UNHCR Resettlement Handbook

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Refugee Agency

Acknowledgments

This revised UNHCR Resettlement Handbook is the product of close consultation and collaboration among UNHCR staff and resettlement partners. The Division of International Protection (DIP) particularly wishes to thank the many colleagues and partners around the world who contributed to the Handbook revision process, and provided input and feedback on the drafts. This revision has been made possible thanks to the support of the Canadian Consultant Management Initiative.

Using this Handbook

The UNHCR Resettlement Handbook offers resettlement management and policy guidance to UNHCR staff, and is a key reference tool on global resettlement policy and practice for resettlement countries, NGOs and other partners. This revision of the Resettlement Handbook incorporates updates to UNHCR policy and practice since the release of the 2004 edition of the Handbook. The previous annexes are replaced by website hyperlinks to reference documents, some of which are internal documents accessible only to UNHCR staff.

Resettlement States have described their policies and programmes in individual Country Chapters which are an integral part of this Handbook. As these Country Chapters are subject to frequent changes, they are not included in the printed Handbook, but are available online at **http://www.unhcr.org/resettlementhandbook**.

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UNHCR Resettlement Handbook

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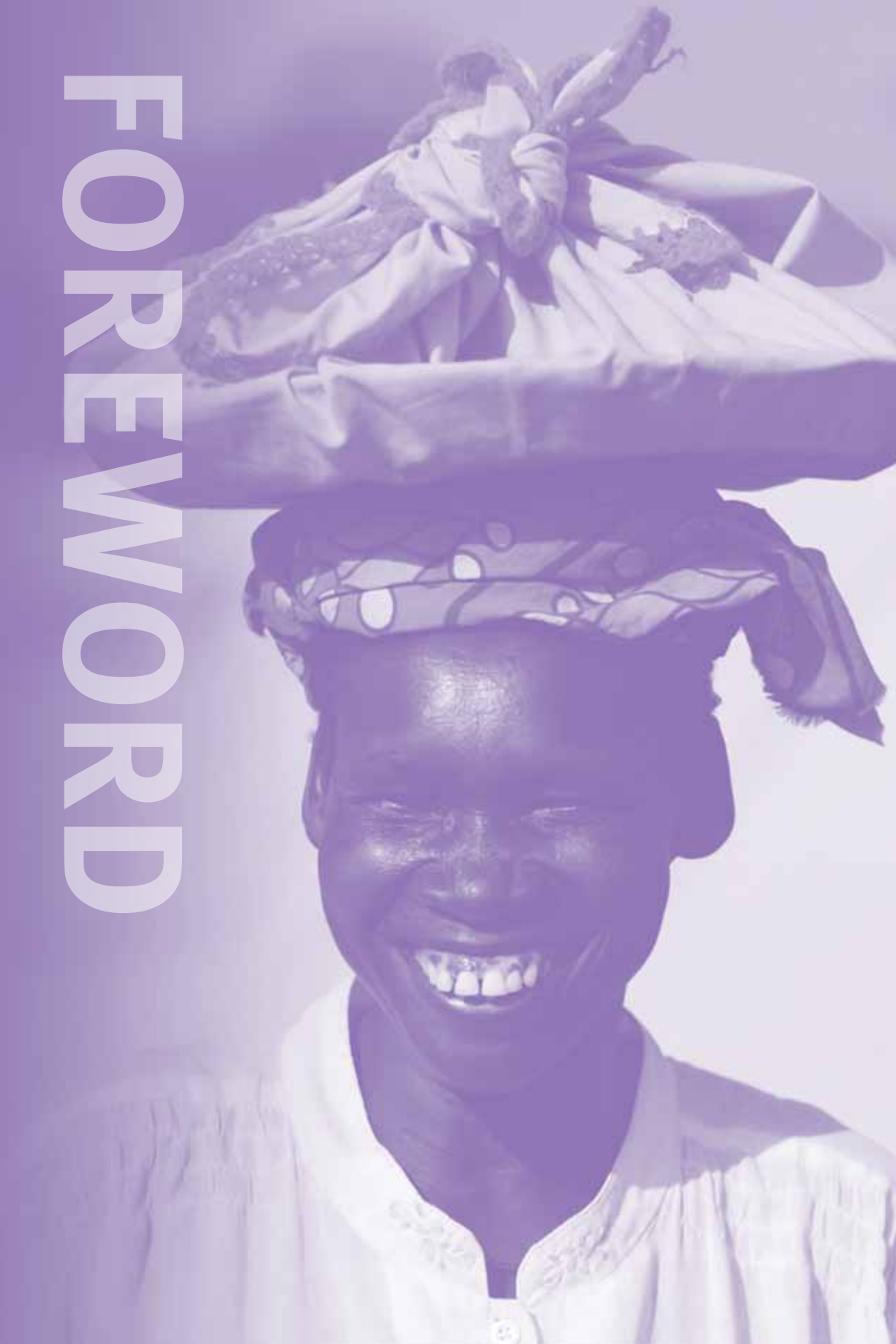
FOREWORD



FOREWORD

Since the Resettlement Handbook was produced in 1996, it has been used by hundreds of UNHCR staff and partners to help hundreds of thousands of refugees start new lives in new countries. It is an indispensable tool for an indispensable solution.

Indeed, as the resilience of conflict causes voluntary repatriation opportunities to remain mired in two-decade lows, and with countries heavily burdened by hosting large numbers of refugees reluctant to expand possibilities for local integration, resettlement has grown even more vital as a durable solution.

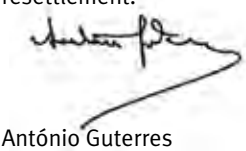
At the same time it continues to serve its longstanding role as a mechanism for protecting individuals. It does so by removing particular individuals from situations of risk, but also by demonstrating the availability of a solution without which refugees may undertake highly precarious journeys to find safety and opportunity.

Resettlement is a partnership activity. Without the generosity, commitment and expertise of States, NGOs and others, it could not take place. Similarly, this comprehensive revision of the Resettlement Handbook, the first since 2004, has only been possible through consultations and collaboration with a wide range of stakeholders.

As *the* reference text for UNHCR's resettlement work, we have made a special effort to update the Resettlement Handbook to reflect the changing nature of displacement (to urban and other non-camp settings) and the importance of using resettlement strategically. The Handbook sets out standardized methodologies for identifying resettlement needs and expediting resettlement processing, including the use of Emergency Transit Facilities. It provides a wide sampling of relevant soft law, such as Excom Conclusions on Women and Girls at Risk, Children at Risk, Refugees with Disabilities and Protracted Refugee Situations. It sets out much more fully the specific needs of vulnerable groups and reinforces the centrality of age, gender and diversity appropriate approaches to all UNHCR's resettlement and protection efforts. Additional emphasis is also placed on preserving the integrity of the resettlement process and anti-fraud procedures.

While the number of States with ongoing resettlement programmes has risen to 25, the number of places available is still significantly outstripped by refugees in need of them. The Handbook includes helpful advocacy information for practitioners and supporters seeking to expand the number of resettlement opportunities. On this and virtually every other issue relevant to resettlement, the Handbook provides good practice guidance. Nothing makes a more compelling case for resettlement than seeing it done right.

I am very proud of this Handbook. With it, and your continuing commitment, I am confident hundreds of thousands more refugees will begin new lives through resettlement.



António Guterres
United Nations High Commissioner for Refugees

PREFACE

PREFACE
INTRODUCING RESETTLEMENT

Definition

Resettlement involves the selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed to admit them – as refugees – with permanent residence status. The status provided ensures protection against *refoulement* and provides a resettled refugee and his/her family or dependants with access to rights similar to those enjoyed by nationals. Resettlement also carries with it the opportunity to eventually become a naturalized citizen of the resettlement country.

Functions

Resettlement serves three equally important **functions**.

First, it is a tool to provide international protection and meet the specific needs of individual refugees whose life, liberty, safety, health or other fundamental rights are at risk in the country where they have sought refuge.

Second, it is a durable solution for larger numbers or groups of refugees, alongside the other durable solutions of voluntary repatriation and local integration.

Third, it can be a tangible expression of international solidarity and a responsibility sharing mechanism, allowing States to help share responsibility for refugee protection, and reduce problems impacting the country of asylum.

Resettlement within UNHCR's mandate

The Office of the United Nations High Commissioner for Refugees (UNHCR) was established on 1 January 1951 by UN General Assembly Resolution 319 (IV).[1]

UNHCR's work is humanitarian, social and non-political. UNHCR's Statute and subsequent resolutions from the United Nations General Assembly and the Economic and Social Council (ECOSOC) mandate the Agency to provide international protection to refugees and other persons of concern to the Office and – as a consequence – to seek permanent or durable solutions to their problem.[2] These two functions, international protection and the identification of durable solutions, can be considered UNHCR's core objectives, although its mandate has been expanded through subsequent UN General Assembly Resolutions. Resettlement plays a vital role in achieving both of these objectives.

[1] UN General Assembly, *Refugees and stateless persons*, 3 December 1949, A/RES/319, http://www.unhcr.org/refworld/docid/3boof1ed34.html

[2] The 1950 UNHCR Statute states that UNHCR "shall assume the function of providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the present Statute and of *seeking permanent solutions for the problem of refugees* by assisting Governments ... to facilitate the voluntary repatriation of such refugees, *or their assimilation within new national communities.*" (Emphasis added).

Resettlement under UNHCR auspices is an invaluable protection tool to meet the specific needs of refugees under the Office's mandate whose life, liberty, safety, health or fundamental human rights are at risk in the country where they sought refuge. Resettlement may be the only way to reunite refugee families who, as a result of flight from persecution and displacement, find themselves divided by borders or by entire continents. Emergency or urgent resettlement may be necessary to ensure the security of refugees who are threatened with *refoulement* to their country of origin or those whose physical safety is seriously threatened in the country where they have sought refuge.

Resettlement is also a durable solution, and a key component of comprehensive solutions strategies. Under a comprehensive approach to particular contexts, consideration of all three durable solutions (voluntary repatriation, local integration and resettlement), may identify resettlement as the optimal solution for the individual or refugee groups in question. Refugees may not have immediate protection needs, but nevertheless require a durable solution – an end to their refugee situation through resettlement.

Impact of resettlement

Over the past sixty years resettlement has provided millions of people with protection and the opportunity to build new lives for themselves and their families. The refugees have made important contributions to the countries that received them,[3] and active engagement with resettled refugees has also fostered awareness and support for refugees among the publics of resettlement countries.

Resettlement has also brought about positive results that go well beyond those that are usually viewed as a resettlement outcome. In the face of a continued influx of refugees, the use of resettlement has convinced countries of first asylum to keep open their borders, thereby avoiding massive loss of life. In other situations resettlement has played a key role in unlocking the impasses in protracted refugee situations, and opening the possibilities of other durable solutions. Offering resettlement places to refugees in need is also an active expression of responsibility sharing with the countries that host the bulk of the world's refugees. Overall, resettlement is a dynamic and flexible tool, and when done effectively and with strategic vision, the results of resettlement can be powerful beyond the direct impact on the persons resettled.

Partnership

The resettlement of refugees can only be achieved through collaboration with various partners, in particular resettlement States, international organizations and non-governmental organizations (NGOs). UNHCR identifies refugees in need of resettlement as part of its mandate, but it is States that offer permanent places of residence in their countries. NGOs and international organizations can also play a key role throughout the identification, pre-departure, and the post-resettlement integration processes.

[3] For personal stories, see the News and Media section of the UNHCR website at http://www.unhcr.org

No country is legally obliged to resettle refugees. Only a limited number of States offer resettlement on a regular basis, allocating budgets, devising programmes and providing annual resettlement quotas. The number of these resettlement States that have established regular resettlement programmes and committed themselves to an annual quota has grown steadily. Some countries also accept refugees for resettlement on an *ad hoc* basis but have not officially established regular resettlement programmes with annual quotas. These countries do participate in responsibility sharing, but are not included as resettlement States.[4] Accepting refugees for resettlement is a demonstration of generosity on the part of governments and UNHCR welcomes the opportunities that continue to be offered by States for the resettlement of refugees. Finally, of course, refugees are themselves partners in the process, and – with the appropriate integration measures in place and support from receiving communities – eventually prove to be an asset for the resettlement State, through their contribution to society at large.

Operational coordination

The search for durable solutions, including the expansion and more efficient use of resettlement, requires capacity within UNHCR as well as within resettlement States. UNHCR's Resettlement Service within the Division of International Protection assists Field Offices and Regional Bureaux to expand and diversify resettlement activities in different operational contexts, improve access for refugees as well as operational standards and coordination to deliver a coherent and predictable resettlement programme that addresses refugees' needs with diligence, integrity, transparency and accountability.

The focus on multi-year planning, the strengthened role of resettlement in comprehensive solutions strategies and improvements in the identification of persons at risk are key factors in UNHCR's capacity to identify and submit persons in need of international protection and a durable solution for resettlement consideration by States.

Consultation and collaboration

The Working Group on Resettlement (WGR) and the Annual Tripartite Consultations on Resettlement (ATCR) process is the primary vehicle for collaborative efforts between UNHCR, governments, NGOs, and international organizations to enhance the use of resettlement, identify and address challenges, and shape joint strategies and directions for the future. The Resettlement Service serves as the Secretariat for the WGR and the ATCR, while the chairmanship rotates among the government members of resettlement States, and an NGO focal point is traditionally drawn from the same State as the current Chair.

[4] The online version of this Handbook includes Country Chapters in which each resettlement State describes their own resettlement programme, http://www.unhcr.org/resettlementhandbook

The ATCR/WGR process has evolved since 1995 and usually includes two Working Group meetings and the Annual Tripartite Consultations on Resettlement held each year in June/July. The Working Group meetings (restricted to full government members of the WGR and with limited NGO presence) provide a smaller and more targeted consultative forum to discuss specific policy and operational aspects of resettlement, whereas the ATCR is a large-sized meeting with full participation of all invited partners.

The ATCR provides the opportunity to share information on specific populations in need of resettlement, analyze resettlement policy issues, identify and address operational challenges, and promote the emergence of new resettlement States and the diversification of resettlement programmes.

Setting priorities

UNHCR strives to meet the challenges of identifying the people most in need of resettlement, ensuring global consistency and predictability in resettlement delivery, and maintaining the capacity to manage resettlement activities.

Resettlement cannot be viewed in isolation from other protection interventions. UNHCR offices incorporate resettlement needs into their protection assessments and their overall durable solutions strategies, and the efficient and effective identification of refugees for resettlement consideration is a part of each office's overall protection strategy. Refugees under UNHCR's mandate are considered to have met the preconditions for resettlement consideration if resettlement has been identified as the durable solution most appropriate for them.[5] As the number of refugees identified as in need of resettlement far outstrips the availability of resettlement places, further planning and prioritization are required to make decisions on which cases to submit in a given year.

UNHCR Headquarters compiles information on the resettlement needs and processing capacity of country operations to prepare an annual report on the *Projected Global Resettlement Needs,*[6] which reflects the global resettlement needs for the following year(s) and the rationale and scope of UNHCR's resettlement operations worldwide. This document is presented to the resettlement partners at the Annual Tripartite Consultations on Resettlement (ATCR), and serves both as a primary planning tool and the main reference document for discussions with resettlement States on the allocation of their resettlement quota.

[5] For further guidance on the identification of refugees in need of resettlement, submission priorities and the resettlement submission categories please see Chapter 5 and Chapter 6.

[6] This document is produced annually. For example, see UNHCR, *UNHCR Projected Global Resettlement Needs 2011*, June 2010, http://www.unhcr.org/refworld/docid/4c5acc3e2.html

Integration

To truly be a durable solution, resettlement must offer refugees the support and opportunities to facilitate their integration into their new community. Integration programmes require coordination, cooperation and collaboration. Investments need to be made at an early stage to ensure that sound coordinating infrastructures and processes are established; that cooperative relationships are fostered between players, and relevant personnel have opportunities to develop their expertise in integration programme development and implementation. At the local level, communities must be prepared to welcome and support resettled refugees, and opportunities to bring newcomers and their new community members together to build relationships and identify and address issues are critical to the programme's success. These tasks require an investment in time, resources and expertise, and new resettlement States have welcomed the advice and support of States with established integration programmes.

Refugees generally have a high level of motivation not only to rebuild their own lives, but also to make a meaningful contribution to the receiving society. The fact that they have survived often horrific experiences is testimony to their resilience. While countries resettling refugees are motivated by humanitarian concerns, they also believe that refugee resettlement, along with their general migration programmes, enrich them as societies.

CHAPTER ONE

CHAPTER ONE
RESETTLEMENT WITHIN UNHCR's MANDATE: INTERNATIONAL PROTECTION AND THE SEARCH FOR DURABLE SOLUTIONS

Introduction

Resettlement involves the selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed to admit them – as refugees – with permanent residence status. The status provided ensures protection against *refoulement* and provides a resettled refugee and his/her family or dependants with access to rights similar to those enjoyed by nationals. Resettlement also carries with it the opportunity to eventually become a naturalized citizen of the resettlement country.

Preconditions for resettlement consideration

- the applicant is determined to be a refugee by **UNHCR;*** and
- the prospects for all durable solutions were assessed, and resettlement is identified as the most appropriate solution.

* Exceptions can be made for non-refugee stateless persons for whom resettlement is considered the most appropriate durable solution, and also for the resettlement of certain non-refugee dependent family members to retain family unity.

Purpose

The purpose of this chapter is to:

- situate resettlement within UNHCR's mandate in the context of international refugee law and policy;
- review persons of concern to UNHCR; and
- describe the three durable solutions and some general principles applicable to them.

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1.1 INTERNATIONAL LEGAL FRAMEWORK

International protection begins with securing the admission of refugees to a country of asylum and ensuring respect of their rights as set out in international law, and continues until a durable solution has been found. Resettlement cannot be viewed in isolation from other protection interventions.

Within the context of international refugee law and policy, resettlement is a mechanism for refugee protection, a durable solution and an element of responsibility sharing with refugee-hosting countries.

This section provides an overview of the foundations of refugee law and policy that define UNHCR's mandate, govern state responsibilities to provide protection, and guide the use of resettlement. *Refugee status determination under UNHCR's mandate is covered in detail in Chapter 3.*

1.1.1 United Nations High Commissioner for Refugees: mandate and governance

UNHCR's Statute, which was adopted by the General Assembly in 1950,[1] defines UNHCR's functions as providing international protection to refugees and assisting governments in finding durable solutions for them. Initially established for only a three-year term, the UNHCR mandate was extended on a temporary basis through successive General Assembly Resolutions until 2003, when its existence was secured until such time as the refugee problem is resolved.

Subsequent UN General Assembly Resolutions have also expanded UNHCR's mandate, in particular to whom it considers persons of concern. Securing international protection and seeking durable solutions for persons of concern to UNHCR remain UNHCR's core objectives. Although these tasks are frequently referred to as distinct functions, in reality they are interdependent, and resettlement plays a vital role in achieving both of these objectives.

International protection can be defined as "*all actions aimed at ensuring the equal access and enjoyment of the rights of women, men, girls and boys of concern to UNHCR, in accordance with the relevant bodies of law (including international humanitarian, human rights and refugee law)*". It includes interventions by States or UNHCR on behalf of asylum-seekers and refugees to ensure that their rights, security, and welfare are recognized and safeguarded in accordance with international standards. Such interventions include: ensuring respect for the principle of *non-refoulement*; admission to safety; access to fair procedures for the determination of refugee status; humane standards of treatment; and the implementation of durable solutions. UNHCR is the only United Nations agency with a mandate for the protection of refugees at the global level.

[1] UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950, A/RES/428(V), http://www.unhcr.org/refworld/docid/3boof0715c.html

UNHCR's Executive Committee (ExCom)

The High Commissioner is elected every five years by the UN General Assembly. S/he reports annually to the General Assembly and the Economic and Social Committee (ECOSOC) and follows their policy directives. S/he is additionally assisted by an Executive Committee to the High Commissioner's Programme (ExCom), which was created in 1958 and consists of UN Member States with an interest in refugee issues. The ExCom meets once annually to advise the High Commissioner on policy issues, *inter alia* by adopting Conclusions on International Protection, and to issue decisions on budget matters.[2] It is supported by a Standing Committee which usually meets three times a year. UNHCR provides progress reports on resettlement to the Standing Committee on a biannual basis.[3]

1.1.2 The international legal framework

1951 Convention and its 1967 Protocol

The 1951 *Convention Relating to the Status of Refugees*[4] (hereafter the 1951 Convention) represents the core instrument of international refugee law. It sets out who is a refugee and standards for their treatment. The 1951 Convention represented the first time that States agreed on a universal definition of a refugee. Until that time, refugees had primarily been defined by ethnic or national group or origin.

Unlike UNHCR's Statute, the 1951 Convention initially was limited to persons who became refugees as a result of events occurring before 1 January 1951, reflecting the focus on dealing with the aftermath of World War II. States were also permitted to apply a geographic restriction, limiting its reach to European refugees. New global challenges, particularly the refugee flows resulting from decolonization, led to the adoption of the 1967 Protocol to lift these time and geographic restrictions.[5]

Whether or not a refugee-hosting country is a signatory to the 1951 Convention and/or its 1967 Protocol, and whether or not it has implemented its Convention obligations and established effective asylum legislation has a profound impact on the refugees within its borders. An assessment of the protection environment is a key step in identifying appropriate durable solutions, including resettlement.

[2] See UNHCR, *Thematic Compilation of Executive Committee Conclusions (5th edition)*, January 2010, http://www.unhcr.org/refworld/docid/4bace8f62.html

[3] See for example, UNHCR, *Progress report on resettlement*, 31 May 2010, EC/61/SC/CRP.11, http://www.unhcr.org/refworld/docid/4c5ac6942.html

[4] UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, http://www.unhcr.org/refworld/docid/3be01b964.html

[5] UN General Assembly, *Protocol Relating to the Status of Refugees*, 30 January 1967, United Nations, Treaty Series, vol. 606, p. 267, http://www.unhcr.org/refworld/docid/3ae6b3ae4.html Note that given its global mandate, UNHCR was able to intervene in the years prior to the 1967 Protocol to provide international protection to Hungarian refugees following the uprising in 1956, Chinese refugees in Hong Kong and refugees who fled as a result of the war for Algerian independence.

"Soft law" instruments supplement the 1951 Convention and its 1967 Protocol

In addition to these "hard law" instruments, there are a number of "soft law" sources of international refugee law. While not binding, they indicate how refugee law is evolving and reflect a certain political commitment to addressing refugee issues. These include *inter alia* the *Declaration on Territorial Asylum* adopted by the UN General Assembly in 1967, other General Assembly and ECOSOC Resolutions, and the Conclusions on International Protection adopted by the ExCom.

Regional refugee law instruments

Additional regional legal instruments reflect further evolution in international refugee law. In certain regions, the Convention refugee definition has been broadened to include victims of indiscriminate violence. The 1969 *OAU Convention Governing the Specific Aspects of Refugee Problems in Africa*[6] (hereinafter the OAU Convention) explicitly applies not only to persons fleeing persecution but also to those fleeing situations of generalized violence. In African countries, refugee status is widely provided, often on a *prima facie* basis, for persons fleeing such situations. In Latin America, the 1984 *Cartagena Declaration on Refugees*[7] (hereinafter the Cartagena Declaration) recommended a refugee definition which includes persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order. Although the Cartagena Declaration as such is not legally binding, this definition has served as the basis for recognition of refugee status in quite a number of Latin American States.[8]

While recognition under these broader regional instruments offers vitally-needed protection, in the context of resettlement, the resettlement applicant's eligibility under the 1951 Convention will likely need to be reviewed. *For further guidance see* ***Chapter 3.1.3***.

Relevant branches of international law

Refugee rights set out in refugee-specific legal instruments are supplemented by other relevant branches of international law, including international human rights, humanitarian and criminal law. The standards set in these laws are also applicable in the assessment of the availability of durable solutions.

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[6] Organization of African Unity, *Convention Governing the Specific Aspects of Refugee Problems in Africa* ("OAU Convention"), 10 September 1969, 1001 U.N.T.S. 45, **http://www.unhcr.org/refworld/docid/3ae6b36018.html**

[7] Cartagena Declaration on Refugees, *Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*, 22 November 1984, **http://www.unhcr.org/refworld/docid/3ae6b36ec.html**

[8] In the same vein, a revised text of the *1966 Bangkok Principles on the Status and Treatment of Refugees* was adopted by the Asian-African Legal Consultative Organization (formerly Committee) in 2001 and incorporates a refugee definition similar to that in the OAU Convention.

International human rights law is a particularly important complement to international refugee law. The right to seek asylum is recognized as a basic human right set out in the *Universal Declaration of Human Rights*.[9] International human rights law outlines and elaborates additional rights which should be enjoyed by refugees along with others, thus supplementing international refugee law and defining additional standards.

1.1.3 Key principles

Responsibility of States

States that have ratified the relevant refugee law and human rights law instruments, both international and regional, have, in doing so, accepted specific obligations. In addition, according to customary law, the State is responsible for the protection of a number of human rights, regardless of the ratification of international treaties. States in principle retain primary responsibility for providing protection to their citizens and those within their territory, and international human rights law is relevant in determining rights and standards of treatment.

Non-refoulement

Key to refugee protection is the right not to be returned in any manner whatsoever to a country or territory where one's life or freedom may be threatened on one of the 1951 Convention grounds.[10] This is known as the principle of *non-refoulement* and is the cornerstone of international refugee law. The principle is also part of international human rights law, according to which no person may be returned to a country or territory where they are at risk of torture, or cruel, inhuman or degrading treatment or punishment.[11] Moreover, *non-refoulement* is generally considered a principle of customary international law, and is thus binding on States even if they have not signed or ratified the relevant refugee or human rights conventions.

[9] UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), http://www.unhcr.org/refworld/docid/3ae6b3712c.html

[10] UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, Article 33, http://www.unhcr.org/refworld/docid/3be01b964.html

[11] See *inter alia*, the UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: resolution /adopted by the General Assembly*, 10 December 1984, A/RES/39/46, Article 3, http://www.unhcr.org/refworld/docid/3boof2224.html. The Human Rights Committee has also interpreted the 1966 International Covenant on Civil and Political Rights to reflect the principle of *non-refoulement*, as has the European Court of Human Rights with respect to Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms, also known as the European Convention on Human Rights (ECHR). See UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, http://www.unhcr.org/refworld/docid/3ae6b3aao.html; and Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, 4 November 1950, ETS 5, http://www.unhcr.org/refworld/docid/3ae6b3b04.html

1.1.4 Reaffirming the 1951 Convention

Global Consultations

UNHCR initiated the Global Consultations on International Protection in 2000 to launch broad-ranging discussions on reinvigorating the existing international protection regime while ensuring its flexibility to address the new problems of the 21st century. The Consultations took a broad-based approach that focused not only on the 1951 Convention and its interpretation, but also on issues of relevance to asylum and to the protection of refugees as a whole. States adopted the *Declaration by States Parties to the 1951 Convention and/or its 1967 Protocol*[12] at a Ministerial Meeting held in 2001. The Declaration recognized the enduring importance of the 1951 Convention as the primary refugee protection instrument that, as amended by the 1967 Protocol, sets out rights and minimum standards of treatment that apply to persons falling within its scope.

Agenda for Protection

The Global Consultations also led to the adoption of an *Agenda for Protection*, which was subsequently endorsed by ExCom and the General Assembly.[13] The *Agenda for Protection* represents the first comprehensive framework for global refugee policy since UNHCR was created, refocusing attention on the search for solutions, as well as the provision of international protection. The Agenda sets out clear goals for strengthening international protection, and practical strategies to supporting solutions that can enable refugees to start a new life with dignity, and bring about an end to their need for international protection.

The Agenda's six main goals are:

1. strengthening implementation of the 1951 Convention and 1967 Protocol;
2. protecting refugees within broader migration movements;
3. sharing burdens and responsibilities more equitably and strengthening capacities to receive and protect refugees;
4. addressing security-related concerns more effectively;
5. redoubling the search for durable solutions;
6. meeting the protection needs of refugee women and children.

States endorsed these six main goals, and also agreed to specific objectives set out for them and UNHCR.

[12] UNHCR, *Declaration of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, 16 January 2002, HCR/MMSP/2001/09, **http://www.unhcr.org/refworld/docid/3d60f5557.html**

[13] UNHCR, *Agenda for Protection*, October 2003, Third edition, **http://www.unhcr.org/refworld/docid/4714a1bf2.html**. For an overview of the implementation of the Agenda for Protection, see also UNHCR, *Agenda for Protection: Review and Way Forward, 48th Standing Committee*, EC/61/SC/INF.1, May 2010, **http://www.unhcr.org/4c0527999.html**

The Framework for Durable Solutions and Convention Plus

The Global Consultations also had a particular focus on the tools of protection: those presently available to the international community, and those in need of development for better global management of refugee problems. The intention was to make the international response more reliable and effective, as well as to ensure greater equity in the sharing of responsibilities and burdens, notably in the context of mass influxes and mixed migratory flows, and for durable solutions. The High Commissioner's Convention Plus initiative carried this forward with the goal of providing a framework for the adoption of multilateral "special agreements" to complement the 1951 Convention, which are intended to set in place joint arrangements in areas where multilateral commitments are called for and where they are negotiable. The *UNHCR Framework for Durable Solutions for Refugees and Persons of Concern*[14] incorporates the idea of close collaboration between the different actors concerned with refugees, including governments, local communities, refugees, UN agencies, national and international NGOs, development agencies and the donor community. It also provides for more international responsibility and burden-sharing by directing broader funding and resources, particularly development funding, to regions where voluntary repatriation or local integration is occurring.

Under the Convention Plus initiative UNHCR pursued generic multilateral agreements to tackle three further priority challenges: the strategic use of resettlement; the response to irregular secondary movements; and the targeting of development assistance for durable solutions to forced displacement. Building on the previous efforts of the Working Group on Resettlement as well as the experience of resettlement partners, the *Multilateral Framework of Understandings on Resettlement*[15] was developed to provide guidance to be tailored to specific situations to facilitate the strategic use of resettlement.

1.1.5 Addressing protection gaps

Patterns of displacement continue to evolve, and refugees increasingly move from one country or continent to another alongside other people whose reasons for moving may not be protection-related. Movement is also driven by population growth, urbanization, food and energy insecurity, water scarcity, natural disasters, climate change and the impact of economic crises and recessions. More often than not such movements are irregular, in the sense that they take place without the requisite documentation and frequently involve human smugglers and traffickers. The people who move in this manner often place their lives at risk, are obliged to travel in inhumane conditions and may be exposed to exploitation and abuse. States regard such irregular mixed movements as a threat to their sovereignty and security. It has become imperative for the

[14] UNHCR, *Framework for Durable Solutions for Refugees and Persons of Concern*, 16 September 2003, EC/53/SC/INF.3, http://www.unhcr.org/refworld/docid/4ae9ac93d.html

[15] UNHCR, *Multilateral Framework of Understandings on Resettlement*, 16 September 2004, FORUM/2004/6, http://www.unhcr.org/refworld/docid/41597d0a4.html

international community to address this phenomenon in a more coherent and comprehensive manner.

Unemployment, social unrest, violence and crime fuel not only local problems, but may well drive more internal and external displacement. These factors are becoming ever more interlinked. In particular, conflict, extreme deprivation and climate change are tending to act more and more in combination, a trend that is likely to intensify. The legal implications of displacement driven by forces other than persecution, human rights violations and war, and the appropriate protection responses to such displacement, are areas of exploration and dialogue for UNHCR.

10-Point Plan of Action

UNHCR has developed *Refugee Protection and Mixed Migration: A 10-Point Plan of Action*[16] to assist States in ensuring that refugee protection needs are recognized and properly addressed in situations of mixed migration flows. The Plan of Action is a framework outlining ten areas that are relevant to asylum issues and in which UNHCR could play a role. Partnership with other actors is instrumental to the Plan, as UNHCR has emphasized that it does not consider itself a migration agency. However, the ten points represent key areas where there is a nexus between asylum and migration. Durable solutions, including resettlement, figure prominently as a point in this framework.

Urban refugees

According to UNHCR's statistics, by 2009 more than half of the world's refugees resided in cities and towns, compared to one third who live in camps. In recognition of the changes in the size and composition of the urban refugee population, as well as the protection risks facing these refugees, UNHCR released a comprehensively revised policy on refugees in urban areas in 2009. The policy has two principal objectives:

- to ensure that cities are recognized as legitimate places for refugees to reside and exercise the rights to which they are entitled; and,
- to maximize the protection space available to urban refugees and the humanitarian organizations that support them.[17]

The policy represents a new approach with regard to the way that UNHCR addresses the issue of refugees in urban areas. This approach is a significant departure from the previous policy of giving primary attention to refugees in camps, and an acknowledgement that movement to urban areas can be a legitimate response to lack of access to livelihoods, education, and even physical and material security in some camps.

[16] UNHCR, *Refugee Protection and Mixed Migration: A 10-Point Plan of Action*, January 2007, Rev.1, http://www.unhcr.org/refworld/docid/45b0c09b2.html. For examples of initiatives and practical guidance for implementation see UNHCR, *Refugee Protection and Mixed Migration: The 10-Point Plan in action*, February 2011, http://www.unhcr.org/refworld/docid/4d9430ea2.html

[17] UNHCR, *UNHCR Policy on Refugee Protection and Solutions in Urban Areas*, September 2009, http://www.unhcr.org/refworld/docid/4ab8e7f72.html

Essential reading

- UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, A/Res/428(V), 14 December 1950, http://www.unhcr.org/refworld/docid/3boofo715c.html
- UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, http://www.unhcr.org/refworld/docid/3beo1b964.html
- UN General Assembly, *Protocol Relating to the Status of Refugees*, 30 January 1967, United Nations, Treaty Series, vol. 606, p. 267, http://www.unhcr.org/refworld/docid/3ae6b3ae4.html
- UNHCR, *Agenda for Protection*, October 2003, Third edition, http://www.unhcr.org/refworld/docid/4714a1bf2.html
- UNHCR, *Protection Gaps Framework for Analysis: Enhancing Protection of Refugees*, June 2006, http://www.unhcr.org/refworld/docid/430328bo4.html
- UNHCR, *Progress report on resettlement*, 31 May 2010, EC/61/SC/CRP.11, http://www.unhcr.org/refworld/docid/4c5ac6942.html

1.2 PERSONS OF CONCERN TO UNHCR

Under its Statute and subsequent General Assembly and ECOSOC resolutions, and in conjunction with the 1951 Convention, the High Commissioner's responsibilities relate primarily to several groups of people known collectively as "persons of concern to UNHCR". These generally include refugees and asylum-seekers, returnees, stateless persons and, under certain conditions, internally displaced persons (IDPs).

This section reviews who is considered a "person of concern" to UNHCR, and touches briefly on their eligibility for resettlement.

1.2.1 Refugees

1951 Convention definition of a refugee

A refugee is any person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it".

UNHCR's definition of a refugee under its mandate

UNHCR's mandate to protect refugees also extends to persons who are affected by the indiscriminate effects of armed conflict or other events which have seriously disrupted public order.

In addition to individuals who meet the criteria in the 1951 Convention definition, **UNHCR recognizes as refugees** persons who are outside their country of nationality or habitual residence and unable to return there owing to **serious** and **indiscriminate threats** to life, physical integrity or freedom resulting from **generalized violence** or **events seriously disturbing public order**.

Exclusion from refugee protection

The above refugee definitions refer to the so-called "inclusion clauses"; they define positively who is a refugee. Certain persons are, however, excluded from refugee status either because they do not need, or do not deserve, international protection. These include persons who could be considered persecutors, having committed one or more of the following:[18]

- a crime against peace, a war crime or a crime against humanity;
- a serious, non-political crime prior to admission in the asylum country;
- acts contrary to the purposes and principles of the United Nations.

These criteria are called "exclusion clauses". People who meet these criteria are "excludable" and will not benefit from the rights of refugees, even if they meet the inclusion requirements.

Cessation clauses

Additionally, both the 1951 Convention and the UNHCR Statute provide for so-called "cessation clauses", or situations where refugee status ceases, generally because the refugees have found a durable solution or because the events that led refugees to leave their countries of origin have ceased to exist.

Individual or group determination of refugee status

Refugees may be recognized through individualized determination procedures or, in the absence of evidence to the contrary, through group-determination procedures on a *prima facie* basis. The latter approach is often relied upon in mass influx situations, where the reasons for flight are generally known and the number of arrivals would overwhelm capacities to determine refugee status individually. The *prima facie* group determination is more easily applied in States which accept a wider definition of a refugee that includes indiscriminate or generalized violence.

[18] 1951 Convention, Article 1(F) (a)-(c) Inclusion and exclusion provisions are explained in greater detail in Chapter 3.

Prima facie recognition

Prima facie ("in absence of evidence to the contrary") refers to the process of group determination of refugee status, as opposed to individual determination, which is usually conducted in situations where a need to provide urgent assistance or other practical difficulties preclude individual determination, and where the circumstances of the flight indicate that members of the group could be considered individually as refugees.[19]

Refugee status determination, including the careful application of the exclusion clauses, is explained further in ***Chapter 3****.*

Complementary forms of protection

UNHCR's definition of a refugee under its mandate is broader than the one set out in the 1951 Convention. Where States have not agreed to this broader definition of a refugee, and are thus not bound to it, they have often nonetheless given permission for persons fleeing from, for example, generalized conflict, to stay on their territory, albeit with a different status. Whatever the particular name given to the status by a State, UNHCR has referred to this as a "complementary" form of protection, in that it is complementary to the protection granted under the 1951 Convention.

Temporary protection

The lack of a universally accepted definition of "complementary protection" can lead to its confusion with the concept of temporary protection. Temporary protection is generally used to describe a short-term emergency response to a significant influx of asylum-seekers, and was initially developed by several European States as a response to the large-scale movement of people fleeing the conflict in the former Yugoslavia in the 1990s. By contrast, complementary protection is not an emergency or provisional device. It is, rather, a basis for States to provide protection from return as an alternative to refugee recognition under the 1951 Convention/1967 Protocol.

Thus, persons eligible for Convention refugee status or complementary protection may in an emergency situation receive temporary protection instead. However, persons granted temporary protection should still be able to pursue individualized status determination procedures subsequent to lifting of temporary protection if they so wish.[20]

[19] UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, January 1992, **http://www.unhcr.org/refworld/docid/3ae6b3314.html**

[20] The distinction between complementary and temporary protection was highlighted by States participating in the Global Consultations meeting on complementary protection: see UNHCR, *Global Consultations on International Protection: Report of the Third Meeting in the Third Track*, (EC/GC/02/2), 16 April 2003 para 15, **http://www.unhcr.org/refworld/docid/3d6264e54.html**

Refugee status and resettlement

Although UNHCR applies both the 1951 Convention definition and the broader refugee definition when examining eligibility for refugee status, it is important for resettlement consideration to seek to identify the basis for eligibility under the 1951 Convention.

In practice, it may be more challenging for UNHCR to resettle a refugee recognized only under the broader refugee definition, as many States do not have provisions to accept refugees who do not meet the 1951 Convention criteria.

1.2.2 Asylum-seekers

Asylum-seekers, as possible refugees, are people of concern to UNHCR and should be granted protection until such stage as their claims for refugee status have been determined. However, refugee status determination is a precondition for resettlement consideration.

1.2.3 Stateless persons

Addressing statelessness is one of UNHCR's core mandates, and resettlement may in some situations be assessed to be an appropriate durable solution for stateless persons. States are specifically encouraged to: "*co–operate with UNHCR on methods to resolve cases of statelessness and to consider the possibility of providing resettlement places where a stateless person's situation cannot be resolved in the present host country or other country of former habitual residence, and remains precarious.*"[21]

Both the UNHCR Statute and the 1951 Convention refer to stateless persons who meet the criteria of the refugee definition. UNHCR's mandate responsibilities concerning statelessness were expanded following the adoption of the *1954 Convention Relating to the Status of Stateless Persons* (hereafter the 1954 Convention),[22] and the *1961 Convention on the Reduction of Statelessness* (hereafter the 1961 Convention).[23] The United Nations General Assembly subsequently conferred upon UNHCR a global mandate for the identification, prevention and reduction of statelessness and for the international protection of stateless persons. This mandate has continued to evolve as the General Assembly has endorsed the conclusions of the Executive Committee, notably ExCom Conclusion No. 106 of 2006 on *Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons*.

