechanism for monitoring, reporting on, and punishing those responsible for grave violations<sup>347</sup> against children in conflict. This resolution formally assigns responsibility for follow-up to UN peacekeeping missions and UN country teams. Such responsibilities are further outlined in an action plan, developed by the Secretary-General for the establishment of a monitoring reporting and compliance mechanism,<sup>348</sup> that is contained in the Secretary-General's Report of 9 February 2005. This action plan gives UNHCR child-protection monitoring responsibilities at the field level as part of a task force, chaired by UNICEF, on monitoring and reporting.<sup>349</sup> Together with the Special Representative of the Secretary-General on Children in Armed Conflict, UNICEF, UNOCHA, and OHCHR, UNHCR is also part of the task force on children and armed conflict at the Headquarters level and has specific responsibilities at this level, as well.<sup>350</sup>

## 5.9 From the Beijing Declaration to the Millennium Declaration and beyond

### 5.9.1 The Beijing Declaration and Platform of Action

The Fourth World Conference on Women, held in Beijing 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.

<sup>346</sup> 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.

<sup>347</sup> These include the recruiting, killing, and 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.

<sup>348</sup> United Nations, Report of the Secretary-General on Children and Armed Conflict, 9 February 2005 A/59/695-S/2005/72.

<sup>349</sup> *Ibid.*, paras. 82 to 89.

<sup>350</sup> *Ibid.*, paras. 92 to 101.

The Beijing Platform of Action identifies 12 priority areas<sup>351</sup> and emphasizes the importance of women working together, and also with men, to address gender inequality. The principles in the Beijing Platform of Action are reflected in UNHCR's age, gender, and diversity-mainstreaming strategy.

The Platform of Action delineates clear responsibilities for UN agencies. 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.<sup>352</sup> It also asks UN bodies and organizations to take specific actions in relation to the 12 critical areas of concern.<sup>353</sup> Five- and ten-year reviews of the Beijing Platform for Action resulted in reaffirmations and further commitments to implement it.<sup>354</sup> The Commission on the Status of Women 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."<sup>355</sup> The Beijing Declaration and Platform of Action provides valuable guidance for our work to protect women and girls.

## 5.9.2 The Millennium Declaration and the Millennium Development Goals

The Millennium Declaration,<sup>356</sup> adopted in 2000, recognizes that the promotion of gender equality and the empowerment of women are essential to efforts to combat poverty, hunger, and disease, and to achieve sustainable development.<sup>357</sup> 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.<sup>358</sup>

Recognizing that the MDGs apply to all persons and that promoting MDGs in humanitarian emergencies and post-conflict situations help to create a sound foundation for development over the long term,<sup>359</sup> UNHCR is now fully engaged in international efforts to promote the MDGs.<sup>360</sup> 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.<sup>361</sup>

<sup>351</sup> 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.

<sup>352</sup> See particularly paras. 305–311.

<sup>353</sup> See particularly para. 337.

<sup>354</sup> See particularly General Assembly Resolution S-23/3 of 16 November 2005 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 21<sup>st</sup> Century," and the Declaration adopted by the Commission on the Status of Women at its 49<sup>th</sup> session, 3 March 2005.

<sup>355</sup> Declaration adopted by the Commission on the Status of Women at its 49<sup>th</sup> session, 3 March 2005.

<sup>356</sup> The Millennium Summit was attended by 147 heads of government. One-hundred-ninety-one governments adopted the Millennium Declaration.

<sup>357</sup> United Nations General Assembly Resolution A7RES/55/2.

<sup>358</sup> 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.

<sup>359</sup> Relevance of UNHCR's Activities to the Millennium Development Goals, EC/55/SC/INF.1. 13 September 2005, para. 9.

<sup>360</sup> 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.

<sup>361</sup> Relevance of UNHCR's Activities to the Millennium Development Goals, EC/55/SC/INF.1. 13 September 2005, para. 10.

### 5.9.3 The World Summit and World Summit Outcome document

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.”

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;<sup>362</sup> those that include women in work to prevent and resolve conflicts and to build peace;<sup>363</sup> those that aim to protect children in situations of armed conflict;<sup>364</sup> those aimed at mainstreaming human rights throughout the UN system;<sup>365</sup> and those that focus on advancing the rights of women and children. States also resolved to take effective measures to improve the protection of internally displaced persons<sup>366</sup> and committed themselves to safeguarding the principle of refugee protection and to help to resolve the plight of refugees.<sup>367</sup>

As noted in a report by the UN Secretary-General,<sup>368</sup> 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,<sup>369</sup> to enforce the zero-tolerance policy on sexual exploitation and abuse,<sup>370</sup> and to implement the proposals developed by the Inter-Agency Standing Committee to strengthen the humanitarian response capacity.<sup>371</sup>

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<sup>362</sup> 2005 World Summit Outcome, A/Res/60/1, 24 October 2005, paras. 58–59.

<sup>363</sup> *Ibid.*, para. 116.

<sup>364</sup> 2005 World Summit Outcome A/Res/60/1, 24 October 2005, paras. 117–118.

<sup>365</sup> *Ibid.*, para. 126.

<sup>366</sup> *Ibid.*, para. 132.

<sup>367</sup> *Ibid.*, para. 133.

<sup>368</sup> 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.

<sup>369</sup> *Ibid.*, para. 39.

<sup>370</sup> *Ibid.*, para. 38.

<sup>371</sup> *Ibid.*, para. 43.





# International Legal Standards

## Generally<sup>372</sup>

Statute of the Office of the United Nations High Commissioner for Refugees, 1950 (UNHCR's Statute)

Convention relation to the Status of Refugees, 1951, and its Protocol, 1967 (1951 Refugee Convention)

Universal Declaration of Human Rights (UDHR), 1948

International Covenant on Civil and Political Rights and its first Optional Protocol (ICCPR), both of 1966

International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966

International Convention on the Elimination of All Forms of Racial Discrimination (CERD), 1965

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984

Convention of the Rights of the Child (CRC), 1989

Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict, 2002

Optional Protocol to the CRC on sale of children, child prostitution and child pornography, 2002

Vienna Declaration on Human Rights, 1993

Declaration on the Elimination of Violence against Women (DEVAW), 1993

First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1949

Second Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949

Third Geneva Convention Relative to the Treatment of Prisoners of War, 1949

Fourth Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 1949

Additional Protocol I to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 1977

Additional Protocol II to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, 1977

Rome Statute of the International Criminal Court (Rome Statute) 1998

United Nations Guiding Principles on Internal Displacement, (Guiding Principles on Internal Displacement), 1998

Security Council Resolutions:  
1325 on Women, Peace and Security, 2000

<sup>372</sup> Except for some provisions contained in the Rome Statute of the International Criminal Court, specific provisions of IHL have not been included but will be completed in the final version of this Handbook. For a comprehensive review of general and specific protection of women under international humanitarian law, organized thematically, please see the "Annex to the Guidance Document , General and Specific Protection of Women Under International Humanitarian Law" in ICRC, *Addressing the Needs of Women Affected by Armed Conflict, an ICRC Guidance Document* , 2004. There may be gaps in relation to other bodies of law which will also be addressed.

Security Council Resolutions on Children and Armed Conflict: 1261 of 1999, 1314 of 2000, 1379 of 2001, 1460 of 2003, 1539 of 2004, and 1612 of 2005.  
Security Council resolutions on the protection of civilians in armed conflict: 1265 of 1999, 1296 of 2000, and 1674 of 2006,

ECOSOC Resolution 1997/2: Agreed Conclusions on Gender Mainstreaming as Resolution 1997/2 and ECOSOC Resolution 2005/31.

## In relation to participatory assessment

CEDAW, Preamble

CRC, Arts. 12, 13, 14

Guiding Principles on Internal Displacement, Principles 18(3), 23(3), 28(2)

UNHCR, Executive Committee, Conclusion No. 98 (LIV), 2003, para (a)(iii), Conclusion No. 99 (LV), 2004, para. (h) & (t), Conclusion No. 100 (LV), 2004, para. (d).

## In relation to registration and documentation

1951 Refugee Convention, Arts. 25, 27, 28

CRC, Arts. 7, 8

Guiding Principles on Internal Displacement, Principle 20(3).

UNHCR, Executive Committee, Conclusion No. 91 (LII) 2001, Conclusion No. 101 (LV) 2004 para. (l), Conclusion No. 64 (XLI), 1990, (a)(viii), No. 73 (XLIV), 1993, para. (c), Conclusion No. 90 (LII), 2001, para. (r), Conclusion No. 93 (LIII), 2002, para. (b)(v), Conclusion No. 100 (LIII), 2004, para. (d), Conclusion No. 95 (LIV), 2003, para. (x)

## In relation to family tracing and reunification

UDHR, Art. 16(3)

ICCPR, Art. 23(1)

ICESCR, Art. 10(1)

CRC, Arts. 9, 22

Committee on the Rights of the Child, General Comments:  
General Comment 6, Treatment of separated and unaccompanied children outside their country of origin, 2005

Guiding Principles on Internal Displacement, Principle 17

UNHCR Executive Committee, Conclusion No. 24 (XXXII) 1981, Conclusion No. 88 (L) 1999

## In relation to refugee status determination

1951 Refugee Convention, Art. 1

UDHR, Art. 14

CRC, Art. 22

UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, and UNHCR Guidelines complementing the Handbook, including the following guidelines:

UNHCR, “Guidelines on International Protection: Gender-related Persecution within the Context of Art. 1A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees,” May 2002.

UNHCR, “Guidelines on International Protection: Membership of a Particular Social Group within the context of Art. 1(A)2 of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees,” May 2002.

UNHCR, “Guidelines on International Protection: Religion-based claims under Art. 1(A) 2 of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees,” April 2004.

UNHCR, “Guidelines on International Protection: The Application of Art. 1(A)2 of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of being Trafficked,” April 2006.

UNHCR, “Guidelines on International Protection: The Right to Family Unity and Family Life,” (forthcoming).

UNHCR, Executive Committee, Conclusion No. 8 (XXVIII), 1977, Conclusion No. 12 (XXIX), 1978, No. 64 (XLI), 1990, para. (a)(iii), Conclusion No. 73 (XLM), 1993, para. (c),(e),(g),(j)

## In relation to best interests determinations

CRC, Arts. 3, 9, 18, 20, 21

Guiding Principles on Internal Displacement, Principle 4(2)

UNHCR, Executive Committee, Conclusion No. 98 (LIV), 2003, Conclusion No. 47 (XXXVIII), 1987, para. (d), Conclusion No. 88 (L), 1999, para. (c), No. 96 (LIV), 2003, para. (c), Conclusion No. 84 (XLVIII), 1997.

## In relation to refugee resettlement

1951 Refugee Convention, Art. 30

UNHCR, Executive Committee, Conclusions No. 67 (XLII) 1991, Conclusion No. 90 (LII) 2001 para. (j)-(n), Conclusion No. 99 (LV) 2004 para. (r)-(x), Conclusion No. 67 (XLII), 1991, Conclusion No. 60 (XL), 1989, (c)

## In relation to access to information

UDHR, Art. 19

ICCPR, Art. 19

CRC, Arts. 13, 17

Guiding Principles on Internal Displacement, Principles 22, 24

## In relation to civil status, marriage and family relations

1951 Refugee Convention, Art. 12

UDHR, Art. 16

ICCPR, Arts. 23, 24

Human Rights Committee, General Comments:  
General Comment 4: Equal Enjoyment of Civil and Political Rights by Men and Women (Art. 3) 1981  
General Comment 17: The Rights of the Child (Art. 24) 1989

General Comment 19: Protection of the Family, the Right to Marriage, and the Equality of Spouses (Art. 23) 1990  
General Comment 28: Equality of Rights between Men and Women (Art 3) 2000

ICESCR, 10

CEDAW, Arts. 1, 2, 5, 9, 16

Committee on the Elimination of Discrimination Against Women, General Recommendations:  
General Recommendation No. 21, Equality in Marriage and Family Relations, 1994

CRC, Arts. 1, 2, 3, 5, 7, 8, 9, 16, 18

Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962

DEVAW

Convention Related to the Status of Stateless Persons, 1954

Convention on the Reduction of Statelessness, 1961

General Assembly Resolutions 3274 (XXIX) of 10 December 1974 and 31/36 of 30 November 1976

UNHCR, Executive Committee, Conclusion No. 80 (XLVII), 1996, para. (e)-(i), Conclusion No. 85 (XLIX), 1998, para. (m), Conclusion No. 90 (LII), 2001, para. (r), Conclusion No. 18 (XXXI), 1980, para. (i)

## In relation to sexual and gender-based violence

UDHR, Arts. 3, 4, 5

ICCPR, Arts. 6, 7, 8, 9

Human Rights Committee, General Comments  
General Comment No. 6 (Art. 6) 1982  
General Comment No. 8 (Art. 9) 1982  
General Comment No. 7 (Art. 7) 1992

ICESCR, Arts. 10, 11, 12

CEDAW, Arts. 1, 4, 5, 6

Committee on the Elimination of Discrimination Against Women, General Recommendations:  
General Recommendation No. 19, Violence Against Women, 1992

Convention Against Torture, Art. 2

CRC, Arts. 24(3), 34, 35, 36, 39

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2002

DEVAW

Rome Statute of the International Criminal Court, 1998, Arts. 7, 42, 54, 68

## In relation to trafficking, smuggling and abduction

CRC, Arts. 11, 16, 19, 20, 21, 22, 32, 34, 35, 36, 37, 38, 39

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2002

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2002, Arts. 2, 4

CEDAW, Arts. 2, 6, 11

General Recommendation of the Committee on the Elimination of Discrimination Against Women  
General Recommendation 19, Violence Against Women, 1992

Rome Statute of the International Criminal Court, Arts. 7(1)(c), 7(1)(g), 7(2)(c) and 8(2)(xxii)

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990

Protocol to Prevent, Suppress & Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime, 2000

Protocol against the Smuggling of Migrants by Land, Sea and Air supplementing the United Nations Convention against Transnational Organized Crime, 2000

ILO Convention No. 29 on Forced Labour, 1930

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949

ILO Convention No. 105 on Forced or Compulsory Labour, 1957

Convention on the Civil Aspects of Child Abduction, 1980

ILO Convention No. 182 on the Worst Forms of Child Labour, 1999

UNHCR, “Guidelines on International Protection: The Application of Art. 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,” 2006

UNHCR, “Guidelines on International Protection: Gender-related Persecution within the context of Art. 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees,” 2002

## In relation to freedom of movement, including detention

ICCPR, Arts. 12

Human Rights Committee, General Comments:

General Comment 20, Replacing general comment 7 concerning prohibition of torture and cruel treatment or punishment, 1992

General Comment 27: Freedom of movement, 1992

CEDAW, Art. 15 (4)

CRC, Arts. 37, 39

CAT, Arts. 10, 11

UNGA Res. 43/173 of 9 December 1988 adopting the United Nations Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment

UNGA Res. 45/113 of 14 December 1990 adopting the United Nations Rules for the Protection of Juveniles Deprived of their Liberty,

Economic and Social Council Resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977 endorsing the United Nations Standard Minimum Rules for the Treatment of Prisoners.

UNHCR, Executive Committee, Conclusion No. 44 (XXXVII), 1986, Conclusion No. 55 (XL), 1989, para. (g), Conclusion No. 65 (XLII), 1991, para. (c) and (j), Conclusion No. 85 (XLIX), 1998, para. (cc), (dd) and (ee), Conclusion No. 104 (LVI), 2005, para. (m-i).

## In relation to military recruitment and demobilization

CRC, Art. 38

Optional Protocol to CRC on the Involvement of Children in Armed Conflict, 2000

Rome Statute, Art. 8(2)(b)(xxvi) and (vii)

ILO Convention No. 182 on the Worst Forms of Child Labour, 1999, Art. 3

## In relation to justice

1951 Refugee Convention, Art. 16

ICCPR, Arts. 14, 16

CEDAW, Art. 7, 15

Committee on the Elimination of Discrimination Against Women, General Recommendations:  
General Recommendation 23, Art. 7 (political and public life), 1997

CRC, Arts. 37, 40

DEVAW, Art. 4

Rome Statute

UN Security Council Resolution 1325

## In relation to health and HIV/AIDS

1951 Refugee Convention, Art. 24(1)(b)

ICESCR, Arts. 10(2), 12(1)(2)

Committee on Economic, Social and Cultural Rights, General Comments General Comment  
14, (Art. 12), The right to the highest attainable standard of health, 2000

CERD, Art. 5

CEDAW, Arts. 10(h), 12, 16(e)

Committee on the Elimination of Discrimination Against Women. General  
Recommendations:  
General Recommendation No. 21, Equality in Marriage and Family Relations, 1994  
General Recommendation 24, Women and Health, 1999

CRC, Arts. 23, 24, 39

Committee on the Rights of the Child, General Comments:  
General Comment 3, HIV/AIDS and the Rights of the Child, 2003

DEVAW, Art. 3(f)

United Nations General Assembly, Declaration of Commitment on HIV/AIDS, 27 June 2001, A/RES/S-62

Guiding Principles on Internal Displacement, Principles 11 (1), 19

International Conference on Population and Development, Programme of Action

UNHCR, Executive Committee, Conclusion No. 47 (XXXVIII), 1987, paras. (n), (u), Conclusion No. 93 (LIII),  
2002, (b) (iii), Conclusion No. 85 (XLIX), 1998, (j), Conclusion No. 73 (XLIV), 1993, (f), Conclusion No. 64 (XLI),  
1990, (vi).