[21] UNHCR, *General Conclusion on International Protection*, 10 October 2003, No. 95 (LIV) - 2003, para. (v), http://www.unhcr.org/refworld/docid/3f93aede7.html

[22] UN General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, http://www.unhcr.org/refworld/docid/3ae6b3840.html

[23] UN General Assembly, *Convention on the Reduction of Statelessness*, 30 August 1961, United Nations, Treaty Series, vol. 989, p. 175, http://www.unhcr.org/refworld/docid/3ae6b39620.html

Stateless definition

As set out in the definition of a stateless persons found in the 1954 Convention and customary international law, a stateless person is someone who is *not considered as a national by any State under the operation of its law*[24] (sometimes referred to as *de jure* statelessness). Accordingly, whether or not a person is stateless can be determined based on an assessment of relevant nationality laws and how these laws are implemented by the State.

In principle, most human rights are to be enjoyed by every person, regardless of nationality status. Some internationally recognized rights, however, such as political rights, the right to a passport and the unrestricted right to enter and reside in a State, are only extended to citizens. Because States often also limit the enjoyment of a broader range of rights to nationals, those who are not nationals of any State may not be able to enjoy these rights anywhere. As a consequence, stateless persons can have problems accessing formal employment, identity and travel documents, housing, medical care and education, even though they may have been born and lived their entire lives in a particular country.

In addition to stateless persons as defined by the 1954 Convention, several international instruments refer to *de facto* statelessness persons who possess a nationality but where that nationality is ineffective. Traditionally the term has been used to describe a person who, outside his/her country of nationality, is denied protection, i.e. the diplomatic and consular protection/assistance of his/her country, for example by being denied a passport or return from abroad.

Statelessness may arise as a result of conflict of laws when children are born of parents of different nationalities, or when children are born abroad and unable to acquire either the nationality of the State where they are born or the parents' nationality. This is because, depending on the State, citizenship may be passed on either through the parents (by *jus sanguinis*), or by birth in the territory of the State (the principle of *jus soli*). Statelessness may also occur because of:

- State succession such as the break-up of States into smaller countries or transfer of territory from one State to another;
- discrimination against women in the right to transmit nationality to children;
- discriminatory practices based on ethnicity, religion or race in determining who is a national of the State;
- governments arbitrarily depriving people of their nationality;
- a person voluntarily renouncing her/his nationality without acquiring another one first;
- marriage, or its dissolution, in situations where this automatically affects the woman's nationality; or
- failure or inability to register children at birth so that the child has no means of proving her/his entitlement to nationality.

[24] Article 1.1 UN General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, http://www.unhcr.org/refworld/docid/3ae6b3840.html

Stateless persons may be, but are not necessarily, refugees

Stateless persons may be refugees, and thus the standards of treatment set out *inter alia* in the 1951 Convention would extend to them. Not all stateless persons are refugees, however. The 1954 Convention and the 1961 Convention aim to reduce the occurrence of statelessness, and set standards for the treatment of stateless persons. Relatively few States have acceded to or ratified these Conventions to date, although they still provide valuable guidance in terms of standards to be applied and in UNHCR's work with stateless people.[25]

As with refugees, international human rights law is relevant to setting additional standards of treatment for stateless people. The right to a nationality as a fundamental right is set out in the *Universal Declaration of Human Rights*.[26] Regional instruments, including *inter alia* the 1997 *European Convention on Nationality* adopted by the Council of Europe, may also be relevant, particularly with respect to preventing statelessness from occurring.

Fulfilling UNHCR's mandate for stateless persons

At the time of writing, there are an estimated 12 million stateless people worldwide, compared to a global refugee population of around 15.2 million. To fulfil its global mandate for the identification, prevention and reduction of statelessness and for the international protection of stateless persons, UNHCR engages in the following types of activities:

- promoting accession to the 1954 and 1961 Conventions;
- providing legal advice to all interested States on the preparation and implementation of nationality laws and assisting them to build capacity in their state procedures;
- cooperating with States and other partners to facilitate identification, mapping and resolution of statelessness problems;
- training government officials and UNHCR staff on statelessness issues;
- gathering and sharing information on the problem of statelessness worldwide;
- reporting regularly to ExCom on its activities in this field.[27]

In specific cases, addressing protection problems faced by stateless persons may require seeking solutions outside of both the country of habitual residence and of other countries with which they have links through former nationality, birth, descent or former habitual residence.

[25] Promoting further accessions to the Statelessness Conventions and identifying more effective ways to respond to the statelessness problem are among the key goals of the 60th Anniversary Commemorations in 2011.

[26] See Article 15.UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), http://www.unhcr.org/refworld/docid/3ae6b3712c.html

[27] For more information see UNHCR, *UNHCR Action to Address Statelessness: A Strategy Note*, March 2010, http://www.unhcr.org/refworld/docid/4b9e0c3d2.html as well as the forthcoming UNHCR *Note on Statelessness*, Standing Committee, June 2011.

Resettlement of non-refugee stateless persons is challenging however, due to the criteria of resettlement States. ExCom Conclusion No. 95 (2003) encourages States

> *"to cooperate with UNHCR on methods to resolve cases of statelessness and to consider the possibility of providing resettlement places where a stateless person's situation cannot be resolved in the present host country or other country of former habitual residence, and remains precarious."*[28]

Additional guidance on resettlement of non-refugee stateless persons is provided in ***Chapter 7.2.2*** *of this Handbook.*

1.2.4 Returnees

Voluntary repatriation may take place under less than ideal conditions, particularly in a post-conflict situation. Though UNHCR's mandate was traditionally thought to end once refugees crossed the border into their countries of origin, subsequent ExCom Conclusions have confirmed UNHCR's legitimate interest in the consequences of return and in returnee monitoring. UNHCR's responsibilities include a substantive involvement in securing protection and providing assistance to returnees in the country of origin and in monitoring returnee operations. UNHCR can also have an important capacity-building role through training programmes, development of infrastructure and material support.

Where there are indications or evidence that the freedom or security of returnees is at risk, UNHCR, as part of its returnee monitoring activities, should do whatever it can to remedy the situation and relieve the plight of the returnees. UNHCR must intervene where severe discrimination or human rights abuses come to light. Where problems and abuses are not isolated and there appears to be a risk of future occurrences, UNHCR does not promote further repatriation until the problems are rectified.

If UNHCR's intervention fails to solve the problem and fails to prevent the risk of further harm, and such risk is serious and imminent, measures may have to be taken by suitable actors to ensure that the affected returnees can leave the country to seek safety as refugees once again. These actions may, in special cases, include consideration of resettlement.

1.2.5 Internally displaced persons (IDPs)

Internally displaced persons are "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border."[29]

[28] UNHCR, *General Conclusion on International Protection*, 10 October 2003, No. 95 (LIV) - 2003, para. (v), http://www.unhcr.org/refworld/docid/3f93aede7.html

[29] United Nations, *Guiding Principles on Internal Displacement*, 22 July 1998, E/CN.4/1998/53/Add.2, http://www.unhcr.org/refworld/docid/3c3da07f7.html

Thus, in many cases the causes for internal displacement do not differ from those of refugee flight, the only difference between the two being that internally displaced persons have not crossed an international boundary, but remain within their own State. IDPs are *not* eligible for third country resettlement under UNHCR's auspices, although some States do have humanitarian migration programmes for persons at risk within their own country, which may include internally displaced persons.

UNHCR has been involved with internally displaced persons since the early 1970s. Whereas the number of refugees has remained fairly stable since the late 1990s, fluctuating between 13 million and 16 million, the global number of IDPs has steadily increased from a total of around 17 million in 1997. At the end of 2010, the number of people internally displaced across the world by armed conflict, generalized violence and human rights violations reached 27.5 million.[30] In 2009 UNHCR was assisting about 15.6 million in 22 countries, including the four with the largest IDP populations – Colombia, Pakistan, Iraq and Sudan.[31] Millions more are displaced by natural disasters, although updated statistics are not available.

States have the primary responsibility to protect, respect and fulfil the rights of internally displaced persons, just as for any other citizens. However, in reality internally displaced persons are often without adequate protection and assistance, and their situation is a legitimate concern of the international community. The 1998 *Guiding Principles on Internal Displacement,* developed under the aegis of the first UN Representative on the Internally Displaced, provide important guidance to all actors involved with internally displaced persons. It draws on relevant principles of international human rights, humanitarian and, by analogy, refugee law, to set out standards of treatment for the internally displaced.

The Special Rapporteur on the Human Rights of Internally Displaced Persons builds upon the work of his predecessors in raising awareness of IDP rights issues, promoting and disseminating the Guiding Principles at the national, regional and international levels, undertaking country missions, providing support for capacity building of non-governmental organizations and other relevant institutions, and conducting policy-oriented research.

Finding solutions for IDPs

Finding durable solutions for internally displaced persons focuses on restoring their rights, thereby ensuring that they no longer have any specific assistance and protection needs that are directly linked to their displacement and can enjoy their human rights without discrimination on account of their displacement.

The Guiding Principles state that IDPs should have access to a durable solution. The 2010 *Inter-Agency Standing Committee Framework for Durable Solutions for*

[30] Internal Displacement Monitoring Centre (IDMC), *Internal Displacement: Global Overview of Trends and Developments in 2010*, 23 March 2011, http://www.unhcr.org/refworld/docid/4d8afef82.html

[31] UNHCR, *2009 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons*, June 2010, http://www.unhcr.org/refworld/docid/4caee6552.html

Internally Displaced Persons[32] develops the understanding of the principles and criteria that govern efforts to achieve durable solutions for IDPs.

A **durable solution to internal displacement** can be achieved through:

- sustainable **reintegration** at the place of origin (**return**);
- sustainable **local integration** in the area where IDPs have taken refuge; or
- sustainable **settlement elsewhere in the country**.[33]

There is no inherent hierarchy between the three types of solutions, and solutions can only be "durable" if a number of conditions are fulfilled. In general, IDPs who have achieved a durable solution will enjoy without discrimination the following rights:

- long-term safety, security and freedom of movement;
- an adequate standard of living, including at a minimum access to adequate food, water, housing, health care and basic education;
- access to employment and livelihoods; and
- access to effective mechanisms that restore IDPs' housing, land and property or provide them with compensation.

In a number of contexts, it will also be necessary for IDPs to benefit, without discrimination, from the following to achieve a durable solution:

- access to, and replacement of, personal and other documentation;
- voluntary reunification with family members separated during displacement;
- participation in public affairs at all levels on an equal basis with the resident population; and
- effective remedies for displacement-related violations, including access to justice, reparations and information about the causes of violations.

UNHCR and the Cluster Approach

International efforts at assistance and protection do not aim to replace national protection, but rather to reinforce it. Thus, no organization has been given a global mandate for internally displaced persons. In September 2005, the Inter-Agency Standing Committee (IASC) established the "Cluster Approach" which aims at ensuring greater predictability, accountability and partnership in response to humanitarian crises. In line with its expertise and experience, UNHCR agreed

[32] Brookings-Bern Project on Internal Displacement, *IASC Framework on Durable Solutions for IDPs*, April 2010, http://www.unhcr.org/refworld/docid/4c5149312.html

[33] Note that the *Guiding Principles on Internal Displacement* refer to two solutions: "return" and "resettlement" in another part of the country. The latter option refers to settlement elsewhere in the country other than in one's place of origin. It encompasses the option for IDPs to settle permanently in the locality where they first arrived while displaced, as well as the possibility to move to another part of the country altogether. Given the specific meaning of "resettlement" in the refugee context as relocation to a third country, UNHCR refers to, and would generally recommend, that in contexts of internal displacement, the *IASC Framework for Durable Solutions for IDPs* terms "local settlement" and "settlement elsewhere" be used instead.

to assume the lead or co-lead role in three of the eleven areas of response: protection, emergency shelter, and camp coordination and management (the latter two only for conflict-induced emergencies).

UNHCR, as the Cluster Lead Agency for protection, provides vision and leadership in setting the protection agenda, establishing strategic priorities and coordinating support activities of the Global Protection Cluster (GPC) to field operations. The GPC is now the main forum at the global level for coordinating all protection activities in humanitarian action applying the cluster approach. The GPC also has five Areas of Responsibility (AORs) coordinated by focal point agencies with mandate expertise for the activities within them.[34] The AORs encompass child protection; housing, land and property rights; prevention of, and response to gender based violence; rule of law and justice and mine action. The GPC includes United Nations humanitarian, human rights and development agencies as well as non-governmental and other international organizations active in protection.

At the Global Cluster level, UNHCR is responsible for leading the development of standards and policies for protection of the internally displaced, building capacities among participating agencies, and coordinating operational support for new and ongoing emergencies. It is also responsible for ensuring that activities carried out under other clusters will be executed with protection in mind, and that protection issues are mainstreamed in all operations, at all levels, and in every sector.

As a concrete example, UNHCR coordinated the inter-agency collaborative process of producing the *Handbook for the Protection of Internally Displaced Persons*[35] under the auspices of the GPC. The Handbook provides operational guidance and tools to support effective protection responses in situations of internal displacement.

Unlike for Emergency Shelter and Camp Coordination and Camp Management, UNHCR's lead role in the Protection Cluster is not limited to situations where the causes of internal displacement are similar to those of refugees. Under certain circumstances UNHCR may also lead the Protection Cluster or become involved in a support role in situations of natural disaster, as it did in the wake of the December 2004 tsunami, the January 2010 Haiti earthquake, and the 2010 flooding in Pakistan. Clusters are not applicable in refugee situations, as UNHCR has the overall mandate for the protection, assistance and coordination response.

[34] The Areas of Responsibility are as follows: rule of law and justice (OHCHR and UNDP); prevention of and response to GBV (UNFPA and UNICEF); protection of children (UNICEF); Land, Housing and Property Rights (UN-HABITAT) and Mine Action (UNMAS).

[35] Inter-Agency Standing Committee, *Handbook for the Protection of Internally Displaced Persons*, June 2010, http://www.unhcr.org/refworld/docid/4790cbc02.html

Essential reading

- UNHCR, *UNHCR Action to Address Statelessness: A Strategy Note*, March 2010, http://www.unhcr.org/refworld/docid/4b9e0c3d2.html
- UNHCR/Inter-Parliamentary Union, *Nationality and Statelessness: A Handbook for Parliamentarians*, 2005, http://www.unhcr.org/refworld/docid/436608b24.html
- General Assembly, *Convention on the Reduction of Statelessness*, 30 August 1961, United Nations, Treaty Series, vol. 989, p. 175, http://www.unhcr.org/refworld/docid/3ae6b39620.html
- General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, http://www.unhcr.org/refworld/docid/3ae6b3840.html
- Inter-Agency Standing Committee, *Handbook for the Protection of Internally Displaced Persons*, June 2010, http://www.unhcr.org/refworld/docid/4790cbc02.html

1.3 THE THREE DURABLE SOLUTIONS

This section gives an overview of each of the three durable solutions,[36] including reference to UNHCR's mandate and role, key legal and policy guidance, and challenges faced in the implementation of the solutions.

A durable solution for refugees is one that ends the cycle of displacement by resolving their plight so that they can lead normal lives. Seeking and providing durable solutions to the problems of refugees constitutes an essential element of international protection, and the search for durable solutions has been a central part of UNHCR's mandate since its inception.

The three durable solutions are:

- **Voluntary repatriation**, in which refugees return in safety and with dignity to their country of origin and re-avail themselves of national protection;
- **Local integration**, in which refugees legally, economically and socially integrate in the host country, availing themselves of the national protection of the host government;
- **Resettlement**, in which refugees are selected and transferred from the country of refuge to a third State which has agreed to admit them as refugees with permanent residence status.

The **three solutions are complementary** in nature and, when applied together, can form a viable and comprehensive strategy for resolving a refugee situation.

All three durable solutions should be given full consideration before resettlement is identified as the most appropriate solution.

[36] For a more detailed introduction to international protection and durable solutions, see *Self-study module 1, An Introduction to International Protection: Protecting Persons of Concern to UNHCR*, 2005, http://www.unhcr.org/refworld/docid/4214cb4f2.html

1.3.1 Self-reliance – an important precursor to solutions

Self-reliance is not a durable solution in and of itself, but rather an important precursor to all three durable solutions. UNHCR, together with NGOs, has sought to help increase the self-reliance of refugees through various means, including income-generating, agricultural or community development projects. Self-reliance projects often benefit local communities as well, allowing refugees to become agents of development.

Defining self-reliance

Self-reliance can be defined as the "*social and economic ability of an individual, a household or a community to meet essential needs (including protection, food, water, shelter, personal safety, health and education) in a sustainable manner and with dignity*".

As a programme approach, self-reliance refers to developing and strengthening livelihoods of persons of concern in an effort to reduce their vulnerability and long-term reliance on humanitarian and external assistance.[37]

Self-reliance among refugees thus:

- reduces the burden on the country of asylum by decreasing refugees' dependence on its assistance;
- boosts refugees' dignity and confidence by giving them more control over their daily lives and hope for the future; and
- helps make any long-term solution more sustainable as refugees who actively support themselves are better equipped to take on the challenges of voluntary repatriation, resettlement, or local integration.

Framework agreements

UNHCR supports an international responsibility sharing framework to assist hosting States in order to ensure greater equity in the sharing of responsibilities, notably in the context of mass influxes and mixed migratory flows, as well as for durable solutions.

UNHCR has sought to engage in partnerships with State and non-State actors to increase the host State's capacity to provide for refugees pending realization of a durable solution.

The *UNHCR Framework for Durable Solutions*[38] introduced in 2003, provides overarching frameworks for international institutional collaboration in the promotion of durable solutions through three programme concepts, namely:

[37] See also UNHCR, *Handbook for Self-Reliance*, 2005, http://www.unhcr.org/refworld/docid/4a54bbf40.html

[38] UNHCR, *Framework for Durable Solutions for Refugees and Persons of Concern*, 16 September 2003, EC/53/SC/INF.3, http://www.unhcr.org/refworld/docid/4ae9ac93d.html

- Development Assistance for Refugees (DAR) programme approach to prepare refugees for solutions;
- Repatriation, Reintegration, Rehabilitation and Reconstruction (4Rs) approach to facilitate sustainable return and reintegration; and
- Development through Local Integration (DLI) approach to promote local integration in host countries, where feasible.

1.3.2 Complementarities of the three durable solutions

There is no formal hierarchy among the durable solutions. While in the early years of UNHCR's existence, resettlement and local integration appeared to be the most viable durable solutions for many refugees, over time most refugees have sought and attained voluntary repatriation. The three solutions are complementary in nature and, when applied together, can form a viable and comprehensive strategy for resolving a refugee situation. Even if voluntary repatriation becomes generally feasible, it may not be appropriate for the entire refugee population, and local integration or resettlement may still be more appropriate durable solutions for certain refugees. Particularly in post-conflict situations, it may take quite some time before peace and order are fully re-established, and administrative and judicial institutions are functioning effectively. In such situations, refugees – especially those who have serious trauma that could worsen upon return to their countries of origin or who might face particular protection problems in their countries of origin – may be better served by local integration or resettlement. Whichever solution is identified, its success will depend on the various parties concerned working in partnership.

While a complementary approach to durable solutions may arise naturally, the Global Consultations and the Convention Plus initiative have focused on opening possibilities for voluntary repatriation and local integration through a comprehensive approach to durable solutions.

Comprehensive approaches to durable solutions

A comprehensive approach to durable solutions refers to an effort to utilize all three durable solutions – voluntary repatriation, local integration, and resettlement – often in a concerted and systematic manner directed at achieving durable solutions for a specific group in a given country of asylum or in a region. Such a comprehensive approach is implemented in close cooperation among countries of origin, host States, UNHCR and its partners as well as refugees. A comprehensive approach may be a formal Plan of Action with the goal of "solving" a particular situation, or instead reflect a concerted effort to coordinate the three durable solutions from the outset of a displacement situation with a view to preventing protracted situations from developing.

1.3.3 Voluntary repatriation

Voluntary repatriation is the return in safety and dignity to the refugees' country of origin, based on their free and informed decision. When prevailing conditions allow such a return, repatriation is considered the most beneficial solution. It enables refugees to resume their lives in a familiar setting under the protection and care of their home country. Where these conditions are not met, however, returns may not be sustainable and refugees could seek to return to the country of asylum.

UNHCR's responsibilities to facilitate or promote voluntary repatriation derive from its Statute. Though the 1951 Convention does not speak directly to voluntary repatriation, its provisions on cessation are relevant.[39] The UN General Assembly (GA) has repeatedly affirmed UNHCR's function of promoting/facilitating the voluntary repatriation of refugees and, in recognition of the importance of sustainable return, has widened its mandate to include providing assistance for their rehabilitation and dealing with the consequences of their return. Where peace and reconciliation are durable, UNHCR promotes voluntary repatriation. Under less ideal conditions (e.g. when the sustainability of the peace process is not assured, but refugees are returning on their own), UNHCR may facilitate the return process.

UNHCR has developed a *Handbook on Voluntary Repatriation: International Protection*[40] that sets out basic principles, and a *Handbook for Repatriation and Reintegration Activities*[41] to guide operations. During a particular voluntary repatriation operation, UNHCR often signs specific agreements with the States concerned that set out the principles and standards of treatment in that operation.

Weighing the possibilities

When looking at this possible durable solution, it is important to identify the indicators which may determine that voluntary repatriation could be an option in the near or foreseeable future. For example, are peace talks underway in the country of origin, or is there a likelihood they will be in the near future? Have there been any spontaneous returns of refugees or internally displaced persons? Has the security situation in the country of origin improved? Are the minimum safeguards as to treatment upon return and conditions required to promote voluntary repatriation being met in the country of origin? Is continued asylum for those who remain refugees ensured? These and a number of other factors, as delineated in the UNHCR *Handbook on Voluntary Repatriation*, determine the involvement of UNHCR in any voluntary repatriation.

[39] See in particular Articles 1C (4), 1C (5) and 1C (6) of the 1951 Convention. The 1969 OAU Convention does refer explicitly to voluntary repatriation.

[40] UNHCR, *Handbook - Voluntary Repatriation: International Protection*, January 1996, Section 2.4, http://www.unhcr.org/refworld/docid/3ae6b3510.html issued in 1996 and in the process of being updated.

[41] UNHCR, *Handbook for Repatriation and Reintegration Activities*, May 2004, http://www.unhcr.org/refworld/docid/416bd1194.html

In summary, UNHCR's mandate for voluntary repatriation includes the following:

- verify the voluntary character of refugee repatriation;
- promote the creation of conditions that are conducive to voluntary return in safety and with dignity;
- **facilitate** the voluntary return of refugees when it is taking place spontaneously, even if conditions are not conducive to return;
- disseminate information about the conditions in the country of origin;
- create an enabling environment to allow return in physical, legal and material safety and with dignity;
- **promote** the voluntary repatriation of refugees once conditions are conducive to return;
- organize, in cooperation with NGOs and other agencies, the documentation, transportation and reception of returnees, provided that such arrangements are necessary to protect their interests and well-being;
- **monitor** the status of returnees in their country of origin and intervene on their behalf if necessary;
- raise funds from the donor community in order to assist governments by providing material and financial support to repatriation and reintegration programmes;
- act as a catalyst for medium and long-term rehabilitation assistance provided by NGOs, specialized agencies and bilateral donors; and
- undertake activities in support of national legal and judicial capacity-building to help States address causes of refugee movements.

Ensuring that conditions for return are met is often a major challenge, particularly in post-conflict situations. Even where a peace agreement has been signed, the full halting of violence, the re-establishment of normal political, economic and social life, the rehabilitation of the legal and judicial system, respect for human rights, and long-term stability may still take considerable time. Absorption capacity in the country of origin is another important consideration.

Voluntary

UNHCR should be satisfied that the refugee has been counselled and has based his or her decision to repatriate on objective information as to the situation in the country of origin. The refugee's decision to repatriate should not be coerced by factors such as the asylum situation in the host country, lack of or reduction in assistance, or threats to family or property in his or her country of origin.

Return in safety and with dignity

In line with the international legal framework, UNHCR understands return "in safety and with dignity" to mean return in, and to conditions of physical, legal and material safety with full restoration of national protection. Refugees should ideally be able to return to their place of residence.

Return in safety: Return which takes place under conditions of **legal** safety (such as amnesties or public assurances of personal safety, integrity, non-discrimination and freedom from fear of persecution or punishment upon return), **physical** security (including protection from armed attacks, and mine-free routes or at least demarcated settlement sites), and **material** security (access to land or means of livelihood).

Return with dignity: The concept of dignity is less self-evident than that of safety. The dictionary definition of "dignity" is the quality of being "worthy of honour and respect." In practice, dignity means that refugees are not mistreated, are able to return unconditionally or spontaneously at their own pace, are not arbitrarily separated from family members, are treated with respect and full acceptance by their national authorities, and that they have full restoration of their rights.

Physical safety must be assured by the national authorities, which may need support from the international community. Insecurity can be a general threat, but returnees may also be specifically targeted. In such cases, the capacity of national authorities to protect them and uphold law and order needs to be considered carefully. Furthermore, even where the overall security situation has improved, there may be pockets where physical security cannot be assured. The presence of landmines, for example, may pose threats in specific localities.

Particularly in post-conflict situations, legal and judicial systems may need to be recreated or reformed in order to remove legal and administrative barriers to return. Examples of this are to ensure that returnees' personal and civil status (including citizenship) is recognized, and to make provision for the return of property, or for adequate compensation where possible. Another type of **legal safety** measure for returning refugees is amnesty against prosecution for having fled, for example, for avoiding military conscription. Amnesties may cover a range of crimes, but perpetrators of war crimes or crimes against humanity should not be amnestied.

Material safety implies non-discriminatory access to means of survival and basic services, such as food, water, health care and education. These services must be accompanied by means of self-reliance to ensure that reintegration is sustainable. As noted earlier, absorption capacity in the country of origin may be an important factor to consider (particularly in a post-conflict situation).

Reintegration

UNHCR generally works toward ensuring sustainable reintegration through short-term emergency or humanitarian relief. The connection between humanitarian assistance and longer-term development work has been an important one. UNHCR has therefore sought to coordinate its work with other UN agencies and State development actors to create a smoother transition between relief efforts and development, in part through the "4Rs" approach: repatriation, reintegration, rehabilitation and reconstruction. While UNHCR takes the lead on repatriation-related activities, other UN agencies and the World Bank are closely

involved with the initial stages of return. This helps ensure that early efforts are integrated into development agendas, and the needs of returnees reflected in longer-term plans.[42]

UNHCR assistance for individual voluntary repatriation

Some resettlement States have procedures and financial provisions available to assist refugees with voluntary repatriation. UNHCR Headquarters should be approached for advice and possible assistance for individual refugees living in countries with no special provisions for voluntary repatriation and where the refugee has no access to financial resources, including from NGOs or other actors.

1.3.4 Local integration

Local integration is a legal, economic and socio-cultural process aiming at providing the refugee with the permanent right to stay in the country of asylum, including, in some situations, as a naturalized citizen. Local integration follows the formal granting of refugee status, whether on an individual or *prima facie* basis, and assistance to settle in order for the refugee to live independently within the community.

The 1951 Convention envisages a framework for refugee protection that is conducive to local integration in countries of asylum. The logic of the Convention framework is that, with the passage of time, refugees should be able to enjoy a wider range of rights, as their ties with the hosting State grow stronger. In this sense, the 1951 Convention gives refugees a solid basis on which they can progressively reclaim their social and economic independence in order to proceed with their lives. These include *inter alia* the right to freedom of movement, access to the labour market, education, health care and other social services. Not least, the 1951 Convention provides for facilitated naturalization procedures in the country of asylum.

The process of local integration

If local integration is to be a viable solution, it requires (i) agreement by the host country concerned; and (ii) an enabling environment that builds on the resources refugees bring with them, both of which implicitly contribute to the prevention of further displacement. Local integration should be seen as a gradual process that takes place through three interrelated dimensions:

- **legal**: refugees are granted a progressively wider range of rights (similar to those enjoyed by citizens) leading eventually to permanent residency and, in some situations, to naturalization;

[42] For more details see UNHCR, *Handbook for Repatriation and Reintegration Activities*, May 2004, http://www.unhcr.org/refworld/docid/416bd1194.html

- **economic**: refugees gradually become less dependent on aid from the country of asylum or on humanitarian assistance and become increasingly self-reliant to support themselves and contribute to the local economy;
- **social and cultural**: the interaction between refugees and the local community allows refugees to participate in the social life of their new country without fear of discrimination or hostility while not obliged to abandon their own culture.

Refugees for whom local integration may be particularly appropriate

Local integration is an important facet of comprehensive strategies to develop solutions to refugee situations, particularly those of a protracted nature. While many refugees may voluntarily repatriate, and some may benefit from resettlement, local integration may be the preferred durable solution for others. Refugees who are unwilling to voluntarily repatriate might include those who have experienced acute trauma in the country of origin or who have attained a considerable degree of socio-economic integration by establishing, for example, close family, social, cultural and economic links in their country of asylum. Local integration may, for example, be appropriate for refugees who are born in countries of asylum, who have no ties with their parents' country of origin and who for this reason may be, or risk becoming, stateless. This concern has been recognized in ExCom Conclusions.[43] Overall, ethnic, cultural, or linguistic links with the local community can increase the chances of successful local integration.

States with developed asylum systems

States with developed asylum systems have utilized local integration as the predominant durable solution for recognized refugees and have thereby avoided protracted situations. There is, nevertheless, an increasing trend in many countries to focus more on cessation of refugee status and repatriation by granting more limited and temporary forms of asylum. This process often delays or undermines the achievement of local integration.

Constraints and benefits

There are serious constraints to local integration. Some asylum countries are not signatories to universal or regional instruments concerning refugees and/or do not apply practices akin to the rights enumerated under the 1951 Convention. General socio-economic conditions, the desire to protect scarce resources, the risk of security problems, concerns about migration, and potential antagonism towards refugees or migrants in general often prevent the local integration of refugees. Obstacles to local integration grow when stagnated local economies increase competition in the labour market, exacerbate the struggle over already limited resources, and trigger xenophobia.

[43] See in particular UNHCR, *Conclusion on Local Integration*, 7 October 2005, No. 104 (LVI) 2005, http://www.unhcr.org/refworld/docid/4357a91b2.html

However, local integration can also provide benefits to the host country as well as to refugees. Refugees may bring with them skills and cultural diversity that can assist and enrich the host country; and can contribute to the socio-economic development of local communities.

1.3.5 Resettlement

Resettlement is the transfer of refugees from the country in which they have sought asylum to another State that has agreed to admit them as refugees and to grant them permanent settlement and the opportunity for eventual citizenship. Resettlement is the third durable solution UNHCR is mandated to implement, in cooperation with States, as derived from its Statute and set out in subsequent UN General Assembly Resolutions. Resettlement is not a right, and there is no obligation on States to accept refugees through resettlement. Even if their case is submitted to a resettlement State by UNHCR, whether individual refugees will ultimately be resettled depends on the admission criteria of the resettlement State.

Resettlement serves three equally important functions:

First, it is a tool to provide international protection and meet the specific needs of individual refugees whose life, liberty, safety, health or other fundamental rights are at risk in the country where they have sought refuge.

Second, it is a durable solution for larger numbers or groups of refugees, alongside the other durable solutions of voluntary repatriation and local integration.

Third, it can be a tangible expression of international solidarity and a responsibility sharing mechanism, allowing States to help share responsibility for refugee protection, and reduce problems impacting the country of asylum.

Resettlement submission

To be submitted for resettlement, individuals or families must:

- meet the preconditions for resettlement consideration; and
- fall under one or more of the UNHCR resettlement submission categories.

Preconditions for resettlement consideration

- the applicant is determined to be a refugee by **UNHCR;*** and
- the prospects for all durable solutions were assessed, and resettlement is identified as the most appropriate solution.

* Exceptions can be made for non-refugee stateless persons for whom resettlement is considered the most appropriate durable solution, and also for the resettlement of certain non-refugee dependent family members to retain family unity.

Once vulnerable individuals or groups potentially in need of resettlement have been identified, it is necessary to prioritize among possible cases by assessing the urgency of their individual resettlement need and the applicability of the resettlement categories in order to identify the cases to be submitted to a resettlement country.

Resettlement submission categories

Legal and/or Physical Protection Needs of the refugee in the country of refuge (this includes a threat of *refoulement*);

Survivors of Torture and/or Violence, where repatriation or the conditions of asylum could result in further traumatization and/or heightened risk; or where appropriate treatment is not available;

Medical Needs, in particular life-saving treatment that is unavailable in the country of refuge;

Women and Girls at Risk, who have protection problems particular to their gender;

Family Reunification, when resettlement is the only means to reunite refugee family members who, owing to refugee flight or displacement, are separated by borders or entire continents;

Children and Adolescents at Risk, where a best interests determination supports resettlement;

Lack of Foreseeable Alternative Durable Solutions, which generally is relevant only when other solutions are not feasible in the foreseeable future, when resettlement can be used strategically, and/or when it can open possibilities for comprehensive solutions.

The **universal imperative** requires that the identification of resettlement needs must be transparent, consistent and coordinated with the protection and durable solutions strategies to ensure equitable resettlement delivery. This means that when UNHCR submits a refugee with a certain profile within a given population for resettlement, it should, as a general rule, be willing to submit all cases with a similar profile.

Resettlement as a tool of refugee protection

Refugees may be denied basic human rights in a country of refuge. Their lives and freedom may be threatened or they may have vulnerabilities or specific needs which render their asylum untenable. The authorities in the country of refuge may be unable or unwilling to provide effective protection or address specific needs. In such circumstances, timely relocation through resettlement becomes a principal objective, and an important means of protecting refugees. Resettlement as a tool of protection under UNHCR auspices is geared to the specific needs of refugees under the Office's mandate whose life, liberty, safety, health or other fundamental human rights are at risk in the country where they sought refuge.

The use of resettlement as a tool of refugee protection requires effective methods for the early identification of vulnerable or "at-risk" individuals or families within a population of refugees.

However, despite individual selection, resettlement as a tool of protection may occasionally involve a considerable number of refugees. The resettlement of an entire refugee population in a country may also be warranted based on international protection grounds if, for example, refugee status is not acknowledged in the country of asylum and refugees face the risk of deportation and *refoulement*. This may happen when a country of asylum has not ratified any of the international or regional refugee treaties, or has maintained a geographical restriction with respect to the 1951 Convention. Resettlement may also be the most appropriate form of protection when States simply fail to adopt legislation and policies in line with the responsibilities they have assumed under international or regional conventions.

Resettlement of refugees should strengthen, not diminish, asylum and protection prospects for the entire refugee population. By offering an appropriate solution to refugees with individual protection or specific needs, UNHCR seeks to reinforce asylum in host countries by relieving the strain on them, thereby promoting durable solutions benefiting the entire refugee population concerned. More specifically, agreement may be sought with host countries to enhance their protection capacities for refugees who remain in their territory – e.g. by institutionalizing fair and efficient asylum procedures and granting adequate asylum conditions for refugees – against resettling those with specific needs to third countries. The interface with protection capacity building and responsibility sharing aspects is evident in such settings.

See Chapter 5 for guidance on the identification of resettlement needs, Chapter 6 for guidance on the resettlement submission categories, and Chapter 7 for details on the prioritization and processing of case submissions.

Resettlement as a durable solution

A foundation of resettlement policy is that it provides a durable solution for refugees unable to voluntarily return home or remain in their country of refuge. Absence of durable solutions for refugees will eventually become a protection concern, and hence the search for durable solutions constitutes an element of providing international protection. Resettling refugees who do not have immediate protection concerns in the country of refuge, but who have no prospects for voluntary repatriation or local integration, provides them with a durable solution.

A decision to use the resettlement option should be based on a realistic and comparative prognosis as to the viability and the protection impact of each of the durable solutions in the foreseeable future as well as in the longer term. The potential for other durable solutions must be reviewed simultaneously with assessing resettlement as an option. The pursuit of one solution at the expense of the two others may result in considerable delays or misdirected efforts in a durable solution.

The *Agenda for Protection* provides a useful framework for cooperation among States, NGOs and UNHCR on refugee matters, and has helped UNHCR identify its priorities globally and on a country-by-country basis. Particularly relevant for resettlement is Goal 5, which calls for the expansion of resettlement opportunities, and more efficient use of resettlement both as a protection tool and as a durable solution, and Goal 3 which calls on States and UNHCR to use resettlement more effectively as a tool of responsibility and burden-sharing. The commitments of States to meet their objectives and to collaborate with UNHCR on the overall goals keep the *Agenda for Protection* alive as an important lobbying and advocacy tool.[44]

Resettlement as an element of responsibility sharing

While UNHCR has been mandated to provide international protection and seek durable solutions for refugees, the principal responsibility for providing international protection for refugees lies with States and is in the interest of the entire international community. Respect by States for their international protection responsibilities towards refugees is strengthened through international solidarity and the refugee protection regime is enhanced through committed international cooperation in a spirit of effective responsibility and burden-sharing among all States.[45]

Through the Working Group on Resettlement and the Annual Tripartite Consultations on Resettlement, resettlement partners strive continuously to enhance the use of resettlement as a responsibility sharing tool, especially where the prospects of other durable solutions is remote or absent. This includes ongoing efforts to expand and support the resettlement programmes of countries offering resettlement for the first time, and generally expanding the resettlement base.

Strategic use of resettlement

When considering the role of resettlement in the provision of durable solutions, UNHCR assesses how to maximize the potential benefits from the application of this scarce resource. With the active involvement of States, refugees and civil society, resettlement can open avenues for international responsibility sharing and, in combination with other measures, can open possibilities for self-reliance and local integration. When used strategically, resettlement can bring about positive results that go well beyond those that are usually viewed as a direct resettlement outcome. Where political impasses prevent voluntary repatriation, a strategic approach to resettlement could involve additional efforts to improve the situation in the country of origin through political processes and interventions. Since UNHCR is a non-political organization, any such efforts need to take place under the leadership of the UN or through bi- or multilateral State efforts.

[44] See **Chapter 1.1.4** for the list of goals, UNHCR, *Agenda for Protection*, October 2003, Third edition **http://www.unhcr.org/refworld/docid/4714a1bf2.html**

[45] Agreed under the UNHCR *Declaration of States Parties to the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees,* 16 January 2002, **http://www.unhcr.org/refworld/docid/3d60f5557.html**

The **strategic use of resettlement** is defined as "*the planned use of resettlement in a manner that maximizes the benefits, directly or indirectly, other than those received by the refugee being resettled. Those benefits may accrue to other refugees, the hosting state, other states or the international protection regime in general*".[46]

Examples of how UNHCR has systematically used resettlement in a strategic manner to enhance protection are outlined in the June 2010 *UNHCR Position Paper on the Strategic Use of Resettlement*. [47]

While strategic use of resettlement as a responsibility sharing tool can be promoted by a single State, coordination with other resettlement countries and UNHCR is likely to maximize derivative benefits. Such coordination may involve negotiation of mutually agreeable arrangements between the international community and the State of first asylum, possibly requiring a multi-year commitment by the international community, as well as assistance to further local integration or enhance life for refugees in first asylum countries. The 2004 *Multilateral Framework of Understandings on Resettlement*[48] provides guidance on concluding such agreements, which aim to strengthen the international refugee protection system through a more strategic use of resettlement for the benefit of a greater number of refugees. Specifically, to guide parties to situation-specific multilateral agreements (namely, UNHCR, refugee-hosting countries, resettlement countries, countries of origin, the International Organization for Migration (IOM) and other relevant resettlement partners) in designing comprehensive arrangements which involve multilateral resettlement operations. Under the framework resettlement countries are also urged to develop selection criteria with the flexibility to resettle persons of concern to UNHCR who may not fall within the terms of the 1951 Convention, which has been particularly important for the group resettlement methodology.

These multilateral processes and specific follow-ups on the *Agenda for Protection* goals were quickly integrated into UNHCR work, and continue to support the development of additional tools and collaborative efforts to expand the use of resettlement as a durable solution within comprehensive solutions strategies.[49]

Group resettlement methodology

The Multilateral Framework also highlights the role that a group resettlement methodology, as opposed to the usual individualized approach, could serve in

[46] UNHCR, *The Strategic Use of Resettlement*, 3 June 2003, http://www.unhcr.org/refworld/docid/41597a824.html

[47] UNHCR, *Position Paper on the Strategic Use of Resettlement*, 4 June 2010, http://www.unhcr.org/refworld/docid/4cod10ac2.html

[48] UNHCR, *Multilateral Framework of Understandings on Resettlement*, 16 September 2004, FORUM/2004/6, http://www.unhcr.org/refworld/docid/41597d0a4.html. The application of the framework is examined further in the next section of this chapter.

[49] For an overview of the implementation of the Agenda for Protection, see UNHCR, *Agenda for Protection: Review and Way Forward*, 48th Standing Committee, EC/61/SC/INF.1, May 2010, http://www.unhcr.org/4c0527999.html

securing protection and durable solutions for large numbers of refugees. The group resettlement methodology was developed in 2003 to enhance resettlement through the use of simpler and more accelerated processing for groups of refugees that share specific characteristics. By facilitating the resettlement processing, the group methodology reinforces the use of resettlement as a durable solution and as an important responsibility and burden-sharing tool, thus making it particularly useful in comprehensive approaches. Group processing has been a major factor in accelerating the large-scale processing of refugees from a number of countries including Kenya, Thailand, Malaysia, Nepal and Ethiopia.

Protracted refugee situations

Of particular relevance is using resettlement strategically to unlock protracted refugee situations. The problem of protracted refugee situations is not new, but has in recent years found a prominent place on the international humanitarian agenda. The issue was a central concern of the 2002 *Agenda for Protection*, and was highlighted again in a June 2004 Standing Committee paper that demonstrated the dimensions of the problem throughout the world and presented the following definition of the "protracted refugee situation" concept:

A **protracted refugee situation** is any situation "*in which refugees find themselves in a long-lasting and intractable state of limbo. Their lives may not be at risk, but their basic rights and essential economic, social and psychological needs remain unfulfilled after years in exile. A refugee in this situation is often unable to break free from enforced reliance on external assistance.*"[50]

Such refugee situations are often created by impasses in the country of origin that preclude voluntary repatriation as a viable option in the near future. Local integration may also be unobtainable, due to, for example, the heavy economic and social burden on the host country. Refugees in protracted situations often face restrictions on freedom of movement, being confined to camps, as well as limitations on employment. The strategic use of resettlement could therefore entail negotiating provisions for the relaxation of restrictions imposed on refugees by the country of asylum in connection with enhanced resettlement from that country. Even where other durable solutions remain unavailable in a protracted refugee situation, resettlement can be used strategically to ensure that more benefits accrue to refugees who remain in the host country, or to ensure continued access to asylum. Another important strategic objective is achieving possibilities for self-reliance, which is an important precursor to all three durable solutions. *More detail on responses to protracted refugee situations is provided in* ***Chapter 2.2.3****.*

[50] Definition used in UNHCR, *Protracted Refugee Situations*, Standing Committee to the Executive Committee of the High Commissioner's Programme, 30th meeting, EC/54/SC/CRP.14, 10 June 2004, http://www.unhcr.org/refworld/docid/4a54bcood.html

Essential reading on durable solutions

- UNHCR, *Framework for Durable Solutions for Refugees and Persons of Concern*, 16 September 2003, EC/53/SC/INF.3, http://www.unhcr.org/refworld/docid/4ae9ac93d.html
- UNHCR, *Handbook - Voluntary Repatriation: International Protection*, January 1996, http://www.unhcr.org/refworld/docid/3ae6b3510.html
- UNHCR, *Handbook for Repatriation and Reintegration Activities*, May 2004, http://www.unhcr.org/refworld/docid/416bd1194.html
- UNHCR, *Handbook for Self-Reliance*, August 2005, First edition, http://www.unhcr.org/refworld/docid/4a54bbf40.html
- UNHCR, *Multilateral Framework of Understandings on Resettlement*, 16 September 2004, FORUM/2004/6, http://www.unhcr.org/refworld/docid/41597d0a4.html
- UNHCR, *Position Paper on the Strategic Use of Resettlement*, 4 June 2010, http://www.unhcr.org/refworld/docid/4c0d10ac2.html
- UNHCR, *The Strategic Use of Resettlement*, 3 June 2003, http://www.unhcr.org/refworld/docid/41597a824.html
- UNHCR, *Handbook for Emergencies*, February 2007, Third edition, http://www.unhcr.org/refworld/docid/46a9e29a2.html
- UNHCR, *Handbook for Planning and Implementing Development Assistance for Refugees (DAR) Programmes*, January 2005, http://www.unhcr.org/refworld/docid/428076704.html

CHAPTER TWO

CHAPTER TWO
THE EVOLUTION OF RESETTLEMENT

Introduction

Resettlement serves three equally important functions:

First, it is a tool to provide international protection and meet the specific needs of individual refugees whose life, liberty, safety, health or other fundamental rights are at risk in the country where they have sought refuge.

Second, it is a durable solution for larger numbers or groups of refugees, alongside the other durable solutions of voluntary repatriation and local integration.

Third, it can be a tangible expression of international solidarity and a responsibility sharing mechanism, allowing States to help share each other's burdens, and reduce problems impacting the country of first asylum.[1]

Purpose

The purpose of this chapter is **to highlight**:

- the history and evolution of the use of resettlement as a tool of international protection and a durable solution;
- conceptual developments including the strategic use of resettlement within comprehensive solutions strategies;
- operational developments to improve the management of resettlement; and
- current challenges to resettlement.

[1] UNHCR, *Global Consultations on International Protection/Third Track: Strengthening and Expanding Resettlement Today: Dilemmas, Challenges and Opportunities*, 25 April 2002, EC/GC/02/7, II A 5, http://www.unhcr.org/refworld/docid/3d62679e4.html

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2.1 THE HISTORY OF RESETTLEMENT

Resettlement is recognized today as a vital instrument of international protection, integral to comprehensive protection and durable solutions strategies. While resettlement has been undertaken in one form or another since the international refugee protection system was formed, its use and importance has evolved over the decades.

Between the two World Wars, resettlement was used as the principal or partial solution for a number of refugee situations. During the early 1920s, for example, some 45,000 White Russians who had fled to China after the Russian Revolution were resettled elsewhere. In the 1930s, a succession of international refugee organizations was charged with resettling Jews and others who were fleeing Nazi persecution.

When the United Nations replaced the League of Nations in 1945, it established (in 1946) a new body, the International Refugee Organization (IRO). The IRO's mandate was to protect existing refugee groups and one new category – the 21 million or so refugees scattered throughout Europe in the aftermath of World War II. Initially, the IRO's main objective was repatriation, but the political build-up to the Cold War tilted the balance instead towards resettlement of those who had "valid objections" to returning home. "Valid objections" included "persecution, or fear of persecution, because of race, religion, nationality or political opinions". Over five years, from 1947 to 1951, the IRO resettled well over a million people (four-fifths of them outside Europe), while repatriating a mere 73,000.

By the time the IRO was replaced by the Office of the United Nations High Commissioner for Refugees (UNHCR), international protection was firmly enshrined as the new organization's principal *raison d'être*, and resettlement was a key tool.

UNHCR made extensive use of resettlement as a means of resolving the situation of finding solutions for European refugees after the Second World War. For the next three decades all three durable solutions – voluntary repatriation, local integration and resettlement – were considered equally, depending on circumstances.

Resettlement evolved in the context of the Cold War. The historical effort to help displaced people in the aftermath of World War II matched the desire of governments to facilitate the movement of certain people for foreign and domestic policy reasons.

Three large movements are worthy of mention: the resettlement of Hungarians in the 1950s, of Ugandan Asians in 1972, and of Latin Americans from Chile starting in 1973. The Soviet invasion of Hungary in 1956 caused 200,000 refugees to flee to Yugoslavia and Austria, many of whom were later resettled in other countries. In 1972, most of its Asian minority were expelled from Uganda. With the help of UNHCR, the International Organization for Migration (IOM), the International Committee of the Red Cross (ICRC), and the United Nations Development Programme (UNDP), some 40,000 Ugandan Asians were resettled within a few months to 25 countries. Following a coup d'état in Chile in September 1973, refugees from neighbouring countries were faced with the threat of *refoulement*. The High Commissioner appealed to the military government and simultaneously requested assistance from resettlement countries. By March 1974, nearly

5,000 people had been resettled to 19 countries. Resettlement, mainly to other countries in the region, continued to play a prominent role in Latin America throughout the 1970s and in Central America in the 1980s.

2.1.1 Indo-Chinese "boat people"

The largest and most dramatic example of resettlement occurred in the aftermath of the Indo-Chinese conflict, when the mass exodus of "boat people" caused a major protection crisis in the region. By 1979, certain asylum countries refused to accept more refugees, prevented boats from landing, and in some cases towed them out to sea. Confronted with this political and humanitarian crisis, the international community agreed that Vietnamese boat people arriving in first asylum countries in South East Asia would be allowed to land, but would then be resettled to other countries. The adoption of this "blanket" resettlement policy safeguarded the concept of first asylum, thereby averting the immediate threat of massive loss of life. More than 700,000 Indochinese were resettled in the years that followed.

However, the situation changed in 1986, after departures from Viet Nam increased suddenly and massively. The number of boat people in camps leapt from 31,694 at the beginning of 1986 to 65,349 by early 1989. Since there had not been a significant deterioration in the human rights situation in Viet Nam, it became clear that the exodus, while retaining a refugee dimension, was increasingly driven by economic factors.

Comprehensive Plan of Action

The adoption of a *Comprehensive Plan of Action* (CPA) in 1989 addressed the issue in a global and systematic way. The CPA ended blanket resettlement processing, and included the following elements:

- All Vietnamese boat people would be permitted to land in first asylum countries and would be screened for refugee status.
- All boat people who qualified as refugees would be resettled in a third country.
- Those who did not qualify would have to return to Viet Nam under a guarantee, monitored by UNHCR, that they would not be prosecuted for illegal departure.
- A programme would be set up by UNHCR to provide reintegration assistance to the returnees.
- The Orderly Departure Programme (ODP)[2] would be expanded, its criteria liberalized and its procedures simplified to allow easier legal emigration for eligible groups such as family reunification cases and former re-education camp internees.

[2] Mainly in an effort to open up the possibility of legal emigration from Viet Nam and so reduce the number of clandestine departures, which had resulted in considerable loss of life at sea, UNHCR helped set up an Orderly Departure Programme, known as the ODP, which provided a safer, officially-sanctioned channel for emigration.

A mass information campaign was launched in Viet Nam to discourage those who would not qualify as refugees from embarking on a life-threatening journey in the mistaken belief that they would automatically be resettled. The implementation of the information campaign and the beginning of voluntary repatriation to Viet Nam brought about a substantial drop in the number of boat people.

After the CPA, the use of large-scale resettlement as a solution waned. In retrospect, the decision in 1979 to adopt blanket resettlement was seen as a major "pull-factor" causing very large numbers of people to leave Viet Nam primarily for economic and social reasons, rather than to seek protection. Meanwhile, elsewhere in the world, refugees in desperate need of resettlement suffered from lack of available places. This led to a widespread sense of disenchantment with resettlement as a solution for large numbers of refugees.

***Push* and *pull* factors**

All migration involves *push* and *pull* factors. When examining forced migration attention is given to root causes of flight, or *push* factors. However, there are also *pull* factors that influence refugees' flight patterns, and impact the implementation and success of durable solutions.

When assessing voluntary repatriation, UNHCR should be convinced that the decision of refugees to return is due mainly to positive *pull* factors in the country of origin, rather than *push* factors in the host country, or negative *pull* factors in the home country, such as threats to property.

When planning resettlement operations, the challenge for UNHCR is to ensure that those in need have access to protection and resettlement, while making sure that resettlement is not perceived to be an alternative migration route. With proper management and oversight, resettlement has been expanded in concert with other durable solutions to benefit greater numbers of refugees, without creating economic migration *pull* factors. The development of efficient and effective systems to register refugees, protect data integrity and prevent fraud has enhanced the scope and flexibility of resettlement. Timely and pro-active case identification based on fair, consistent and transparent application of UNHCR's resettlement categories is also vital.

2.1.2 Shift to focus on individual protection needs

Changing attitudes to resettlement, particularly in light of the Vietnamese experience, led to a decline in resettlement places available during the 1980s and 1990s, and a shift in the language used to refer to resettlement. Voluntary repatriation became the preferred durable solution, and resettlement was increasingly focused on individual protection cases. The resettlement numbers dropped significantly. Whereas one in every twenty of UNHCR's global refugee population was resettled in 1979, the ratio fell to less than one in every 400 by 1994. There were 34,640 refugee departures in 1994,[3] which represented a

[3] UNHCR, *Report of the United Nations High Commissioner for Refugees* [covering the period 1 Jan. 94-31 Mar. 1995], 25 April 1995, E/1995/52, http://www.unhcr.org/refworld/docid/3c90b2801.html

shortfall of over 24,000 places from projected resettlement needs. The drop in numbers also reflected the fact that major resettlement countries were focusing their efforts on other refugee groups or populations in refugee-like situations, and not resettlement cases identified by UNHCR.

In the late 1980s, the major focus of resettlement activity shifted to the Middle East. The Iran/Iraq war and repressive regimes generated significant protection and resettlement needs. Serious religious persecution of Iranian Baha'i followed the creation of the Islamic Republic of Iran in 1979, and many of those who sought asylum in neighbouring countries such as Turkey and Pakistan during the 1980s were later resettled. In 1991 the first Gulf War displaced approximately two million Iraqis in scarcely three weeks. While the majority voluntarily repatriated, resettlement was the only durable solution for some Iraqis at risk in Turkey. In 1992, following the first Gulf War, UNHCR sought to resettle some 30,000 Iraqis from Saudi Arabia after efforts to secure voluntary repatriation and local integration failed. Between April 1992 and June 1997, approximately 21,800 Iraqis were accepted for resettlement under one of the only multi-year larger scale movements of the 1990s.

Another major challenge arose in 1992 when inmates from places of detention in Bosnia and Herzegovina needed to be resettled. An emergency operation started on 1 October 1992 under an agreement with the International Committee of the Red Cross (ICRC) who transferred detainees to a UNHCR centre in Croatia. By early July 1993, 22 countries had offered temporary protection or resettlement to the ex-detainees and their families and over 11,000 people had left for third countries. By June 1997, UNHCR had been directly involved in resettling some 47,000 refugees from former Yugoslavia.

In 1999, following the Kosovo crisis, resettlement was used to support the UNHCR relief operation and "humanitarian evacuation programme" (HEP). By the end of the emergency, almost 96,000 refugees in 28 host countries had benefited from HEP. Some of the host countries used their annual resettlement quotas to support this burden-sharing initiative. Refugees that were received as part of the HEP under regular resettlement quotas were allowed to remain permanently in the receiving country.

2.1.3 Strengthening resettlement consultation: the WGR and the ATCR

The "automatic refugee status" linked to fleeing the Cold War, which had guided some receiving States on who should be resettled, disappeared at the end of the 1980s. As a result, States increasingly looked to UNHCR for guidance on resettlement. Over the following years, the ratio of departures to UNHCR-identified refugees increased, as the major States refocused their resettlement programmes on cases identified by UNHCR. The need for consultation mechanisms between UNHCR and resettlement partners became more pronounced as States encouraged and supported UNHCR to strengthen its systems for identifying, submitting and resettling refugees.

Responding to ExCom encouragement and the recommendations of an internal evaluation on resettlement policy and practice conducted in 1994,[4] UNHCR took steps in the mid 1990s to develop regular multilateral consultative processes, strengthen its resettlement management capacity, and articulate resettlement policy and criteria. The release of the first version of this UNHCR Resettlement Handbook in 1996 was an outcome of these efforts. The Handbook established a comprehensive reference of UNHCR resettlement criteria, standards, procedures and priorities, and was complemented by a training programme for resettlement staff and government and NGO partners.

Working Group on Resettlement (WGR) and Annual Tripartite Consultations on Resettlement (ATCR)

The evaluation highlighted the importance of dialogue and cooperation between all the partners involved in resettlement, and called for UNHCR to establish mechanisms of systematic consultation with these partners. This led to the formation in 1995 of the Working Group on Resettlement (WGR), comprised of resettlement States, UNHCR, and International Organizations (initially only the International Organization for Migration). The WGR began meeting informally in 1995, and invited non-governmental organizations (NGOs) from resettlement States to their first formal meeting held in October 1995, in recognition of the role of NGOs as partners in action. This was the foundation of the Annual Tripartite Consultations on Resettlement, the first of which was held in June 1996. The Consultations quickly became a valued forum for strengthening partnerships and enhancing a consultative and collaborative approach to resettlement.

Working Group meetings are usually convened twice yearly, and the Chair rotates between resettlement States. The WGR provides an informal forum to discuss policy directions on resettlement and steer efforts to enhance the use of resettlement as a tool of international protection, a durable solution and a responsibility and burden-sharing mechanism. Since its formation the WGR has also assumed a prominent role in the protection initiatives of UNHCR, notably during the Global Consultations and the Convention Plus discussions, and as part of UNHCR's ongoing efforts to find solutions for protracted refugee situations. The WGR also supports the work of the ATCR helping both to prepare its meetings and follow up its recommendations.

UNHCR's Annual Tripartite Consultations on Resettlement (ATCR), held annually in June or July, have become the main forum for furthering the resettlement agenda. The work of the ATCR has *inter alia* focused on strengthening the role and strategic use of resettlement, promoting the emergence of new resettlement countries and the diversification of resettlement programmes and opportunities.

Participants in the ATCR include resettlement States, UNHCR, International Organizations and NGOs. Coordination is provided by the Working Group Chair, with support from the UNHCR and the NGO Focal Point, who is typically from the same country as the current Chair. The inclusion of NGOs is important to ensure a more effective and transparent consultation process.

[4] UNHCR, *Resettlement in the 1990s: A Review of Policy and Practice*, EVAL/RES/14, December 1994, http://www.unhcr.org/3ae6bcfd4.pdf

The ATCR and WGR meetings offer resettlement States, NGOs and UNHCR important opportunities to share information on resettlement needs and priorities, address operational issues, develop joint strategies to respond to specific populations in need of resettlement, and build consensus in ExCom for resettlement through many avenues, including establishing new programmes. At these meetings, UNHCR draws attention to populations for whom resettlement is a priority or could be used strategically, and it is here that UNHCR's report on Projected Global Resettlement Needs[5] is discussed in detail with partners.

2.1.4 Integration initiative

The establishment of regular opportunities to consult and the enhanced focus on harmonizing resettlement efforts also supported the expansion of the community of resettlement States in the late 1990s. Some of the "traditional" resettlement States generously provided financial assistance to help UNHCR diversify resettlement opportunities and set up twinning programmes between traditional and emerging resettlement States. The support also enabled UNHCR to assist States to establish the institutional infrastructure and programmes necessary for the successful integration of resettled refugees.

Recognizing that receiving communities are more likely to endorse and support national resettlement policies when integration is "successful", UNHCR launched a broad integration initiative in 2000. The emergence of new resettlement countries and the growing diversity of UNHCR resettlement submissions highlighted the need to complement the well-defined and commonly endorsed resettlement guidelines outlined in the Resettlement Handbook with guidelines on the reception and integration of refugees in their new communities.

The International Conference on the Reception and Integration of Resettled Refugees (ICRIRR), held in Sweden in April 2001, provided an international forum for the exchange of integration experiences, processes and procedures, and served to strengthen formal and informal links between the traditional and new or emerging resettlement countries. The mutually supportive network of implementing partners formed amongst the resettlement countries helped underpin UNHCR's own capacity-building initiatives, and assisted the new countries to mobilize the resources they required to sustain their resettlement programmes.

A set of principles was endorsed at the conference which provided the foundation for a new handbook: *Refugee Resettlement: an International Handbook to Guide Reception and Integration*.[6] Targeted at programme planners, it gives examples of good practices for managing initial reception, preparing host communities, language training, education, and employment and addresses issues that planners should consider in order to ensure that the needs of all resettled refugees are taken into account.

[5] The *UNHCR Projected Global Resettlement Needs* reports are produced annually based on the information submitted by each country operation's proactive resettlement planning. These reports are generally for restricted distribution, though a public version is often made available following the ATCR.

[6] UNHCR, *International Conference on the Reception and Integration of Resettled Refugees, 25-27 April 2001-Norrköping, Sweden. Proceedings Report*, 27 April 2001, http://www.unhcr.org/refworld/docid/3da1b7034.html

The Handbook describes integration in the following manner:

- Integration is a mutual, dynamic, multifaceted and ongoing process. From a refugee perspective, integration requires a preparedness to adapt to the lifestyle of the host society without having to lose one's own cultural identity.
- From the point of view of the host society, it requires willingness for communities to be welcoming and responsive to refugees and for public institutions to meet the needs of a diverse population.
- Integration is multi-dimensional in that it relates both to the conditions for and actual participation in all aspects of the life of the country of resettlement as well as to refugees' own perceptions of acceptance by, and membership in, the host society.
- Opportunities for resettled refugees to become citizens and to enjoy full and equal participation in society represent an overarching commitment by governments to refugee integration.
- Family reunification is crucial to refugee integration. Similarly, relatives and ethnic community networks can play key roles in successful refugee integration.
- A multi-dimensional, comprehensive and cohesive approach that involves families, communities and other systems can help refugees to restore hope and to rebuild their lives.[7]

2.1.5 Resettlement as a durable solution reconsidered

After the turn of the century, the reality that the majority of refugees were in protracted refugee situations with no prospect of timely and safe solutions, the proliferation of conflict-driven displacement and the increasing pressures of mixed migratory flows compelled UNHCR and the international community to reconsider the use of resettlement as a durable solution, particularly for groups.

It is a fundamental objective of resettlement policy to provide a durable solution for refugees unable either to voluntarily return home or remain in their country of refuge. As the High Commissioner stressed, in "*too many places refugee protection is becoming eroded for want of durable solutions. Let us remember that, for the refugee, the ultimate protection lies in the solution.*"[8]

Resettlement acquired new impetus and a broader focus following adoption of the *Agenda for Protection* in 2002 and the Convention Plus initiative in 2004. The *Agenda for Protection* called for the expansion of resettlement opportunities by:

- enhancing the number of resettlement countries;
- making more strategic use of resettlement to benefit as many refugees as possible;
- developing capacity-building programmes with new resettlement countries;

[7] UNHCR, *Refugee Resettlement. An International Handbook to Guide Reception and Integration*, September 2002, http://www.unhcr.org/refworld/docid/405189284.html

[8] See UNHCR, *Chairman's Summary: Inaugural Meeting of the (Convention Plus) Forum*, 27 June 2003, http://www.unhcr.org/refworld/docid/471dcaedo.html

- encouraging resettlement countries to increase their quotas;
- diversifying the intake of refugee groups; and
- introducing more flexible resettlement criteria.

Improvements undertaken by UNHCR include better management of its resettlement activities; a more comprehensive approach to the use of resettlement as a durable solution; enhanced partnership in resettlement processing; planning for the use of resettlement in a more strategic manner to maximize the benefits offered by this solution to individuals other than those who are resettled; the inclusion of a proactive planning tool for resettlement in Country Operations Plan under which all UNHCR field offices are responsible for examining possible resettlement needs within their operation; and the introduction of a methodology for group resettlement.

Resettlement therefore, has re-emerged as an important expression of international solidarity and responsibility sharing and a durable solution, while remaining an invaluable tool of protection. The emphasis now is on proactive planning to comprehensively assess and identify resettlement needs, and using resettlement strategically within a comprehensive approach to durable solutions in order to maximize the protection benefits.

2.2 ENHANCING THE USE OF RESETTLEMENT

2.2.1 Strategic use of resettlement

Charged by the *Agenda for Protection* to explore the strategic use of resettlement, the Working Group on Resettlement analyzed how resettlement can be planned to maximize the *overall* benefits, beyond those accruing to the refugees being resettled. It was recognized that resettlement needs to be approached in an integrated manner, from policy formation through selection to the integration of resettled refugees in their new countries. Overall, creating the conditions for a more strategic use of resettlement allows States to engage in truly international cooperation and solidarity for the benefit of refugees, and to make multi-year commitments to enhance predictability and support comprehensive solutions.

The Working Group on Resettlement defined the **strategic use of resettlement** as "*the planned use of resettlement in a manner that maximizes the benefits, directly or indirectly, other than those received by the refugee being resettled. Those benefits may accrue to other refugees, the hosting state, other states or the international protection regime in general.*"[9]

A number of short, midterm, or sometimes longer-term protection benefits derive directly or indirectly from the use of resettlement. While some benefits, such as the decongestion of camps, can be direct results of resettlement, and other situations may lead to unplanned dividends, achieving *specific* protection

[9] UNHCR, *The Strategic Use of Resettlement*, 3 June 2003, http://www.unhcr.org/refworld/docid/41597a824.html

benefits requires concerted and coordinated efforts and investments by stakeholders.

UNHCR's 2010 *Position Paper on the Strategic Use of Resettlement*[10] emphasized that these specific protection results could be designed in a way to progressively achieve larger strategic impacts over time. Strategic planning includes clear illustration of incremental protection dividends expected from diverse resettlement contributions over a period of time, in order to maximize concerted efforts by various stakeholders.

The position paper outlines examples of the types of protection benefits that may arise in the context of resettlement through the engagement of key stakeholders. Possible benefits in the **countries of first asylum** include:

- **strengthen the protection environment**, by encouraging host States to retain access to asylum, adhere to the principle of *non-refoulement*, reduce detention and widen the protection space;
- **unlock alternative durable solutions** through encouraging dialogue with a host country on building a more favourable protection environment and forging strategies for comprehensive solutions;
- **impact the behaviour and attitudes in countries of asylum** encouraging them to provide refugees with access to livelihood opportunities, health care, employment, education and to freedom of movement and residence;
- **decongest or consolidate camps** and reduce demands on assistance programmes and scarce environmental resources;
- **reduce unnecessary in-country population movements**, such as between urban areas and refugee camps and settlements, by strengthening access to resettlement in a balanced and equitable way within countries of asylum;
- **foster community cohesion** and provide opportunities for services previously accessible to refugees to be made available to neighbouring host communities; and strengthen civil society participation and capacity in the area of refugee protection;
- **influence the behaviour and attitudes of refugees** and others of concern, for example by reducing dependency and sexual and gender-based violence, increasing enrollment in education and vocational training and encouraging livelihood options;
- **facilitate remittances** from resettled refugees to refugees in countries of asylum;
- **strengthen refugee mobilization and participation** in peace-building initiatives.

Improved and equitable access to resettlement can also impact the **regional context**, including: reducing push-pull factors leading to secondary movements, trafficking and smuggling; strengthening regional cooperation and migration management through responsibility sharing; and generally encouraging interest in strengthening refugee protection and developing resettlement programmes.

[10] UNHCR, *Position Paper on the Strategic Use of Resettlement*, 4 June 2010, http://www.unhcr.org/refworld/docid/4c0d10ac2.html

Strategic use of resettlement can also strengthen the protection benefits accruing to **resettlement countries**. These include: expanding the range and quality of services available to asylum-seekers; fostering positive attitudes towards refugees and reducing xenophobia, and enriching the cultural and socio-economic diversity within communities.

UNHCR has put strategic planning of resettlement into practice in order to enhance protection on a broader scale. These efforts have included various negotiated arrangements to improve the protection conditions in the country of asylum (such as mitigating the risk of *refoulement)*; and to ensure that appropriate documents are issued to asylum-seekers and refugees (e.g. in Egypt, and Turkey), that UNHCR has access to refugees in detention (e.g. in China) and that asylum space is kept open (e.g. in Syria).

Example: closing Al-Tanf camp

Al-Tanf was a refugee makeshift camp located on a narrow strip in no man's land between the borders of Syria and Iraq. It was set up in May 2006 for Palestinian refugees fleeing persecution in Iraq as no country in the region would accept them.

Refugees in the camp suffered from severely restricted freedom of movement, inadequate living conditions, physical insecurity, and very limited access to medical and other services. Constant exposure to harsh desert conditions including extreme temperatures, sandstorms, floods and the risk of fire threatened their health and well-being. With no prospect of admission to Syria or return to Iraq, resettlement was identified as the only viable durable solution for the Palestinian refugees in Al-Tanf and other camps.

As a result of joint efforts with the Syrian authorities and resettlement countries, more than 1,000 Palestinian refugees were resettled to third countries, including through the use of Emergency Transit Facilities. The Al-Tanf camp was finally closed in February 2010.

Resettlement of ex-Iraq Palestinian refugees is a concrete expression of responsibility sharing, and has helped to improve the protection environment in the region. Beyond ending the suffering of the resettled refugees, it has further strengthened UNHCR's cooperation and dialogue with the governments to help preserve and expand the existing protection space, and has contributed to a better and more systematic access to detention in some places. Overall, resettlement has resulted in better protection response to persons of concern in the region.

Resettlement must be integrated within broader protection and intervention strategies and reflect regional priorities. Experience has shown the importance of multi-year planning and sustained commitment to the phased implementation of comprehensive strategies, particularly where diplomatic efforts and development assistance are linked to the strategic use of resettlement.

In many situations States will need to adopt a multi-faceted approach involving development aid, diplomacy and engagements that go beyond resettlement itself. Defining in advance which potential protection benefits may realistically

result from resettlement and clarifying the roles of key stakeholders requires dialogue among interested States. The establishment of "core" or "focus groups", involving interested States, UNHCR and potentially NGO partners can provide an effective forum for dialogue and coordination. Involving a larger number of resettlement States demonstrates international solidarity and may maximize the strategic dividends.

Defining measurable benchmarks and time frames to evaluate protection benefits will assist to mobilize efforts and focus on results. NGOs and civil society (including refugees) have a key advocacy role to play supporting strategic resettlement initiatives and defining in advance which potential protection benefits may realistically result from resettlement engagement. While resettlement should not be conditional on improvements in countries of asylum, it can be linked to protection objectives such as improvement in detention conditions, work permits, and the opening of local integration for particular profiles of refugees.

Overall, resettlement should not be conditional upon other protection benefits that may arise from its use. In general, any protection benefits that result from the [strategic] use of resettlement should be seen as additional and complementary to the benefits gained by resettled refugees themselves.

2.2.2 Group methodology

Strategic use of resettlement called for greater focus on the resettlement of groups of persons. In collaboration with resettlement States UNHCR developed operational procedures to identify and facilitate the processing of groups of refugees in need of resettlement as a durable solution. Among groups that were resettled early in the 21st century were the Sudanese "Lost Boys", and the Somali Bantu, Madhiban and Benadir minorities, all from protracted refugee situations in Kenya. The UNHCR *Methodology for Group Resettlement*, released in 2003, provides UNHCR offices with a framework for the identification of refugee groups in need of resettlement.

A group is defined as a specific refugee population whose members have a sufficiently common flight history, circumstances, fear of return, and need for resettlement that can be credibly articulated and proposed for resettlement. Because simplified UNHCR submission procedures offer significant savings of time and energy, the group methodology facilitated the significant increase in the numbers of cases submitted for resettlement, as well as the geographic expansion of resettlement activities in the years to follow.

The methodology was field tested in Africa, the Middle East and Central and Eastern Asia and adapted to suit local contexts, in consultation with resettlement States. Resettled groups include: Liberian refugees from Guinea and Sierra Leone, Somali refugees from Kenya, Burundian refugees from the United Republic of Tanzania, Congolese refugee survivors of the Gatumba massacre from Burundi, Eritrean refugees from Ethiopia, Eritrean refugees from Saudi Arabia, Afghan refugees from Tajikistan, Uzbek refugees from Kyrgyzstan, Myanmar refugees from Thailand and Malaysia, and Bhutanese refugees from Nepal.

Identifying groups involves a careful weighing of various factors, protection concerns, and practical considerations – all with the aim of using resettlement strategically to improve the overall protection environment. To enhance collaboration around some protracted situations, States formed Core Groups within the Working Group on Resettlement. These Core Groups facilitated the engagement of the international community in seeking to unlock these protracted situations, both through policy making on comprehensive solutions, and coordinated multi-year resettlement planning. *The use of the group methodology is discussed in more detail in Chapter 5.7.*

Example: Core Group on Bhutanese Refugees in Nepal

In November 2005, seven countries organized themselves in Geneva into a working group called the Core Group on Bhutanese Refugees in Nepal in order to provide political support to UNHCR and to encourage the governments of Nepal and Bhutan to work toward a comprehensive solution to this protracted refugee situation.

In the late 1980s, the Royal Government of Bhutan's efforts to impose a single national culture and language and to restrict citizenship led to a further rise in tensions and the eventual displacement of over 100,000 ethnic Nepalese from Bhutan to Nepal between 1988 and 1993. These refugees have resided in overcrowded camps in eastern Nepal since the early 1990s without any prospects of voluntary repatriation or meaningful local integration.

The initial Core Group members of Australia, Canada, Denmark, the Netherlands, New Zealand, Norway and the United States of America were joined in 2010 by the United Kingdom.

In 2007, after the collaboration of UNHCR and the Government of Nepal in the registration and census of the refugees in the seven camps, the Core Group called on all parties to work cooperatively to resolve the humanitarian situation, and announced their multi-year commitments to resettle the majority of the 108,000 Bhutanese refugees registered.

Mindful of the meaningful role that international solidarity and burden sharing can play, members of the Core Group reiterated their wish to work closely with the governments of Nepal and Bhutan to facilitate all forms of durable solutions. Some Core Group countries also stand ready to provide assistance for repatriation efforts to Bhutan.

By the end of 2010, over 40,000 Bhutanese refugees had been resettled as a result of the collaboration and commitment of all parties involved.

2.2.3 Focus on protracted situations

Over half of the refugees for whom UNHCR is responsible have been living in exile for years or even decades on end, without any immediate prospect of finding a solution to their situation. The plight of millions of refugees throughout the world who live in protracted refugee situations is one of UNHCR's and the international community's greatest challenges. Addressing the problem in a more effective

and equitable manner requires commitments from the international community: to action; to principles of international solidarity and responsibility sharing; to cooperation and coordination; to international human rights standards; and to the search for diversified and complementary solutions.

The 2009 ExCom *Conclusion on Protracted Refugee Situations* highlighted again that protracted refugee situations may increase the risks to which refugees are exposed. It emphasized the need to redouble international efforts and cooperation to find practical and comprehensive approaches to resolving their plight and to realize durable solutions for them. It called on States and UNHCR to actively pursue the strategic and increased use of resettlement in a spirit of international burden and responsibility sharing. It encouraged States to provide more resettlement places and to explore flexible resettlement criteria, acknowledging that many refugees in protracted situations may face difficulties in articulating a detailed refugee claim.

In December 2008 the High Commissioner's Dialogue on Protection Challenges focused on protracted refugee situations. It examined the many negative consequences they generate, and identified some emerging opportunities for resolving them.[11] The High Commissioner also launched a *Special Initiative on Protracted Refugee Situations*, which focuses on five situations in different parts of the world where refugees have been living in exile for long periods of time: Afghan refugees in the Islamic Republic of Iran and Pakistan; refugees from Myanmar in Bangladesh; Bosnian and Croatian refugees in Serbia; Burundian refugees in the United Republic of Tanzania; and Eritrean refugees in eastern Sudan.[12] Resettlement was identified as an integral component of durable solutions for three of these situations: the Islamic Republic of Iran and Pakistan, Bangladesh and eastern Sudan.

This identification of priority situations does not detract from UNHCR's ongoing focus on ameliorating conditions and finding solutions for refugees in protracted situations throughout the world.

2.2.4 Urban refugees

The release of UNHCR's revised urban policy in 2009 represents a new approach to addressing the issue of refugees in urban areas, including the recognition of their resettlement needs. This approach is a significant departure from the previous policy of giving primary attention to refugees in camps, and an acknowledgement that movement to urban areas can be a legitimate response to lack of access to livelihoods, education, and even physical and material security in camps.[13]

The revised policy reopens the complex discussion about the legitimacy of "secondary" or "onward" movements for refugees who have not found "effective

[11] UNHCR, *Protracted Refugee Situations*, 20 November 2008, UNHCR/DPC/2008/Doc. 02, http://www.unhcr.org/refworld/docid/492fb92d2.html

[12] For an overview of the five priority situations, see UNHCR, *Protracted Refugee Situations. High Commissioner's Initiative*, December 2008, http://www.unhcr.org/refworld/docid/496f041d2.html

[13] UNHCR, *UNHCR Policy on Refugee Protection and Solutions in Urban Areas*, September 2009, http://www.unhcr.org/refworld/docid/4ab8e7f72.html

protection". While ExCom Conclusion 58 stipulates that refugees who have found effective protection in a given country should normally not move to another State in an irregular manner, and some resettlement States have been hesitant to resettle those who they feel may have moved irregularly, UNHCR acknowledges that the actual effectiveness of protection offered must be carefully assessed.

Effective protection

"A refugee who is unable to live in decent and dignified conditions and who has no real prospect of finding a durable solution in or from their country of asylum within a reasonable timeframe cannot be considered to have found effective protection. When a refugee moves to seek reunification with immediate family members who are not in a position to reunite in that person's country of first asylum, and when a refugee moves as a result of other strong linkages with the country of destination, the onward movement may also be justified."[14]

It is a global priority for UNHCR to ensure that refugees who are in need of resettlement have fair and transparent access to resettlement processes, irrespective of their location. The policy recognizes that effective and equitable management of resettlement can be a particular challenge in urban settings, in general because refugees may be difficult to identify, and more specifically because the most vulnerable among them are sometimes the least visible and vocal.

Accurate and continuous registration of refugees in urban settings is vital to offering protection, including resettlement consideration. It must be complemented by effective outreach and identification and referral systems for vulnerable refugees for whom resettlement may be the most appropriate form of protection. The involvement of NGOs and other partners is critical – especially those involved in the provision of medical assistance, social or legal counselling. *Identification methods and partners are discussed in more detail in* ***Chapter 4***.

In order to avoid unrealistic expectations and the security problems that they can generate, UNHCR endeavours to keep all refugees fully informed about resettlement prospects and procedures. In the urban context, communicating with refugees can be more challenging, and resettlement activities must be tailored to the specific characteristics of each urban area and managed in a manner that mitigates the risks associated with resettlement. Refugees who are already in the resettlement process will be encouraged, for example, to remain actively engaged in self-reliance and educational activities pending the outcome of that process, and will also be urged to explore other solution options where these exist.

In follow-up to the release of the revised urban policy and the 2009 High Commissioner's Dialogue on Protection Challenges, UNHCR has identified seven "pilot sites" where special effort will be made to engage with partners. These cities are: Nairobi, Desamparados (San Jose), Kuala Lumpur, Dushanbe, Moscow, St Petersburg, and Cairo.

[14] *Ibid*, at para 154.

2.3 STRENGTHENING GLOBAL MANAGEMENT OF RESETTLEMENT IN UNHCR

Redoubling the search for durable solutions, including by expanding and making more efficient use of resettlement as called for by the Global Consultations and the *Agenda for Protection,* required UNHCR to increase its capacity to resettle refugees. The number of resettlement operations increased considerably, and in addition to developing policy guidance, UNHCR has strengthened its operational capacity and management of global resettlement activities.

The focus on multi-year planning, improvements in identification, increased capacity for resettlement processing, and the strengthened role of resettlement in comprehensive solutions strategies have all contributed to a significant increase in the identification and submission of persons in need of resettlement.

2.3.1 UNHCR-ICMC Resettlement Deployment Scheme

UNHCR established a deployment scheme in 1997 to increase its capacity to submit refugees for resettlement, and to provide an opportunity for skilled persons from NGOs to gain experience with a UNHCR resettlement field operation.

The deployment scheme offers an opportunity to bring experienced people from a variety of NGO and government backgrounds into the UNHCR organization, thus enhancing inter-organizational collaboration and expertise-sharing. Those deployed to a UNHCR field office increase their understanding of how the UNHCR resettlement programme functions, while UNHCR benefits from deployees' experience in community work in refugee-receiving and asylum countries.