## In relation to livelihoods and food security

1951 Refugee Convention, Arts. 17, 18, 19, 24

ICESCR, Arts. 6, 7, 10 (2)(3), 11

ICCPR, Arts. 8, 22

CEDAW, Arts. 11, 13, 14

CRC, Arts. 24, 27, 32

## In relation to education

1951 Refugee Convention, Art. 22



ICESCR, Art. 13

CERD, Ar. 5

CEDAW, Art. 10

CRC, Arts. 28, 29

Guiding Principles on Internal Displacement, Principle 23 (3)(4)

UNHCR, Executive Committee, Conclusion No. 39 (XXXVI), 1985, Conclusion No. 47 (XXXVII), 1987

## In relation to housing, land and property

1952 Refugee Convention, Arts. 13, 14, 21, 30

ICESCR, Art. 11

Committee on Economic, Social and Cultural Rights: General Comments  
General Comment 4 on the right to adequate housing (Art. 11.1), 1991  
General Comment 7 on the right to adequate housing (Art.11.1): forced evictions, 1997  
General Comment 28 on Equality of Rights Between Men and Women, 2000

CERD, Art. 5

CEDAW, Arts. 14(2), 16

Committee on the Elimination of Discrimination Against Women, General  
Recommendations:  
General Recommendation No. 21 on Equality in Marriage and Family Relations, 1994

CRC, Art. 27(3)

Guiding Principles on Internal Displacement, Principles 6, 9, 21, 28, 29

United Nations Principles on Housing and Property Restitution (the Pinheiro Principles)  
E/CN.4/Sub.2/2005/17 28 June 2005

UNHCR, Executive Committee, Conclusion No. 22 (XXXII), 1981, para (B)(2)(c), Conclusion No. 101 (LV),  
2004, para (h), (i)

## In relation to participation in peace, security, return, and reintegration

CRC, Arts. 38, 39

CEDAW, Arts. 7, 8, 14

UN Declaration on the Right to Development, Art. 8

Security Council Resolution 1325 on Women, Peace and Security, 2000

UNHCR, Executive Committee, Conclusion No. 39 (XXXVI), 1985, para. (g), No. 47 (XXXVIII), 1987, paras. (o) & (p), Conclusion No. 99 (LV), 2004 paras.(h), (t).



# Essential Reference Materials

## General reference materials

IASC Task Force on Gender and Humanitarian Assistance, “Guidelines for Gender-based Violence Interventions in Humanitarian Settings”, 2005

IASC Task Force on Humanitarian Action and Human Rights, “Frequently Asked Questions on International Humanitarian, Human Rights and Refugee Law in the context of Armed Conflict”, 2004

Women’s Commission for Refugee Women and Children, “Displaced Women and Girls at Risk: Risk Factors, Protection Solutions and Resource Tools”, February 2006

Johnson Sirleaf, E., and Rehn, E., UNIFEM, *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, [http://www.unifem.org/resources/item\\_detail.php?ProductID=17](http://www.unifem.org/resources/item_detail.php?ProductID=17) and <http://www.womenwarpeace.org/issues/violence/violence.htm>.

UNHCR, Agenda for Protection, 2002, <http://www.unhcr.org/cgi-bin/texis/vtx/protect/openssl.pdf?tbl=PROTECTION&id=3e637b194>

UNHCR, *Refugee Children: Guidelines on Protection and Care*, Geneva, 1994.

UNHCR, *Sexual and Gender-based Violence against Refugees, Returnees, and Internally Displaced Persons: Guidelines for Prevention and Response*, Geneva, 2003.

UNHCR, *The UNHCR Tool for Participatory Assessment in Operations*, Geneva, 2006

UNHCR and the Women’s Commission for Refugee Women and Children, “Respect our Rights: Partnership for Equality” Report on the Dialogue with Refugee Women” Geneva, 2001.

UNHCR, “Manual for Applying a Community-based Approach in UNHCR Operations” (draft), December 2005.

United Nations, *Women, Peace and Security*, study submitted by the Secretary-General pursuant to Security Council Resolution 1325, 2002.

United Nations Department of Peace-Keeping Operations, “Gender Resource Package for Peace-Keeping Operations”, 2004

Vlachova, Marie and Bason, Lea, eds. *Women in an Insecure World: Violence Against Women Facts, Figures and Analysis*, Geneva Centre for Democratic Control of Armed Forces, 2005

## In relation to participatory assessment

UNHCR, Agenda for Protection, Goal 5, Objective 7; Goal 6, Objectives 1, 2

UNHCR, *The UNHCR Tool for Participatory Assessment in Operations*, 2006

UNHCR, “Manual for Applying a Community-based Approach in UNHCR Operations” (draft) December 2005

## In relation to registration and documentation

UNHCR, Agenda for Protection, Goal 1, Objective 11.

UNHCR, *Handbook for Registration*, provisional release, September 2003

UNHCR, *Refugee Children: Guidelines on Protection and Care*, CHAPTER 8, 1994

## In relation to family tracing and reunification

ICRC, International Rescue Committee (IRC), Save the Children UK (SCFUK), UNICEF, UNHCR, World Vision International (WVI), *Inter-agency Principles on Unaccompanied and Separated Children*, January 2004

UNHCR, “Family Reunification in the Context of Resettlement and Integration,” background note for the Annual Tripartite Consultations on Refugee Resettlement, June 2001

UNHCR, *Refugee Children: Guidelines on Protection and Care*, chapter 10, 1994

UNHCR, “Summary Conclusions on Family Unity”, Global Consultations on International Protection, Geneva Expert Roundtable, 8–9 November 2001

## In relation to refugee status determination

UNHCR, Bureau for Europe, “Ensuring Gender Sensitivity in the Context of Refugee Status Determination and Resettlement,” October 2005.

UNHCR, Agenda for Protection, Goal 1, Objective 2

## In relation to best interests determinations

UNHCR, “Guidelines on Formal Determination of the Best Interests of the Child, provisional release, May 2006

## In relation to resettlement

UNHCR, Agenda for Protection, Goal 5, Objectives 5, 6

UNHCR, *Handbook on Resettlement*, Geneva, November 2004 chapter 4

UNHCR, Standing Committee, “Issues Related to Women at Risk: Discussion Paper on a Possible Executive Committee Conclusion on Displaced Women and Girls at Risk,” EC/57/SC/CRP.7, 17 February 2006

UNHCR, Bureau for Europe, “Ensuring Gender Sensitivity in the Context of Resettlement”, October 2005

## In relation to access to information

Article 19, “Left to their Own Devices: The Impact of Informal Information and Communication Networks on Security in the Tanzanian Refugee Camps”, December 2003, available at <http://www.article19.org/pdfs/publications/refugees-left-to-their-own-devices.pdf>

UNHCR, *Handbook for Registration*, provisional release, September 2003

UNHCR, *Handbook on Resettlement*, November 2004 (second edition), chapter 4

UNHCR, “The UNHCR Tool for Participatory Assessment in Operations,” 2006

UNHCR and the Women’s Commission for Refugee Women and Children, “Respect our Rights: Partnership for Equality” Report on the Dialogue with Refugee Women” Geneva, 2001

## In relation to civil status and family relations

UNHCR and the Inter-Parliamentary Union, *Nationality and Statelessness: A Handbook for Parliamentarians*, 2005

UNHCR, Department of International Protection, “Final Report concerning the Questionnaire on Statelessness Pursuant to the Agenda for Protection,” 2004

UNHCR, “Information and Accession Package: The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention relating to the Reduction of Statelessness,” 1996, revised 1999

OHCHR, Fact Sheet 23, “Harmful Traditional Practices Affecting the Health of Women and Children,” <http://www.ohchr.org/english/about/publications/docs/fs23.htm>

## In relation to sexual and gender-based violence

UNHCR, *Sexual and Gender-based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response*, May 2003 <http://www.unhcr.ch/cgi-bin/texis/vtx/home?page=PROTECT&id=3b83a48d4>

Reproductive Health Response in Crisis Consortium, “Gender-based Violence Tools: Manual for Assessment, Programme Design, Monitoring and Evaluation in Conflict-affected Settings,” February 2004 <http://www.rhrc.org/pdf/GBVsingles.pdf>

UNIFEM, “Progress of the World’s Women 2002, Volume 1: Women, War, and Peace,” 2002

UNFPA, “Violence Against Girls and Women: A Public Health Priority,” <http://www.unfpa.org/intercenter/violence/index.htm>

WHO, “Violence Against Women: A Priority Health Issue,” 1997 (<http://www.who.int/gender/violence/vawpriority/en/>).

WHO, “Sexual Violence Research Initiative,” <http://www.svri.org/>

UNFPA and IASC Gender and Humanitarian Assistance Sub-Working Group, “Matrix for Guidelines for Gender-based Violence Interventions in Emergency Settings,” Draft, November 2004

UNFPA, WHO, *Clinical Management of Survivors of Rape: Survivors’ Guide: Developing Protocols for Use with Refugees and Internally Displaced Persons*, 2005, [http://www.who.int/reproductive-health/publications/clinical\\_mngt\\_survivors\\_of\\_rape/](http://www.who.int/reproductive-health/publications/clinical_mngt_survivors_of_rape/)

UNHCR, IOM No. 83/97, FOM 90/97, “UNHCR Policy on Harmful Traditional Practices,” 19 December 1997

UNICEF, “Early Marriage: A Harmful Traditional Practice, a Statistical Exploration,” 2005

UNICEF Innocenti Research Centre, *Early Marriage: Child Spouses*, Innocenti Digest, No. 7, March 2001

Igras, S., Muteshi, J., WoldeMarian, A., Ali, S., “Integrating Rights-based Approaches into Community-based Health Projects: Experiences from the Prevention of Female Genital Cutting Project in East Africa,” *Health and Human Rights*, Vol. 7, no. 2, 2004

UNHCR, Agenda for Protection, Goal 4, Objective 4

## In relation to trafficking, smuggling, and abduction

OHCHR, “Recommended Principles and Guidelines on Human Rights and Human Trafficking,” addendum to the report of the United Nations High Commissioner for Human Rights, E/2002/68/Add. 1, 20 May 2002 [www.ohchr.org/english/about/publications/docs/trafficking.doc](http://www.ohchr.org/english/about/publications/docs/trafficking.doc)

UN Office of Drugs and Crime, *Trafficking in human beings: Global Patterns*, April 2006, [http://www.unodc.org/unodc/en/trafficking\\_persons\\_report\\_2006-04.html](http://www.unodc.org/unodc/en/trafficking_persons_report_2006-04.html)

UN Office of Drugs and Crime, *Trafficking in Persons: Toolkit to Combat Trafficking in Persons*, (forthcoming)

WHO, Ethical and Safety Recommendations for Interviewing Trafficked Women, 2003

## In relation to freedom of movement and detention

UNHCR, “Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-seekers,” February 1999

## In relation to military recruitment and demobilization

OHCHR, Save the Children, UNHCR, and UNICEF, *Child Soldiers*, Action for the Rights of Children, 2002 (CD-ROM)

McKay, S., Robinson, M., Gonsalves, M., and Worthen, M., *Girls Formerly Associated with Fighting Forces and Their Children: Returned and Neglected*, Coalition to Stop the Use of Child Soldiers, 2006

Save the Children, *Child Protection in Emergencies*, 2005

Save the Children, “Fighting Back: Child- and Community-led Strategies to avoid Children’s Recruitment into Armed Forces and Groups in West Africa,” 2005

Save the Children, *Forgotten Casualties of War: Girls in Armed Conflict*, 2005

Save the Children, “Reaching All: Core Principles for Working with Children Associated with Armed Groups and Forces,” 2005

UNICEF, “Children Associated with Armed Forces and Groups: Selected Child-protection Resources and Materials, 2005 (CD-ROM)

UNHCR, Agenda for Protection, Goal 4, Objective 3

## In relation to administration of justice

Anderlini, Sanam Naranghi, Pampell Conaway, Camille and Kays, Lisa “Transitional Justice and Reconciliation” in The Initiative for Inclusive Security and International Alert, *Inclusive Security, Sustainable Peace: A Toolkit for Advocacy and Action*, 2004, <http://www.womenwagingpeace.net/toolkit.asp>, 2004

Da Costa, R., “The Administration of Justice in Refugee Camps: A Study of Practice,” Legal and Protection Policy Research Series, March 2006

Noworjee, Binaifer “Making the Invisible Crime Visible: Post-Conflict Justice for Sierra Leone’s Rape Victims,” *Harvard Human Rights Journal*, Vol. 18, 2005

Nyamu-Musembi, Celestine, “Review of Experience in Engaging with “Non-State” Justice Systems in East Africa,” Institute of Development Studies, Sussex University, UK, February 2003, <http://www.ids.ac.uk/ids/law/pdfs/eanyamu.pdf>

OHCHR, “Access to Justice for Victims of Sexual Violence, Report of the United Nations High Commissioner for Human Rights,” 29 July 2005

OHCHR, “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

United Nations Department of Peace-Keeping Operations, “Gender Resource Package for Peace-Keeping Operations” 2004

## In relation to health and HIV/AIDS

Disaster and Development Centre, Northumbria University, “Training Guide for Concepts-of-Care Approach,” 2005

IASC Task Force on Gender and Humanitarian Assistance, “Guidelines on Gender-based Violence Interventions in Humanitarian Settings,” 2005

Action Sheet 7.4: Provide sanitary materials to women and girls

Action Sheet 8.1: Ensure women’s access to basic health services

Action Sheet 8.2: Provide sexual violence, health-related services

Action Sheet 8.3 Provide community-based psychological and social support

Action Sheet 10.1: Inform community about sexual violence and the availability of services,

IASC Task Force on Mental Health and Psycho-social Response, Inter-agency guidelines for Mental Health and Psychosocial Response in Emergencies (draft) June 2006

Action sheet 5.2: Facilitate conditions for community mobilization, ownership, and control of emergency response in all sectors

Action sheet 5.3: Facilitate conditions for appropriate cultural and religious healing practices

IASC Task Force on HIV/AIDS in Emergency Settings, “Guidelines for HIV/AIDS Interventions in Emergency Settings,” 2004

UNHCR, “Strategic Plan on HIV and AIDS for 2005–2007”, EC/55/SC/CRP.8, 16 February 2005, <http://www.unhcr.org/cgi-bin/texis/vtx/excom/opendoc.pdf?tbl=EXCOM&id=421464fb2>

UNHCR, WHO, UNFPA, *Reproductive Health in Refugee Situations*, an interagency field manual, 1999

UNHCR, IOM/30/2006, FOM/30/2006, “Note on HIV/AIDS and the Protection of Refugees, IDPs, and Other Persons of Concern,” 5 April 2006

UNHCR, UNAIDS, “HIV/AIDS and Human Rights: International Guidelines,” Revised Guideline 6 on access to prevention, treatment, care, and support, HR/PUB/2002/1, 2002

OHCHR and the Joint United Nations Programme on HIV/AIDS, “HIV/AIDS and Human Rights: International Guidelines,” HR/PUB/98/1, 1998

Women’s Commission for Refugee Women and Children, “MISP Fact Sheet,” 2003

WHO, “Mental Health in Emergencies,” and “Mental and Social aspects of Health of Populations Exposed to Extreme Stressors,” 2003

## In relation to livelihoods and food security

FAO, *Food: A Fundamental Human Right*, Rome, 2001

UNHCR Agenda for Protection, Goal 5, Objectives 3, 4, 5, 7

UNHCR, “Framework for Durable Solutions for Refugees and Persons of Concern,” 2003

UNHCR, *Handbook for Self-reliance*, 2005

UNHCR, *Sexual and Gender-based Violence against Refugees, Returnees, and Internally Displaced Persons: Guidelines for Prevention and Response*, 2003

WFP, “Food Aid and Livelihoods in Emergencies: Strategies for WFP,” WFP/EB.A/2003/5-A, Rome, May 2003

Women’s Commission for Refugee Women and Children, *Displaced Women and Girls at Risk: Risk Factors, Protection Solutions, and Resource Tools*, 2006

## In relation to education

UNHCR, “Education Field Guidelines,” 2003

Inter-agency Network on Education in Emergencies (INEE), “Minimum Standards on Education in Emergencies, Chronic Crises, and Early Reconstruction,” 2004

INEE, “Ensuring a Gender Perspective in Education in Emergencies,” <http://www.womenscommission.org/pdf/EdGenderTool.pdf>

UNHCR, UNESCO, INEE, “Peace Education Programme,” 2005

Jesuit Refugee Service, “Horizons of Learning: 25 Years of JRS Education,” 2006

UNHCR, Agenda for Protection, Goal 6, Objective 2

## In relation to land, housing, and property

IASC Task Force on Mental Health and Psycho-social Response, Inter Agency guidelines for Mental Health and Psychosocial Response in Emergencies (draft) June 2006  
Action Sheet 8.1 on Shelter and Site planning” (forthcoming).