The International Catholic Migration Commission (ICMC) has administered the deployment scheme since 1998, and has developed new tools to manage the scheme as it grows and changes over time. The deployment scheme is currently an important resource for UNHCR offices, enhancing their capacity to identify, assess, and submit resettlement cases.[15]

Although the formal status of persons working with UNHCR in resettlement may differ, throughout this Handbook, the term **"staff"** includes regular staff members, persons on temporary contracts, consultants, secondees, deployees and other affiliate workforce members, and staff of implementing partners specifically assigned to work with UNHCR.

[15] More information about the deployment scheme can be found at http://www.icmc.net/ and in Chapter 8 of this Handbook. Similar deployment schemes also exist to enhance the general capacity for protection work (Surge Protection Capacity Project), as well as to support refugee status determination (RSD) operations.

2.3.2 Structural developments

UNHCR has made a number of important structural changes, and has given increased attention to operational standards and safeguards to strengthen all stages of the resettlement process.

Upgrading and establishment of the Resettlement Service

In 2006, the Resettlement Section at Headquarters was upgraded to a Service, to improve the management of global resettlement activities and to reflect the important role of resettlement in UNHCR operations.

To ensure global coherence and consistency in resettlement delivery, UNHCR has strengthened its capacity to develop policy and provide regional oversight. UNHCR is thus better able to develop guidelines and operational tools to support field operations. Links within Headquarters, including between the Regional Bureaux, have also been strengthened, *inter alia*, by regular meetings that improve communication and coordination on policy and procedural developments and ensure that operational communications relating to resettlement activities are consistent.

Establishment of Regional Resettlement Hubs

Close coordination between UNHCR Headquarters and field offices is important for policy and operational purposes. UNHCR has established **Regional Resettlement Hubs** to improve coordination and planning in regions where the number of offices involved in resettlement, and the number of refugees resettled, have increased considerably.[16] These Regional Resettlement Hubs help manage the resettlement submissions on a regional basis and coordinate the implementation of global policies on a regional level, thereby ensuring greater consistency and transparency in the processing of resettlement. In addition, the Regional Resettlement Hubs reinforce the capacities of resettlement operations, a function that is particularly important for smaller country operations.

To facilitate coordination and provide a forum for planning, UNHCR holds annual regional strategic planning meetings on resettlement in each major region from where resettlement is undertaken. These meetings focus on issues and challenges that are specific to the regions concerned.

2.3.3 Operational tools

UNHCR has developed new tools to help the management of resettlement operations. It has streamlined identification and referral procedures, put in place an anti-fraud plan to enhance the credibility and reliability of processing, elaborated specific resettlement training programmes to strengthen staff

[16] Currently, there are two Regional Resettlement Hubs, also referred to as Regional Support Hubs: Nairobi (Kenya) and Beirut (Lebanon). There are also regional resettlement officers in Almaty (Kazakhstan), Bangkok (Thailand), Dakar (Senegal), Kinshasa (Democratic Republic of the Congo) and Pretoria (South Africa).

expertise, and increased the resources available for resettlement activities. UNHCR has also expanded its partnership arrangements with NGOs. These developments will be introduced in the operational chapters of this Handbook, where the stages of resettlement are discussed in greater detail. A few warrant mention here, however, due to their global nature: the global Baseline Standard Operating Procedures (SOPs), the *proGres* registration database, action to combat fraud, the *Heightened Risk Identification Tool* (HRIT) and the Emergency Transit Facilities.

Baseline Standard Operating Procedures (SOPs) on Resettlement

The Baseline Standard Operating Procedures on Resettlement[17] were developed by the Resettlement Service to ensure global standardization, transparency, and predictability in resettlement delivery, and to reinforce procedural safeguards to mitigate the risk of fraud. SOPs were previously developed independently by field offices, which presented considerable challenges in identifying gaps in service delivery. The global baseline SOPs set minimum standards against which all operations are measured, while still permitting office-specific procedures adapted to the size of the operation and the local situation. The baseline SOPs were introduced in the second half of 2007, but are continually updated and revised to reflect evolving resettlement policy developments.

proGres as a tool to manage resettlement

The *proGres* registration database was developed to help improve UNHCR registration standards and thus is not specifically a resettlement tool. However, when fully utilized, *proGres* is able to track information relating to individual refugees from the initial registration process until the implementation of the durable solution. By taking a comprehensive approach, it supports a wide range of UNHCR operations and situations, whether camp or urban based, from initial arrival and assistance provision, to refugee status determination, improved identification of specific needs, easy updating of changes in family composition, and transfer of data onto a Resettlement Registration Form (RRF). *proGres* also provides some useful safeguards against fraud by introducing biometrics to increase the security of registration documents, and providing the ability to conduct audit checks to assist with internal oversight. *proGres* is therefore a useful tool for the overall management of resettlement. *More detail on electronic records is provided in* ***Chapter 4.7.3***.

Combating fraud

Fraud and measures to prevent and address it have become serious concerns for both resettlement States and UNHCR. UNHCR developed a Resettlement Anti-fraud Plan of Action in 2004 in response to past experience of resettlement fraud which threatened the integrity of protection and resettlement activities.

[17] UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised 2011, (Internal) **http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html**

The Plan included the formulation of preventive strategies and tools to implement them from registration to resettlement processing; training and awareness-raising of UNHCR staff, implementing partners and refugees; and the development of policies related to the consequences of fraud. Anti-fraud measures have now been incorporated into the standard operating procedures for all resettlement operations. These safeguards reduce fraud, protect refugees from victimization, protect innocent staff from false allegations, and contribute to the overall credibility and effectiveness of UNHCR's resettlement activities. *Fraud safeguards are examined in more detail in* ***Chapter 4.4***.

Heightened Risk Identification Tool (HRIT)

The *Heightened Risk Identification Tool* (HRIT) was developed to enhance UNHCR's effectiveness in identifying refugees at risk by linking community-based and participatory assessments with individual assessment methods. The HRIT and accompanying User Guide have been designed to be used by UNHCR staff and implementing partners to identify individuals at risk who require immediate protection intervention. The tool has wide relevance and its use is not confined to the identification of refugees in need of resettlement. *More detail on the HRIT is provided in* ***Chapter 5.5.4***.

Emergency Transit Facilities

Threats of *refoulement* and other acute risks faced by refugees increasingly oblige UNHCR to resort to emergency resettlement, but the number of places available for "emergency" and "urgent" cases, and UNHCR's capacity to make emergency resettlement submissions, are both limited. Access to emergency resettlement is further restricted by procedural constraints such as security screening regulations, which delay decisions on admission to resettlement countries. There are also security situations or other specific contexts which prevent selection missions from resettlement States gaining access to refugees in the country of asylum. This combination of factors prolongs the stay of some refugees in some host countries and increases their exposure to protection risks.

To increase its capacity to provide protection, UNHCR has negotiated arrangements under which refugees may be evacuated temporarily to facilitate the processing for resettlement. Two models of temporary transit facilities have been established: an Emergency Transit Centre (ETC) model, as in Romania and the Slovak Republic, that have physical facilities for housing evacuated refugees, and an Emergency Transit Mechanism (ETM) such as that in the Philippines where there is no facility per se and where refugees are accommodated in a variety of types of housing. The term Emergency Transit Facility (ETF) is used to cover both situations.

The first tripartite agreement was signed in November 2008 by UNHCR, the Government of Romania and IOM. It established the Emergency Transit Centre (ETC) in Timisoara, which accepts a maximum of 200 persons at any given time. Similar agreements followed with the Philippines in 2009, for facilities in Manila, and, in 2010 with the Slovak Republic for facilities located in Humenné.[18]

[18] For more information on the figures, rationale and some of the challenges related to emergency

Evacuation to an ETF:

- provides timely and effective protection to an individual or group of individuals of concern to UNHCR;
- demonstrates a tangible form of responsibility and burden-sharing, enabling States not otherwise involved in emergency resettlement to accept cases from an ETF;
- provides access to groups of refugees whose asylum context prevented them from being processed for resettlement;
- enables refugees to live in a safe and secure environment, where services and assistance are available while they await for resettlement;
- offers resettlement countries a safe, stable location in which resettlement procedures such as interviews, cultural orientation courses and language classes may be conducted in optimal conditions;
- permits UNHCR, IOM, and Implementing Partners (IPs) to provide essential services and assistance to refugees coming from the most precarious situations, including refugees whose life, liberty or integrity are at risk in their first country of asylum;
- encourages States hosting ETFs to become involved in resettlement.

Active coordination of the overall evacuation process is required on the part of UNHCR field staff, ETF staff and Headquarters to ensure that emergency evacuation movements take place efficiently and in a predictable and systematic manner, minimizing unintended negative consequences.

Before an evacuation takes place, there usually must be agreement from a resettlement State to interview the refugees concerned, or to consider the case through a dossier review. This mitigates both the risk of refusal, and the danger that refugees may be stranded at the ETF, which could potentially jeopardize the entire process.[19] In exceptional circumstances refugees may be evacuated before a resettlement country has been identified. *Further information on the evacuation procedures is provided in Chapter 7.6.4.*

2.4 FURTHER EXPANDING THE RESETTLEMENT BASE

The number of resettlement countries has grown from the 10 "traditional" countries in the 1980s, to 25 countries that have established resettlement programmes, or have committed themselves to implementing programmes.[20]

resettlement, see UNHCR, *Information Note on Emergency Resettlement and the Use of Temporary Evacuation Transit Facilities*, 19 May 2010, http://www.unhcr.org/refworld/docid/4bf3adfb2.html

[19] Some Tripartite Agreements contain clauses that allow the host country to suspend the arrival of new cases if refugees in country remain too long without a solution. Under this suspension, no new refugees would be allowed to come to the ETF until the residual caseload drops to an agreed level.

[20] For more information on current resettlement trends and figures, see the *Resettlement Fact Sheet*, available from the Resettlement page under Durable Solutions on the UNHCR Intranet or *Frequently Asked Questions about Resettlement* from the Resettlement page on the UNHCR web site at http://www.unhcr.org

Resettlement States worldwide (as of December 2010)

Argentina, Australia, Brazil, *Bulgaria, Canada, Chile, the Czech Republic, Denmark, Finland, France, *Hungary, Iceland, Ireland, Japan (pilot programme), the Netherlands, New Zealand, Norway, Paraguay, Portugal, Romania, Spain, Sweden, United Kingdom, Uruguay, United States of America

* programme to be implemented as from 2012

Nevertheless, the overall number of resettlement or "quota" places that individual States provide has not kept pace with the number of refugees identified as in need of resettlement, or UNHCR's enhanced and predictable submission capacity.

UNHCR continues to pursue three parallel efforts to bridge the gap. These are:

- encouraging more countries to establish resettlement programmes (or to consider *ad hoc* resettlement submissions from UNHCR);
- requesting established resettlement countries to increase their existing (annual or multi-year) resettlement programmes; and
- prioritizing responses to resettlement needs and submissions, in light of the limited resettlement places available.

The ATCR forum has also played a crucial role in encouraging the expansion of the resettlement and providing support for new resettlement countries. Since the major push to expand the number of resettlement States in the late 90s, two major regional initiatives have encouraged more States to participate: the Latin American Solidarity Resettlement Programme and the proposal for a joint European Union resettlement programme.

2.4.1 Solidarity Resettlement Programme

In November 2004, on the 20th anniversary of the Cartagena Declaration on Refugees, the Mexico Plan of Action (MPA) was adopted by 20 Latin American Countries. The MPA is an innovative protection initiative for the region. Addressing both refugee and IDP movements, it focuses on urban settings and marginalized border areas. The MPA also gave new impetus to resettlement in the region through its Solidarity Resettlement Programme. Chile and Brazil had been resettling small numbers of refugees since 2002: they have increased their quotas, and have been joined by Argentina, Uruguay and Paraguay.

The main principles of the Programme are responsibility sharing, international solidarity and the promotion of the strategic use of resettlement in the region. Resettlement helps maintain an open space for asylum in the three countries which currently host the greatest number of asylum-seekers and refugees, namely Costa Rica, Ecuador, and Venezuela. The Solidarity Resettlement Programme concretely expresses the will of Latin American countries to support countries in the region hosting large number of refugees. The programme receives financial and technical support from established resettlement countries to consolidate the existing programme and to build the capacity of the new resettlement countries in Latin America.

2.4.2 European resettlement and the European Refugee Fund

UNHCR, governments and non-governmental actors have been working closely with the European Commission to encourage more European Union Member States to engage in refugee resettlement, and to encourage established European resettlement countries to increase the number of places available.

The European Commission's European Refugee Fund currently provides various forms of financial assistance to Member States that carry out resettlement, and allocates funds for the resettlement of specific categories of refugees.

These initiatives have supported the emergence of new resettlement countries in Europe including the Czech Republic, France, Romania, Portugal, Spain, Bulgaria, and Hungary. The overall number of European places, nevertheless, remains relatively low.

Essential reading

- UNHCR, *Refugee Resettlement. An International Handbook to Guide Reception and Integration*, September 2002, http://www.unhcr.org/refworld/docid/405189284.html
- UNHCR, *Protracted Refugee Situations*, 20 November 2008, UNHCR/DPC/2008/Doc. 02, http://www.unhcr.org/refworld/docid/492fb92d2.html
- UNHCR, *Protracted Refugee Situations. High Commissioner's Initiative*, December 2008, http://www.unhcr.org/refworld/docid/496f041d2.html
- UNHCR, *UNHCR Policy on Refugee Protection and Solutions in Urban Areas*, September 2009, http://www.unhcr.org/refworld/docid/4ab8e7f72.html
- UNHCR, *Progress report on resettlement*, 31 May 2010, EC/61/SC/CRP.11, http://www.unhcr.org/refworld/docid/4c5ac6942.html
- UNHCR, *UNHCR Projected Global Resettlement Needs 2011*, June 2010, http://www.unhcr.org/refworld/docid/4c5acc3e2.html

2.5 CURRENT RESETTLEMENT ENVIRONMENT AND CHALLENGES

History has shown that when the needs are compelling, and the political will exists, resettlement can be arranged quickly and efficiently. Recognizing the international community's renewed awareness of the strategic potential of resettlement, UNHCR has enhanced the positioning of this important tool within broader protection frameworks, and resettlement has become part of the operations of the majority of UNHCR offices throughout the world.

Renewed attention on resettlement has presented both opportunities and challenges.

Shrinking protection space, shrinking humanitarian space, decline in availability of durable solutions

Resettlement must always be considered within the overall protection context, where there are major challenges. The climate for international protection continues to be restrictive in many ways, posing contemporary challenges and impacting the search for durable solutions including resettlement. During the past decade, the number of internally displaced persons (IDPs) has increased considerably, and there has been no reduction in the overall number of refugees, reflecting a decrease in the availability of durable solutions.[21]

Refugees and asylum-seekers are indiscriminately affected by measures introduced since the 1980s to control irregular migration, making asylum seeking and, irregular migration highly politicized and shrinking the overall protection space. These measures include more extensive border monitoring, posting liaison and "interdiction" officers abroad, stricter visa regimes, and carrier sanctions. As the options for regular arrival have reduced, refugees have increasingly relied on smugglers and traffickers to cross borders. UNHCR has highlighted concerns that measures to control or manage migration should include special safeguards for refugees and asylum-seekers to access territory and asylum procedures.

The international humanitarian space itself is also shrinking, as ongoing conflict, insecurity and instability in entire regions in Africa, Asia and the Middle East hinder access to UNHCR's persons of concern, and endanger those delivering humanitarian assistance.[22]

The possibility of resettlement creates high expectations among many refugees whose status or safety is insecure. Action to expose fraud, slow-moving processes, delayed departures or rejected resettlement applications can also put the safety of UNHCR and partner staff in the field at risk.

In many refugees' countries of origin, successful return and reintegration have been hindered by stalled or failed peace processes, the presence of landmines, insufficient registration, inadequate reception capacity, and shortages of services and livelihood opportunities. As per UNHCR's 2009 Global Trends report, only 251,500 refugees voluntarily returned to their country of origin with UNHCR support in 2009, less than half the number from 2008, and the lowest number since 1990.[23]

Host country economic difficulties, coupled with social and political factors have rendered the realization of full self-sufficiency a challenging prospect in many parts of the world, although local integration has emerged as a viable solution

[21] According to the UNHCR, *2009 Global Report* (p. 17), "At the beginning of 2009, there were more than 36 million people of concern to UNHCR (the highest figure on record), including some 10.4 million refugees. The number of people displaced within their own country as a result of conflict grew to an estimated 26 million, with 15.5 million of them benefiting from UNHCR protection and assistance." http://www.unhcr.org/gr09/index.html

[22] For a more detailed discussion of current protection trends, see UNHCR, *Note on international protection : report /by the High Commissioner*, 30 June 2010, http://www.unhcr.org/refworld/docid/4caaeabe2.html

[23] UNHCR, *2009 Global Trends*: *Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons*, June 2010, http://www.unhcr.org/refworld/docid/4caee6552.html

for some refugees in Africa.[24] With the lack of voluntary repatriation and local integration opportunities, the need for resettlement is growing.

Gap between resettlement needs and resettlement places

There has been considerable expansion both in the number of resettlement places available and the number of departures since the mid 1990s.

However, despite the welcome addition of new resettlement countries, the overall number of places for resettlement has not kept pace with the increased resettlement need. In 2010 UNHCR estimated that over 800,000 refugees are in need of resettlement over the next several years. With only approximately 80,000 places available annually, there is a huge gap of vulnerable refugees without a solution.[25] UNHCR and existing resettlement partners continue to explore further opportunities to bridge the gap.

Concerns related to security

Security concerns have also come to the forefront, particularly since the terrorist attacks of 11 September 2001 in the United States of America. In response to concerns about terrorism, some States are interpreting and applying the definition of a refugee more restrictively, particularly with respect to the exclusion clauses. In the resettlement context, security concerns and domestic political pressures have also contributed to lengthening processing times and reducing options for certain refugee populations.

Fraud in the processes

Refugee status and resettlement places are valuable commodities, particularly in countries with acute poverty, where the temptation to make money by whatever means is strong. This makes the resettlement process a target for abuse. UNHCR has taken a strong stand to combat fraud and corruption to preserve the integrity of resettlement, and has put in place sanctions for refugees who perpetrate resettlement fraud.[26] The possibilities for abuse are not, however, a reason for reducing resettlement where the need for it persists.

Integration concerns

For resettlement to be truly a durable solution, resettled refugees require support to integrate into their new communities. Ensuring that the refugees they

[24] The United Republic of Tanzania naturalized 162,000 Burundians as part of the comprehensive solution to this refugee situation. A further 53,600 Burundian refugees opted to repatriate with the help of UNHCR.

[25] In 2009, 84,657 refugees departed to 24 countries of resettlement, the largest number since the early 1990s. For statistics and needs projections, see UNHCR, *UNHCR Projected Global Resettlement Needs 2011*, June 2010, http://www.unhcr.org/refworld/docid/4c5acc3e2.html and subsequent annual updates.

[26] See UNHCR, *Policy and Procedural Guidelines: Addressing Resettlement Fraud Perpetrated by Refugees*, March 2008, http://www.unhcr.org/refworld/docid/47d7d7372.html

resettle integrate effectively remains a major focus for resettlement States, and developing their structural capacity to receive refugees remains a challenge for some of the newer resettlement countries.

UNHCR has sought to draw the attention of States to the specific integration needs of resettled refugees, and to encourage integration programmes that focus on a two-way exchange to create welcoming communities and foster positive integration. Negative public attitudes towards persons of concern threaten the protection environment and increase difficulties for UNHCR to secure resettlement places for refugees from certain regions. Racial discrimination and related intolerance are common causes of flight which can also put refugees at risk at subsequent stages of the displacement cycle, including during integration into their new resettlement community.[27]

Managing resettlement effectively

Effective management of resettlement requires the active collaboration of many actors, including host countries, resettlement States, NGOs and other partner organizations, and the refugees themselves.

However, any collaboration has its challenges. While host country governments are generally supportive, some have imposed restrictions that limit the access of UNHCR and resettlement countries to refugees, hamper the departure of refugees and generally undermine resettlement country processing.

Discriminatory selection criteria adopted by some resettlement States can limit the access to resettlement for refugees most at risk, and have a negative impact overall on the global resettlement programme. The processing times for resettlement cases remains long and unpredictable, which has a particularly adverse impact on emergency and urgent cases. Restrictions and delays at any stage of the process can undermine effective protection.

UNHCR and resettlement partners continue to strive to overcome these challenges through improved cooperation and multi-year planning, strengthened partnerships to improve protection delivery, and more efficient processing.

Further reference

- UNHCR, *Frequently Asked Questions about Resettlement*, September 2009, http://www.unhcr.org/refworld/docid/4acod7e52.html
- UNHCR, *Note on international protection: report /by the High Commissioner*, 30 June 2010, http://www.unhcr.org/refworld/docid/4caaeabe2.html
- UNHCR, *2009 Global Trends*: *Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons*, June 2010, http://www.unhcr.org/refworld/docid/4caee6552.html
- UNHCR, *Progress report on resettlement*, 31 May 2010, EC/61/SC/CRP.11, http://www.unhcr.org/refworld/docid/4c5ac6942.html

[27] UNHCR, *Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance through a Strategic Approach*, IOM/067/2009 – FOM/066/2009, 21 December 2009, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4b30941e2.html

CHAPTER THREE

CHAPTER THREE
REFUGEE STATUS AND RESETTLEMENT

Introduction

Determination as a refugee under UNHCR's mandate, with very few exceptions, is a precondition for resettlement consideration.

Normally, a decision on the refugee status of an individual should already have been made before durable solutions, including resettlement, are considered. However, there may be a need to review and clarify this decision before resettlement is pursued. In practice, resettlement and other protection staff need to cooperate closely to ensure that individuals have been determined to be refugees, be it individually or *prima facie* as a group, that exclusion factors have been carefully considered, and that cases have been adequately documented before resettlement is pursued.

Refugee status determination (RSD) procedures: Legal and administrative procedures undertaken by States and/or UNHCR to determine whether an individual is considered a refugee in accordance with national and international law.

Purpose

The purpose of this chapter is to provide an overview of:

- the significance of refugee status determination to resettlement;
- refugee status eligibility and key elements of the refugee criteria;
- exclusion clauses and their application; and
- characteristics of a good legal analysis of eligibility for refugee status.

Chapter 5 will discuss the identification of resettlement as the most appropriate durable solution.

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3.1 REFUGEE STATUS AS A PRECONDITION FOR RESETTLEMENT CONSIDERATION

Preconditions for resettlement consideration

- the applicant is determined to be a refugee by **UNHCR;*** and
- the prospects for all durable solutions were assessed, and resettlement is identified as the most appropriate solution.

* Exceptions can be made for non-refugee stateless persons for whom resettlement is considered the most appropriate durable solution, and also for the resettlement of certain non-refugee dependent family members to retain family unity.

Resettlement under the auspices of UNHCR is only available to mandate refugees who have a continued need for international protection. It is essential to ensure that each individual referred for resettlement has been determined to fall under UNHCR's mandate.

The few exceptions to the precondition of refugee recognition are non-refugee stateless persons, and certain dependent non-refugee family members of refugees. In the family context, including in cases of family reunification under resettlement provisions, it suffices that one family member has been determined to be a refugee under UNHCR's mandate.

3.1.1 Convention status and mandate status

Refugee status at the universal level is governed by the 1951 *Convention Relating to the Status of Refugees* (hereafter the 1951 Convention) and its 1967 Protocol. States parties to the 1951 Convention have assumed specific obligations towards refugees, including establishing procedures to identify who is a refugee and is therefore entitled to rights and protections afforded under the 1951 Convention.

The assessment as to who is a refugee, i.e. the determination of refugee status under the 1951 Convention, is incumbent upon the Contracting State to which the refugee submits an application for refugee status. States therefore have the primary responsibility for determining the status of individuals who arrive on their territory, and in particular for determining whether an individual is a Convention Refugee entitled to international protection.

However, UNHCR may also under certain circumstances conduct refugee status determination (RSD) under its mandate to identify persons of concern.[1] Recognition under UNHCR's mandate has a vital protection function and is the precondition to implementing durable solutions, including resettlement.

[1] Besides asylum-seekers and refugees, "persons of concern to UNHCR" also include returnees, stateless persons and, under certain circumstances, internally displaced persons.

Situations where UNHCR has conducted refugee status determination

- in States that are not party to the 1951 Convention or the Protocol;
- in States that are party to the 1951 Convention but have not established asylum procedures;
- in States that are party to the 1951 Convention but retain the geographic limitation thereby denying some access to their asylum procedures; and
- when UNHCR has assessed serious shortcomings in the State's asylum procedure such that refugees are unlikely to obtain the protection they need, either because they are not recognized, or because recognition does not entail the protection it should.

UNHCR therefore may need to conduct refugee status determination under its mandate to address protection gaps.

3.1.2 Statelessness determination

Although the 1954 *Convention Relating to the Status of Stateless Persons*[2] sets out a definition of a stateless person and prescribes the treatment they should be afforded, there has been little attention paid to the development of dedicated procedures for determining whether a person is stateless.

For stateless persons, whether they are migrants or present in their "own country", an effective determination procedure presents an opportunity for recognition of their rights and a reprieve from a legal limbo that can take the form of prolonged irregular status or detention. Moreover, it gives them a chance for a durable solution, whether this takes place locally or through admission (or readmission) to another state.[3]

Stateless individuals in a migratory situation may, however, simultaneously be found to be refugees when assessed under the same status determination procedures. If a stateless person is simultaneously a refugee, he or she should be protected according to the higher standard which in most circumstances will be international refugee law, not least due to the protection from *refoulement* in Article 33 of the 1951 Convention.

Stateless persons not found to be refugees under the refugee status determination procedures nevertheless can be considered for resettlement, but there must be careful negotiation with the prospective resettlement country. *Further guidance is provided in* *Chapter 7.2.2*.

[2] UN General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations Treaty Series, vol. 360, p. 117, http://www.unhcr.org/refworld/docid/3ae6b3840.html

[3] UNHCR, *Expert Meeting - Statelessness Determination Procedures and the Status of Stateless Persons (Summary Conclusions)*, December 2010, http://www.unhcr.org/refworld/docid/4d9022762.html

3.1.3 Mandate refugee status and resettlement

Although UNHCR applies both the 1951 Convention definition and the broader refugee definition when examining eligibility for refugee status, UNHCR staff seek to identify the basis for eligibility under the 1951 Convention wherever possible. This is critical as many States, including resettlement States, do not accept obligations towards refugees who do not meet the 1951 Convention criteria, and in practice, it may be more challenging for UNHCR to protect and assist refugees recognized under the broader refugee definition.

Refugees recognized by UNHCR pursuant to its mandate can be considered for resettlement, but it is also important to be aware that many resettlement States restrict their resettlement programmes to refugees recognized under the 1951 Convention. Therefore, the prospects for resettlement are, in reality, often more limited for refugees recognized by UNHCR under one of the broader refugee definitions.

Mandate refugees *prima facie*

Refugee status must normally be determined on an individual basis, but situations often arise in which large populations have been displaced under circumstances indicating that most members of the population could be considered individually as refugees. In such situations, the need to provide protection and assistance is often extremely urgent and it may not be possible for purely practical reasons to carry out an individual determination of refugee status for each member of that population. Recourse is therefore made to **group determination of refugee status**, whereby each member of the population in question is regarded *prima facie* (in the absence of evidence to the contrary) as a refugee. In other words, the presumption is that individual members of the population concerned would be considered as refugees in need of international protection.

For example, the widespread violence associated with the conflict in Iraq triggered massive flight, and in 2007 UNHCR's operations in several countries in the region adopted procedures under which asylum-seekers from south and central Iraq were recognized on a *prima facie* basis following a more detailed registration to identify immediate protection needs as well as possible exclusion triggers.

Substantiating the *prima facie* recognition

In situations where resettlement is considered for persons who have been recognized as refugees on a *prima facie* basis UNHCR in the past has held the position that it usually would be necessary to conduct an assessment of individual eligibility for refugee status. However, many resettlement countries have in practice accepted resettlement submissions from UNHCR on behalf of refugees recognized on a *prima facie* basis.

Therefore **it may be sufficient for UNHCR offices in their resettlement submissions to simply substantiate the *prima facie* recognition** rather than elaborate individual basis for eligibility for refugee status, provided the refugee

cases do not show evident exclusion elements. Toward this end the Convention ground(s) relevant for the group recognition, and the objective situation in the country of origin which supports considering a group as mandate refugees *prima facie*, could be referred to in standard paragraphs included with the submission.

The Programme of Action under the *Agenda for Protection* supports this policy approach in calling upon "States to examine how more flexible resettlement criteria could be applied with regard to refugees recognized on a *prima facie* basis in mass displacement situations to which Article 1 F does not apply…" and in promoting the expansion of resettlement opportunities particularly through "*Asking States that offer resettlement opportunities to consider increasing their resettlement quotas diversifying their intake of refugee groups and introducing more flexible resettlement criteria*."[4] Elsewhere "*resettlement countries are encouraged to harmonize their resettlement criteria with UNHCR's mandate to allow for due consideration of the unique circumstances and resettlement needs of prima facie refugees*."[5]

In other contexts resettlement submissions regarding refugees recognized *prima facie* do require an individual examination to reaffirm refugee status and to document in greater detail the basis of refugee status recognition. This examination, however, does not represent individualized refugee status determination. The procedures to reaffirm individual elements of the claim of refugees recognized *prima facie* will differ from the formal refugee status determination process to determine eligibility for refugee status. Nevertheless the substantive and due process principles that apply to the examination of eligibility for refugee status are also relevant in resettlement interviews to draw out and elaborate the individual elements of the claim for refugees recognized on a *prima facie* basis.

Continued need for protection

Resettlement is limited to those who do not have a durable solution, and who therefore have a continued need for international protection.

UNHCR's annual protection assessments include a review of the continued need for protection of refugee populations recognized as such on a *prima facie* basis, and the appropriateness of resettlement consideration is a component of the overall protection strategy for each operation. This includes ascertaining whether the objective situation in the country of origin continues to expose individual members of the group to danger or other serious consequences, for reasons relevant to the refugee criteria, in the event they return to their home country.

3.1.4 Separation of RSD from resettlement as a safeguard

Refugee status determination should not normally be undertaken by resettlement staff, but rather by protection or eligibility staff, partially as an additional

[4] See *Agenda for Protection*, Goal 3, Objective 6, and Goal 5, Objective 5, Action 4.

[5] UNHCR, *Global Consultations on International Protection/Third Track: Strengthening and Expanding Resettlement Today: Dilemmas, Challenges and Opportunities*, 25 April 2002, EC/GC/02/7, http://www.unhcr.org/refworld/docid/3d62679e4.html

safeguard against fraud and abuse. However, resettlement staff are responsible for ensuring that Resettlement Registration Forms (RRFs) are accurate and of a high standard in respect to the refugee(s) concerned. Understanding what constitutes a quality assessment of refugee status is thus imperative, as it allows staff to follow up properly with protection or eligibility staff whenever any doubts or questions arise.

Maintaining high quality refugee status determination procedures is essential for UNHCR's credibility with States and NGOs, and ultimately for the availability of durable solutions for refugees who are recognized by UNHCR. Through the Resettlement Registration Forms (RRFs) submitted to resettlement countries, governments have the opportunity to closely scrutinize and assess the quality and thoroughness of UNHCR refugee status determination.

Tools for understanding the refugee definition

Making these assessments requires a detailed understanding of each specific criterion of the refugee definition, the exclusion provisions, as well as standards of proof and the basis on which a credibility evaluation should be made. The *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and 1967 Protocol Relating to the Status of Refugees*[6] remains one of the most authoritative texts on the interpretation and application of the 1951 Convention inclusion criteria, and has been complemented by more detailed guidance in the series of *Guidelines on International Protection* ("GIP") and other guidance notes on specific eligibility issues. See the essential reading section of this chapter for a list of the GIP and other guidance notes.

A standard *UNHCR RSD Assessment Form*[7] has been developed to provide a standard structure for the analysis of the main elements of the decision. The form is designed to assist eligibility officers to address each of the relevant substantive issues and to present the relevant facts and reasons for their decision in a structured and consistent manner.

3.1.5 Derivative status related to family reunification

Family members and dependants seeking reunification with a resettled refugee may be considered for derivative status in accordance with their right to family unity.[8] Claims for derivative refugee status should be assessed by protection or eligibility staff, as they involve a detailed examination of all available documents and other information regarding the applicant's identity and dependency.

[6] UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, 1979, re-edited version January 1992, http://www.unhcr.org/refworld/docid/3ae6b3314.html

[7] UNHCR, *UNHCR RSD Assessment Form (Annotated)*, 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4acf37b72.html

[8] For further guidance on derivative status, see UNHCR, *Procedural Standards for Refugee Status Determination Under UNHCR's Mandate*, 20 November 2003, Unit 5, http://www.unhcr.org/refworld/docid/42d66dd84.html

Although individuals who obtain derivative refugee status enjoy the same rights and entitlements as other recognized refugees, family members who are determined to fall within the criteria for refugee status in their own right should be granted refugee status rather than derivative refugee status. Identifying an independent claim is important for the identification of protection needs, and in the context of resettlement may be crucial to ensuring that adult dependants are accepted by a resettlement State.[9]

However, the determination of derivative status is often key to facilitating family reunification for dependants of refugees who have been resettled. After the determination of derivative refugee status has been made by protection staff, resettlement staff may provide assistance with the processing under a resettlement State's family reunification programme, or consider the case for a resettlement submission as appropriate. *See Chapter 5.1.2 and Chapter 6.6 for more guidance.*

3.2 WHO IS A REFUGEE? REFUGEE STATUS DETERMINATION UNDER UNHCR's MANDATE

In the words of a renowned expert on international refugee law, the purpose of defining who is a refugee is in fact "*to facilitate, and justify, aid and protection.*"[10] The term "protection" also, of course, encompasses finding a durable solution.

Two categories of persons may be refugees within UNHCR's international protection mandate:

3.2.1 Refugees within Article 1A (2) of the 1951 Convention

The refugee definition contained in the 1951 Convention forms the core of the eligibility criteria for mandate refugee status. Pursuant to Article 1A (2) of the 1951 Convention, the term "refugee" shall apply to:

> *"a person who... owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group or political opinion, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or unwilling to return to it."*

3.2.2 Refugees under the broader refugee definition

UNHCR's mandate to protect refugees also extends to persons who are affected by the indiscriminate effects of armed conflict or other "man-made disasters", including, for example, foreign domination, intervention, occupation

[9] Whereas UNHCR includes all dependants on a single RRF, reflecting UNHCR's inclusive definition of a family, some resettlement States split off adult dependants onto their own cases, and require all applicants to have an individual refugee claim.

[10] See G.S. Goodwin-Gill, *The Refugee in International Law*, 2nd edition, 1996, Oxford University Press, 4.

or colonialism. In addition to individuals who meet the criteria in the 1951 Convention definition, UNHCR recognizes as refugees, those who are:

> *"outside their country of origin or habitual residence and unable to return there owing to serious and indiscriminate threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order."*

The group of persons who may be refugees under UNHCR's international protection mandate is similar to those categories covered by the refugee definitions incorporated in regional refugee instruments, which provide for broadened refugee definitions to address the specific protection problems of the African and Latin American regions. It is important that eligibility staff in countries which apply these definitions are familiar with them.

3.2.3 Refugee definitions in regional instruments

1969 OAU Convention Governing Specific Aspects of the Refugee Problems in Africa (the "OAU Convention") – Article 1[11]

(i) For the purpose of this Convention the term "refugee" shall mean every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or, owing to such fear, is unwilling to return to it.

(ii) The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

1984 Cartagena Declaration – Conclusion No. 3[12]

"... the definition or concept of refugee to be recommended for use in the region is one which, in addition to containing the elements of the 1951 Convention and the 1967 Protocol, includes among refugees persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order".

In most cases where eligibility under the broader refugee definition is relevant, UNHCR offices will have received direction from Headquarters regarding the

[11] Organization of African Unity, *Convention Governing the Specific Aspects of Refugee Problems in Africa ("OAU Convention")*, 10 September 1969, 1001 U.N.T.S. 45, http://www.unhcr.org/refworld/docid/3ae6b36018.html

[12] *Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*, 22 November 1984, http://www.unhcr.org/refworld/docid/3ae6b36ec.html

characterization of events in the region concerned and the impact that these events are deemed to be having upon the populations affected. This is usually provided through **eligibility guidelines**, which are prepared to promote a common understanding of the objective country conditions and a harmonized approach to the status determination of individuals from the countries concerned.[13]

3.2.4 How does UNHCR determine refugee status?

When assessing whether an applicant meets the inclusion criteria for mandate refugee status, UNHCR's eligibility officers should consider:

- whether the individual concerned falls within the criteria for inclusion set out in the refugee definition of the 1951 Convention; and, if this is not the case,
- whether he/she meets the criteria of the broader refugee definition under UNHCR's mandate.

Establishing as a first step whether these criteria are met is important, since recognition as a refugee within the meaning of the 1951 Convention definition may in practice provide a more secure status than recognition as a refugee under UNHCR's broader decision. States (particularly those who are not bound by relevant regional refugee instruments) may not necessarily accept any obligation towards those who do not fall within the Convention criteria, and it is therefore often more difficult for UNHCR to ensure international protection or to find durable solutions in such cases.

Only if it has been established that an applicant does not meet the eligibility criteria of the 1951 Convention definition should UNHCR proceed to consider whether he/she comes within the wider category of persons who are also refugees under UNHCR's mandate.

UNHCR's protection responsibilities for refugees recognized under the Office's mandate are the same as for Convention refugees, and refugee status accorded on that basis should not be viewed as "secondary" or "subordinate". Similarly, UNHCR's international protection responsibilities towards *prima facie* refugees are the same as for those whose refugee status has been determined individually.

3.3 THE REFUGEE DEFINITION OF THE 1951 CONVENTION

Article 1A(2) of the 1951 Convention sets forth the so-called inclusion criteria of the refugee definition, that is, those elements which must be met for an asylum-seeker to qualify as a refugee under this Convention, provided that none of the exclusion clauses contained in Article 1D, 1E or 1F are applicable to him/her. The following sections briefly consider these criteria one by one. Further details can be found in the *Handbook on Procedures and Criteria for Determining Refugee Status* and in relevant guidelines.

[13] See for example UNHCR, *UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia*, 5 May 2010, HCR/EG/SOM/10/1, http://www.unhcr.org/refworld/docid/4be3b9142.html

3.3.1 Outside the country of nationality or habitual residence

A person can only be a refugee if he/she is outside his/her country of nationality, or for those who are stateless, outside their country of habitual residence. This is a factual issue, which is to be established on the basis of documents, statements or any other information submitted by the applicant or obtained from other sources.

Persons who have more than one nationality must establish a well-founded fear of persecution with respect to each of the countries concerned in order to qualify for refugee status. However, this requirement applies only if the applicant's second nationality actually carries with it the full range of rights normally enjoyed by citizens of the country concerned.

The 1951 Convention does not require that a person's departure from his/her country of origin or habitual residence was caused by a well-founded fear of persecution. Grounds for recognition as a refugee may arise when the individual concerned is already out of the country – in such situations, the person may become a refugee while being in the host country ("*sur place*").

3.3.2 Well-founded fear

The indicators for assessing whether the fear is well-founded include the applicant's personal circumstances (background, experiences, personality, family history, etc.) and the objective situation in the country of origin (social/political conditions, human rights records, legislation, etc). Reliable country-of-origin information is essential for eligibility staff, both to understand the applicant's personal circumstances and to assess the well-foundedness of his/her fears. Experiences of family members and/or other persons with a comparable profile may also be relevant.

If the perpetrator of the harm feared is a non-State agent, the willingness and ability of the State to protect the applicant should also be considered. A State may be unable to extend meaningful protection to its citizens in time of war, or other grave disturbance or in contexts where the State does not exercise control over a certain part of the territory.

The applicant's fear can be considered well-founded if there is a **reasonable possibility** that he/she would face some form of harm or predicament if returned to the country of origin or habitual residence. In general, eligibility for refugee protection under the 1951 Convention requires a current or future fear of persecution. The applicant must not necessarily have suffered persecution in the past, but if it is established that this has happened, it may normally be assumed that there continues to be a risk of persecution in the future.