IASC Task Force on Gender and Humanitarian Assistance, “Guidelines for Gender-based Violence Interventions in Humanitarian Settings,” 2005



Action Sheet 7.1: Implement safe site planning and shelter programmes,” and Action Sheet 7.2: Ensure that survivors/victims of sexual violence have safe shelter

OHCHR, “Fact Sheet 21: The Human Right to Adequate Housing” (<http://www.ohchr.org/english/about/publications/docs/fs21.htm>)

UNHCR, “Checklist on the Restitution of Housing and Property,” November 2001

UN Habitat, Gender Policy <http://www.unhabitat.org/pubs/genderpolicy/foreword.htm>

United Nations, “Principles on Housing and Property Restitution” (the Pinheiro Principles), E/CN.4/Sub.2/2005/17, 28 June 2005

UNHCR, Agenda for Protection, Goal 5, Objectives 2, 3

## In relation to peace, security, return, and reintegration

Johnson Sirleaf, E., and Rehn, E., *Women, War and Peace: The Independent Experts’ Assessment on the Impact of Armed Conflict on Women and Women’s Role in Peace-Building*, 2002

OHCHR, Save the Children, UNHCR, and UNICEF, *Child Soldiers*, Action for the Rights of Children, 2002 (CD-ROM)

Women’s Commission for Refugee Women and Children, “You Cannot Dance if You Cannot Stand: A review of the Rwanda Women’s Initiative and the United Nations High Commissioner for Refugees’ Commitment to Gender Equality in Post-Conflict Societies,” April, 2001

United Nations Department of Peace-Keeping Operations, “Gender Resource Package for Peace-Keeping Operations” 2004

UNHCR, UNESCO, UNDP, UNFPA, UNICEF, UNIFEM, “Best Practices in Peace-building and Non-violent Conflict Resolution: Some Documented African Woman’s Peace Initiatives, 1998

UNHCR, Agenda for Protection, Goal 5, Objective 2

# Standards and Indicators

IN RELATION TO PARTICIPATORY ASSESSMENT	
INDICATOR	STANDARD
• <u>Urban Programme 20</u> : Has a Participatory Assessment been conducted at least once during the reporting year?	YES
• <u>Urban Programme 23</u> : Percentage of female members in asylum-seeker/refugee representative bodies.	50%
• <u>Refugee Camp/Re-Settlement 25</u> : Has the Participatory Assessment been conducted at least once during the reporting year?	YES
• <u>Refugee Camp/Re-Settlement 26</u> : Percentage of female members in camp management committees.	50%
• <u>Returnee Area 11</u> : Has the Participatory Assessment been conducted at least once during the reporting year?	YES
• <u>Returnee Area 12</u> : Percentage of female members in community representative bodies in returnee areas.	50%

IN RELATION TO REGISTRATION AND DOCUMENTATION	
INDICATOR	STANDARD
• <u>Country Level 4</u> : Do all asylum-seekers/refugees have access to individual identity documentation?	YES
• <u>Urban Programme 3</u> : Percentage of refugees and asylum-seekers registered individually.	100%
• <u>Urban Programme 4</u> : Percentage of adult refugees and asylum-seekers issued individual identity documentation.	100%
• <u>Urban Programme 5</u> : Percentage of newborns issued a birth certificate.	100%
• <u>Refugee Camp/Re-Settlement 8</u> : Percentage of refugees and asylum-seekers registered individually.	100%
• <u>Refugee Camp/Re-Settlement 9</u> : Percentage of adult refugees and asylum-seekers issued individual identity documentation.	100%
• <u>Refugee Camp/Re-Settlement 10</u> : Percentage of newborns issued a birth certificate.	100%
• <u>Returnee Area 5</u> : Do all returnees have access to individual identity documentation without discrimination?	YES

• <u>Returnee Area 7</u> : Are birth certificates given in country of asylum recognized?	YES
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IN RELATION TO FAMILY TRACING AND REUNIFICATION	
INDICATOR	STANDARD
• <u>Urban Programme 17</u> : Percentage of UACs/SCs for whom tracing has been successfully completed.	100%

IN RELATION TO REFUGEE STATUS DETERMINATION	
INDICATOR	STANDARD
• <u>Country Level 1</u> : Have border authorities been clearly instructed to refer asylum-seekers to the competent authority?	YES
• <u>Country Level 2</u> : Are there credible reports of refoulement?	NO
• <u>Country Level 3</u> : Are there cases of unwarranted detention beyond ExCom Conclusion 44?	NO
• <u>Country Level 13</u> : Do all asylum-seekers have access to RSD procedures?	YES
• <u>Country Level 14</u> : Do all asylum-seekers have access to information and counseling on RSD procedures?	YES
• <u>Country Level 15</u> : Are reasons for rejection shared in writing with the applicant?	YES
• <u>Country Level 16</u> : Are applicants permitted to remain in the country while an appeal is pending?	YES
• <u>Country Level 17</u> : Are rejected asylum-seekers being deported/repatriated?	
• <u>Country Level 18</u> : Average processing time between submission of application and first instance decision (in days).	
• <u>Country Level 19</u> : Average processing time between submission of application and final decision (in days).	
• <u>Urban Programme 1</u> : Number of refugees and asylum-seekers refouled.	0
• <u>Urban Programme 2</u> : Percentage of asylum-seekers in detention.	0%
• <u>Refugee Camp/Re-Settlement 5</u> : Number of refugees and asylum-seekers refouled.	0
• <u>Refugee Camp/Re-Settlement 6</u> : Number of refugees and asylum-seekers killed.	0
• <u>Refugee Camp/Re-Settlement 7</u> : Can the population move freely in/out of location?	YES

• <u>Returnee Area 4</u> : Are there cases of arbitrary detention?	NO
• <u>Returnee Area 6</u> : Are all returnees allowed to vote?	YES
• <u>Returnee Area 8</u> : Are there reported security incidents that are directed at returnees?	NO

IN RELATION TO BEST INTEREST DETERMINATION	
INDICATOR	STANDARD
• <u>Urban Programme 16</u> : Percentage of UACs/SCs for whom a Best Interest Determination (BID) has been carried out.	100%

IN RELATION TO RESETTLEMENT	
INDICATOR	STANDARD
• <u>Country Level 23</u> : In any undue pressure exercised on refugees influencing their voluntary choice to repatriate?	NO
• <u>Urban Programme 33</u> : Percentage of refugee who repatriated.	100%
• <u>Urban Programme 34</u> : Percentage of refugee resettled.	100%
• <u>Urban Programme 35</u> : Average processing time for resettlement submissions (days).	
• <u>Urban Programme 36</u> : Average processing time for resettlement departures (days).	
• <u>Refugee Camp/Re-Settlement 68</u> : Percentage of refugees who repatriated.	100%
• <u>Refugee Camp/Re-Settlement 69</u> : Percentage of refugees resettled.	100%
• <u>Refugee Camp/Re-Settlement 70</u> : Average processing time for resettlement submissions (days).	
• <u>Refugee Camp/Re-Settlement 71</u> : Average processing time for resettlement departures (days).	

IN RELATION TO CIVIL STATUS, MARRIAGE AND FAMILY RELATIONS	
INDICATOR	STANDARD
• <u>Country Level 9</u> : Do states grant nationality to persons born in the territory of the state, if they would otherwise be stateless?	YES
• <u>Country Level 10</u> : Are there reported cases of arbitrary deprivation of nationality leading to statelessness?	NO
• <u>Country Level 11</u> : Do states allow renunciation of nationality only if the person concerned has acquired another nationality?	YES

• <u>Country Level 12</u> : Are births of non-refugee stateless children properly registered?	YES
• <u>Country Level 20</u> : Do refugees receive preferential treatment in naturalization procedures?	YES
• <u>Country Level 21</u> : Do stateless persons receive preferential treatment in naturalization procedures?	YES

IN RELATION TO LAND, HOUSING AND PROPERTY - SHELTER	
INDICATOR	STANDARD
• <u>Refugee Camp/Re-Settlement 52</u> : Average camp area per person (m2).	≥ 45m <sup>2</sup>
• <u>Refugee Camp/Re-Settlement 53</u> : Percentage of households with adequate dwellings.	100%
• <u>Refugee Camp/Re-Settlement 54</u> : Average dwelling floor size per person.	≥ 3.5

IN RELATION TO LAND, HOUSING AND PROPERTY - LAND	
INDICATOR	STANDARD
• <u>Country Level 24</u> : Does the government allow access to land/agricultural production to refugees/asylum-seekers?	YES
• <u>Refugee Camp/Re-Settlement 65</u> : Number of refugees with access to land for agricultural purposes.	
• <u>Returnee Area 28</u> : Number of returnees with access to land for agricultural purposes.	