3.3.3 Persecution

The concept of "persecution" is not defined in the 1951 Convention or in any other international instrument. From Article 33 of the 1951 Convention it can be inferred that a **threat to life or physical freedom** constitutes persecution, as would other **serious violations of human rights**. The preamble to the 1951 Convention refers to international human rights standards, which all persons, regardless of their nationality, enjoy. The 1948 *Universal Declaration of Human Rights* (UDHR)[14] set out a list of fundamental rights which should be universally respected, and the 1966 *International Covenants on Civil and Political Rights* (ICCPR),[15] and on *Economic, Social and Cultural Rights* (ICESCR)[16] codified these in legally binding form. A series of other human rights instruments have built on and developed these standards to address specific categories of rights.

Threshold of persecution

Not every violation of an applicant's human rights or instance of discrimination or harassment is serious enough to be considered persecution. Discrimination, in particular, can constitute persecution if it is **linked to a protected right** (such as, for example, freedom of religion), or if there has been a persistent pattern of discrimination – provided this reaches a certain level of seriousness for the particular individual. The threshold of persecution is clearly met if the applicant's enjoyment of fundamental human rights – for example, access to the basic means of survival – is seriously restricted. Moreover, discriminatory measures which, taken separately, would not amount to persecution, may on aggregate render the situation for the applicant intolerable. This would be considered persecution on "**cumulative grounds**".

However, "persecution" is not limited to human rights abuses. It also encompasses other kinds of **serious harm or intolerable predicament**.

When assessing whether a particular treatment or measures amount to persecution, decision makers consider it/them in light of the opinions, feelings and **psychological make-up of the applicant**. The same act may affect people differently depending on their previous history, profile and vulnerability. In each case, decision makers must determine in light of all the specific individual circumstances whether or not the threshold of persecution is reached.

Circumstances not amounting to persecution

Certain circumstances do not amount to persecution. Thus, for example, persons who fear natural disasters are not refugees, unless they also have a well-founded fear of persecution for one of the reasons set out in the 1951 Convention

[14] UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), http://www.unhcr.org/refworld/docid/3ae6b3712c.html

[15] UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, http://www.unhcr.org/refworld/docid/3ae6b3aao.html

[16] UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, http://www.unhcr.org/refworld/docid/3ae6b36co.html

definition (discussed below). Likewise, persons who leave their countries solely to improve their economic situation are not refugees, although as noted above, severe economic restrictions which deprive a person of all means of earning a livelihood can amount to persecution.

Who is the persecutor?

In many cases, persecution originates directly from the government, through official agents, such as police, army or civilian administrators. In other cases, it may be carried out by groups that, although formally separated from the government structure, act at the instigation or with the consent of the government, such as death squads, militias and paramilitary forces. Persecution may also originate from *de facto* authorities and may even occur at the hands of private citizens or people not connected with the authorities. In such cases, the decisive question is whether or not the authorities are able and/or willing to provide protection to the individuals concerned.

3.3.4 1951 Convention grounds – the "nexus" requirement

The refugee definition in the 1951 Convention specifies that a person may qualify for refugee status under its terms only if he/she fears persecution **"for reason"** of one or more of the **five grounds** listed in Article 1A (2). This link is often referred to as the "nexus" requirement. It is satisfied if the Convention ground is a relevant factor contributing to the persecution – it does not have to be its sole or even dominant cause.

In practice, more than one Convention ground may apply, for example if a member of a particular religious or ethnic group is also a political opponent. The link between the fear of persecution and the relevant Convention ground is also present where the authorities mistakenly impute a particular belief (e.g. religion or political opinion) or attribute a characteristic (e.g. homosexual) to the individual concerned. Neutrality may also form the basis of a refugee claim, for example in the context of a civil war, as a person who remains neutral in such circumstances may be perceived by either side as a political opponent, which in turn may result in his/her persecution.

The UNHCR *Guidelines on Gender-Related Persecution* provide detailed guidance on examining gender-related claims in light of the five grounds contained in the 1951 Convention.[17] The Guidelines emphasize that gender-related claims may fall within any of the five grounds. Examination of these claims should not therefore be limited to the ground of "membership of a particular social group". The challenge for decision makers in this respect is to understand the way in which gender fits into each of the five grounds. When analyzing gender-related claims, for example, there is a need to consider that certain acts and situations affecting women, that often appear purely private and personal, may in reality be *profoundly political* and should therefore be considered under the ground "political opinion".

[17] UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01, http://www.unhcr.org/refworld/docid/3d36f1c64.html

Race

"Race" should be broadly interpreted as any kind of distinctive ethnic characteristic, whether real or perceived. Minority groups are more likely to be persecuted than majorities, but this is not always the case: for example, in apartheid South Africa, the racial majority was oppressed by the minority. Men and women in "mixed" marriages, in which each spouse comes from a different ethnic or racial background, may face problems which in some cases may amount to persecution. In such cases, it is particularly important to understand the underlying social context. Another form of persecution which is frequently based on race is denial of citizenship, and the loss of rights which this entails.

Religion[18]

As noted above, freedom of religion is a fundamental human right. It includes the right to have or not to have a religion, to practice one's religion, and to change religions. "Religion" as a 1951 Convention ground refers not only to the established institutionalized religions; it covers any system of belief – that is, convictions or values about a divine or ultimate reality, or the spiritual destiny of mankind. Claims for refugee status on this basis may involve elements related to religious belief (or the fact of not having a belief), religious identity or religion as a way of life. Examples of persecution for reason of religion include the following:

- restrictions on the exercise of religious freedom, for example, prohibition of membership in a religious community or of religious instruction;
- serious discrimination because of religious practice or membership in a given religious community;
- forced conversion, or forced compliance or conformity with religious practices, provided that such measures have a sufficiently serious impact on the individual concerned.

Nationality

"Nationality" as a ground for refugee status does not only refer to "citizenship", but also extends to groups of people defined collectively through their real or perceived ethnic, religious, cultural or linguistic identity, regardless of whether this difference has been formalized legally.

Persons who are stateless – that is, without a nationality in its more limited sense of "citizenship"' – may be refugees if they have been denied citizenship on the basis of one of the five 1951 Convention grounds, or if they have a well-founded fear of persecution on one of the Convention grounds in the country of habitual residence.

[18] Detailed guidance on the examination of claims for refugee status based on religion can be found in UNHCR, *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, 28 April 2004, HCR/GIP/04/06, http://www.unhcr.org/refworld/docid/4090f9794.html

Membership of a particular social group[19]

This Convention ground applies where an applicant belongs to a group of persons who share a common characteristic other than the risk of being persecuted. This characteristic is one which is:

- **innate** – such as sex, race, caste, kinship, ties, linguistic background, or sexual orientation;
- **unchangeable** – for example, because it relates to the individual's past history, such as former military officer, former trade union member, or former landowner; or
- **otherwise fundamental** to identity, conscience or the exercise of one's human rights, such that the person should not be expected to change or reject it.

The group must be set apart in some way from others, either because it sees itself as being different, or because it is perceived as such by the persecutor. It is not dependent on whether the members of the group know each other and associate together, nor is it necessary that it be a small group – thus, for example, there may be situations in which it is appropriate to recognize "women" generally as a particular social group.

Claims related to sexual orientation, gender identity and expression are also appropriately recognized under the 1951 Convention ground "membership of a particular social group," although individual cases may also be recognized under other grounds.

One of the most visible examples of a particular social group is the family. Claims for refugee status may arise, for example, where family members of political activists or opposition fighters are targeted for persecution as a means of punishing the latter or forcing them to surrender or cease their activities.

Gender as a factor in the determination of the claim

"Gender-related persecution" denotes quite a varied set of possible claims. These claims may typically include acts of sexual violence, family violence, coerced family planning, female genital mutilation, sexual orientation, etc. These types of claims may mix forms of persecution (e.g. persecution effected through sexual violence) with reasons for persecution (e.g. persecution because of deviation from attributed gender's role). What is common amongst them is the fact that gender is a relevant factor in the determination of the claims.

For further guidance see UNHCR *Guidelines on Gender-Related Persecution*.[20]

[19] A detailed analysis of the applicability of this Convention ground is contained in UNHCR, *Guidelines on International Protection No. 2: "Membership of a Particular Social Group" Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/02, http://www.unhcr.org/refworld/docid/3d36f23f4.html. See also UNHCR, *UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*, 21 November 2008, http://www.unhcr.org/refworld/docid/48abd5660.html

[20] UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01, http://www.unhcr.org/refworld/docid/3d36f1c64.html

Political opinion

The concept of "political opinion" as a ground for recognition as a refugee should be interpreted in a broad sense, as encompassing any opinion concerning matters on which the machinery of the state, government or society is engaged. It goes beyond identification with a specific political party or recognized ideology, and may include, for example, an opinion on gender roles. The mere fact of holding a political opinion which is different from that of the government is not in itself a ground for claiming refugee status. The key question is whether the applicant holds – or is perceived to hold – opinions which are not tolerated by the authorities or by the community, and whether he/she has a well-founded fear of persecution for this reason.

3.3.5 Internal flight or relocation alternative

If the applicant's fear of persecution emanates from non-State actors and is confined to a specific part of the country, outside of which the feared harm cannot materialize, it may be appropriate to assess whether he/she would have a possibility of finding protection elsewhere in the country of origin. This is known as the "internal flight or relocation alternative". Where it exists, the applicant may not be eligible for international refugee protection. Guidance on this subject can be found in UNHCR's *Guidelines on International Protection: "Internal Flight or Relocation Alternative*.[21]

Claims of children should also be considered in light of the 1951 Convention grounds. In particular, it is important to note that children may also have political opinions, though these may be manifested differently from the opinions of adult men and women in the society. In this particular respect, it is important to note that children may not have a subjective fear (because of their age and lack of maturity). This, however, would not impact upon their need for protection provided that the objective element of fear is present.[22]

3.4 ELIGIBILITY UNDER THE BROADER REFUGEE DEFINITION

Individuals who have fled their country of origin and are unable to return owing to indiscriminate threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order may be eligible for mandate refugee status even if they do not have a well-founded fear of persecution linked to a 1951 Convention ground.

[21] UNHCR, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, 23 July 2003, HCR/GIP/03/04, http://www.unhcr.org/refworld/docid/3f2791a44.html

[22] For detailed guidance on examining the claims of child applicants, read UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, http://www.unhcr.org/refworld/docid/4b2f4f6d2.html

The criteria for eligibility under UNHCR's broader refugee definition differ in various ways from those of the refugee definition of the 1951 Convention.

Instead of a "well-founded fear of persecution", the basis for the claim is a serious threat to the applicant's life, and physical integrity or freedom. The standard of proof for establishing the existence of such a threat, however, is the same as under the 1951 Convention definition – there must be a reasonable likelihood that the harm will materialize if the person concerned were to be returned.

The threat of harm must result from generalized violence or events seriously disturbing public order; in other words, it should arise from a generalized breakdown in the State's capacity to provide protection, as may be a result, for example, of armed conflict or other man-made disasters, including foreign domination, intervention or occupation and colonialism.

Moreover, under the broader refugee definition, the threat may be indiscriminate – in most cases where an individual is subject to a selective or discriminate risk of harm, this would be linked to a 1951 Convention ground.

3.5 EXCLUSION FROM REFUGEE STATUS UNDER INTERNATIONAL REFUGEE LAW

A decision on refugee status should normally have been made before an individual is considered for resettlement. However, it is essential that issues relating to exclusion from refugee status be carefully reviewed before resettlement is considered. Should any exclusion issues arise during consideration for resettlement, the case should be sent to the Protection Unit for an exclusion assessment.

International refugee law excludes from refugee status certain persons who would otherwise qualify as refugees, but who are nevertheless denied international protection under the 1951 Convention. This may be because they are receiving protection or assistance from a UN agency other than UNHCR or because they are not in need or not deserving of such protection. The conditions in which this is the case are defined in Articles 1D, 1E and 1F of the 1951 Convention. These provisions are usually referred to as the **exclusion clauses**.

- **Exclusion under Article 1E** means that an individual who fulfils the criteria for inclusion under Article 1A (2) of the 1951 Convention cannot benefit from refugee status because he or she is not in need of international protection. This provision applies to persons who do not require protection because they already enjoy a status which, possibly with limited exceptions, corresponds to that of nationals.[23]
- **Article 1D**, on the other hand, applies to a special category of refugees, who like other refugees are in need of international protection, but for

[23] Guidance on the application of this exclusion provision can be found in UNHCR, *UNHCR Note on the Interpretation of Article 1E of the 1951 Convention relating to the Status of Refugees*, March 2009, http://www.unhcr.org/refworld/docid/49c3a3d12.html

whom separate arrangements have been made to receive protection or assistance.[24]

- **Article 1F** of the 1951 Convention provides for exclusion from international refugee protection of persons who are deemed undeserving of such protection on account of having committed certain serious crimes or heinous acts.[25]

Like all exceptions to human rights provisions, the exclusion clauses of the 1951 Convention must be interpreted restrictively and applied with caution. Procedural safeguards must be observed, and a thorough assessment of whether or not the relevant criteria are met must be made, based on the specific circumstances of the individual case.

UNHCR's competence does not extend to persons who come within the scope of the exclusion clauses of the 1951 Convention.[26] The integrity of the Office's international protection mandate requires that whenever the facts of a particular case raise the possibility of exclusion, it must be carefully considered whether or not the individual concerned is eligible for refugee status under UNHCR's mandate.

The need for an individualized examination of all aspects of a person's claim applies whenever the application of Article 1F is considered, be it:

- In the course of **individual RSD procedures** at the initial eligibility stage, where exclusion considerations are examined as part of the determination of eligibility for international refugee protection.
- Where exclusion issues arise for individuals who are part of a group considered eligible for **refugee status recognition on a *prima facie* basis**, for example in the context of a mass influx. Such persons undergo full individual RSD.
- Where exclusion issues that were not previously considered arise during other processes, including a resettlement interview. Such persons must undergo a full exclusion assessment before their cases can be submitted for resettlement.
- In proceedings with a view to the possible **cancellation** of refugee status. Cancellation means a decision to invalidate refugee status which should not have been granted in the first place, either because the person concerned

[24] Guidance on the application of this provision, which operates as both an inclusion and an exclusion clause, can be found in UNHCR, *Revised Note on the Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees*, October 2009, http://www.unhcr.org/refworld/docid/4add77d42.html

[25] Guidance on the interpretation and application of this provision can be found in UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees,* HCR/GIP/03/05, 4 September 2003 (hereafter "UNHCR Guidelines on Exclusion"), http://www.unhcr.org/refworld/docid/3f5857684.html, and *UNHCR Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003 http://www.unhcr.org/refworld/docid/3f5857d24.html, as well as a number of other documents referred to in this chapter.

[26] UNHCR's 1950 Statute contains, in paragraphs 7(b), (c) and (d), exclusion provisions which are similar to Articles 1D, 1E and 1F of the 1951 Convention. The refugee definition set out in the 1951 Convention constitutes the later and more specific expression of the refugee concept evolving at the time of the drafting of both definitions. For this reason, the exclusion clauses in the 1951 Convention take precedence over those contained in the 1950 Statute, and UNHCR staff should apply the criteria set out in Articles 1D, 1E and 1F of the 1951 Convention when determining whether an individual is excluded from mandate refugee status.

did not meet the inclusion criteria, or because an exclusion clause should have been applied to him or her at the time of the initial determination.

- Through the **revocation** of refugee status, which means the withdrawal of refugee status from a person who was properly recognized as a refugee but engages in conduct within the scope of the exclusion clauses contained in Article 1F (a) or (c) of the 1951 Convention after recognition.[27]

Assessing exclusion factors is an integral part of the status determination process, and it is essential that issues relating to exclusion from refugee status be carefully examined in all cases where there are indications that the individual concerned may come within the scope of Article 1E, 1D or 1F of the 1951 Convention.

In practice, the exclusion grounds which UNHCR eligibility and resettlement staff are most often required to examine are those provided for in Article 1F of the 1951 Convention.

3.5.1 The exclusion clauses of Article 1F

Article 1F provides that the 1951 Convention "shall not apply to any person with respect to whom there are serious reasons for considering that:

a) he [or she] has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

b) he [or she] has committed a serious non-political crime outside the country of refuge prior to his [or her] admission to that country as a refugee; or

c) he [or she] has been guilty of acts contrary to the purposes and principles of the United Nations."

The rationale behind this provision is that certain acts are so grave as to render their perpetrators undeserving of international protection as refugees. Such persons should not be able to abuse the institution of asylum in order to avoid being held legally accountable for their acts. Thus, to protect the integrity of the institution of asylum, Article 1F should be applied scrupulously to those who come within its scope.

At the same time, decision makers should be aware of the serious implications of the application of Article 1F. Exclusion means that a person who meets the inclusion elements of the refugee definition – and is therefore determined to be in need of international protection – is denied refugee status. This may have very severe consequences for the individual concerned. Therefore, decision makers need to interpret the exclusion clauses restrictively and exercise great caution when considering their application.

[27] Guidance on the cancellation and revocation of mandate refugee status can be found in UNHCR, *Guidelines on the Cancellation of Mandate Refugee Status (Internal)*, 22 November 2004, http://swigea56.hcrnet.ch/refworld/docid/41dd6eb84.html, and *(external)* UNHCR, *Note on the Cancellation of Refugee Status*, 22 November 2004, http://www.unhcr.org/refworld/docid/41a5dfd94.html

Detailed guidance on the interpretation and application of Article 1F of the 1951 Convention is set out in:

UNHCR Handbook on Procedures and Criteria for Determining Refugee Status, 1979, reedited Geneva, January 1992, http://www.unhcr.org/refworld/docid/3ae6b3314.html

UNHCR Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees, HCR/GIP/03/05, 4 September 2003 (hereafter "UNHCR Guidelines on Exclusion"), http://www.unhcr.org/refworld/docid/3f5857684.html

UNHCR Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees, 4 September 2003, http://www.unhcr.org/refworld/docid/3f5857d24.html

UNHCR Guidelines on the Application in Mass Influx Situations of the Exclusion Clauses of Article 1F of the 1951 Convention relating to the Status of Refugees, February 2006, http://www.unhcr.org/refworld/docid/43f48cob4.html

UNHCR Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, 22 December 2009, HCR/GIP/09/08, http://www.unhcr.org/refworld/docid/4b2f4f6d2.html

The procedural safeguards which should be observed in exclusion proceedings are set out in UNHCR's *Procedural Standards for Refugee Status Determination under UNHCR's Mandate* (hereinafter RSD Procedural Standards), 20 November 2003, at § 4.8, http://www.unhcr.org/refworld/docid/42d66dd84.html, as revised through *UNHCR IOM/019/2010 - FOM/019/2010 Revision of Procedural Standards for Refugee Status Determination under UNHCR's Mandate: Headquarters review of exclusion, revocation, cancellation and cessation decisions*, 12 April 2010, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4bc44e912.html

All UNHCR staff involved in interviewing, decision making and/or reviewing of RSD decisions need to be familiar with these documents. A comprehensive list of resource materials on exclusion is included at the end of this chapter.

3.5.2 Applying Article 1F of the 1951 Convention

Inclusion before exclusion

In principle, inclusion should be considered before exclusion, so as to allow the decision maker to examine both the reasons justifying refugee status and the factors related to exclusion in a holistic manner.[28]

[28] However, as noted in UNHCR's *Guidelines on Exclusion*, exclusion may be exceptionally considered without particular reference to inclusion issues (i) where there is an indictment by an international criminal tribunal; (ii) in cases where there is apparent and readily available evidence pointing strongly towards the applicant's involvement in particularly serious crimes, notably in prominent Article 1F (c) cases; and (iii) at the appeal stage in cases where exclusion is the question at issue.

If a person does not meet the inclusion criteria of the refugee definition, he/she does not have a well-founded fear of persecution, and it is for this reason that his/her claim for recognition as a refugee should be rejected.

Standard and burden of proof

Article 1F applies if there are **"serious reasons for considering"** that the individual concerned has committed, or participated in the commission of acts within the scope of this exclusion clause. While it is not necessary to meet the standard of proof in criminal cases (e.g. "beyond reasonable doubt" in common law systems), the "balance of probabilities" threshold is too low. Likewise, a simple suspicion would not be a sufficient basis for a decision to exclude. Clear and credible evidence is required to meet the "serious reasons for considering" standard.

The information which links an individual with acts within the scope of Article 1F must be evaluated carefully in light of all relevant circumstances, including its nature, content and source. Where exclusion considerations are raised by an indictment or conviction by a national court, it is necessary to determine whether the person concerned is fleeing persecution or seeking to escape legitimate prosecution. This is especially relevant in cases where criminal proceedings are under way before a court in the person's country of origin.[29]

The burden of proof lies, in principle, on the decision maker. In other words, the State or UNHCR must show that there are indeed "serious reasons for considering" that the person concerned comes within the scope of Article 1F. This always requires an individualized assessment of the applicant's conduct, including where he/she was a member of a repressive regime or a group that commits or advocates violent crimes, or if he or she took part in an armed conflict in the past.[30]

Procedural safeguards

Given the exceptional nature and potentially severe consequences of exclusion for the individual, procedural safeguards are particularly important in exclusion cases. These include, in particular, the need for a full RSD interview and the right of the individual concerned to respond to information which may form the basis for an exclusion decision.[31] Procedural fairness also requires that the excluded person be given a possibility to submit an appeal, which should be examined by a person or organ different from the one involved in adjudicating and/or reviewing the first-instance decision.

[29] By contrast, indictments by an international criminal tribunal would generally meet the "serious reasons for considering" standard required under Article 1F. For further guidance on this point, see UNHCR, *Background Note on Exclusion*, at para. 106.

[30] Further guidance on the standard and burden of proof in case involving exclusion under Article 1F of the 1951 Convention can be found in UNHCR's *Background Note on Exclusion Clauses*, http://www.unhcr.org/refworld/docid/3f5857d24.html, at paras. 105-111.

[31] The applicant's right to full disclosure of relevant information may be limited only in certain exceptional situations, where this is necessary (generally to protect the security of UNHCR staff or a witness or other source of information). Guidance on the circumstances in which this may be relevant, and on appropriate UNHCR procedures, can be found in the *RSD Procedural Standards*, at § 4.8.2 and § 6.2.

Non-cooperation

RSD interviewers are sometimes faced with applicants who do not cooperate, and in particular, refuse to answer questions concerning their involvement in excludable crimes. As such, this would normally not be sufficient to exclude an asylum-seeker from refugee status, unless there is enough information to meet the "serious reasons" standard and thus to justify the application of Article 1F. This being said, an applicant's refusal to cooperate may have a negative effect on his/her overall credibility and result in the rejection of his/her claim. However, before rejecting the claim on this basis, the decision maker should investigate the cause of an applicant's non-cooperation, as it may be related to mistrust and/or confusion as a result of trauma or even lack of understanding of the procedures.

3.5.3 Framework for analysis of Article 1F

Whenever there are indications that an applicant may have been involved in acts which may fall within the scope of Article 1F, a thorough examination of all relevant aspects is required. Exclusion considerations may be triggered by statements of the individual applicant him/herself, or any other information which suggests that he or she may have been linked with excludable acts.

If exclusion considerations are triggered, it is necessary to examine:

- whether the acts in question come within the scope of Article 1F(a), (b) or (c), and if so,
- whether the person's conduct and state of mind with regard to these acts give rise to individual criminal responsibility, and if this is the case,
- whether the consequences of exclusion from refugee status are proportional to the seriousness of the act committed.

Identifying excludable acts

The first step – identifying the acts – requires decision makers to assess the relevant facts in light of the legal criteria set out in Article 1F (a), (b) and/or (c). Article 1F contains an exhaustive list of the acts which may give rise to exclusion from international refugee protection on the grounds that the person concerned is undeserving of such protection. Only those acts which fall within one or more of its clauses, because they constitute (a) crimes against peace, war crimes, crimes against humanity, (b) serious non-political crimes, and/or (c) acts contrary to the purposes and principles of the United Nations, may lead to exclusion under this provision.[32]

[32] Detailed guidance on the types of acts which may give rise to exclusion under Article 1F of the 1951 Convention can be found in UNHCR's *Background Note on Exclusion Clauses*, http://www.unhcr.org/refworld/docid/3f5857d24.html, at paras. 26-49.

Individual responsibility

Once it has been determined that an applicant is associated with acts within the scope of Article 1F, decision makers must examine whether he or she incurred individual responsibility for the acts in question. This will be the case if there is credible and reliable information on the basis of which it can be established that the applicant perpetrated the crime(s) him/herself, or that he/she participated in the commission of crimes by others, for example through planning, ordering or instigating, or by making a substantial contribution to the commission of a crime through aiding or abetting or participation in a joint criminal enterprise. Under certain circumstances, persons in a position of authority in a military or a civilian hierarchy may be held responsible for crimes committed by their subordinates.

Decision makers must also establish whether there are serious reasons for considering that the applicant acted with the intent (as to his/her conduct and/or its consequences) and knowledge (as to relevant circumstances and/or the consequences of his or her conduct) necessary to commit the crime(s) in question. This is referred to as the mental element of the crime, or *mens rea*. Where the mental element (*mens rea*) is lacking, individual responsibility does not arise. This may be the case, for example, because of insanity, mental handicap, involuntary intoxication or lack of mental capacity due to immaturity. The latter is particularly relevant for determining individual responsibility of a child (see also below).

It is also necessary to examine whether the applicant has a valid defence, that is, if there are circumstances exempting him or her from liability for the crime(s) he or she committed or participated in. A defence may apply, for example, if the applicant acted under duress resulting from an imminent, serious threat against him or herself or another person, or in self-defence. As part of a comprehensive exclusion analysis, decision makers should examine the possible existence of circumstances which would negate individual responsibility, even if this has not been raised by the applicant.[33]

Proportionality

If there are serious reasons for considering that the applicant is individually responsible for acts within the scope of Article 1F, the final step in the exclusion analysis consists in assessing whether exclusion would be in keeping with the general legal principle of proportionality. Decision makers must weigh the seriousness of the crime(s) in question against the potential consequences of exclusion for the individual concerned, that is, the treatment which the applicant is likely to face, if he/she were to be excluded. The existence or otherwise of effective protection mechanisms under international or regional human rights instruments is an important factor in this regard.[34]

[33] Detailed guidance on how to determine individual responsibility in the context of exclusion under Article 1F of the 1951 Convention can be found in UNHCR's *Background Note on Exclusion Clauses*, http://www.unhcr.org/refworld/docid/3f5857d24.html, at paras. 50-75 and 91-93.

[34] Detailed guidance on the proportionality assessment in the context of exclusion under Article 1F of the 1951 Convention can be found in UNHCR's *Background Note on Exclusion Clauses*, http://www.unhcr.org/refworld/docid/3f5857d24.html, at paras. 76-78.

3.5.4 Consequences of exclusion

If it is established that an exclusion clause of Article 1F applies, the person concerned cannot be recognized as a refugee and benefit from international protection under the 1951 Convention, nor can he/she fall within the mandate of UNHCR. The situation of such a person is governed by legislation of the host State applicable to the presence on its territory of foreigners who are not refugees.

However, the fact that a person has been excluded from refugee status does not affect his/her entitlement to the enjoyment of other rights and benefits that are to be afforded under relevant human rights instruments or national legislation.[35]

The revised *Procedural Standards for Refugee Status Determination under UNHCR's Mandate*[36] set out the UNHCR Headquarters review approval process for exclusion, revocation, cancellation and cessation decisions taken by the field.

Exclusion and family unity

If the principal applicant is excluded, his/her family members or dependants are not automatically excluded as well. Their situation must be determined on an individual basis. They will qualify for refugee status if it is established that they have a well-founded fear of persecution linked to a Convention ground in their own right, even if the fear of persecution derives from the relationship with the excluded person. Family members and/or dependants of excludable persons can only be excluded if they themselves are found individually responsible for excludable acts falling within the scope of Article 1F.

The excluded person him/herself cannot, however, obtain derivative refugee status – that is, recognition as a refugee on family unity grounds and based on the refugee status granted to one of his/her family members.[37]

3.6 SPECIAL CONSIDERATIONS

Whenever the background and/or profile of an individual who is submitted for resettlement raises possible exclusion issues, it is of critical importance that the RRF contain a thorough exclusion analysis explaining why the person concerned has *not* been excluded from international refugee protection. The paragraphs below examine a number of specific situations wherein the application of Article 1F may intersect with States' efforts, for instance, on national security, counter-terrorism, extradition and law enforcement.

[35] Further guidance on the consequences of exclusion under Article 1F can be found in UNHCR's *Background Note on Exclusion Clauses*, paras. 21-22, http://www.unhcr.org/refworld/docid/3f5857d24.html

[36] UNHCR, *IOM/019/2010 - FOM/019/2010 Revision of Procedural Standards for Refugee Status Determination under UNHCR's Mandate: Headquarters review of exclusion, revocation, cancellation and cessation decisions*, 12 April 2010, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4bc44e912.html

[37] Further guidance on family unity and exclusion can be found in UNHCR's *Background Note on Exclusion Clauses*, paras. 94-95, http://www.unhcr.org/refworld/docid/3f5857d24.html

3.6.1 Exclusion for acts committed when the applicant was a child

In principle, Article 1F can be applied for crimes committed when the applicant was a child, that is, under the age of 18. However, when analyzing cases of this nature, a number of specific issues must be taken into account.

First, Article 1F may be applicable only if, at the time the acts in question took place, the applicant had reached the **age of criminal responsibility** – the age below which a child cannot commit a crime (as opposed to the age of majority – the age at which a person acquires the full legal rights of an adult). There is no internationally binding standard as to which age should be used, although Article 40 of the *Convention on the Rights of the Child* recommends that States establish a minimum age. If the age of criminal responsibility is different in the country of origin and the country of asylum, the higher should normally be applied.

If the child has reached the age of criminal responsibility, the next step is to establish whether he or she had the necessary **mental capacity** to commit the crime(s) in question. It is necessary to determine whether the child was mature enough to comprehend the nature and consequences of his/her acts. In cases involving child soldiers, relevant factors in the analysis include the child's age when becoming involved in the armed group; reasons for joining (voluntary or coerced); consequences of refusal to join; length of time as member; forced use of drugs, alcohol, medication; level of education and understanding; trauma, abuse or ill-treatment suffered; absence of positive role models etc. If the child did not have the requisite mental capacity, individual responsibility does not arise. The younger the child, the greater is the presumption that he/she did not have the necessary mental capacity at the time. The child's maturity and any other relevant factors also need to be taken into account when examining the existence of a defence, and during the proportionality assessment.[38]

3.6.2 Former combatants

Another question which has received increased attention in recent years is that of the treatment of asylum applications of **combatants**. UNHCR's Executive Committee has defined combatants in ExCom Conclusion No. 94 (LIII) of 2002 as "persons taking active part in hostilities in both international and non-international armed conflict who have entered a country of asylum".

Military activities are by their nature incompatible with the civilian character of asylum. Therefore, active combatants are not eligible for international refugee protection and assistance. By contrast, **former combatants** who request asylum should be admitted into asylum procedures once it has been established that they have genuinely and permanently renounced military activities. Their asylum claims should be examined in individual RSD procedures, which should encompass an assessment of the possible application of Article 1F.

[38] Detailed guidance on the application of Article 1F in cases involving children can be found in UNHCR, *UNHCR Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, http://www.unhcr.org/refworld/docid/4b2f4f6d2.html

The fact of having taken part in armed conflict does not in and of itself constitute a ground for exclusion, nor does it as such establish a presumption of responsibility for acts within the scope of an exclusion clause, although a careful assessment of the applicant's conduct during the armed conflict will be required.

3.6.3 Exclusion in situations of mass displacement

In situations of mass influx, refugee status is often determined on a *prima facie* basis. This is appropriate where there is sufficient objective information about the circumstances causing the flight of a particular population to consider the majority of the members of that population to meet the inclusion criteria applicable in the particular context. In situations where active or former combatants may be mixed in with the refugees, any declaration or statement of *prima facie* refugee status setting out the eligibility criteria to be met by members of the group should state that the *prima facie* recognition does not apply to either active or former combatants.

As noted above, active combatants are not eligible for international refugee protection, while former combatants who request asylum should be admitted to individual RSD procedures once it has been established that they have genuinely and permanently renounced their military activities. An exclusion assessment will need to form part of these procedures.

Exclusion considerations may also arise in other cases if information comes to light which indicates that an individual among a group of *prima facie* refugees may have committed a crime within the scope of Article 1F. In such cases, the UNHCR Field Office should carry out cancellation or revocation proceedings as appropriate. The resettlement submission should only be made after the UNHCR Field Office has established that the exclusion clauses are not applicable.

The determination that a person is undeserving of international refugee protection requires an individualized assessment in all cases. This also applies in situations of mass influx, including where the members of a group have been recognized as refugees on a *prima facie* basis. Those among the *prima facie* refugees for whom exclusion considerations arise because of their background and/or activities should undergo a review of their status as soon as it becomes feasible.[39]

3.6.4 Membership in a group or organization involved in violent crimes

Membership *per se* of a group or an organization that commits or incites others to carry out violent crimes is not necessarily sufficient to exclude a person from refugee status. Exclusion considerations will, however, be triggered for individuals who belong to such groups or organizations. While the fact of

[39] UNHCR, *UNHCR Guidelines on the Application in Mass Influx Situations of the Exclusion Clauses of Article 1F of the 1951 Convention relating to the Status of Refugees*, 7 February 2006, sets out detailed guidance. http://www.unhcr.org/refworld/docid/43f48cob4.html

membership does not, in and of itself, justify the application of an exclusion clause, the individual's role and activities within the group may bring him/her within the scope of Article 1F.[40]

3.6.5 Exclusion and acts of terrorism

The question of exclusion frequently arises in the context of crimes referred to as acts of terrorism. In many instances, it will not be necessary to consider whether such acts give rise to exclusion: where the person alleged to have been involved in terrorist crimes fears legitimate prosecution rather than persecution, he/she does not meet the inclusion criteria of the refugee definition and his or her claim will be rejected on that basis. If it is established, however, that a person alleged to have been involved in terrorist acts has a well-founded fear of persecution for reason of a 1951 Convention ground, an exclusion examination is required.

Cases of this nature must be handled with great care. On the one hand, it is important that persons who are undeserving of international protection do not obtain refugee status. On the other hand, the asylum claim of a person who belongs to a particular organization or who is suspected of having committed terrorist acts should be examined in a fair and efficient procedure in which the circumstances of the individual case are assessed against the criteria of Article 1F, including the requirement to establish whether the standard of proof under that provision ("serious reasons for considering") is met.

Given the continued absence of a universally agreed definition of terrorism, decision makers considering the applicability of Article 1F to a particular individual should determine whether the acts with which he/she is said to be associated meet the criteria set out in that provision, rather than focusing on the "terrorism" label. Most acts of violence commonly referred to as "terrorist"[41] will constitute serious non-political offences within the meaning of Article 1F (b) of the 1951 Convention, particularly if they indiscriminately endanger or harm civilians. While they may be politically motivated, they are nevertheless likely to give rise to exclusion, as in many such cases the link between the crime and the alleged political purpose will not be sufficiently close, and/or the means employed cannot be considered proportionate to their goal.

Article 1F (c) – "acts contrary to the purposes and principles of the United Nations" – could also be relevant in cases involving terrorist acts, if these acts impinge on the international plane in terms of their gravity, international impact, and implications for international peace and security. The qualification of "an act of terrorism as an act contrary to the purposes and principles of the UN" as stipulated, for instance, in a number of UN Security Council Resolutions relating to terrorism or in domestic legislation does not in and of itself provide sufficient basis for exclusion without an individualized assessment of all relevant aspects.

[40] Further guidance on this question can be found in UNHCR's *Background Note on Exclusion Clauses*, http://www.unhcr.org/refworld/docid/3f5857d24.html, at paras. 59-62.

[41] This would include many of the acts prohibited under the existing conventions and protocols pertaining to aspects of terrorism which have been developed under the auspices of the United Nations and its specialized agencies.

As with all cases involving Article 1F, an exclusion assessment with regard to conduct referred to acts of "terrorism" would need to include a determination on the applicant's individual responsibility. This also applies where a person's name forms part of a list of suspected terrorists or if the group he or she is a member of has been designated as "terrorist" organization by the international community, a regional body or a State.[42] Such designation will regularly trigger exclusion considerations.[43]

3.6.6 Individual associated with criminal acts or subject to criminal proceedings

International refugee protection and criminal law are not mutually exclusive. The 1951 Convention does not shield refugees or asylum-seekers who have engaged in criminal conduct from prosecution for their acts. Similarly, refugee status, or the fact of having applied for asylum, does not mean that an individual involved in criminal conduct could not be prosecuted in the host State.[44]

Exclusion considerations may be triggered if an asylum-seeker is the subject of an extradition request based on criminal charges or a conviction in his or her country of origin or a third country. This would need to be taken into consideration during RSD procedures, as it may mean that the individual is a fugitive from justice rather than persecution. If it is found that the person is fleeing legitimate prosecution or punishment for criminal acts, he/she would not meet the refugee definition set out in Article 1A (2) of the 1951 Convention, and the claim should be rejected.

Decision makers should, however, consider the possibility that the authorities of the country of origin may be using criminal prosecution as a means of persecution and that extradition may be sought as a means to obtain the surrender of the "wanted person" with persecutory intent. In situations where the extradition proceedings place the person concerned at risk of *refoulement*, this may give rise to a need for resettlement.

Where the individual concerned has a well-founded fear of persecution in the country of origin – be it in the context of the criminal prosecution or for unrelated reasons – he/she would satisfy the refugee criteria stipulated in the 1951

[42] UNHCR, *Background Note on Exclusion*, para. 106. See also UNHCR *Statement on Article 1F of the 1951 Convention*, July 2009, http://www.unhcr.org/refworld/docid/4a5de2992.html, pp. 30-32 and UNHCR, *Addressing Security Concerns without Undermining Refugee Protection – UNHCR's Perspective*, 29 November 2001, Rev. 1, paras. 12-19, http://www.unhcr.org/refworld/docid/3cob88oeo.html

[43] Further guidance on the application of Article 1F to acts considered to be of a terrorist nature can be found in UNHCR's *Background Note on Exclusion Clauses*, http://www.unhcr.org/refworld/docid/3f5857d24.html, at paras. 79-84.

[44] For instance, under Article 2 of the 1951 Convention, persons who have been recognized as refugees as well as asylum-seekers whose claims are being determined are bound to conform to the laws and regulations of the host country. If they do not do so, they may be prosecuted to the full extent of the law. Where necessary, refugees or asylum-seekers may also be subject to police measures aimed at the prevention of crimes, provided such measures are applied in a non-discriminatory manner and with full respect for the principle of proportionality. Detailed guidance on UNHCR's position on substantive and procedural issues which arise when an extradition request concerns an asylum-seeker or a refugee can be found in UNHCR, *Guidance Note on Extradition*.

Convention, provided there is a link between the feared persecution and one of the grounds for persecution enumerated in Article 1A (2) of the 1951 Convention. However, in these circumstances, a thorough examination of possible exclusion issues would be required when determining the applicant's eligibility for international refugee protection.

In relation to crimes that fall within the scope of Article 1F (a) and Article 1F (c) of the 1951 Convention, these provisions apply at any time, whether the excludable act is committed in the country of origin, in the host country, or in a third country, before or after recognition of the asylum-seeker as a refugee. By contrast, for Article 1F (b) to apply, only serious non-political crimes committed by the asylum-seeker in the country of origin, or in another country apart from the host country prior to his/her admission to the host country, are relevant.

In all such cases – and particularly if extradition is sought by the person's country of origin – the reliability of available information must be assessed in light of all circumstances pertaining to the individual case.

As stated above, the fact that a person holding refugee status, which has been granted by UNHCR, is associated with criminal conduct, or is under a criminal investigation either in the country of origin, or in a host country does not *ipso facto* lead to the cancellation or revocation of his/her refugee status. This also applies where exclusion considerations arise when an asylum-seeker or a refugee is apprehended in the country of asylum or a third country on the basis of an INTERPOL "red notice". Information which has come to light through INTERPOL channels should be examined in the same way as if it had been submitted directly by the authorities of the country on whose behalf the information has been disseminated through the INTERPOL system.[45]

3.7 EXCLUSION AND RESETTLEMENT

To protect the integrity of UNHCR's resettlement procedures, it is essential that possible exclusion issues are carefully examined, and eligibility for international protection under the Office's mandate is confirmed before an individual case is submitted for resettlement.

In principle, exclusion issues should be examined before a case is referred to resettlement procedures. However, staff responsible for resettlement must be attentive to any possible exclusion issues that may not have been considered at the RSD stage. This applies particularly where resettlement submissions are made for persons who were recognized as refugees on a *prima facie* basis, and therefore did not undergo full individualized RSD.

Should any facts or indications arise during the resettlement interview that suggest an individual may have been associated with excludable acts, the case should immediately be sent to the protection unit for an exclusion assessment.

[45] Guidance on the ways in which international refugee protection and extradition intersect and overlap, including the implications of extradition-related information for RSD (inclusion and exclusion aspects) can be found in UNHCR, *Guidance Note on Extradition*, April 2008, http://www.unhcr.org/refworld/docid/481ec7d92.html

Because of the particular serious implications for the individual concerned and the complex criteria that are relevant to the determination, examination of the application of the exclusion clauses in Article 1F should only be undertaken by UNHCR protection staff that have the requisite knowledge and training. For the same reasons, the *Procedural Standards for Refugee Status Determination under UNHCR's Mandate* require Headquarters review of all exclusion, revocation, cancellation and cessation decisions taken in the field.[46]

3.7.1 Standard Operating Procedures relating to resettlement submissions in cases where exclusion is triggered

The following SOPs are to be followed to minimize the risk of exclusion issues being overlooked in the context of resettlement.

1. The RSD decision should be reviewed by the Senior Protection Officer responsible for RSD or the Head of Office whenever:
   - there is uncertainty during resettlement processing whether exclusion triggers were adequately examined during individual RSD;
   - exclusion was triggered but not examined in full individualized RSD proceedings for a refugee recognized on a *prima facie* basis;
   - new exclusion considerations concerning a refugee arise during resettlement processing.
2. Resettlement processing should only resume when an exclusion assessment has been conducted and the refugee status has been confirmed.
3. In sensitive or borderline cases, the Field Office should submit its finalized decision, together with the Office's detailed analysis and recommendation, to the Senior Legal Advisor of the relevant Bureau for guidance. DIP is available to provide advice to the Bureaux on complex doctrinal issues related to the interpretation of Article 1F.

These steps must be taken before the case reaches the Resettlement Service at Headquarters or Resettlement Hubs/Regional Offices as applicable. If these SOPs have not been followed the Resettlement Service, Hub or Regional Office will return the case to the Field Office concerned.

4. Alternative procedures for review of exclusion cases may be adopted in certain RSD operations where the relevant Bureau and DIP determine that only cases of a specific type or exceptional nature need be reviewed by Headquarters before resettlement is pursued as a solution.

[46] UNHCR, *IOM/019/2010 - FOM/019/2010 Revision of Procedural Standards for Refugee Status Determination under UNHCR's Mandate: Headquarters review of exclusion, revocation, cancellation and cessation decisions*, 12 April 2010, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4bc44e912.html

In any case where exclusion considerations were examined, the Resettlement Registration Form (RRF) must detail the relevant facts as well as the legal assessment which resulted in UNHCR's finding that exclusion is *not* applicable.

3.8 RECOGNIZING A QUALITY RSD ASSESSMENT

3.8.1 Assessment of the claim and report-writing

Following the refugee status determination interview the interviewer evaluates the claim, and prepares a written report known as the RSD Assessment. A well-organized and comprehensive RSD Assessment will contribute greatly to the quality of the determination decision, as well as the efficiency and accuracy of the review and appeal procedures, and in the cases where the individual is found to be in need of resettlement, the quality of the resettlement submission.

The RSD Assessment should include a:

1. **summary of the claim**;
2. **credibility assessment**, which should identify evidence that was not accepted or was regarded to be insufficient and provide an explanation for this finding; credibility is only assessed with respect to the evidence presented; evidence assessed as credible then forms the basis of the legal analysis;
3. **statement of the facts** which are considered established;
4. **legal analysis** of whether the accepted facts bring the applicant within the refugee criteria; this should examine first eligibility under the 1951 Convention, and if this criterion is not met, it should proceed to examine whether the applicant falls within the broader refugee protection criteria;
5. **assessment of** whether **exclusion issues** may apply, and an examination of the relevant issues where potential exclusion grounds are identified; and
6. **recommendation** on whether or not the applicant should be recognized.

The requirements for an assessment to be included in a Resettlement Registration Form may actually be higher than those required for UNHCR's own purposes. The standards or positions to be applied are not necessarily different, but the analysis must be explicit and cogent enough to convince an external party, in this case a potential resettlement State, to recognize an individual as a refugee. This is particularly true for refugees who have complex issues that raise possible exclusion considerations, such as former combatants or persons with criminal records.

3.8.2 The legal analysis

After establishing the relevant facts of the claim and assessing the credibility of the applicant, the decision maker needs to make the determination of whether the applicant meets the criteria set out in the refugee definition of the 1951 Refugee Convention or comes within the category of refugees covered by the broader refugee definition under UNHCR's mandate.

This requires a systematic approach that breaks down the reasoning process into manageable parts. Each element of the refugee definition should be checked against the facts gathered through the interview. Controversial issues should be addressed and discussed systematically, and the reasoning should be clearly explained. The evidence provided by the applicant, evidence from witnesses, and information about the country of origin must all be examined together to determine whether the applicant falls within the refugee criteria.

The RSD decision should clearly state the arguments to support the determination, whether positive or negative. Equally important is the impartiality, objectiveness, and consistency of decisions.

It is important that all decision makers use a consistent framework of analysis to assess refugee claims. This is crucial to ensure that RSD is carried out in a harmonized manner by all UNHCR's offices throughout the world and that refugees have equal chances to have their status recognized, independently of the UNHCR office in which they submit their claim.

3.8.3 Country-of-origin information

UNHCR issues country-related papers including *Eligibility Guidelines* to assist decision makers, including UNHCR staff, governments and private practitioners, in assessing the international protection needs of asylum-seekers. The *Eligibility Guidelines* are legal interpretations of the refugee criteria in respect of specific profiles on the basis of assessed social, political, economic, security, human rights and humanitarian conditions in the country/territory of origin concerned.

Good country-of-origin information (COI) is crucial to helping establish both the subjective and objective elements of the asylum-seeker's claim. An appropriate use of COI assists the eligibility officer:

- to ask pertinent questions and to help elicit the asylum-seeker's story;
- to identify and clarify any apparent contradictions or inconsistencies as the interview progresses;
- to assess the reliability of statements and other information provided by the applicant and any witnesses and establish the relevant facts.

Information on the conditions prevailing in the country of origin, however, very often gives the interviewer only a "general impression" of the situation affecting an individual. Country-of-origin information cannot, therefore, be systematically applied in the process of refugee status determination without being adequately *assessed* and put in the *appropriate context*.

The mere absence of information, moreover, or one's inability to find information that supports an applicant's claim, should not in itself justify a negative eligibility decision.

Sources

The quality of information systems has improved dramatically in recent years. UNHCR's *Refworld* contains a large collection of documents related to security and human rights situations in countries of origin and legal and policy documents. The information has been selected and filtered from a wide variety of sources including the UN, UNHCR, governments, non-governmental organizations, academic institutions and judicial bodies.

The internal version of *Refworld* includes all of the public documents available on the external version of *Refworld*, as well as those which are classified as internal. All internal documents are marked in red, within search results, navigation, and in the document view itself.

The ease with which information can be published on the internet makes it crucial that both the source and the information be carefully evaluated.

3.8.4 The importance of a well-supported RSD Assessment

The information provided in the RSD Assessment, the organization of this information, the language used, as well as the tone of the writing play an important role in the way the recommendation will be received.

The quality and comprehensiveness of the RSD Assessment will also have an important bearing on the quality of resettlement referrals. A refugee claimant interviewed for RSD and recognized may be subsequently found to be in need of resettlement, either during the same interview or upon a subsequent interview undertaken by resettlement colleagues.

The information included in the RSD assessment report is used to prepare Resettlement Registration Forms (RRFs) that are submitted to resettlement countries. Should substantial inconsistencies arise at the moment of the resettlement interview, the case may be referred back to the RSD decision maker for clarifications, which might delay the case. In this context resettlement and RSD staff need to work in close consultation as an integrated team.

Moreover, resettlement country authorities usually undertake their own refugee status determination during interviews with the refugees whose cases UNHCR has submitted to them. A clear and comprehensive explanation of their claim provides invaluable support to the refugees facing what will hopefully be one of their final interviews in the quest for a durable solution.

Essential reading

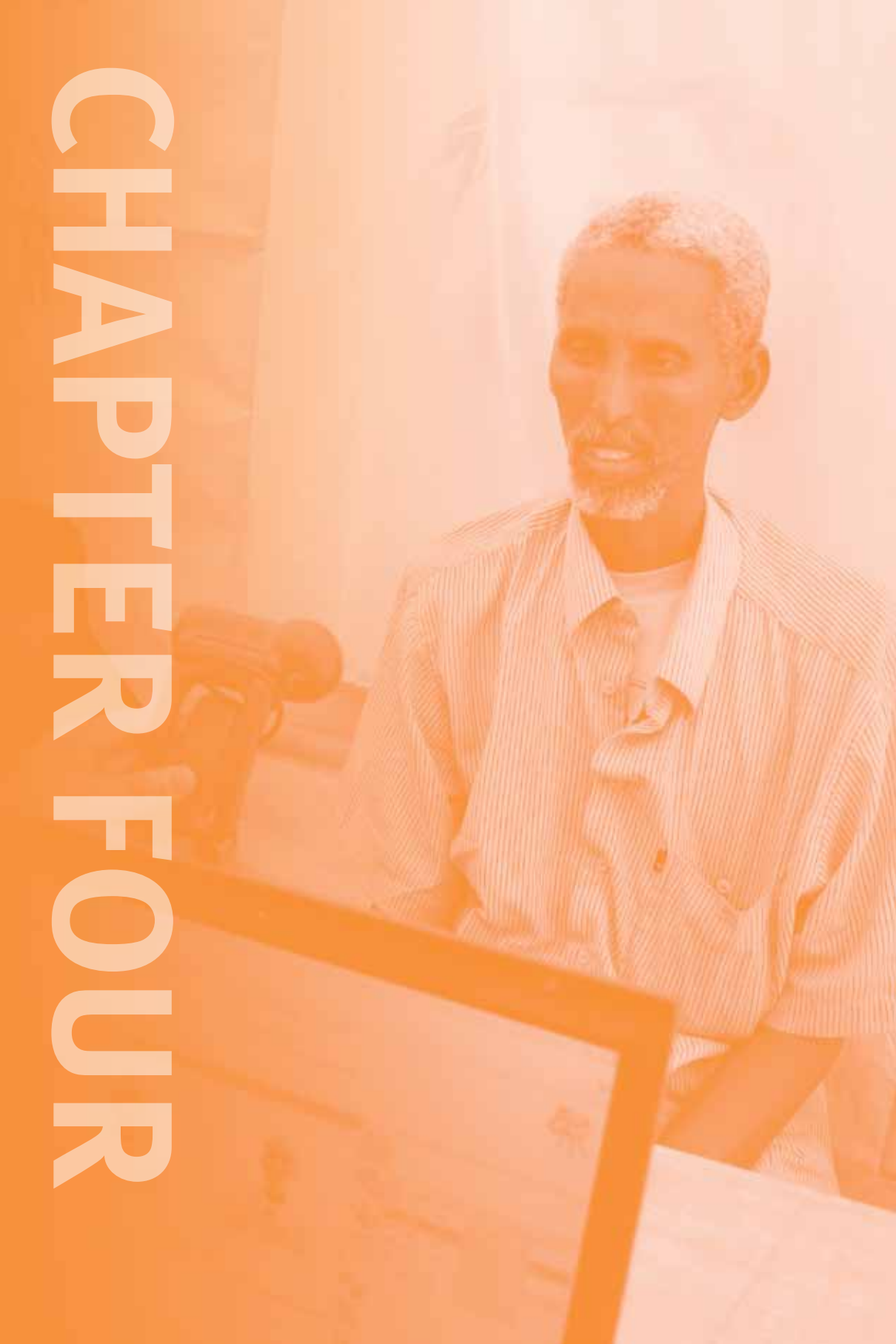
- UNHCR, *Self-Study Module 1: An Introduction to International Protection. Protecting Persons of Concern to UNHCR*, 1 August 2005, http://www.unhcr.org/refworld/docid/4214cb4f2.html
- UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, January 1992, http://www.unhcr.org/refworld/docid/3ae6b3314.html
- UNHCR, *Manual on Mandate Refugee Status Determination (RSD) - A Reference Tool for UNHCR Adjudicators*, 1 October 2005, (Internal) http://swigea56.hcrnet.ch/refworld/docid/438c17194.html
- UNHCR, *Procedural Standards for Refugee Status Determination Under UNHCR's Mandate*, 20 November 2003, http://www.unhcr.org/refworld/docid/42d66dd84.html
- UNHCR, *IOM/019/2010 - FOM/019/2010 Revision of Procedural Standards for Refugee Status Determination under UNHCR's Mandate: Headquarters review of exclusion, revocation, cancellation and cessation decisions*, 12 April 2010, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4bc44e912.html
- UNHCR, *Interpreting Article 1 of the 1951 Convention Relating to the Status of Refugees*, April 2001, http://www.unhcr.org/refworld/docid/3b20a3914.html

UNHCR Guidelines on International Protection

- *GIP No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01, http://www.unhcr.org/refworld/docid/3d36f1c64.html
- *GIP No. 2: "Membership of a Particular Social Group" Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/02, http://www.unhcr.org/refworld/docid/3d36f23f4.html
- *GIP No. 3: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees (the "Ceased Circumstances" Clauses)*, 10 February 2003, HCR/GIP/03/03, http://www.unhcr.org/refworld/docid/3e50de6b4.html
- *GIP No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, 23 July 2003, HCR/GIP/03/04, http://www.unhcr.org/refworld/docid/3f2791a44.html
- *GIP No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, HCR/GIP/03/05, http://www.unhcr.org/refworld/docid/3f5857684.html

- *GIP No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, 28 April 2004, HCR/GIP/04/06, http://www.unhcr.org/refworld/docid/4090f9794.html
- *GIP No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked*, 7 April 2006, HCR/GIP/06/07, http://www.unhcr.org/refworld/docid/443679fa4.html
- *GIP No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, http://www.unhcr.org/refworld/docid/4b2f4f6d2.html
- UNHCR, *Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, http://www.unhcr.org/refworld/docid/3f5857d24.html
- UNHCR, *UNHCR Guidelines on the Application in Mass Influx Situations of the Exclusion Clauses of Article 1F of the 1951 Convention relating to the Status of Refugees*, 7 February 2006, http://www.unhcr.org/refworld/docid/43f48c0b4.html
- UNHCR, *UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*, 21 November 2008, http://www.unhcr.org/refworld/docid/48abd5660.html
- UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, http://www.unhcr.org/refworld/docid/4bb21fa02.html

CHAPTER FOUR



CHAPTER FOUR
MANAGING RESETTLEMENT EFFECTIVELY

Introduction

Refugees offered resettlement are provided an opportunity to rebuild their lives in safety. There are limited places available, however, and resettlement operations must be well-planned, and implemented with efficiency, integrity and transparency to make the most effective use of this invaluable durable solution.

Strengthening the role of resettlement in comprehensive solutions strategies, increasing its operational capacity to deliver resettlement and continued improvement in the management of global resettlement activities are key goals for UNHCR.

Purpose

The purpose of this chapter is to:

- highlight the responsibility of each staff member to contribute to a well-managed resettlement operation;
- introduce UNHCR's overall guidelines and standards for the effective management of resettlement globally, as well as the management of activities in field offices;
- review standards, accountability and safeguards in the resettlement process, including standard operating procedures;
- explain how fraud can occur throughout the process; outline what preventive actions and post-fraud responses must be taken;
- highlight the critical importance of effectively managing refugees' resettlement expectations;
- explain the principle of transparency and outline important principles related to file management and maintenance of confidentiality of information;
- stress the importance of ongoing training for staff and partners;
- highlight the need for accurate statistics; and
- raise awareness of the support available for managing stress.

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4.1 RESETTLEMENT MANAGEMENT AND COORDINATION

Resettlement offers invaluable benefits to refugees in need of protection and a durable solution. The limited availability of resettlement opportunities can, however, put intense pressure on the process, hampering effectiveness, challenging objectivity, and making resettlement operations vulnerable to fraud and malfeasance. UNHCR and resettlement partners are jointly committed to ensuring that resettlement is well-planned, assists refugees in need of this durable solution, and that resettlement operations are managed and implemented with integrity, accountability, efficiency, and transparency.

As resettlement operations have grown, UNHCR has focused on strengthening its operational capacity and the planning and management of global resettlement activities. Safeguards are incorporated into every step of the resettlement process, and basic standards have been established to ensure clear divisions of responsibility and transparency in resettlement processing. Other essential components of well-managed operations include: effective coordination with partners, fraud prevention strategies, targeted information campaigns, counselling to address refugees' expectations and ongoing training of staff and partners.

4.1.1 Shared responsibility

All UNHCR staff, irrespective of grade or function, have the responsibility of ensuring that protection activities, including resettlement, are carried out to the highest standards possible, and to prevent fraud and malfeasance in all activities.

A well-functioning resettlement operation is a shared responsibility, and it is incumbent upon all persons involved with resettlement to properly discharge his or her function. This is reflected in the *UN Staff Regulations* and the *UNHCR Code of Conduct,* and has also been recognized as part of official policy with respect to management of protection activities in general.[1]

Senior managers, in particular Representatives and Heads of Office, do of course have a clear role to play in ensuring that resettlement operations are well managed. This includes creating a supportive environment by:

- ensuring that all functions and operations – such as assistance, registration, RSD and resettlement – are carried out appropriately to the highest standards;
- ensuring that the office as a whole recognizes the links between resettlement and other functions and makes resettlement an integral part of the overall office strategy on protection, not only for the country operations planning but also in everyday teamwork;

[1] See Regulations 1.2 and 1.3 UN General Assembly, *Staff Regulations of the United Nations*, 2 February 1952, A/RES/590, http://www.unhcr.org/refworld/docid/3b00f47a0.html, the *UNHCR Code of Conduct & Explanatory Notes*, June 2004, http://www.unhcr.org/422dbc89a.html as well as UNHCR, *Management of Protection Activities - Responsibilities of UNHCR Staff*, 15 March 2002, IOM/025/2002 - FOM/024/2002, (Internal) http://swigea56.hcrnet.ch/refworld/docid/3d4524a52.html

- providing a supportive environment that encourages close cooperation and communication between different units;
- providing a clear management and accountability framework;
- ensuring, to the extent possible, that appropriate resources are made available to maximize the efficiency of each activity, such as when more detailed registration or follow-up verification is required to support RSD and resettlement; this may include reliance on additional staff, such as under the deployment schemes introduced in Chapter 2;
- ensuring appropriate reporting and transparency in all actions;
- supporting training opportunities to strengthen the skills and capacities of field staff;
- maintaining healthy staff relations and appropriate stress management;
- ensuring that measures to maintain security and safeguard against fraud and abuse are high on the agenda; and
- leading by example.

All staff involved in resettlement must, however, ensure that the actions they undertake are done conscientiously and in line with their responsibilities, the *UNHCR Code of Conduct,* and appropriate policy and procedural guidelines.

UNHCR resettlement activities take place in field operations varying considerably in terms of size, staff composition and level of operational engagements with refugees, host governments and NGOs. Increasing demand for resettlement and llimited resources pose constant challenges to the effective management of resettlement activities.

Despite these challenges, and the diverse range of circumstances, the standards and guidelines contained in this Handbook are of a universal nature so as to be applicable to *all resettlement activities*. UNHCR seeks to deliver a coherent and predictable resettlement programme that addresses refugees' needs with diligence, integrity, transparency and accountability. The Resettlement Service in UNHCR Headquarters, and Regional Resettlement Officers (where applicable), will be able to provide additional guidance to individual field offices on further issues of particular concern.

4.1.2 An integrated approach to resettlement

Resettlement is a global undertaking, involving cooperative efforts and coordination between resettlement countries, UNHCR, NGOs and IOM. Coordinating and planning resettlement activities at various levels *within* UNHCR is also critically important in ensuring that resettlement efforts are effective and well-targeted.

Resettlement activities cannot stand alone, but must be integrated in the overall protection strategy of the office as part of regional and country operational planning. Incorporating resettlement into the planning process and the protection strategy helps to ensure that all durable solutions are assessed comprehensively, and that both the potential positive and negative impacts of resettlement on other activities, or vice-versa, are assessed. Ideally, any positive

impact should be maximized by strategically using resettlement, and negative impacts mitigated through effective planning and risk management.

Individual field offices play an essential role in the coordination, planning and implementation of resettlement activities. Field offices identify individual and groups of refugees in need of resettlement, communicate resettlement needs to the Resettlement Service in UNHCR Headquarters, and prepare resettlement submissions. Successful resettlement is dependent on good cooperation with colleagues involved in other UNHCR activities (including registration, eligibility, protection, community services, livelihoods, and voluntary repatriation as applicable), and also relies on a number of important external partners.

The integrated approach to resettlement should also be in the daily work of the office. Regular meetings to coordinate resettlement activities should involve internal as well as external partners, and may at times include resettlement States and the host country, depending on the particular issues to be discussed. Protection colleagues and all relevant partners must be kept up to date on practical and operational aspects to ensure consistent delivery of resettlement and mitigate risks such as fraud and abuse. *Specific considerations related to Field Coordination are discussed further in Chapter 5 and Chapter 7.*

Appropriate coordination and cooperation with the Regional Resettlement Hub/ Regional Office, as applicable, and the Resettlement Service and the relevant Bureau in Headquarters, is equally important. This cooperation relates not only to general policy and practice, but often also includes operational follow-up in individual cases and sharing of good practices and lessons learned.

4.1.3 The role of UNHCR Headquarters

The essential functions of UNHCR Headquarters divisions and bureaux are to support field operations and exercise overall management of the Office, with a particular focus on policy, strategy, and global oversight.

Headquarters is responsible for the following core functions for the organization:

- doctrine and policy development;
- strategic direction articulation;
- fund raising and resource mobilization;
- prioritization and resource allocation;
- Executive Committee and other governance support;
- financial control in accordance with UN and UNHCR rules and regulations;
- monitoring, measuring and reporting (including results-based management);
- oversight;
- communications and external relations;
- inter-agency relations and strategic partnerships;
- central emergency preparedness and response management; and
- security management.

The **Resettlement Service** within the **Division of International Protection (DIP)**, and the **Regional Bureaux** are key contacts for field offices in regards to resettlement issues.

The Resettlement Service

The Head of the Resettlement Service also serves as a Deputy Director of DIP, and is supported by a Senior Resettlement Coordinator, staff with responsibilities for either geographical issues or global themes and policy issues, processing unit staff managing dossier submissions, and administrative support staff. The designation of regional focal points facilitates the support and monitoring of resettlement operations in UNHCR's Field and Regional Offices, and the support of resettlement States. Focal points are also identified for key issues including anti-fraud.

The role of the Resettlement Service of the Division of International Protection in UNHCR Headquarters is to:

- be responsible for **developing resettlement policies**, setting standards and guidelines for resettlement work and disseminating them, and monitoring their consistent application;
- function as focal point for the resettlement strands of the initiatives linked to **comprehensive durable solutions** and to promote the strategic use of resettlement;
- function as focal point for the **prevention of fraud** in the resettlement process, including developing and implementing activities to prevent and mitigate fraud, monitoring and documenting occurrences of fraud, applying sanctions, and liaising with resettlement countries whose programmes might be affected by fraud;
- **assess and document the global resettlement needs** and negotiate the overall levels and allocations of resettlement submissions from each region with receiving governments;
- **advocate for additional resettlement places** for refugees whose emerging needs warrant urgent resettlement;
- **obtain necessary resources** for UNHCR's efforts to effectively implement and enhance resettlement operations, in close collaboration with Regional Bureaux in Headquarters and the field;
- **manage resettlement submissions of emergency/urgent medical cases** at the request of UNHCR field offices or due to requirements of receiving governments;
- **manage resettlement dossier submissions** to resettlement countries;
- **diversify and expand resettlement opportunities and programmes**, including enlarging the number of resettlement countries;
- **coordinate the establishment and implementation of resettlement programmes** in emerging resettlement countries and facilitate capacity-building programmes and linkages between these and established resettlement countries;

- **provide supervision and guidance** to the Regional Resettlement Hubs/ Regional Offices and field offices as applicable;
- **coordinate** with the relevant Bureau, the Regional Resettlement Hub/ Regional Office as applicable, and potential resettlement countries to assess and approve field proposals to apply the group methodology;
- **improve systems and methods** for monitoring, evaluating and oversight, including the compilation of resettlement statistics;
- **analyze** collected field statistics and other reports to ensure consistency and compliance with accepted policies, procedures, guidelines and performance standards as well as to identify global trends and gaps in resettlement delivery;
- **manage the UNHCR-ICMC resettlement deployment scheme** in cooperation with the International Catholic Migration Commission and manage resettlement deployments from other schemes;
- **serve as the Secretariat for the Annual Tripartite Consultations on Resettlement (ATCR)** and the Working Group on Resettlement (WGR);
- **assess training needs and coordinate training** in resettlement policies and procedures for UNHCR staff as well as NGO and government partners in close coordination with the Global Learning Centre (GLC), relevant Bureau and the Regional Resettlement Hub/Regional Office;
- **liaise with relevant actors** within and outside UNHCR for follow-up actions related to the integration of resettled refugees, in particular in the emerging resettlement countries and promote the spirit of burden and responsibility sharing;
- **enhance resettlement partnership** by expanding areas of cooperation with relevant NGOs;
- coordinate the **schedules for resettlement selection missions** to field offices where applicable;
- **administer the Travel Assistance Project for Family Reunification** in coordination with field offices, IOM and NGOs as applicable; and
- **promote resettlement** within UNHCR and in all relevant international fora, advocating its use as a protection tool, a durable solution and a responsibility sharing mechanism.

Overall, the Resettlement Service also plays a lead role in liaising with governments on their resettlement admission policies, size and allocation of their quotas, processing issues, and on the promotion of emergency and specific needs cases.

The Division of International Protection (DIP)

The Division of International Protection:

- develops global protection policy;
- contributes to standard-setting and progressive development of international law and standards in the area of forced displacement;
- provides guidance on complex international law and protection policy issues pertaining to all categories of populations of concern and UNHCR's operations;

- leads the age, gender and diversity sensitive approach;
- provides support to field operations and other Headquarters entities on policy and legal matters relating to forced displacement both from a protection and a durable solutions perspective, including in the area of RSD, asylum/migration, statelessness, education and community development/mobilization;
- leads and coordinates resettlement activities;
- assists in developing comprehensive approaches to durable solutions;
- leads and supports the global protection cluster; and
- coordinates human rights liaison activities.

Regional Bureaux

UNHCR operations worldwide are implemented by five **regional bureaux**:

- Bureau for Africa;
- Bureau for Asia and the Pacific;
- Bureau for the Middle East and North Africa (MENA);
- Bureau for Europe; and
- Bureau for the Americas.

The Bureau has a crucial role in resettlement planning and implementation in their region. The Bureau provides strategic guidance and operational oversight to field operations, including the development of field and regional protection and comprehensive solutions strategies, the identification of individuals and groups to be processed for resettlement, the monitoring of field implementation, and the review of individual case decisions where required.

The Bureau also plays a key role in liaising with resettlement States, advocating the establishment of new resettlement programmes, enhancing partnerships with resettlement partners, promoting strategic use of resettlement, and keeping resettlement partners abreast of regional developments.

Inspector General's Office

The mandate of the **Inspector General's Office** (IGO) comprises three functions:

- inspections of field offices and Headquarters' units;
- investigations of possible misconduct by UNHCR personnel; and
- *ad hoc* inquiries into incidents of attacks on UNHCR personnel and operations.[2]

As described in Chapter 4.4.7, the confidential email, fax and telephone numbers for the IGO should be widely publicized to encourage direct reporting of allegations of misconduct.

[2] See UNHCR, *The Role, Functions and Modus Operandi of the Inspector General's Office*, 3 November 2005; IOM/054/2005 - FOM/054/2005, (Internal) http://swigea56.hcrnet.ch/refworld/docid/43706e744.html

4.1.4 Resettlement coordination at the regional office level

The Regional Resettlement Hubs function to improve coordination and planning at a regional level, ensuring greater consistency and transparency in the processing of resettlement.[3]

The Regional Resettlement Hubs help coordinate and monitor the implementation of UNHCR resettlement criteria and policies on a regional level, and provide support to reinforce the capacities of resettlement operations where needed. The Regional Resettlement Hubs manage the resettlement submissions from operations within their region (including agreed numbers of dossier submissions for emergency/urgent medical cases), and also maintain regional resettlement statistics.

Regional Resettlement Officers functioning outside a Hub also play an important role in coordinating resettlement activities, providing support to resettlement operations in field offices and working with resettlement countries to ensure a harmonized and diversified approach to resettlement delivery within the region.

Regional coordination is particularly important where refugee populations from a given nationality are located in a number of neighbouring countries. In conjunction with the Resettlement Service and the relevant Bureau, the Regional Resettlement Officers serve to ensure the mainstreaming of resettlement into regional protection and solutions strategies.

4.1.5 Consultations with resettlement partners

As introduced in Chapter 2.1.3, the Annual Tripartite Consultations on Resettlement (ATCR) and the Working Group on Resettlement (WGR) offer a forum to review progress on resettlement issues on a yearly basis, as well as to shape joint strategies and directions for the future.

The ATCR/WGR process has become the primary vehicle for UNHCR's resettlement cooperation with governments, NGOs and International Organizations, as it provides the opportunity for:

- regularly sharing information about needs and opportunities for planning purposes and to share analyses of resettlement issues;
- addressing operational issues and problems in order to improve implementation;
- raising awareness of resettlement issues in order to build consensus in the Executive Committee in favor of resettlement and to promote the establishment of new resettlement programmes; and
- focusing attention on UNHCR activities, given its key responsibility for case identification and referral.

The ATCR/WGR process has evolved to usually be comprised of two Working Group meetings and the Annual Tripartite Consultations on Resettlement

[3] As of 2011, there are two Regional Resettlement Hubs: Nairobi (Kenya) and Beirut (Lebanon). There are also regional resettlement officers in Almaty (Kazakhstan), Bangkok (Thailand), Dakar (Senegal), Kinshasa (Democratic Republic of the Congo) and Pretoria (South Africa).

held each year in June/July. The Working Group meetings are smaller in size and participation (with limitations to full government members of the WGR and limited NGO presence), whereas the ATCR is a large meeting with full participation of all partners.

The Resettlement Service serves as Secretariat for the ATCR/WGR, while the chairmanship rotates among the government members. An NGO focal point, traditionally from the same State as the Chair, brings the NGO perspective into the Working Group meetings, and other NGO representatives are also invited according to the issues on the agenda.

Collectively the ATCR/WGR Chair, the NGO Focal Point, and the Resettlement Service coordinate the Annual Tripartite Consultations on Resettlement. Participation at the ATCR is restricted to representatives of resettlement States, NGOs, International Organizations, UNHCR, and invited observers from prospective resettlement countries. In order to retain the focused and participatory nature of the ATCR, the meeting requires advance registration, and the size of each delegation is limited on the basis of the resettlement State's annual quota.

The consultative process allows UNHCR to direct resettlement States' attention to refugee populations in priority need of resettlement, and to coordinate the allocation of resettlement places and resources. The annual *Projected Global Resettlement Needs*[4] document is discussed in detail at the ATCR, and the timely exchange of information ensures that the Executive Committee, resettlement countries and NGOs collaborate to enhance the responsiveness and appropriateness of resettlement admissions levels.

The structure has also facilitated the organization of *ad hoc* thematic meetings, including resettlement anti-fraud, priority situations for the strategic use of resettlement, and the resettlement of refugees with medical needs.

Sub-sets of the WGR have also formed Core Groups in order to collaborate on developing comprehensive solutions for specific refugee populations, as well as operational issues. Examples include the Expert Group on Resettlement Fraud, the Core Working Group on Bhutanese Refugees, and the Refugee Resettlement Contact Group on Iran.

Additional bilateral meetings

In addition to the ACTR and WGR, UNHCR holds numerous bilateral meetings with governments to strengthen joint planning efforts and to discuss needs and issues that arise with particular countries. Such meetings may take place at a headquarters, regional or national level throughout the year.

The Resettlement Service works with governments through their Permanent Missions in Geneva and also directly or through local UNHCR Representation with the capitals of resettlement countries in connection with individual case management, as well as refugee admission policies and quotas. Many

[4] The *UNHCR Projected Global Resettlement Needs* reports are produced annually based on the information submitted by each country operation's proactive resettlement planning. These reports are generally for restricted distribution, though a public version is often made available following the ATCR.

resettlement States organize separate bilateral meetings with UNHCR to discuss their anticipated response to specific resettlement needs and the composition of the population and numbers to be resettled for the coming year.

With new resettlement countries or States accepting refugees on an *ad hoc* basis, UNHCR provides additional support to help them ensure that goals are met and that any challenges are overcome.

The Resettlement Service also maintains regular liaison with NGOs and International Organizations working in the area of resettlement. *Resettlement partnerships are addressed further in Chapter 8*.

4.2 SAFEGUARDS IN THE RESETTLEMENT PROCESS

There are a number of safeguards that must be incorporated into each stage of the resettlement process to ensure its integrity and credibility. Regardless of the field context, all resettlement activities must conform to basic standards to ensure a level of global harmonization, transparency and predictability in resettlement delivery, and to mitigate the risk of fraud.

Resettlement activities are particularly vulnerable to fraud because of the benefits they offer. Safeguards are incorporated into every step of the resettlement process to minimize fraud possibilities, protect refugees from further victimization, protect innocent staff from false allegations, and to contribute to the overall credibility and effectiveness of UNHCR's resettlement activities.

These safeguards include:

Standards

The development and implementation of accountable and transparent resettlement procedures are essential to preventing fraud and corruption in the resettlement process. Each field office must develop Standard Operating Procedures (SOPs), in adherence with the *Baseline Standard Operating Procedures on Resettlement*[5] and the guidelines contained in this Handbook. All resettlement submissions prepared in a field office must be processed according to these established and objective standards and procedures, as discussed further in Chapter 7 of this Handbook.

Transparency

All decisions related to resettlement decisions must be taken in a transparent manner. Transparency has both an internal and external dimension.

Internally, it requires probity at all levels and stages of the resettlement process; that each decision with respect to refugees and others is clearly documented; that *proGres* (or other database, as applicable) is conscientiously updated with the physical file; and that it is clear on what basis each step and decision was

[5] UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html

taken. It should also be clear who authorized and undertook various actions and when they did so. Internal transparency requires clear rules and procedures as to what should be documented and included in an individual case file, such as outlined above with respect to enquiries, and how to ensure accountability.

External transparency means that refugees and other partners are properly informed about UNHCR's decisions and actions, subject to appropriate policies and confidentiality guidelines. In this regard, information meetings may be held to inform refugees and resettlement partners of the standards and procedures governing the resettlement process in a given field office. Such transparency will serve to enhance the credibility of resettlement, and is an important foundation for greater cooperation and confidence in the resettlement process.

This external transparency should not, however, lead to inappropriate disclosure of the contents of a refugee's file. Each person dealing with resettlement cases, including all international and national staff, interpreters, counsellors, medical personnel, and other staff of UNHCR's implementing partners, has an individual responsibility for ensuring that the concerned individual's right to confidentiality is not jeopardized. UNHCR's internal *Confidentiality Guidelines* provide further guidance on the sharing of information on individual cases.[6] *Confidentiality is discussed in more detail in Chapter 4.2.4*.

The issue of confidentiality should be highlighted in the training of national and international staff, government personnel, and NGO staff.

Authorization and accountability

In all field offices, the UNHCR Representative must designate an officer accountable for resettlement activities as an important first step in ensuring the effective management of resettlement activities within a field office. The decision to both process and submit a refugee's case to a resettlement country for their consideration must be authorized by the officer accountable for resettlement activities.

Oversight and compliance monitoring

The designated officer must provide oversight of all resettlement activities within individual field offices to ensure compliance and quality control. As well as routine controls, periodic random checks help ensure compliance to standards, and confirm that individual submissions are prepared according to the guidelines contained in this Handbook. Regional Resettlement Officers also provide oversight of the resettlement processes in field offices under their responsibility.

Oversight of the resettlement process should result in an ongoing review and improvement of the procedures as resettlement needs and field office capacities change over time. Changes in procedures should be reflected in the office's Resettlement SOPs.

[6] UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal)
http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html

4.2.1 Overall management and accountability framework

It is the responsibility of all managers to ensure that a clear management and accountability framework is in place for all protection activities, including resettlement, in their respective offices. This is essential in order to ensure that resettlement activities are carried out with integrity, and successfully implemented. The management and accountability framework for resettlement activities must be detailed in the Resettlement SOPs.

At the field level, while overall management and accountability for resettlement activities lie with the UNHCR Representative and the Senior Staff in charge of Protection, *all staff* with specified resettlement functions shares responsibility to carry out these activities to the highest standards possible.

4.2.2 Designation of officer accountable for resettlement activities

The UNHCR Representative/Head of Office and Senior Staff in charge of Protection must designate an officer accountable for resettlement activities within the Field Office (hereafter the Accountable Officer). This designation is an important first step in ensuring the effective management of the Field Office's resettlement activities. In the absence of a Resettlement Officer, a member of UNHCR's protection staff should be designated.

The Accountable Officer must exercise supervision over the integrity of all resettlement activities, including resettlement identification, case preparation and submission. Given the critical role throughout the resettlement process, a temporary replacement in the case of the Accountable Officer's absence must also be designated.

In field locations where UNHCR is represented by non-UNHCR staff, UNHCR Headquarters shall assume the responsibility of developing appropriate mechanisms and procedures for resettlement activities.

The accountability designation of this officer should be in writing to ensure transparency.[7] The name, title, and contact details of the officer accountable for resettlement are detailed on the Resettlement SOPs and should be shared with the relevant Bureau, the Resettlement Service of UNHCR Headquarters and Regional Resettlement Officers (where applicable) in order to facilitate effective communication on matters relating to resettlement.

[7] A sample accountability designation is appended to the Baseline SOPs. UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html

Accountability Framework Responsibilities Related to Resettlement

The Representative/Head of Office:

- ensures that resettlement activities meet the standards set forth in the Resettlement Handbook and relevant IOM/FOMs;
- integrates resettlement into the office's daily operation and ensures the effectiveness of resettlement procedures;
- ensures that the Accountable Officer is competent with respect to resettlement; and
- ensures that an accountability designation is signed by the Accountable Officer and his/her supervisor. (See the Annex of the Baseline SOPs.)

The Accountable Officer:

- is responsible for all resettlement activities;
- develops appropriate mechanisms and procedures for resettlement activities;
- implements resettlement policies, strategies and SOPs in coordination with the relevant Regional Office and/or Regional Resettlement Hub, or Resettlement Service, DIP, and the responsible Bureau; and
- promotes and implements mechanisms for fraud prevention/mitigation, including scheduling and conducting routine checks of the resettlement-related work of the office and designating a resettlement fraud focal point in the office.

4.2.3 Staff responsibilities

The accountabilities, responsibilities and requisite authorities of all resettlement staff must be clearly defined within the overall accountability framework. Each staff with resettlement responsibilities should be provided with written Terms of Reference describing their functional responsibilities and the reporting and supervision structure. Individual staff work plans should also specify how staff members exercise oversight over internal control requirements.