IN RELATION TO FREEDOM OF MOVEMENT, INCLUDING DETENTION	
INDICATOR	STANDARD
• <u>Country Level 3</u> : Are there cases of unwarranted detention beyond ExCom Conclusion 44?	NO
• <u>Urban Programme 2</u> : Percentage of asylum-seekers in detention.	0
• <u>Refugee Camp/Re-Settlement 7</u> : Can the population move freely in/out of location?	YES
• <u>Returnee Area 4</u> : Are there cases of arbitrary detention?	NO

IN RELATION TO MILITARY RECRUITMENT AND DEMOBILIZATION	
INDICATOR	STANDARD
• <u>Urban Programme 9</u> : Percentage of ex-combatants $\geq$ 18 years old with specific needs assisted.	100%
• <u>Urban Programme 10</u> : Percentage of ex-combatants < 18 years old assisted.	100%
• <u>Refugee Camp/Re-Settlement 14</u> : Percentage of ex-combatants $\geq$ 18 years old with specific needs assisted.	100%
• <u>Refugee Camp/Re-Settlement 15</u> : Percentage of ex-combatants < 18 years old assisted.	100%
• <u>Refugee Camp/Re-Settlement 24</u> : Have children been recruited for military purposes?	NO
• <u>Returnee Area 26</u> : Have children been recruited for military purposes?	NO





# Glossary of Terms

## A

### Abuse

Any act which harms or causes suffering on another person physically, sexually, socially, economically, physiologically or emotionally. Abuse involves differential power between the perpetrator and the victim/survivor of the abuse. The victim/survivor of abuse is not in a position to negotiate, make decisions or give consent. Abuse includes the use of force or other means of coercion such as threats, deception and extortion. Abuse is also defined as 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.

### Accountability

The act of being answerable for decisions that are made which affect the lives of others. Accountability involves positions of power and the acknowledgement of power and responsibility to others and the willingness to fully accept responsibility for actions and their implications.

### Actors

All those who are the beneficiaries of, or decide, deliver or assist in the delivery of, protection and assistance programs for a population of concern to UNHCR.

### Age, gender and diversity mainstreaming

Mainstreaming age, gender and diversity means that the meaningful participation of refugee girls, boys, women and men of all ages and backgrounds is integral to the design, implementation, monitoring and evaluation of all UNHCR policies and operations so that these impact equitably on people of concern. The overall goals are gender equality and the enjoyment of the rights of all refugees of all ages and backgrounds. Their attainment is the responsibility of all staff.

### Agenda for Protection

A programme of action comprising six specific goals to improve the protection of refugees and asylum-seekers around the world, agreed by UNHCR and States as part

of the Global Consultations on International Protection process. The Agenda was endorsed by the Executive Committee in October 2002, and welcomed by the General Assembly.

### Assistance

Aid provided to address the physical, material and legal needs of persons of concern. This may include food items, medical supplies, clothing, shelter, seeds and tools, as well as the provision of infrastructure, such as schools and roads. “Humanitarian assistance” refers to assistance provided by humanitarian organizations for humanitarian purposes (i.e., non-political, non-commercial, and non-military purposes). In UNHCR practice, assistance supports and complements the achievement of protection objectives.

### Asylum

The grant, by a State, of protection on its territory to persons from another State who are fleeing persecution or serious danger. Asylum encompasses a variety of elements, including *non-refoulement*, permission to remain on the territory of the asylum country, and humane standards of treatment.

### 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 is initially an asylum-seeker.

## C

### 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

According to the Convention on the Rights of the Child (CRC), a child is any person under the age of 18, unless the relevant national laws state an earlier age of

adulthood. The CRC equates “child” with “minor”; it defines a minor as a person who is below the legal age of majority and is therefore not legally independent.

### Coercion

Forcing, or attempting to force, another person to engage in behaviours against her will through threats, verbal insistence, manipulation, deception, cultural expectations, economic power or the use of any other form of power.

### Community development

A process to improve the economic, social and cultural conditions of communities. Community development aims to integrate refugees into their host countries or to reintegrate them upon return to their country of origin, while improving the living standards of the whole community.

### Confidentiality

Ensuring that information about a person, or events which they have experienced which can be linked to their identity, have not been made available or disclosed to unauthorized individuals, processes or other entities.

### Consent

Making an informed choice to agree freely and voluntarily to do something. The phrase *against her will* is used to indicate an absence of informed consent. Consent is not given if agreement is obtained through an abuse of power, through force, threat or other forms of coercion, abduction, fraud, deception or misrepresentation. Under international human rights laws, a child under the age of 18 does not have the ability to give consent.

### Conventions

Formal international agreements among nations (to which states become party), which create binding legal obligations. Such agreements may have different names: treaty, convention, covenant, or pact. Conventions are one of two main types of UN human rights instruments, the other being UN standards.

### Convention grounds

The refugee definition in the 1951 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.

### Customary international law

International laws 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. Several of the provisions in the Universal Declaration of Human Rights, including the prohibition against slavery, torture, prolonged arbitrary detention and extra-judicial killings, are generally recognized to have become part of customary international law.

### Cultural relativism

The belief that no universal or moral standards exists against which human practices can be judged.

## D

### Detention

Restriction on freedom of movement, usually through enforced confinement. Article 31 of the 1951 Convention provides certain safeguards in relation to the restriction of freedom of movement for refugees who enter or reside in the country illegally.

### Development assistance for refugees (DAR)

A programming approach which aims to promote the inclusion of refugees and host communities in development agendas through additional development assistance to improve burden-sharing with countries hosting a large number of refugees and to promote a better quality of life and self-reliance for refugees pending durable solutions and an improved standard of living for refugee-hosting communities.

### Development through local integration (DLI)

A programming approach applied in protracted refugee situations where the state opts to provide opportunities for the gradual integration of refugees. It is based on the understanding that those refugees who are unable to repatriate and are willing to integrate locally will find a solution to their plight in their country of asylum. DLI is achieved through the inclusion of refugees in development plans.

### Domestic violence

A pattern of intentional coercive and abusive behaviour committed against a person by someone who is intimate with

her. This behaviour can, but is not limited to, the use of physical, emotional, sexual, economic, psychological or spiritual abuse. Domestic violence involves the use of tactics or assaults that seek to gain or maintain power and control the thoughts, beliefs and conduct of victim/survivor of the violence.

### **Durable solutions**

Any means by which the situation of refugees can be satisfactorily and permanently resolved to enable them to live normal lives. UNHCR traditionally pursues the durable solutions of voluntary repatriation, local integration and resettlement.

## **E**

### **Early marriage**

Early marriage is defined as marriage of children and adolescents under the age of 18. (Children are defined in Article 1 of the Convention on the Rights of the Child as “every human being below the age of eighteen years.”)

### **Emergency relief**

The immediate survival assistance to the victims of crisis and violent conflict. Most relief operations are initiated on short notice and have a short implementation period (project objectives are generally completed within a year). The main purpose of emergency relief is to save lives.

### **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 on the exercise of her/his functions. ExCom is currently (June

2006) composed of representatives of 70 States with a demonstrated interest in refugee issues, and 24 States with observer status. NGOs have observer status in ExCom.

### **Executive Committee Conclusions on International Protection**

Formal texts that embody the results of ExCom’s annual deliberations on questions of refugee protection. Although not legally binding, ExCom Conclusions contribute to the elaboration of principles and standards for the protection of refugees and other persons of concern to UNHCR.

## **F**

### **Family unity**

A right to family unity and family life is inherent in the universal recognition of the family as the fundamental group unit of society. In order to uphold this right, refugee status may be granted to the spouse and dependants of a person who meets the refugee criteria. When spouses and dependants acquire refugee status on this basis, they are said to enjoy “derivative refugee status”.

### **Female genital mutilation (FGM)**

A practice which involves the alternation or removal of the female genitalia. The physical extent of the procedure varies in different social contexts. There are three main forms: so-called “Sunna” circumcision; excision and infibulation. It is sometimes termed female circumcision or female genital cutting.