Although the formal status of persons working with UNHCR in resettlement may differ, for the purposes of this Handbook the term "staff" includes regular staff members, persons on temporary contracts, consultants, secondees, deployees and other affiliate workforce members, and staff of implementing partners specifically assigned to work with UNHCR on resettlement activities.

4.2.4 Confidentiality

In carrying out its mandate to provide international protection to refugees and other persons of concern and to seek permanent solutions to their problems, UNHCR collects and keeps diverse information on individual cases, including sensitive information regarding refugee claims, family members and medical and

psychosocial assessments. It is essential that UNHCR protects the confidentiality of this information at all times.

The need to respect confidentiality of information is rooted in the right to privacy and protection from unlawful interference in one's private life, as set out in international human rights law. In principle, when a person provides personal information, they only give authorization to use that information for a particular purpose. All persons have a right to know what personal information is being collected, on what basis and for what purpose, and what is being done with this information. They should have access to it, and be able to correct any inaccurate information.

UNHCR's *Confidentiality Guidelines*[8] set out the terms under which UNHCR may share individual case information either with the individual concerned, or with other requesting parties. The access to such information is based on UNHCR's mandate to provide international protection and find durable solutions for refugees. UNHCR staff must ensure that any such information is used for these purposes only, and must obtain specific consent from the refugee before sharing any such information with others.

UNHCR staff must also take strict measures to protect confidentiality. This means appropriate care must be taken when passing on such information, both internally within UNHCR and when sharing such information externally with third parties, including resettlement partners. All UNHCR staff – including interpreters, secondees and deployees, staff of UNHCR implementing partners, and other external experts working for UNHCR – are bound by the confidentiality guidelines, regardless of their formal status.

Each staff member is responsible for ensuring the confidentiality of refugees' personal information, and for adhering to the *Confidentiality Guidelines*.

Only authorized persons should have access to information such as individual case files or specific fields in *proGres*. Staff, including interpreters, who have no reason to access such information for work purposes should be prevented from gaining such access. Refugees must produce identification in order to request their own case information. Such measures are also an important safeguard against fraud and abuse.

Sharing information with resettlement countries and NGOs

Refugees being processed for resettlement must consent to having the details of their case shared with prospective countries of resettlement and if relevant also with NGOs. All adults included in the case must therefore sign the declaration included in UNHCR's Resettlement Registration Form (RRF) which authorizes the release of information and copies of documents to government officials, and to settlement service agencies as appropriate. An unaccompanied child submitted as the principal applicant should also sign the declaration if

[8] UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal)
http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html

the Best Interests Determination suggests that they have the capacity to give consent. The information and the documentation included in the RRFs needs to be comprehensive and provide a satisfactory level of detail with regard to the refugee's background, family composition, refugee claim, any elements bearing on exclusion, and specific needs.

As a general rule, no further documentation other than the RRF and any attached documents (including Best Interest Determination Reports, custody documents, Medical Assessment Forms, etc.), needs to be shared with countries of resettlement. For instance, UNHCR's internal eligibility files should not be copied to an external party. However, upon a reasoned request by a resettlement country, UNHCR may share relevant information extracted from the eligibility files with the author of the request in the form of an *ad hoc* communication or briefing.[9]

Sharing information with refugees

In principle, refugees are entitled to access information which they have provided, but have limited access to UNHCR-generated information or documentation from other sources. In such cases, UNHCR needs to weigh its own interests (such as staff safety considerations or protection of UNHCR's sources of information) against the refugee's legitimate interest, for instance, to know the reasons for any decision that affects her or him. A possible solution could be to share only abstract case summaries without mentioning the names of UNHCR staff members. In any case, UNHCR should not share interview records or credibility assessments as such. However, the key points from the refugees' own statements during interviews should always be read back to them before the conclusion of the interview.

4.3 STANDARD OPERATING PROCEDURES (SOPs)

Verifiable, standardized procedures ensure a level of global harmonization, transparency, and predictability in resettlement delivery, and are also a cornerstone of fraud prevention.

4.3.1 Baseline SOPs on Resettlement

The global *Baseline Standard Operating Procedures on Resettlement*[10] were developed by the Resettlement Service to provide UNHCR field offices detailed guidance to develop and maintain their Field Office Resettlement SOPs through:

- establishing the baseline standard – minimum standards for all UNHCR operations in assessing and submitting individuals for resettlement; and
- detailing where offices must elaborate their specific procedures within the baseline SOPs.

[9] See para. 43-45, UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal) http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html

[10] UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html

The Baseline SOPs outline responsibilities and minimum standards for required actions in each of the following areas:

1. **Resettlement management and risk mitigation**

- integrity of the resettlement process
- dealing with resettlement needs and expectations
- administration
- handling enquiries

2. **Resettlement processing**

- case identification
- receiving referrals and preliminary assessment of resettlement needs
- resettlement interviews and assessment of resettlement needs
- group resettlement
- specific requirements for vulnerable refugees
- finalizing the Resettlement Registration Form (RRF)
- submission decision
- selection missions by resettlement countries
- follow-up after submission
- withdrawal/suspension of submissions
- resettlement country decision
- departure arrangements and monitoring

Also included is an appendix of sample documents and forms used in the resettlement process that can be adapted to suit field requirements.

The Baseline SOPs are continually updated and revised to reflect evolving resettlement policy. Field staff should consult the updated version on the Intranet when reviewing their Resettlement SOPs.

Given the diversity of field contexts, specific resettlement procedures will differ from field office to field office. Therefore, field offices drafting their Resettlement SOPs must review their capacities and resettlement needs, and determine a resettlement process appropriate to their context and in adherence with the baseline standard and the further guidance provided by this Handbook.

4.3.2 Drafting and maintaining field Resettlement SOPs

Resettlement SOPs provide a narrative description of how the Field Office implements the baseline standards in **resettlement management and risk mitigation** and the stages **of resettlement processing**, as well as office-specific details for each stage of resettlement processing.

The SOPs should be detailed enough to provide staff with clear guidance on the specific responsibilities and steps that they should respect in all actions, as well as accountabilities, authorization and oversight required for each stage of the resettlement process.

As noted earlier, the Baseline SOPs only represent minimum standards, and need to be supplemented by office-specific procedures in a number of areas. The SOPs must specify all procedures and rules that deviate from the baseline standards, or have been added to them. It is recognized that the detail of an office's procedures will be a reflection of the scale of its ongoing resettlement activities.

Where possible, offices are encouraged to apply higher standards than the baseline standard to further enhance the effectiveness of their use of resettlement. For large or complex operations where the design of more elaborate or simplified procedures might be necessary, offices should seek to apply a higher standard than the baseline minimum.

In the process of drafting and maintaining resettlement SOPs, it is important that field offices pay particular attention to UNHCR's age, gender and diversity sensitive approach, and ensure that special provisions are included in the resettlement procedures to reflect the specific needs of refugees.

The drafting and maintenance of detailed SOPs underpin the efforts of UNHCR managers to improve the effectiveness, efficiency, and credibility of their resettlement activities. Their introduction represents an important opportunity to review existing office procedures, and to clarify where shortcomings that should be addressed exist. SOPs should thus not be seen as a one-time effort prepared to fulfill a reporting requirement, but rather as an active working tool to be adapted to reflect office-specific procedures applied on a daily basis.

At the same time, reporting back to Headquarters on the Resettlement SOPs is an important means for exchanging good practices, improving the Baseline SOPs, as well as ensuring global oversight. In line with UNHCR guidelines, each operation's resettlement SOPs should be reviewed and updated on an annual basis. The Baseline Standards Checklist, which is an annex to the Baseline SOPs, helps to identify shortcomings, and procedures and rules that deviate from the standard.

Updated SOPs must be authorized by the UNHCR Representative and the Senior Staff in charge of Protection, and a current copy should be sent to the Resettlement Service in UNHCR Headquarters, the relevant Bureau and, where applicable, the Regional Resettlement Officer.

All offices must ensure that their respective SOPs are updated annually in concurrence with the annual planning process and shared with the Resettlement Service at email HQRSGRND@unhcr.org as part of the annual planning process.

4.4 COMBATING FRAUD AND CORRUPTION IN THE RESETTLEMENT PROCESS

Ensuring the integrity of the resettlement process is critical to sustaining the global resettlement programme. Resettlement activities are particularly vulnerable to fraud because of the benefits they offer. Fraud may involve UNHCR directly or any of the resettlement partners, the host country, refugees, or the

local community. Corruption and fraud in the resettlement process hurts all those involved, and it is in the common interest of everyone involved to cooperate at all levels to detect, respond to, and prevent fraud.

Fraud should be understood in a broad or holistic manner rather than simply with a narrow focus on resettlement alone. Fraud can occur almost anywhere within the continuum of refugee processes or activities, including during registration, refugee status determination, and during assessments for durable solutions including resettlement.

Assessment of a case for resettlement often occurs at the end of a long series of contacts with a refugee, and any fraud that has entered the system at an earlier point and remained undetected may ultimately influence the resettlement assessment and decision.

All necessary steps must be taken in all field offices to combat fraud and corruption and to investigate all allegations of their occurrence. Identifying and helping to prevent fraud is not only the responsibility of management, but of all staff. Field offices must not wait until allegations emerge, but should take all measures to maintain the integrity of the resettlement processes so as to reduce the risk of fraud or corruption, and detect and combat fraudulent practices.

Incorporating safeguards into the resettlement process minimizes fraud possibilities, protects refugees from further victimization, protects innocent staff from false allegations, and contributes to the overall credibility and effectiveness of UNHCR's resettlement activities. UNHCR applies a "zero-tolerance" policy towards fraud and corruption and will pursue all allegations and apply appropriate sanctions where the allegations are substantiated.

4.4.1 Types of fraud and corruption in the resettlement process

Broadly speaking, fraud is the misrepresentation of fact for personal gain. Corruption is the offering, giving, receiving or soliciting anything of value to improperly influence another party.

Resettlement fraud is fraud committed in the context of resettlement processing, and may include ongoing fraud that was initially committed at an earlier stage of refugee processing. This can be defined for operational purposes as *"the intentional misrepresentation or concealment of facts or evidence material to the resettlement process with the intent of obtaining a resettlement or other benefit for the refugee concerned or for another individual who otherwise would not be entitled to be resettled or to obtain such a benefit"*.[11]

It is useful for UNHCR to distinguish between internal resettlement fraud and external resettlement fraud, though a combination of the two may arise. The distinction relates to the status of the perpetrator of fraud.

[11] See page 3 of: UNHCR, *Policy and Procedural Guidelines: Addressing Resettlement Fraud Perpetrated by Refugees*, March 2008, http://www.unhcr.org/refworld/docid/47d7d7372.html

Internal resettlement fraud

Internal resettlement fraud refers to fraud perpetrated by staff or persons having a contractual relationship with UNHCR. Examples of internal resettlement fraud include when UNHCR staff:

- draft false refugee claims or false needs assessments for resettlement;
- add, alter, substitute, or delete or remove information/documents on file; or add or remove photographs on file;
- deliberately enter incorrect information or alter information or photos in *proGres*;
- facilitate preferential processing or access to the procedure;
- charge a fee or demand a favour to enter a UNHCR office, be put on an interview list or receive information;
- deliberately lose, destroy, or fail to process a case file;
- report a false or embellished claim based on known "successful" claims rather than reporting/interpreting what the refugee says;
- coach refugees and others of concern prior to or during the interview; or
- provide false medical attestations.

Although resettlement processing is always free of charge, such fraudulent actions are frequently undertaken for a fee, favour or gift, and thus constitute corruption.[12]

Giving undeserved preferential treatment even without the expectation of something in return is also fraud. For example, this can occur when there is a conflict of interest due to a personal relationship with the beneficiary.

External resettlement fraud

External resettlement fraud relates to fraud perpetrated by persons other than those having a contractual relationship with UNHCR (and thus outside of the competence of the Inspector General).

External fraud may be perpetrated by refugees, asylum-seekers, criminals, host government officials, resettlement government officials, implementing partners, NGOs, IOM staff or others, and may take a variety of forms.

Identity fraud occurs when an identity is either invented, or the identity of another real person is assumed by an impostor. Supporting documents may be missing, or fraudulent documents provided. This may occur at any stage during the process, e.g. a refugee or non-refugee "purchases" an interview slot or a departure slot and takes the place of a refugee who has been identified as in need of resettlement. Identity fraud may also take the form of a substituted

[12] Personal relationships with refugees and other beneficiaries are problematic as they involve a relationship of unequal power and are thus easily subject to exploitation. The staff member will always be perceived as having power over the refugee, and the refugee may thus feel obliged to provide favours, including those of a sexual nature, in order to obtain certain benefits, or to avoid negative repercussions. See also the *UNHCR Code of Conduct & Explanatory Notes*, June 2004, http://www.unhcr.org/422dbc89a.html

medical assessment that is intended to hide certain conditions that are believed to delay resettlement. A more complex situation occurs when a refugee assumes multiple identities, and then sells the extra identities and places that s/he does not need. Identity fraud is always of concern, but is particularly so when it allows war criminals or other excludable and undeserving persons to benefit from resettlement.

Family composition fraud is one of the areas where misrepresentation or fraud is most likely to be committed. The definition of a family is culturally specific, and care must be taken to accurately record real relationships, as misrepresentation may not have a fraudulent intent.

However, family composition fraud may involve marriages of convenience; fictitious relationships, such as when distant relatives are claimed as sons and daughters; adding fictitious family members; substituting children, which may occur for money or under duress; or "losing" or hiding a family member to get an improved chance at resettlement (such as when a woman hopes to qualify for the Women and Girls at Risk category by claiming that her husband is dead or has disappeared). Family composition fraud may occur early in the process, in order to obtain increased rations of assistance; or it may occur at any later stage, to obtain recognition of refugee status or resettlement, or to take advantage of family reunification programmes outside of resettlement.

Document fraud occurs when either wholly fabricated documents or legitimate documents that have been altered are presented as genuine documents. At times the documents themselves may be legitimate but issued on a fraudulent basis. The purpose may be to falsify identity or family composition.[13]

Material misrepresentation fraud occurs when refugees deliberately exaggerate, invent or otherwise misrepresent the nature or details of their refugee claim or resettlement needs. Material misrepresentation may occur by:

- **omission** when refugees deliberately do not divulge information material to their refugee status or resettlement assessment; and
- **commission** when refugees deliberately exaggerate or invent the nature or details of their situation.

Bribery of UNHCR staff or others involved in the resettlement process with money, favours or gifts is also external fraud.

Mixed or complex resettlement fraud

Mixed or complex resettlement fraud occurs when internal and external elements collude to commit fraud. It may also involve an entire criminal enterprise, which has the capacity to endanger the general safety of UNHCR staff.[14]

[13] It is recognized that circumstances may compel a refugee or asylum-seeker to have recourse to fraudulent documentation when leaving a country in which his physical safety or freedom are endangered. Where no such compelling circumstances exist, the use of fraudulent documentation is unjustified. See para (i) *ExCom Conclusion No. 58* (XL) – 1989 UNHCR, *Thematic Compilation of Executive Committee Conclusions*, August 2008,Third edition, http://www.unhcr.org/refworld/docid/48b6c62f2.html

[14] See for example: UN General Assembly, *Investigation into allegations of refugee smuggling at the Nairobi Branch Office of the Office of the United Nations High Commissioner for Refugees:*

Resettlement exploitation schemes

There may also be exploitation schemes where persons or groups of persons, referred to as "brokers" or "facilitators", may falsely claim to have links to UNHCR and the ability to ensure that refugees or others obtain resettlement. Such scams may involve coaching refugees on false claims or promising false documents, interview spots, or a place in the group of next departures.

Such services are generally offered for considerable fees. To help convince potential victims, such persons may show photos of themselves with UNHCR staff; wear fraudulent ID tags and cards; drive vehicles with false UN plates; use false UNHCR signs and logos; or even set up false UNHCR offices or internet websites. They may also falsely claim to be NGOs working with UNHCR on resettlement referrals.

4.4.2 Fraud vulnerability

When seeking to prevent fraud, it helps to have an understanding of the situations in which fraud is most likely to occur. Three of the elements that contribute to fraud are:

- **Opportunity**: weak systems and procedures or limited management oversight allow people to obtain major benefits with little risk;
- **Motivation or situational pressures**: staff may face particular financial, personal or family pressures which may motivate them to make inappropriate choices; refugees may be motivated by the expectation of considerable benefits from being recognized as a refugee or from resettlement; and other external actors may expect considerable financial gain from fraud. People under pressure may take desperate means.
- **Rationalization**: for example, the belief that the system is unfair, or that the fraudulent action is not unethical or illegal; staff may also rationalize their actions through their discontent with their work, their supervisor, or with UNHCR.

Types of behaviour which may be linked to fraud

All staff should be aware that they may be targeted by potential perpetrators of fraud or exploitative activities, including non-refugees, when they encounter:

- excessive flattery;
- name-dropping;
- subtle bribery such as offers to pay for meals or gifts;
- confusing background stories; evasiveness and accusing others of paranoia or mistrust;
- haste and urgent requests that allow no time to think;

note /by the Secretary-General, 21 December 2001, A/56/733, http://www.unhcr.org/refworld/docid/3d58c61fo.html

- attempts to assert control;
- attempts to isolate one from other staff in the office;
- requests for physical access to the office for unneeded personal visits, preferential access to information, or favors; and
- requests for photographs together, particularly near spots identified with the office.

4.4.3 Safeguards and fraud prevention

The different elements outlined in this chapter to ensure a well-managed resettlement programme form the foundation of a strong anti-fraud plan.

Focal points for fraud, which have been established in the Resettlement Service at Headquarters as well as at the Regional Resettlement Hubs, should be kept apprised of any incidents of fraud. In addition, a focal point and/or an anti-fraud committee should be appointed by the Representative in each office. It is, however, the responsibility of *all* staff members to address fraud, uphold the integrity of UNHCR's activities, and report any suspected incidents of fraud.

The most effective measures to prevent fraud are to follow standardized procedures carefully, and to ensure transparency, proper authorization and accountability.

Efforts to reduce fraud work best when they focus on prevention. All actors in the resettlement process, including refugees, resettlement countries, countries of asylum, IOM, NGOs and UNHCR, must do everything in their powers to ensure that the resettlement process is transparent, objective, unbiased, and representative of the standards presented in Baselines SOPs and in this Handbook.

Particular attention should be paid to the safeguards relating to the treatment of resettlement referrals and enquiries, verification of registration details in a non-resettlement context, identity checks at key stages of the process, and the security of resettlement documents and files.

Important anti-fraud measures include:

- properly implementing the Baseline SOPs;
- ensuring transparent, objective resettlement procedures with appropriate accountability and authorization;
- efficient use of *proGres* as an identification and verification tool;
- clearly defining roles and responsibilities for all staff;
- implementing an active communications outreach programme, in addition to a clear and accessible complaints system;
- counselling refugees on the implications of committing or being complicit in fraud before signing the RRF;
- ensuring that the refugee community understands the potential implications of fraud on the overall availability of resettlement activities in the country;

- ensuring that there are file management and tracking systems that allow each step and action to be reconstructed, including ensuring that the action sheet is signed to indicate who took which action at what time, while still ensuring respect of confidentiality of information;
- following procedures specified in the Office's SOPs for file checks and audits;
- having proper leadership and oversight by senior management, including through spot checks; and
- investigating all instances of suspected fraud, and taking appropriate action.

An annual review of the practices and procedures and compliance with the different steps should be conducted in addition to periodic random checks. To conduct this review, the Accountable Officer is encouraged to consult *Resettlement Fraud: a Tool to Help Offices Assess their Exposure and Vulnerability,* which is an annex to the Baseline SOPs.

proGres also has significant anti-fraud capabilities, with its capacity for digital photographs and biometric information (e.g. fingerprints), as well as the ability to track who made which changes. Access to *proGres* and any other computer-based systems should be based on the use of passwords and, as an additional safeguard, the *proGres* Data Administrator should be instructed to submit a weekly report of files to the Accountable Officer if photos and/or other key data fields have been changed or updated. Key data fields include gender, date of birth, ethnicity and nationality. The Accountable Officer may then prioritize spot-checking of these files for tampering or fraud. The lack of active implementation of any of these factors may indicate an increased risk of fraud.

Complaint mechanism

A confidential complaint mechanism must be established and widely publicized. Persons of concern can report problems in accessing UNHCR and protection, whether these complaints concern UNHCR staff, implementing partners or other actors.

Means to submit complaints need to be easily accessible to persons of concern. Complaint boxes should be placed in accessible locations, and paper, writing utensils and a writing platform should be made available.

The complaint boxes must be locked, and access to the keys should be limited. At least two officers designated by the Representative/Head of Office will have joint responsibility for going through the information that is posted in the complaint box. The boxes must be opened on a regularly-scheduled basis.

Telephone hotlines and confidential email addresses could also be established for queries and complaints.

The Resettlement SOPs and the SOPs of other units need to specify how information in the boxes is handled, as well as procedures for dealing with telephone and email queries and complaints. For example, the presence of an international staff member, often the Accountable Officer, may be required while complaints are registered and recorded. The register, with information on the handling of the complaint, is to be kept in a secure location with restricted access.

Refugees must also be notified how to communicate confidentially with the UNHCR Inspector General's Office (IGO). *Further details are provided in Chapter 4.4.7*.

4.4.4 Further measures to prevent internal fraud

Most disturbing, and damaging to both refugees and global resettlement efforts, are allegations of UNHCR staff soliciting funds or sexual favours from refugees in exchange for preferential or fraudulent access to the UNHCR resettlement process.

Key elements of UNHCR's anti-fraud strategy are training and awareness-raising. Staff need to know which actions are unethical and illegal, and clearly understand the consequences of any fraudulent actions.[15] There must be oversight of all staff, and frequent random performance checks.

Good managers also focus on knowing their staff and providing them with guidance and support, including in difficult personal situations, to help counteract situational pressures which may lead staff to fraudulent activities.

Interpreters

Interpreters may be subject to particular pressures by the refugee community, since they often are of the same or similar origins, may themselves be refugees (although the hiring of refugee interpreters should normally be avoided) and are often paid low wages. Offices are encouraged to consult the UNHCR *Guidelines for the recruitment, training, supervision and conditions of service for interpreters.*[16]

More guidance on working with interpreters is provided in Chapter 7.3.2.

In general, to avoid fraud among interpreters, the following general measures should be adopted:

- requiring interpreters to sign the *UNHCR Code of Conduct*[17] and the *UNHCR Interpreter Undertaking of Confidentiality and Impartiality*[18] when they take up their duties;
- assigning interpreters to different officers when scheduling interviews (this also helps with quality assurance for each interpreter);
- preventing repeated involvement by one interpreter in the same applicant's case;

[15] See UNHCR, *Disciplinary Proceedings and Measures,* 30 May 2002; IOM/38/2002-FOM/36/2002 available from the UNHCR Intranet.

[16] See UNHCR, *Interpreting in a refugee context: Guidelines for the recruitment, training, supervision and conditions of service for interpreters*, 19 January 2009, IOM/005/2009-FOM/005/2009, (Internal) http://swigea56.hcrnet.ch/refworld/docid/497f147c2.html

[17] UNHCR, *UNHCR Code of Conduct & Explanatory Notes*, June 2004, http://www.unhcr.org/422dbc89a.html

[18] See Annex 2, UNHCR, *Interpreting in a refugee context: Guidelines for the recruitment, training, supervision and conditions of service for interpreters in a refugee context*, 19 January 2009, IOM - FOM/005/2009, (Internal) http://swigea57.hcrnet.ch/refworld/docid/497f147c2.html

- establishing positive professional working relationships with all interpreters, including offering them training;
- discouraging staff from fraternizing with interpreters (inside and outside the office);
- discouraging interpreters from fraternizing with refugees (recognizing that they may be refugees themselves);
- advising interpreters that they should report all inappropriate approaches made to them;
- advising interpreters that they must report the existence of any potential conflict of interest with interviewees (e.g. relatives) prior to interviews;
- prohibiting interpreters' access to files and the file room as well as to *proGres*;
- restricting interpreters' access to and use of mobile telephones while on duty;
- recognizing the expertise of translators and interpreters, introducing effective and competitive recruitment policies and practices and "professionalizing" the service by ensuring appropriate salaries and benefits are provided;
- making appropriate checks prior to engagement, including police, reference and educational/professional qualification checks; and
- providing interpreters with orientation, training with respect to conduct and responsibilities, and monitoring.

Interpreters should be subject to the same monitoring and performance checks as other staff. Interviewers should be permitted to stop any interviews if they are concerned about suspicious behavior on the part of interpreters.

Security personnel

Guards may similarly be subject to particular situational pressures. They are essential to accessing UNHCR premises but are generally paid relatively low salaries.

Guards have an obligation to uphold high standards of integrity and professionalism in the discharge of their duties, which includes a responsibility to protect the work of UNHCR by facilitating the safe and dignified access of refugees to the premises when they seek assistance from the office.

Possible best practices for safeguarding against corruption and fraud include requiring guards:

- not to fraternize with interpreters or refugees inside or outside the office;
- to report all advances made to them inside or outside the office;
- to undergo a police check prior to engagement.

As with staff, guards should be subject to regular monitoring, checks and observation, and security cameras may also be used. Complaints against guards can also be made through the Office's confidential complaints mechanism, and this should be included in public messaging about the complaints process.

Any allegation of a UNHCR Staff member's involvement in corruption and fraud should be addressed as a matter of urgency and immediately reported to the Inspector General's Office (IGO) according to the steps outlined in Chapter 4.4.7 of this Handbook.

4.4.5 Measures to prevent external fraud

Regular communications about resettlement-related activities, efforts to highlight the importance of fraud awareness, training external partners on resettlement processes and continuous and appropriate counselling of refugees are an important part of any anti-fraud plan.

As is covered further in Chapter 5.6 and Chapter 8, agreements with external resettlement partners such as NGOs should include specific measures to safeguard against fraud, as well as clear specifications of all actors' roles. It is also important for the local population to know that resettlement is only available to persons of concern to UNHCR.

Expectations management, a strong communications strategy and regular briefings and updates with all resettlement partners are key elements for preventing fraud.

Involving refugees in fraud avoidance

Implementing a communications strategy to pass key messages about resettlement to refugees is proven to help prevent fraud and manage expectations. It is important for the refugee community to understand the potential implications of fraud on the individual cases, as well as the overall availability of resettlement activities in the country. Resettlement programmes may be suspended indefinitely while allegations of fraud are investigated.

As outlined in Chapter 4.5.2, key messages to refugees include information on fraud, what fraud entails (e.g. falsifying family composition), the duty to abstain from fraud, and the fact that all UNHCR services are free of charge. Refugees should also be warned against any fraudulent offers of assistance and notified of how to report fraud. Such messages should be accessible, clearly understandable, posted or transmitted in the language(s) understood by most refugees in the area, and disseminated through the various tools available for mass information campaigns.

UNHCR's *Policy and Procedural Guidelines on Addressing Resettlement Fraud Perpetrated by Refugees* seek to harmonize procedures for handling instances of suspected refugee fraud, including in conducting investigations and imposing sanctions.[19] Consistently addressing resettlement fraud and imposing proportionate and consistent sanctions will bring about a deterrent and preventative effect to fraud, and will help ensure that persons who are not eligible for resettlement will not benefit from this durable solution.

[19] See: UNHCR, *Policy and Procedural Guidelines: Addressing Resettlement Fraud Perpetrated by Refugees*, March 2008, http://www.unhcr.org/refworld/docid/47d7d7372.html

It is also important to recognize that refugees can also be part of the solution as key partners in anti-fraud efforts and improving our understanding of the fraud triggers. Indeed, refugees have been among the best witnesses or informants in fraud investigations.[20]

Additional measures pursued with resettlement partners

UNHCR is also pursuing additional measures with resettlement partners including:

- standardized reporting forms for NGOs based in resettlement States, including reporting on post-resettlement interviews with refugees;
- joint process mapping and analysis of fraud exposure, including common definitions and lists of fraud indicators;
- joint investigations;
- joint training and information campaigns;
- pre- and post-selection mission reports by resettlement States;
- the establishment of the WGR's Expert Group on Resettlement Fraud whose objectives include promoting and ensuring better communication, collaboration and partnership in anti-fraud efforts between members at field, regional and capital levels, and developing and disseminating tools, techniques and best practices on resettlement anti-fraud.

To encourage reporting, complaint boxes should be located in easily accessible locations such as UNHCR or partner offices, youth clubs, etc. The confidential contact details for the IGO should also be publicized widely to encourage direct reporting.

4.4.6 Confidentiality in reporting fraud

An important part of anti-fraud vigilance is encouraging its reporting. While procedures may differ for internal and external fraud, appropriate measures should be taken to protect individuals reporting fraud in both cases. The names of individuals who report substantiated allegations of fraud must always be kept confidential, and the details of allegations must remain confidential until a full investigation has been completed.

Any staff member, regardless of grade or function, who has knowledge of allegations of resettlement fraud, corruption or wrongdoing, should document all allegations, including names, dates, and particular details related to the allegations. All staff have a duty to take appropriate action to report instances of misconduct as well as any information that relates to misconduct they have observed.

The fraud focal point must produce regular reports of incidents of fraud and measures taken by the office, for submission to the Regional Hub/Office or UNHCR headquarters.

[20] UNHCR, *Remarks at the 2nd Meeting of the Expert Group on Resettlement Fraud* (10-11 September 2008, Amman, Jordan), 11 September 2008, http://www.unhcr.org/refworld/docid/492a9c7a2.html

4.4.7 Responding to indicators and allegations of internal fraud

Key indicators for which all staff should be alert include:

- files in which one staff member appears to be responsible for more than one stage of processing and decision making without respecting the regular requirements for authorization;
- staff members enquiring about or showing an interest in files to which they have no work connection;
- files that may be delayed for excessive periods (possibly suggesting the expectation of a bribe), as well as files that move too rapidly (suggesting preferential treatment);
- files in which key information is missing or signatures are missing or illegible;
- excessive or unusual documentation on file; and
- any other procedural abnormalities.

While these indicators alone do not confirm that fraud has been committed, they indicate that further follow-up may be warranted. Such incidents should be brought to the attention of the Accountable Officer.

The complaints mechanism may also result in allegations of fraud or misconduct by UNHCR staff. Complaints that are received directly or through the complaints mechanism are subject to a special procedure.[21]

Role of the Inspector General's Office (IGO)

When allegations that UNHCR staff may be involved in fraud arise, they must be documented and reported appropriately. Details of the alleged fraud, including names and dates, are required. All staff members have an obligation to respond to allegations of fraud that come to their attention, regardless of their grade and function.

Possible misconduct may be reported either to their Director, Representative, Chief of Mission, or Accountable Officer, who should promptly inform the Inspector General's Office (IGO) at Headquarters, as well as Resettlement Service, with:

- an initial assessment as to the credibility of the source, including the reasons or evidence for that assessment;
- the extent to which the information is specific and can be dated;
- the existence of any supporting evidence; and
- whether and the extent to which the alleged fraud has resulted in damage – material, financial, or to the credibility and image of the office.

[21] See: UNHCR, *The Role, Functions and Modus Operandi of the Inspector General's Office*, 3 November 2005; IOM/054/2005 - FOM/054/2005, (Internal) http://swigea56.hcrnet.ch/refworld/docid/43706e744.html

Such allegations may be reported directly and confidentially to the IGO at Headquarters.

Confidential fax: +41-22-739-7380
Confidential email: inspector@unhcr.org
Telephone hotline: +41-22-739-8844

The IGO will then assess any information received to judge credibility and whether the complaint falls within the competence of the IGO. If the IGO decides to conduct an investigation into the matter, the staff member providing the information or the manager who reported it will be informed within 30 days. The manager may be asked to assist in the investigations.

Contact with the IGO can also be made to obtain preliminary advice. The name of the source will be kept confidential and may only be disclosed if it is required for administrative, disciplinary or judicial proceedings, with the approval of the source, and the approval of the Inspector General. If the source fears any reprisals for having reported fraud, this should also be recorded, because reprisal is misconduct in and of itself and the Inspector General can recommend immediate protective measures to the High Commissioner. If a report is made anonymously, the IGO will investigate whether the allegation is corroborated by independently established facts.

In addition to specific investigations to follow up on claims of misconduct including fraud, the IGO also carries out inspections to check how effectively established policies and guidelines are being implemented in an office. These inspections may also include specific terms of reference to address particular issues. Such investigations are an additional tool to help identify risk factors for fraud and measures to combat it.[22]

4.4.8 Responding to allegations of external fraud

The same complaints mechanism introduced above should also serve as an important source of fraud allegations by persons external to UNHCR, such as refugees, local populations or partners. Enhanced cooperation with resettlement partners, including resettlement States, IOM, NGOs and other partners will be useful in examining the characteristics of fraud. Possible fraud, how to prevent it and how to deal with it once it has arisen should be discussed regularly at resettlement meetings.

The IGO will not normally be involved in allegations that only concern persons external to UNHCR. Such allegations should, however, be reported to the Representative or Head of Office who may seek further advice from the IGO. The Regional Resettlement Hub/Regional Office and Resettlement Service should also be notified. In specific instances, UNHCR may contact the local law enforcement authorities to investigate incidents of external fraud.

[22] See UNHCR, *The Role, Functions and Modus Operandi of the Inspector General's Office*, 3 November 2005; IOM/054/2005 - FOM/054/2005, (Internal) http://swigea56.hcrnet.ch/refworld/docid/43706e744.html

Allegations against refugees

Where fraud concerns specific refugees, case processing should be suspended. Staff should also refer to and follow UNHCR's *Policy and Procedural Guidelines on Addressing Resettlement Fraud Perpetrated by Refugees*.[23]

Some key principles underlying the guidelines are:

- UNHCR's international protection mandate must be upheld and respect for fundamental human rights of individuals found to have been involved in resettlement fraud as well as of other refugees, individuals and persons of concern respected. These standards should provide guidance on the limits of actions which can be taken or sanctions which can be imposed;
- cases must be decided on an individual basis and in a holistic manner taking into account the definition of resettlement fraud as provided above, and also considering the responsibility of the individual concerned and the nature of the involvement;
- corrective actions and sanctions and their consequences must be proportional to the fraud committed and should take into account the motive of the person concerned; and
- where practicable, corrective actions and sanctions should have minimal impact on close relatives or other refugees who have clearly not conspired, connived or abetted the fraud.

Allegations of resettlement fraud by refugees should immediately be referred to the Representative/Head of Office who will assess the evidence and will appoint one or two experienced international staff members to conduct a formal investigation if warranted. The Resettlement Service, Regional Hub/Office and relevant Bureau should be notified if a formal investigation is launched, and may also be called on for assistance and specialized experience.

The refugees concerned should be interviewed, both for investigative purposes and to give them a reasonable opportunity to respond to the allegations. The interview should be recorded in full, either in writing or by audio or video tape recording; the consent of the refugee will be required. A full investigative report, including recommendations on any sanctions or corrective actions will also be required. This report should be reviewed by the Representative or his or her delegate, and should be subject to an automatic review by the Regional Resettlement Hub/Office or UNHCR Headquarters staff.

Sanctions are applied in a discretionary manner according to the nature of the fraud and may vary considerably due to a range of circumstances, including individual protection needs, country conditions, individual motives and mitigating/aggravating factors. Falsification of personal information may result in a warning, or a time-limited suspension of resettlement processing, whereas more serious fraud including attempted bribery or concealment of information that would lead to Article 1F exclusion may result not only in the termination of a resettlement case, but also in criminal prosecution.

[23] See UNHCR, *Policy and Procedural Guidelines: Addressing Resettlement Fraud Perpetrated by Refugees*, March 2008, http://www.unhcr.org/refworld/docid/47d7d7372.html

Where possible, the local refugee population should be notified of the decision to apply sanctions due to refugee fraud, but this should be done in a manner designed to protect the identity of the refugees subject to action or sanctions. This may include publication on a bulletin board accessible to refugees and NGO/resettlement partners. The goal of such publicity is to deter future fraud by informing the community about the occurrence of fraud, and the sanctions and other actions taken by UNHCR to address the situation.

In situations where an alleged fraud is likely to prejudice a UNHCR resettlement submission to a resettlement State, that State must be appropriately informed.

Addressing each and every instance of resettlement fraud in a consistent manner is critical to sending out the message that fraud will not be tolerated and that engaging in fraud carries consequences.

Allegations of fraud against NGOs

Where fraud is suspected of implementing partners or NGOs, the Bureau and the Legal Affairs Section (LAS) may provide further advice or guidance. In some cases, the incidence of fraud may lead to criminal prosecution. In such cases, LAS should always be consulted, together with the Resettlement Service and the Bureau.

Essential reading

- UNHCR, *Policy and Procedural Guidelines: Addressing Resettlement Fraud Perpetrated by Refugees*, March 2008, http://www.unhcr.org/refworld/docid/47d7d7372.html
- UNHCR, *Management of Protection Activities - Responsibilities of UNHCR Staff*, 15 March 2002, IOM/025/2002 - FOM/024/2002, (Internal) http://swigea56.hcrnet.ch/refworld/docid/3d4524a52.html
- UNHCR, *IOM/054/2005 - FOM/054/2005 The Role, Functions and Modus Operandi of the Inspector General's Office*, 3 November 2005, (Internal) http://swigea56.hcrnet.ch/refworld/docid/43706e744.html
- UNHCR, *Disciplinary Proceedings and Measures*, 30 May 2002, IOM/38/2002 - FOM/36/2002, (Internal) UNHCR Intranet
- UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html
- UNHCR *Code of Conduct & Explanatory Notes*, June 2004, http://www.unhcr.org/422dbc89a.html

4.5 MANAGING RESETTLEMENT EXPECTATIONS WITHIN THE REFUGEE POPULATION

Effective management of resettlement expectations is an essential foundation for ensuring that resettlement processes are not undermined by tensions, anxieties, unrest and security threats.

Implementing an effective communications outreach programme is a key part of managing expectations. With limited information about the nature and limitations of resettlement as a durable solution, refugees and resettlement partners may develop unrealistic expectations about resettlement. The protracted nature of some refugee situations, where local integration and voluntary repatriation are not foreseeable options, makes resettlement opportunities highly sought after, which can escalate the risk of fraud, corruption, violence among refugees and concerns for staff security.

Problems can be minimized if resettlement is properly conceived and implemented within protection and durable solutions strategies. Poorly designed resettlement programmes may create enormous and often unrealisable expectations within the refugee community. Combined with frustration and possible trauma from prior experiences, these expectations can be a source of anxiety and tension that may ultimately lead refugees to extreme measures, such as organized protests or violence.

4.5.1 Dialogue on durable solutions

As part of managing overall expectations, it is important to establish and maintain a dialogue with refugee leaders and individual refugees about protection activities and durable solutions, not only resettlement. Efforts should be made to ensure that refugees understand the scope and limitations of all possible durable solutions. Offices should also be careful to collect information on the protection context and the identification of specific needs without raising expectations with regard to resettlement. *Managing expectations during the process of identifying refugee needs is discussed further in Chapter 5.8.1*.

In some cases, factions or political organizations among the refugee population or in the host country are directly or indirectly taking a position about the risk of remaining in the country of asylum or dangers related to returning home. Public Information staff can strengthen UNHCR's capacity to conduct reliable information campaigns in these contexts.

4.5.2 The resettlement message

The most important aspect of any effort to manage resettlement expectations is to provide refugees, others working with refugees and, in some cases, the general public, with clear and consistent information on the limits and possibilities of resettlement. In the interest of ensuring that the resettlement message remains consistent, it is also important that a limited number of people are authorized to discuss resettlement with refugees.

As set out in the Baseline SOPs, this message should emphasize the following points.

- Resettlement is only one of the three possible durable solutions.
- Resettlement involves the transfer of a refugee from the country where they currently reside to another country that has agreed to admit them.

- While it is UNHCR's obligation to ensure the protection of refugees where necessary by promoting their resettlement, resettlement is not *automatic*.
- No refugee has the *right* to resettlement.
- Resettlement is conducted according to precise criteria established by resettlement countries and UNHCR.
- The refugee's links and wishes are taken into account, but the refugee cannot choose the resettlement country.
- The decision to accept a refugee for resettlement remains with the resettlement country, not UNHCR.
- After being resettled, resettling to another country or returning to the previous country of asylum are not likely to be options.
- All resettlement documents, information and services are *FREE of charge*.
- Committing fraud in the resettlement process is breaking the law and may result not only in the closure of a refugee's resettlement file, but also in criminal prosecution.
- Misrepresenting family composition, or providing false information, is a form of fraud.
- If fraud is discovered after resettlement it can have serious consequences resulting in a cancellation of residence permit and possible deportation.