### **Five Commitments**

Commitments made by UNHCR in 2001 (i) to encourage the active participation of women in all management and leadership committees of refugees in urban, rural and camp settings, including return areas; (ii) to register all refugee men and women individually and provide them with relevant documentation; (iii) to develop integrated country-level strategies to address SGBV; (iv) to ensure refugee women participate directly and indirectly in the management and distribution of food and non-food items; and (v) to provide sanitary materials to all women and girls of concern as standard practice.

### **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. Surgery can repair the injury, but several operations may be required if the case is particularly severe. When fistula results from rape, survivors are routinely rejected and ostracized by their husbands, parents, and communities.

### Focus group discussion

A method to collect qualitative data/information from a group of persons pre-selected according to specific criteria.

## G

### Gender

The socially constructed and assigned characteristics, roles and responsibilities of women and men in any given culture. These social characteristics are constructed on the basis of different factors, such as age, religion, national, ethnic and social origin. They differ both within and between cultures and are learned through socialisation. Gender is not static or innate, but evolves to respond to changes in the social, political and cultural environment. Gender roles are significant in determining status, power and social relations between men and women including their differential access to resources, opportunities and decision-making power.

### Gender-based violence

A term used to distinguish common violence from violence that targets individuals or groups of individuals on the basis of their gender or sex. It includes acts that inflict physical, mental or sexual harm or suffering, threat of such acts, coercion and other deprivations of liberty.

### Gender equality

A state or condition within a community or society where one's rights or opportunities are not dependent on being female or male. A state or condition where women's interests, needs, and concerns shape political, social and economic decisions within any given society in the same way as men's. Gender inequality is a cause of sexual and gender based violence.

### Gender mainstreaming (or mainstreaming a gender perspective)

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.

### Gender-related persecution

A non-legal term that is used to encompass the range of different claims in which being male or female is a relevant consideration in the determination of refugee status. Typically, gender-related persecution encompasses, although is by no means 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.

### Gender sensitivity

The awareness and recognition of the life experiences, expectations and needs of women and men as different and that many times these involve inequity. Gender sensitivity assumes an understanding of gender and gender roles. In relation to the work of UNHCR, gender sensitivity is the awareness and recognition that women and men are affected differentially by protection and assistance programs.

### Good practice

An innovative, interesting and inspiring practice that has the potential to be transferred in whole or in part to other national contexts.

## H

### Harmful traditional practices

Acts that reflect values and beliefs held by members of a community and which are not likely questioned because they have often been practised for periods spanning generations and take on an aura of morality by those who practice them. According to the standards of international human rights law, however, these acts deny and violate the fundamental human rights of women and girls and in particular their rights to life, dignity and personal integrity. Harmful traditional practices often harm and constitute an obstacle to health and development. Harmful traditional practices often involve a form of violence and are considered a part of gender-based violence.

**Household**

A group of persons who share accommodation.

**Humanitarian assistance (relief)**

Aid that addresses the immediate needs of individuals affected by crises and is provided mainly by non-governmental and international organizations.

**Human rights**

Human rights are agreed international standards that recognize and protect the dignity and integrity of every individual, without any distinction. They form part of customary international law and are stipulated in a variety of national, regional and international legal documents generally referred to as human rights instruments. The most prominent of these are the United Nations Charter, and the UN Bill of Rights, made up of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic and Social Rights.

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**Implementing partners**

Partners, who sign an implementing agreement with and receive funding from UNHCR.

**Indicator**

A unit that measures signs of change towards the achievement of results. Two types of indicators are employed at UNHCR: performance and impact indicator. Indicators should be disaggregated by sex and age as appropriate.

**Integrated approach**

A planning approach that brings together issues from across sectors, institutions on national and local levels, and different population groups.

**Inter-Agency Standing Committee (IASC)**

Established in 1992, the IASC is 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 division of responsibility for the various aspects of humanitarian assistance, identifies and addresses gaps in response, and advocates for effective applications of humanitarian principles. The full members of the IASC are FAO, OCHA, UNDP, UNFPA, UNHCR, UNICEF, WFP, WHO. Standing invitees are ICRC, ICVA, IFRC, American Council for

Voluntary International Action (Inter-Action), IOM, OHCHR, Office of the Special Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, the Steering Committee for Humanitarian Response and the World Bank.

**Inter-governmental organization (IGO)**

An organization made up of State members. Examples include the United Nations Organization (UN), the Organization of African Unity (OAU), the Organization of American States (OAS), the European Union (EU), and the Commonwealth of Independent States (CIS).

**Internal displacement**

Forced movement of people inside their own country. This movement may be due to a variety of causes, including natural or human-made disasters, armed conflict, or situations of generalized violence.

**Internally displaced persons (IDPs)**

Those persons forced or obliged to flee from their homes, 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.

**International humanitarian law (or law of armed conflict)**

The body of law, regulations and principles that governs situations of international or non-international armed conflict. The core instruments of international humanitarian law are the four Geneva Conventions of 12 August 1949 and their two Additional Protocols of 8 June 1977. Virtually every State is a party to the Geneva Conventions of 1949.

**International human rights law**

The body of customary international law, human rights instruments and national law that recognizes and protects human rights. Refugee law and human rights law complement each other.

**International protection**

Actions taken by the international community on the basis of international law, aimed at protecting the fundamental rights of a specific category of persons outside their countries of origin, who lack the national protection of their own country.



### International refugee law

The body of customary international law and international instruments that establishes standards for the international protection of refugees. The cornerstone of international refugee law is the 1951 Convention and its 1967 Protocol relating to the Status of Refugees.

## L

### Livelihoods

A combination of the resources used and the activities undertaken in order to live. Resources include individual skills (human capital), land (natural capital), savings (financial capital), equipment (physical capital), as well as formal support groups and informal networks (social capital).

### Local integration

A durable solution to the problem of refugees that involves their permanent settlement in a country of first asylum, including eventually their being granted nationality of that country.

## M

### Mandate refugees

Persons who are recognized as refugees by UNHCR acting under the authority of its Statute and relevant UN General Assembly resolutions. Mandate status is especially significant in States that are not parties to the 1951 Convention or its 1967 Protocol.

### Masculinities

There are many socially constructed definitions for being a man and these can change over time and from place to place. The term relates to perceived notions and ideals about how men should or are expected to behave in a given setting. Masculinity and femininity are relational concepts, which only have meaning in relation to each other. Masculinities are configurations of practice structured by gender relations. They are inherently historical; their making and remaking is a political process affecting the balance of interests in society and the direction of social change.

### Millennium Development Goals (MDGs)

A summary of development goals set at international conferences and world summits during the 1990s.

### 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. In the context of UNHCR and sexual and gender based violence, the multi-sectoral approach is guiding principle for developing and implementing mechanisms to prevent and respond to SGBV. This approach emphasises the inter-related and inter-dependent roles of the refugee community, protection, health, security, legal and justice, and psycho-social actors in shaping and developing effective prevention and response mechanism.

## N

### National

A person recognized to have the status of a legal bond with a State as provided for under law. Some States use the word “nationality” to refer to this legal bond, while other States use the word “citizenship”.

### Nationality

The status of being a citizen of a particular nation or country.

### Non-derogable rights

While most human rights are not absolute and can be limited in their application, some rights are *not derogable* i.e. know no limitations or exceptions under any conditions, including the following: the right to life; the right not to be subjected to torture, or to cruel, inhuman or degrading treatment or punishment; freedom from slavery and servitude; freedom of thought, conscience and religion.

### Non-discrimination

An approach that aims to prevent discrimination and is the term used in human rights instruments. The term anti-discrimination implies a more proactive approach to tackling the causes and impacts of discrimination.

### Non-refoulement

A core principle of international refugee law that prohibits States from returning refugees in any manner whatsoever to countries or territories in which their lives or freedom may be threatened. The principle of *non-refoulement* is a part of customary international law and is therefore binding on all States, whether or not they are parties to the 1951 Convention.

## O

**Operational partners**

Governmental, inter-governmental and non-governmental organizations and UN agencies that work with UNHCR to protect and assist refugees/returnees and to achieve durable solutions.

## P

**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 analysis and the planning, implementation and monitoring of solutions.

**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.

**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.

**Persecution**

The core concept of persecution was deliberately not defined in the 1951 Convention, 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.

**Persons of concern to UNHCR**

A generic term used to describe everyone whose protection and assistance needs are of interest to UNHCR. These include refugees under the 1951 Convention, persons who have been forced to leave their countries as a result of conflict or events seriously disturbing public order, asylum seekers, returnees, stateless persons, and, in some 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.

**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. To prevent and respond to sexual and gender-based violence effectively, the power relations between men and women, women and women, men and men, adults and children, and among children must be analyzed and understood.

***Prima facie* refugees**

Persons recognized as refugees, by a State or UNHCR, on the basis of objective criteria related to the circumstances in their country of origin, which justify a presumption that they meet the criteria of the applicable refugee definition.

**Protection**

Actions aim at ensuring equal access to and enjoyment of the rights of women, men, girls and boys of concern to UNHCR, in accordance with the relevant bodies of law (international humanitarian, human rights and refugee law.)

## R

**4Rs**

Repatriation, Reintegration, Rehabilitation and Reconstruction. In post-conflict situations in countries of origin, UNHCR advocates the 4Rs concept, bringing together humanitarian and development actors and funds it aims to ensure linkages between all four processes so as to prevent the recurrence of mass outflows, facilitate sustainable repatriation and help create good local governance.

**Ratification**

The international act whereby a State indicates its consent to be bound to a treaty if the parties intended to show their consent by such an act. In the case of bilateral treaties, ratification is usually accomplished by exchanging the requisite instruments, while in the case of multilateral treaties the usual procedure is for the depositary to collect the ratifications of all states, keeping all parties



informed of the situation. The institution of ratification grants states the necessary time-frame to seek the required approval for the treaty on the domestic level and to enact the necessary legislation to give domestic effect to that treaty.

### Reconciliation

A situation of general tolerance between communities after the cessation of hostilities and before reconciliation. Initiatives related to the co-existence approach include peace education, sustainable community development, the socio-economic empowerment of refugees, the reintegration of child soldiers and partnership development.

### Reconstruction

Developmental interventions which not only seek to build, repair damage or return to the status quo ante, but also address medium- and long-term needs and the need for improvements in policies, programmes, systems and capacities to avert the recurrence of crisis and to reach higher levels of employment and standards of living.

### 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.

### Refugee participation

Involvement of beneficiaries in the decision-making process regarding searching for, and implementing appropriate solutions to their problems and needs.

### Refugee status determination procedures

Legal and administrative procedures undertaken by UNHCR and/or States to determine whether an individual should be recognized as a refugee in accordance with national and international law.

### Registration

The process of identifying and documenting individuals and families of concern to UNHCR by which systematic information is obtained to facilitate protection, programme planning and verification.

### 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.

### Reservations

A formal note or declaration made by a state when becoming a party to an international treaty, clarifying the manner in which the state will interpret a particular provision of the treaty, or indicating that the state will not be bound by a particular provision. Some treaties expressly indicate that certain provisions *may not* be subject to reservations, and it is also generally accepted that no reservation is permitted if it defeats the object and purpose of the treaty.

### Resettlement

The transfer of refugees from the country in which they have sought refuge to another State that has agreed to admit them. The refugees will usually be granted asylum or some other form of long-term resident rights and, in many cases, will have the opportunity to become naturalized citizens. For this reason, resettlement is a durable solution as well as a tool for the protection of refugees. It is also a practical example of international burden- and responsibility-sharing.

### Resettlement country

A country that offers opportunities for the permanent settlement of refugees. This would be a country other than the country of origin or the country in which refugee status was first recognized.

### Resettlement selection criteria

Criteria by which UNHCR and resettlement countries select candidates for resettlement. Resettlement under the auspices of UNHCR is strictly limited to mandate refugees who have a continued need for international protection and who meet the criteria of the *UNHCR Resettlement Handbook*. Individual countries use a wide range of resettlement criteria.

## S

### Self-reliance

The ability of an individual, household or community to depend (rely) on their own resources (physical, social and natural capital or assets), judgment and capabilities with minimal external assistance in meeting basic needs, and without resorting to activities that

irreversibly deplete the household or community resource base.

### **Separated children**

Children, as defined in Article 1 of the Convention on the Rights of the Child, who have been separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.

### **Sex**

The biological characteristics of males and females. These characteristics are congenital and their differences are limited to physiological reproductive functions.

### **Sexual and gender-based violence (SGBV)**

Any act that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women because of being women and men because of being men, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in the public or in private life. SGBV includes, but is not limited to physical, sexual and psychological violence occurring in the family, gender community or perpetrated or condoned by the State and institutions.

### **Sexual abuse**

Any actual or threatened physical intrusion that is sexual in nature and that causes harm or suffering to another. Acts of sexual abuse can occur by force, under coercive conditions, or in situations where there is a differential power relationship between the perpetrator and the victim/survivor.

### **Sexual exploitation**

Any abuse, harm or suffering done to a person who is in a position of trust, vulnerability or differential power for sexual purposes. Sexual exploitation includes, but is not limited to, profiting momentarily, socially, or politically from another person. Acts of sexual exploitation often occur under coercive or deceptive circumstances or where the victim/survivor does not have the power or capacity to give consent or to make decisions to end the exploitation. Sexual exploitation is a part of gender based violence.

### **Sexual violence**

Any that intentionally threatens, attempts, or actually inflicts sexual harm on another person or group of others. These acts are considered a part of gender based

violence and include sexual abuse and exploitation.

### **Stateless person**

A person who, under national laws, does not have the legal bond of nationality with any State. Article 1 of the 1954 Convention relating to the Status of Stateless Persons indicates that a person not considered a national (or citizen) automatically under the laws of any State, is stateless.

### **Statelessness**

The condition of not being considered as a national by any State under the operation of its law.

### **Survivor**

Any person who has suffered from, or has been harmed by, acts of violence, including sexual violence 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.

## **T**

### **Tracing**

In the refugee context, efforts to ascertain the whereabouts of family members or close associates of persons of concern to UNHCR. Tracing may be conducted for the purposes of family re-unification, in the context of durable solutions, or simply to facilitate contacts between family members. The International Committee of the Red Cross (ICRC) runs a Central Tracing Agency that has special competence in this area.

### **Trafficking**

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.

### **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 with the aims of ensuring accountability, serving justice, and achieving reconciliation. Justice mechanisms and processes include international tribunals, “mixed” international and national mechanisms, national courts, national truth commissions, and traditional justice mechanisms.

### Treaty bodies

Expert bodies established by the UN human rights treaties, responsible for reviewing the implementation of the treaty. Generally, this is done by reviewing reports submitted by states party to the treaty, and raising questions or concerns about the reports. Some may also be competent to receive petitions from individuals on alleged violations of their rights within that treaty. Treaty bodies are ‘implementation control mechanisms’ with a quasi-judicial function, which derived from the fact that the reports they publish contain authoritative views on the scope as well as the content of rights guaranteed by the relevant treaty. The main treaty bodies and the conventions they monitor are:

- Committee against Torture (CAT)
- Human Rights Committee (ICCPR)
- (not to be confused with the Council on Human Rights)
- Committee on the Elimination of Discrimination against Women (CEDAW)
- Committee on the Elimination of Racial Discrimination (CERD)
- Committee on Economic, Social and Cultural Rights (CESCR)
- Committee on the Rights of the Child (CRC)

## U

### Unaccompanied children

Children, as defined in Article 1 of the Convention on the Rights of the Child, who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

### UN Country Team

At the Field level, “inter-agency cooperation” takes place most importantly within the “UN Country Team” – the ensemble of agencies of the United Nations 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.

## V

### Victim

Any person who has suffered from, or has been harmed by, acts of violence, including sexual violence and gender based violence.

### Violence

Any act by a person a group of persons that intentionally threatens, attempts, or actually inflicts harm on another person or group of others. This behaviour may be criminal and usually involves the abusive use power with the intent to violate. Violence is a means of control and oppression that can include 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. The person targeted by this kind of violence is compelled to behave as expected or to act against her will out of fear.

### Violence against women

Any act of gender-based violence that results in, or is likely to result in, physical, sexual and psychological harm to women and girls, whether occurring in private or in public. Violence against women is a form of gender-based violence and includes sexual violence.

### Voluntary repatriation

Return to the country of origin based on the refugees’ free and informed decision. Voluntary repatriation may be *organized*, (i.e., when it takes place under the auspices of the concerned governments and UNHCR), or *spontaneous* (i.e., the refugees return by their own means with UNHCR and governments having little or no direct involvement in the process of return).

### Vulnerable persons

Physically, mentally or socially disadvantaged persons who may be unable to meet their basic needs and may therefore require specific assistance.

## W

**Women at risk**

Female refugees with special protection needs, including those who require resettlement in accordance with the *UNHCR Resettlement Handbook*.