Disseminating the resettlement message

Expectations are most effectively managed through the dissemination of clear information on resettlement, coupled with counselling and transparency on individual cases. By improving ways UNHCR and its resettlement partners communicate with refugees, as well as understand and address their specific needs (e.g. through participatory assessments, focus group clinics or protection profiling), unrealistic expectations and misunderstandings can be reduced.

The appropriate means of disseminating information will depend on the particular office context, but may include:

- public meetings on resettlement;
- regular meetings between the Accountable Officer and refugees to discuss protection issues and durable solutions, and help them understand the use and limitations of resettlement;
- focused consultations with refugee leaders, refugee women, refugee youth, the disabled, or other sub-groups as appropriate to ensure dissemination of information to all segments of the population;
- provision of standardized information on resettlement to any refugees who approach the office (see the Annex of the Baseline SOPs for a Sample Resettlement Brochure);
- consistent information on resettlement to be used during individual counselling;
- a public information campaign to disseminate information on resettlement through various means, including radio broadcasts, newspapers, posters, pamphlets, text messages, and emails as appropriate; and

- meetings with staff and meetings with NGOs to ensure that everyone in contact with refugees is familiar with the resettlement process, and understands the importance of not raising unrealistic expectations in regard to resettlement.

Disseminating accurate information to refugee communities already in resettlement countries is also important to reducing unrealistic resettlement expectations.

4.5.3 The importance of counselling

Counselling is of utmost importance from the beginning of UNHCR's contact with a refugee and should take the form of an open dialogue between the refugee and UNHCR, in close collaboration with government and NGO staff involved in the process.

Owing to the traumas connected with departure from the country of origin and/or problems in the country of asylum, refugees may harbor unrealistic expectations in terms of both the ease of obtaining a resettlement place and the opportunities awaiting them in the country of resettlement. It is important to understand the individual's knowledge and expectations, and address them directly. Officers should remain focused on realistic options and not make any commitments that may not be kept.

Listen actively

When refugees focus on resettlement, they may actually be expressing problems with assistance, lack of hope regarding returns, need for employment and income generation, desire for education, fears and insecurity stemming from the refugee situation or need for medical or mental health services.

If more than one actor is involved in counselling, the information to be provided should be clearly agreed upon prior to counselling the individual. As appropriate, counselling on the availability of other durable solutions, namely voluntary repatriation and local integration should precede any discussion with the refugee on resettlement.

If resettlement is being considered as the appropriate solution, utmost transparency regarding resettlement processing and time frames is called for. During the counselling process, it must be pointed out that resettlement takes place based on set criteria and follows defined procedures. Refugees must be clearly informed of the uncertainties and problems that may arise during the resettlement process, and that the ultimate decision to accept a refugee for resettlement remains with the resettlement country, not UNHCR.

Only an informed decision based on full knowledge of all relevant facts will do justice to the individual refugee's needs and circumstances. Realistic expectations on the part of refugees will avoid undue frustration, and in the worst case, aggression or violence on the part of those whose expectations are not met.

All family members (with the exception of small children) should receive appropriate counselling. It is not enough to counsel the head of the family. The perceptions, expectations and needs of refugee women and girls may differ substantially from those of their male family members, and their concerns and needs have to be addressed in a gender-sensitive and age-appropriate manner.

It is imperative to be as transparent as possible about UNHCR's aims, objectives and resettlement activities when dealing with refugees.

Particular effort should be made to avoid the perception on the part of the refugee that a choice exists in terms of prospective resettlement countries (the "travel agency" syndrome). Refugees must understand that there is a very limited choice of resettlement countries owing to several factors, including quota availability, admission criteria as well as the refugee's own background, including family, cultural, linguistic, education and work experience. It must also be noted that distant family links or friends already resettled in certain countries may not be taken into consideration by resettlement countries.

Moreover, integration in a resettlement country can be very challenging – for example due to cultural and language differences and possible separation from family and friends. Accommodation in countries of resettlement for those newly arrived may be modest and employment and higher education opportunities limited. Failure to communicate the foregoing may result in false expectations and unnecessary frustrations for persons designated for resettlement. Gender-sensitive and age-appropriate counselling is crucial to ensuring that information is effectively conveyed.

Counselling refugees in the resettlement process

When counselling individual refugees in preparation for resettlement, it is important to explain clearly the step-by-step process involved in the preparation and submission of the applicant's case file, the anticipated processing times of resettlement countries, and UNHCR's involvement in follow-up. Any significant changes to the anticipated processing times or procedures should also be communicated promptly.

Information may be provided in various forms: by pamphlets, posters, radio, newspapers, letter, email or by a personal interview. The message that all UNHCR services are free should be added to public information whenever possible.

Refugees often believe that the process of resettlement will be more rapid than it usually is, and that obtaining a resettlement place is automatic, once the case has been submitted. It is important to explain:

- that the process takes time due to the processing procedures of resettlement countries, which may include interviews and medical tests;
- that they must notify UNHCR immediately if there are any changes in their family composition or their protection situation;

- that the decision rests with the resettlement country and not UNHCR, that acceptance is not automatic, and that they must tell the truth and be prepared to articulate their refugee claim;
- that while family links may be given priority by UNHCR for submission, they do not guarantee acceptance by the resettlement country;
- that they cannot have a choice and "shop around" for the country of their preference;
- how and when the outcome of the case will be communicated to them.

Care should be taken not to build up the refugees' hopes and/or expectations and not to make promises that UNHCR cannot fulfill.

4.5.4 Ensuring access to UNHCR premises

While communications to refugees can take various forms – such as mass information campaigns, meetings with refugee leaders, communities and refugee women, as well as individual letters and notifications – it is important always to have a receptive environment to allow enquiries by refugees at UNHCR premises.

UNHCR reception, registration and security staff should be trained on how to respond to persons of concern seeking access to UNHCR colleagues, and how to identify individuals with priority needs. *Further details on the identification of protection needs are provided in Chapter 5*.

All persons of concern, especially vulnerable persons, should be able to access UNHCR premises.

Information on how and when to access UNHCR should be widely publicized. This should include details on contacting UNHCR after hours in an emergency.

Refugees should be informed at all opportunities that access to UNHCR premises and all services are free of charge. An easily accessible complaints mechanism should also be established and widely publicized.

Standard Operating Procedures (SOPs) should govern the access of persons of concern, including how enquiries and complaints are handled and to whom they should be referred.

To the extent possible, persons of concern should make appointments to see relevant UNHCR staff, but there should be fixed times for persons of concern to arrive without a prior appointment. Provisions should also be made outside of these time periods for drop-in visits of an urgent nature, or those which concern persons with specific vulnerabilities.

The SOPs should include effective and age, gender and diversity sensitive mechanisms that ensure that women, whether alone or accompanied by their families, receive information on UNHCR and the resettlement process and have the opportunity for a separate and confidential interview. Children who are

separated from parents or primary caregivers should receive priority in reception and should be referred without delay to the appropriate staff member.

4.6 SECURITY MEASURES

Resettlement operations must ensure that proper security measures are implemented to protect the safety of staff and refugees and to guard against fraud, while maintaining access and transparency in the system.

UNHCR is an active member of the common UN security system, complying with established UN country Minimum Operational Safety Standards (MOSS) guidelines. UNHCR's security policy emphasizes the responsibility and accountability of managers, at Headquarters, at the level of Country Representatives and of Heads of Field Offices, for the security of their staff. However, the policy also underlines the responsibility of each staff member to be aware of the environment and existing guidelines, and to recognize their responsibilities and capacity to influence the security environment. All UNHCR field staff receive security training from the UN's Department of Safety and Security, and briefings on their Office's Emergency and Security Procedures.

UNHCR's series of internal safety guidelines: *Safety Guidelines for Sensitive Individual Refugee Cases in an Urban Context, Safety Guidelines for Handling Threats, Verbal Abuse and Intimidation from Refugees*, and *Guidelines for Handling Protests, Demonstrations and other Group Disturbances among Refugees* also provide general advice on managing refugee expectations and avoiding and dealing with conflict.[24]

Coordination is necessary between UNHCR Protection staff and other staff or individuals who are responsible for security to ensure that:

- UNHCR security policies and guidelines are fully implemented in the resettlement procedures;
- protection concerns are taken into account in the development and implementation of security procedures in each office.

The following security provisions must be incorporated into UNHCR procedures:

- measures for crowd control and the orderly entry of individuals onto UNHCR premises;
- security guidelines for conducting individual counselling and interviews, including directions on the layout and furnishings of interview rooms;
- procedures regarding the movement of asylum-seekers and refugees in the UNHCR Office, and the areas and circumstances in which escorted access should be required;

[24] UNHCR, *Safety Guidelines for Sensitive Individual Refugee Cases in an Urban Context*, 4 September 2002, http://swigea56.hcrnet.ch/refworld/docid/3dca8ead4.html UNHCR, *Safety Guidelines for Handling Threats, Verbal Abuse and Intimidation from Refugees*, 17 April 2003, http://swigea56.hcrnet.ch/refworld/docid/3ea6c2104.html and UNHCR, *Guidelines for Handling Protests, Demonstrations and other Group Disturbances among Refugees*, 15 September 2004, http://swigea56.hcrnet.ch/refworld/docid/48b2c8112.html (All Internal)

- effective measures for all UNHCR staff to alert security staff of potential security incidents and to obtain prompt assistance, including the installation of emergency call buttons at reception and in spaces used for counselling and interviews;
- procedures for reporting security incidents to the appropriate staff members in the Office, as well as any other requirements for reporting within the region and to UNHCR Headquarters.

A separate issue is the security of refugees after they have been selected for resettlement. In some contexts, refugees may be vulnerable to acts of violence caused by jealousy, or coercion to provide support or sponsorship after they have been resettled. UNHCR staff should be vigilant to such risks, and take preventative action as appropriate.

4.6.1 Triggers for potential security risks

Since UNHCR is instrumental in determining resettlement interventions by States, it is understandable that refugees direct their resettlement-related concerns and frustrations toward the Office. However, the source of such concerns is not necessarily "resettlement" per se, but rather how refugee situations and solutions are managed, the extent to which refugees are able to participate in the process of making decisions that affect their lives, and their access to information about resettlement and other possible solutions. Whether or not resettlement is viewed favourably by refugees, the challenge for UNHCR and the international community is to manage its use in a way that can be understood and supported by the refugees without giving rise to conflict.

The presence of tension-inducing factors – such as when needs for resettlement exceed opportunities – may make refugees more susceptible to anxiety, frustration and violence, especially when catalyzed by certain "triggering factors". Such factors, which often underlie aggressive behaviour in different operational contexts, are not the only ones associated with resettlement, but include:

- **Perceptions of abuse of power, corruption or unethical behaviour exist**. Research by UNHCR's Emergency and Security Service (ESS) suggests that these perceptions exist in a high number of cases in which refugees have resorted to violent or aggressive behavior. UNHCR's experience illustrates that it is not always just a matter of perception. The desperation of many refugees and the limited availability of resettlement opportunities can provide an environment for exploitation and unethical behavior by refugees and those who interact with them. This fact emphasizes the managerial responsibility to ensure regular oversight and timely proactive intervention where necessary.
- **Policies are not clear or fully understood or perceptions of uneven or unfair policy applications exist**. Problems often result from a mixture of these (e.g. lack of participatory assessment mechanisms or similar methods of identifying refugees for referral).

- **Refugees are treated with insensitivity or lack of respect**. This is a particular concern in offices where a small number of protection staff must interface with hundreds of refugees without opportunities for breaks, risking the onset of fatigue, indifference and burnout.
- **A refugee's case is associated too closely with one staff member**. This can invite the perception that a decision was based on personal factors rather than the impartial application of universal policies.
- **Refugees have been given reason to believe that violent or coercive behavior will be effective in obtaining a desired result from the other party (often UNHCR)**. This is perhaps most commonly the trend in protracted group disturbances experienced by UNHCR, and it underscores the importance of avoiding sending mixed messages, and maintaining a position that does not tolerate violence and unlawful behavior.
- **A refugee expects that resettlement is "guaranteed" or "due" to him/her**. These perceptions may arise, for example, from seeing many others with similar protection problems in the country of asylum leave for resettlement, from undergoing a lengthy interview process or simply from misinterpreting statements or signals from officials.
- **Policies change abruptly or faster than refugees can understand or absorb them**. UNHCR is particularly vulnerable in the case of resettlement because sudden and far-reaching policy changes can come from the countries of asylum and/or resettlement, where UNHCR may have little control.
- **There is a sense that time is running out**. UNHCR might experience this phenomenon where a cessation clause is implemented or due to take effect, but conditions in the country of origin remain doubtful in refugees' eyes.
- **People are tired of waiting**. The actual impact of this factor on violence is debated, and strictly speaking, it is not a trigger because it is a lack of activity rather than a specific event. Nevertheless, many of UNHCR's experiences with violence from refugees have occurred among populations in protracted refugee situations where voluntary repatriation and local integration in the country of asylum remain untenable after some years.

4.6.2 Security recommendations when conducting interviews

Hostile acts against persons conducting interviews sometimes occur. Given the tension factors outlined above, undertaking resettlement responsibilities adds urgency to the maintenance of appropriate safety standards.

The input of the Field Security Advisor should be sought concerning precautions and practices to be followed in the office and in each interview location.[25] Procedures should also be established to ensure that resettlement staff are alerted to any unrest or activities that could impact the safety of the interviewing process.

[25] For further information on security issues see Unit 2.4 of UNHCR, *Procedural Standards for Refugee Status Determination Under UNHCR's Mandate*, 20 November 2003, http://www.unhcr.org/refworld/docid/42d66dd84.html

It is crucial that security measures are guaranteed prior to meeting or interviewing individuals or groups, and that all staff members likely to have contact with refugees are appropriately trained on security awareness. Staff should take special care in cases where a refugee has any record of violent behaviour. Wherever an individual shows signs of serious distress or threatening behaviour, appropriate security measures should be put in place and security staff alerted.

The following general recommendations are meant to enhance the safety of UNHCR and partner staff involved in the interview process:

- all interviews should, where possible, be by prior appointment;
- separate procedures should be in place to deal with emergency, urgent or sensitive cases;
- trained guards should control access to the building and the main entrance to the interview area. If deemed necessary, the guards should carry out searches of individuals seeking access to the building or use a metal detector;
- the interview area should not be exposed visually to the waiting room;
- only a limited number of people should be allowed into the waiting area at any one time; and those waiting should have access to bathrooms, drinking water, and adequate shelter and seating;
- any known record of violent behavior should be noted on the individual's file. This will alert the interviewer to take precautionary measures if deemed necessary;
- interviews should be held in an interview room (not in the interviewer's office);
- interview spaces must protect confidentiality and have sufficient space for family members and an interpreter;
- there should be a window in the door of the interview room;
- to the extent possible, clear interview rooms of breakable objects or any items that could be used as weapons;
- the interviewer and interpreter should be seated with free/unhindered access to the exit;
- procedures to evacuate an interview room should be established and a mechanism or procedure should be in place for summoning help; and
- staff must have proper means of communication at all times.

The following additional recommendations should be considered when conducting interviews in remote field locations:

- interviews should be conducted in a discreet location so as not to attract undue attention;
- ground transportation should remain on stand-by at all times;
- arrangements should be made to ensure proper communications at all times (radios or walkie-talkies); and
- several staff should travel together and arrangements should be made with local authorities for assistance to be provided if needed.

All security incidents must be noted. UNHCR's *Safety Guidelines for Handling Threats, Verbal Abuse and Intimidation from Refugees*, and *Guidelines for Handling Protests, Demonstrations and other Group Disturbances among Refugees* provide advice on appropriate responses to security incidents ranging from inappropriate behaviour, to threats and assault.[26] All personal threats must be reported immediately, and appropriate responses must be taken in a timely manner to protect staff and deter violence.

Essential reading

- UNHCR, *Safety Guidelines for Sensitive Individual Refugee Cases in an Urban Context*, 4 September 2002, (Internal) http://swigea56.hcrnet.ch/refworld/docid/3dca8ead4.html
- UNHCR, *Safety Guidelines for Handling Threats, Verbal Abuse and Intimidation from Refugees*, 17 April 2003, (Internal) http://swigea56.hcrnet.ch/refworld/docid/3ea6c2104.html
- UNHCR, *Guidelines for Handling Protests, Demonstrations and other Group Disturbances among Refugees,* 15 September 2004, (Internal) http://swigea56.hcrnet.ch/refworld/docid/48b2c8112.html

Further reference

- UNHCR, *Handbook for Emergencies*, February 2007, Third edition, http://www.unhcr.org/refworld/docid/46a9e29a2.html

4.7 UNHCR RECORDS MANAGEMENT

Fraud can potentially enter resettlement procedures at any stage of the refugee process. Proper maintenance of UNHCR records, including both individual case files and the *proGres* database, is crucial to good decision making and accountability and helps prevent fraud and breaches of confidentiality.

UNHCR records, including paper files and electronic material, are the property of UNHCR. *UNHCR Manual* chapter 11 on *Records Management and Archives* provides guidance on electronic and paper records, and instructs staff on:

- identifying the types of records held by UNHCR and determining how long they need to be kept, known as their retention period;
- disposing promptly and appropriately of records whose authorized retention periods have expired; and
- transferring permanent records to the UNHCR Archives for preservation and future research.

Protection records, including both subject files and individual case files, are permanent UNHCR records. Resettlement-related subject files detail the development, promotion, and planning of resettlement activities, including

[26] UNHCR, *Safety Guidelines for Handling Threats, Verbal Abuse and Intimidation from Refugees*, 17 April 2003, http://swigea56.hcrnet.ch/refworld/docid/3ea6c2104.html and UNHCR, *Guidelines for Handling Protests, Demonstrations and other Group Disturbances among Refugees*, 15 September 2004, http://swigea56.hcrnet.ch/refworld/docid/48b2c8112.html (All Internal)

country information, policy documents, and procedural guidelines. Individual case (IC) files contain all information pertaining to a particular refugee or asylum-seeker and his or her dependents. These files, including any database that serves as an index, must be properly maintained and archived in accordance with UNHCR Archives and Records policy. For details contact the Records and Archives Section at archives@unhcr.org.

4.7.1 Oversight and accountability in centralized filing systems

Each UNHCR office should implement detailed file management procedures for all aspects of the processing, organization and handling of protection files, including individual case files.

The filing system should be centralized and each refugee should have only *one* physical file in the office. Different functional units should avoid using multiple case files for the same individual, and protection, community services and resettlement should share the same filing system. This will ensure cohesion between units and make all relevant information to be considered in any action taken with respect to the refugee more accessible. All elements of the file may eventually be useful when considering possible durable solutions and a holistic understanding of the refugee's needs would be greatly enhanced with a centralized filing system.

File management procedures will vary depending on the scope of the field operations and the technical systems and resources available; however, in each operation files and filing systems must be organized and maintained in good order to:

- protect confidentiality;
- prevent loss or damage of files through secure physical storage;
- ensure the integrity of documents relied upon in the resettlement process through regulated access to the files; and
- maximize efficiency of the resettlement process at all stages by promoting accessibility, clarity and thoroughness of documentation.

The file organization system should be designed to facilitate the following:

- reflect the composition of the family unit and permit ready identification and cross-reference of linked files;
- permit designation and processing of more than one Principal Applicant in a family unit;
- reflect changes in the status of individuals who are in the family, including changes in an individual's status as a Principal Applicant or applicant for derivative status;
- reflect changes in the composition of the family unit, including marriages, births, deaths, or other developments;

- permit separate filing of the information provided by each member of the household so that the source of specific information is clear and the principle of confidentiality is not undermined; and
- establish a file registry, and procedures to track files.

The UNHCR Representative and the senior staff in charge of protection should delegate in writing the accountability for the implementation of file procedures to a specific protection officer. These file management procedures should clearly define which personnel will have access to individual case files and confidential documentation, and outline individual responsibilities related to oversight and accountability in the management of paper and electronic files.

Oversight responsibilities for file management

- Providing training and support to UNHCR staff on implementing file management procedures;
- Supervising UNHCR Office practice with respect to access to physical and electronic individual case files, as well as the movement and storage of individual files to ensure their security and confidentiality; and
- Conducting random monitoring of physical and electronic files to ensure that staff members are complying with established procedures for maintaining and updating files and entering relevant data into central systems.

4.7.2 Individual case files

Each UNHCR office should establish a system for the assignment of file numbers and file organization. Each refugee who is registered with UNHCR will be assigned a unique identification number by *proGres*. Offices can also issue separate file reference numbers, particularly those offices without *proGres*.

An individual file for a refugee should be opened as soon as possible after registration with UNHCR to ensure that all documents and developments relating to the individual are duly recorded and retained thereafter. This is often done in preparation for refugee status determination (RSD) procedures. Field offices working in *prima facie* refugee situations may not have established individual case files given the nature of their day-to-day contact with refugees. Therefore, in the context of resettlement work in *prima facie* situations, an individual case file should be created when an initial referral is received.

Contents of individual case files

An individual case file is the central repository for all information relating to specific refugees. All UNHCR staff who handle files should ensure that the information contained is *complete and organized* so that other UNHCR staff who are required to take action on the file can quickly and accurately understand the history and status of the file. It is particularly important to ensure that emails pertinent to the case are filed promptly.

The file should contain all documents and correspondence relating to the refugee, including:

- an action sheet that provides a record of all actions taken in relation to the refugee and the case file;
- a fully-completed registration form, if registration has occurred;
- copies of any personal identification documents, such as passports, birth, death and marriage certificates, refugee registration, or asylum government identity documents (originals must be returned promptly);
- photographs of each family member, if they are not stored digitally;
- any supporting evidence or documents provided by the refugee;
- if the refugee has gone through RSD, a copy of the letter of recognition and of the actual claim, along with all supporting documentation, including interview notes;
- copies of all relevant correspondence related to the case, including referrals;
- any records of conversations and interviews with the refugee and others related to the case;
- notes for the file detailing relevant discussions within the office, including a summary of any discussion/agreement/action decided at a Resettlement/Durable Solutions Committee meeting;
- documentation related to resettlement consideration or assessment;
- any documents related to particular vulnerabilities, including medical information related to the case;
- copies of documents sent for referral to Regional Resettlement Hubs/Regional Offices or Headquarters;
- copies of documents sent for submission to resettlement countries, including the Resettlement Registration Form (RRF); and
- other notes for the file related to the refugee.

All notes should be dated, signed and paginated, with the name and title of the staff member involved clearly marked. All documents that are copies should be marked with "copy", or "copy of copy" as applicable. Staff adding or removing documents from the file should also note this on the action sheet. Restricted information may be kept in a sealed and tamper-proof envelope within the physical file.

Field offices should specify which staff members have the authority to certify copies of original documents added to a refugee's file, such as birth certificates and adoption documents. Originals should not be kept on file, but returned immediately after the photocopy is made.

All documents should be filed in *chronological order*, based on the date they were generated or received, with the most recent pages being added to the top of the file. The addition of any document should be recorded on the action sheet.

Where photographs of refugees and family members are not digital, they should be included in a tamper-proof fashion. This may involve dry or wet seal stamps, the use of which should also be restricted and subject to specific SOPs as a safeguard against misuse. The name and registration number of the individual and the date the photograph was taken should be written on the back of each photograph.

4.7.3 Electronic records: *proGres,* CORTS, Livelink

proGres

UNHCR's *proGres* database has been designed to support the registration of persons of concern to UNHCR in all UNHCR operations. As the needs and procedures of field offices differ, each Office drafts Standard Operating Procedure (SOPs) to establish the *proGres* fields, events, and functions to be used in the Office, and the guidelines and procedures for entering and updating information. Relevant components of these SOPs should be incorporated into the thematic SOPs, such as the Resettlement SOPs.

The *proGres* database is based on individual registration, which means that each individual should be registered only once with his/her individual data. At the same time *proGres* is designed to keep track of groups, which can be households or cases or both (also called processing group). Each individual must belong to either a case or a household.

If there is a need in the operational context a person can also belong to both a household and a case. Most often the household or case will correspond to the closest family (e.g. husband, wife and minor children), but may consist of one single individual. Over time individuals might move from one group to another, e.g. if a minor becomes adult and form his/her own family. For cases there is a Principal Applicant (PA) and in household there is a Household Representative 1 (HR1). All other members within the processing group are defined in accordance to the relationship to the PA or the HR1.

The *proGres* record should be continuously updated to reflect changed or additional bio-data, and to capture events. Events refer to significant predefined occurrences logged to an individual, case, or household record. There are nine standard categories of event: registration, protection, assistance, document, physical file, refugee status determination, voluntary repatriation, resettlement, and local integration. Standard *proGres* event codes related to resettlement processing are annexed to the Baseline SOPs.

proGres should be used proactively by all colleagues including protection, RSD, community services and resettlement staff, and records should be regularly updated with respect to all events including referrals, interviews, reviews, submissions and resubmissions, decisions and departures. To ensure consistency and completeness, records should also be regularly updated with information received from resettlement partners (e.g. resettlement countries/IOM), Regional Resettlement Hubs/Regional Offices and Headquarters.

Consolidated Online Resettlement Tracking System (CORTS)

CORTS is an online database designed to improve UNHCR's resettlement case management capacity and reporting at the regional and global level. Cases managed by the Regional Resettlement Hubs/Regional Offices and by the Processing Unit of the Resettlement Service at Headquarters can be tracked through CORTS. The database is hosted on a server at UNHCR Headquarters. Authorized UNHCR users access the information in the database through a web application available on the UNHCR intranet.

CORTS is designed to allow uploading of the relevant case and individual information directly from *proGres*. CORTS users are provided with a set of case management functionalities, allowing them to record processes relevant for resettlement submissions, to search records, and to generate reports. Users also have the option to record information manually in order to accommodate resettlement submissions from UNHCR offices without *proGres* software.

Livelink[27]

Livelink is UNHCR's internet-based records management tool which serves as the central repository for the storage, maintenance and protection of UNHCR's records through their life cycle. Significant UNHCR email and other electronic records are placed in the Livelink recordkeeping system for quick reference and secure preservation. An accessible and secure body of records is particularly essential at UNHCR since many staff frequently change assignments.

The system, which should be rolled out to all UNHCR offices by 2014, enables staff to:

- collaborate, share documents and encourage project teamwork without geographic boundaries;
- file email text and attachments directly into Livelink;
- access UNHCR records 24 / 7 from any location;
- find records easily using a powerful search tool;
- track the lifecycle of records via audit trails and version control; and
- comply with U.N. record keeping requirements.

Electronic recordkeeping must be part of routine work processes and business procedures of UNHCR, around the following three general principles:

- records created, sent and received electronically should also be filed electronically according to UNHCR recordkeeping standards;
- managers are responsible for the compliance and completeness of the Unit filing to Livelink; and
- all UNHCR staff, as creators and users of records, are responsible for record filing.

[27] UNHCR, *UNHCR Electronic Records Policy*, IOM/031-FOM/031/2005, 3 June 2005, (Internal), available on the UNHCR Intranet

4.7.4 Biometric data

UNHCR's *Policy on Biometrics in refugee registration and verification*[28] released in December 2010 announced that the collection of biometrics will become a regular and routine feature of registration processes. The use of biometrics in support of identity verification exercises among refugee populations is encouraged, *except* where no protection or operational benefit is expected to be gained from doing so.

Various UNHCR operations have been using biometrics as a feature of registration or refuge population verification for some time, and the benefits to programme integrity are clear. For example, fingerprints records collected during registration and linked to *proGres* help to prevent multiple registrations or multiple applications for benefits, and help block identity substitution or fraudulent family composition.

There are, however, considerable implementation challenges, as UNHCR strives to identify the most suitable, reliable and cost-effective biometrics technologies available for use in UNHCR operations. UNHCR's *Confidentiality Guidelines*[29] apply to the sharing of biometric information, and safeguards must be implemented to ensure that the collection and processing of data is undertaken in a fair and transparent manner. UNHCR will also ensure that all appropriate measures are taken to protect the security of the data, and that sharing of the data is restricted to the purpose for which it was collected.

4.7.5 File security and tracking

Ensuring file security is important, not only as a safeguard against fraud and abuse, but also to protect the physical integrity and confidentiality of the information in the files.

File security measures include controlling access to the electronic and paper files, safeguards related to the storage of the paper file, as well as a system to track the file to facilitate follow-up and monitoring of individual resettlement cases.

File security

The security of information held in electronic files is completely dependent upon the correct identification of users. Electronic files should be password-restricted[30] and maintained on *proGres* and/or network drives. Differentiated levels of access should be accorded to designated staff, depending on their functions. Internal control procedures in each office must reflect this in the accountability assigned to records managers and systems administrators. Information related to individual cases should not be stored on personal drives but only in the designated file on the network drive. Staff training should include

[28] UNHCR, *Policy on biometrics in refugee registration and verification processes*, 20 December 2010, IOM/083/2010 - FOM/083/2010, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4dof593e2.html

[29] UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal) http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html

[30] UNHCR, *Use of Passwords in UNHCR's Computer-Based Systems*, IOM/086-FOM/086/2006, available on the UNHCR Intranet, (Internal)

information on electronic records, including the proper use of User ID and passwords, and the consequences of their misuse.

Paper files must be stored in secure, fire-resistant metal cabinets, which should be kept locked unless files are being checked in or out by the designated staff. The cabinets should be located in a lockable central filing room, and access to the file room should be restricted to authorized personnel. The key or combination to the file room and the cabinets should be shared only with authorized staff, and the keys should not be left with any unauthorized staff (such as a colleague, or security guard). Measures should be in place to ensure the security of the files and the filing room in case of an evacuation or disaster. Additional measures may be suggested by the Field Security Advisor or the Field Information and Coordination Support Section (FICSS) who can be contacted at HQCSoo@unhcr.org.

No files should be kept in staff offices in the absence of the staff member, but rather returned to the central repository when the task is completed. The only exception is if the office of the staff member is considered secure, and the file is locked into a cabinet.

No files may be kept in the interviewing room during an interview unless the officer is present. Files should not normally be removed from office premises. Only in special and strictly monitored circumstances where it cannot be avoided because of, for example an out-of-office interview or investigation, may a supervisor give written permission to remove files from the office.

One of the best ways to enhance security is to keep only active, current files in field offices. Older files, deemed to be closed should be inventoried, packed and forwarded to Headquarters for storage as permanent records in accordance with UNHCR Archives and Records policy. For details contact the Records and Archives Section at archives@unhcr.org.

File tracking

The file management system should include procedures to allow authorized individuals to check files in and out of the central registry. When files are needed, a designated filing clerk should be in charge of registering the file number, date and the name of the staff member requesting or returning the file in a file movement log. This procedure establishes a record of who has had access to files in case of compromise and to monitor that only authorized individuals work on the files. Failure to follow this procedure is a weakness in internal controls and in anti-fraud measures.

The file movement log should be stored electronically in *proGres*, or an alternative database if *proGres* is not available. Larger operations may also consider implementing an **Electronic Tracking System** by attaching barcodes to their files, and issuing identification with barcodes to staff. This system helps the operation track the movement of individual case files between staff members and between units, and provides information on the location of all files at any given time. Like all systems, however, the Electronic Tracking System works well only if staff members systematically scan loans, transfer and returns of physical files. (For more information and support contact the Field Information and Coordination Support Section (FICSS) at UNHCR Headquarters HQCSoo@unhcr.org.)

As well as monitoring the movement of case files, establishing a regular case tracking system is important to facilitate follow-up and monitoring of individual resettlement cases, and to ensure that deadlines are respected. Tracking should also help identify bottlenecks and highlight areas where further support or improvements are needed. It can also help ensure appropriate follow-up should the responsible person be absent for any reason.

To help with tracking, *proGres* permits searching by a wide range of data fields, such as the applicant's name, date and place of birth, nationality, family composition, source of resettlement referral, stage in the resettlement process, most recent decision and its date, any pending action and the caseworker responsible for it.

It is thus important that the accuracy of *proGres* is maintained by systematically and timely recording each step and action in a particular case. Ensuring that data in *proGres* is up-to-date also helps provide systematic feedback to refugees, colleagues in the region, Headquarters, and resettlement countries, and facilitates statistical reporting.

4.7.6 Storage of travel and identity documents

In some cases, UNHCR may be requested to receive and store refugees' travel and identity documents as part of pre-departure preparations. This is normally the responsibility of the Resettlement State, or IOM where it has the capacity and has been given the authority.

If UNHCR takes on this responsibility, pre-departure procedures must be established with the country of asylum and the resettlement country regarding the issuing, depositing, withdrawing and transmitting of travel and identity documents. Field offices should ensure that a clear designation is kept of which staff members have access to such documents, and that the procedures for storing and transmitting them are clearly defined and recorded.

All travel and identity documents received by UNHCR must be stored in a safe with limited access. A designated staff member should maintain a central registry that records who has access to the safe and which documents have been deposited or withdrawn.

Before transmitting the documents to a refugee, her/his identity must be verified as the rightful holder of the document. The travel document should be photocopied, and the refugee should sign the photocopy to confirm receipt of the original. This copy should be countersigned by the UNHCR staff handing over the document. The signed copy should be kept in the refugee's file as proof of delivery.

4.8 THE IMPORTANCE OF ONGOING RESETTLEMENT TRAINING

Training builds and strengthens resettlement capacity, enhances service excellence among staff and partners, and is an essential means to ensure the

effective and coherent implementation of UNHCR's resettlement policy. Training and continuous learning are important components of UNHCR's strategy to ensure that all staff are familiar with the Office's protection mandate and that they have a common understanding of the basic principles of international protection.

UNHCR's resettlement training activities are closely linked to protection training and are coordinated by the Resettlement Service in close consultation with the Global Learning Centre, and the Regional Bureaux, Regional Resettlement Hubs/ Regional Offices and Field Offices concerned. Since resettlement operations require close collaboration at all levels, UNHCR also involves governments and NGOs in resettlement training activities where possible.

UNHCR training activities can take many forms, ranging from initial orientation and informal one-on-one support, to local or regional workshops, self-study modules, e-learning courses, and structured formal learning programmes implemented over several months. The Resettlement Handbook serves as the point of reference and as a key training tool for UNHCR staff and for resettlement partners.

The main objectives of resettlement training are:

- to strengthen the capacity of field staff to proactively identify refugees in need of resettlement and to effectively promote their cases; to give staff the skills to analyze resettlement and related protection problems encountered; to define an appropriate strategy and to develop a mechanism for resettlement delivery built on close cooperation with resettlement countries and other partners;
- to enhance resettlement operators' awareness on issues of fraud and malfeasance in the resettlement process and to strengthen their capacity to prevent and mitigate them, in order to deliver credible and transparent resettlement programmes;
- to build and strengthen capacity within UNHCR field offices to organize and deliver training on resettlement with a view to maximizing resources and coordinating training efforts; and
- to strengthen the overall management of the resettlement process related to individual cases and groups of refugees.

4.8.1 Global Learning Centre

UNHCR's Global Learning Centre (GLC) is responsible for coordinating internal learning activities agency-wide, with the goal of providing all staff who carry out UNHCR work with opportunities to learn new skills, acquire knowledge to improve their performance and better manage their individual career paths. Learning activities are designed with a heightened emphasis on web-learning, e-learning, and mobile learning to improve accessibility.

The GLC works closely with DIP, as well as with the Regional Bureaux and Offices in the field to identify needs, develop learning activities using a wide variety of methodologies, and evaluate the knowledge gained as well as its impact on participants' work.

UNHCR offers protection learning programmes on a regional basis for UNHCR staff and partners who are working on the respective thematic issues. These programmes consist of a self-study phase, a workshop and a post-workshop phase.

- **Protection Learning Programme (PLP)**: An intermediate programme for UNHCR staff who wish to better understand protection-oriented operations. The PLP includes a unit on durable solutions including resettlement.
- **Thematic Protection Learning Programme on Statelessness**: A Thematic Programme for senior staff and partners on how to work towards identifying, preventing, responding to and protecting stateless persons in an operation.
- **Refugee Status Determination (RSD) Learning Programme**: An operation-specific training for staff members working extensively on RSD issues.
- **Resettlement Learning Programme (RLP)**: An operation-specific training for staff members working extensively on resettlement issues. *See Chapter 4.8.3 for more details.*

Further protection themes are addressed through workshops on Sexual and Gender-Based Violence, the Community-Based Approach, and Best Interests Determinations, among other topics.

The GLC Protection team also works closely with field-based protection trainers to increase access to training opportunities at a regional level.

The *Facilitation Learning Programme for Protection*, which equips protection staff with training skills, helps ensure that protection training is widely accessible. The objective is to establish training capacity to support the delivery of learning programmes in the region as well as separate workshops, debriefings or other *ad hoc* training sessions tailored to specific needs as they arise. Once included on the trainer roster, trainers who relocate from one region to another will be asked to also act as trainers in their new duty station. This approach enables UNHCR to gradually build substantial training capacity on key protection areas including RSD and resettlement within the organization and to provide a platform for augmenting inter-regional coordination and sharing of experiences and good practices.

4.8.2 Core training for resettlement staff

A number of tools have been introduced by UNHCR to ensure that all staff have a basic understanding of international protection and durable solutions, including the mandatory **UNHCR and International Protection: A Protection Induction Programme**.[31] All UNHCR staff also complete training on the **Prevention of Harassment, Sexual Harassment and Abuse of Authority**, the **UNHCR Code of Conduct**, and on **Security in the Field** as applicable.

Additionally, all staff in a field office implementing resettlement activities should also be briefed on basic resettlement policy and practice in order to ensure good understanding of the rationale and objectives for resettlement activities, and effective collaboration between units for the resettlement of refugees in need.

[31] UNHCR, *UNHCR and International Protection: A Protection Induction Programme*, 1 June 2006, http://www.unhcr.org/refworld/docid/466e71c32.html

Staff directly involved with resettlement activities *must* become familiar with the Resettlement Handbook and the Office's Resettlement SOPs, and should also receive training related to:

- fraud awareness and prevention;
- UNHCR's *Confidentiality Guidelines* related to sharing information on individual cases;
- resettlement principles, and the resettlement submission categories;
- cultural sensitization related to the population(s) of concern;
- protection needs and referral mechanisms;
- gender and diversity sensitivity;

and, when relevant to their duties:

- interview skills;
- working with interpreters;
- interpersonal and communication skills;
- effective use of *proGres;* and
- RRF preparation.

4.8.3 Resettlement training opportunities

Resettlement Anti-Fraud workshops, and other situation-specific, or country- or region-specific training opportunities are offered in the field and at Headquarters. These training sessions are often organized in collaboration with government authorities and NGO partners, and present opportunities for information sharing on current knowledge, activities and experiences. Training, however, should not replace regular meetings with all partners.

Regional resettlement meetings organized on an annual basis are opportunities both to provide and refresh training with the aim of ensuring consistent application of resettlement policies and procedures across the region, as well as opportunities to evaluate the effectiveness of training and assess training needs.

Training for the UNHCR-ICMC Resettlement Deployment Scheme is also jointly organized. Overall, the UNHCR-ICMC Resettlement Deployment Scheme offers an opportunity to bring skilled people from a variety of NGO and government backgrounds into the UNHCR organization on a temporary basis. All deployees receive induction and briefing sessions from both ICMC and UNHCR prior to their deployment. Wherever possible, ICMC deployees are invited to attend regional training workshops for which UNHCR and ICMC have developed focused training modules to help deployees prepare for their tasks.

The Resettlement Service also encourages reinforcing formal training with "action learning" opportunities such as registration, verification exercises and participatory assessments to enhance staff understanding of resettlement identification techniques and processing methodologies. Periodic "refresher" sessions help ensure continued awareness of the resettlement procedures and help resolve any questions or doubts that arise relating to the assessment of resettlement needs, and the resettlement submission categories.

The implementation of resettlement training activities must take into account that responsible UNHCR staff dedicates varying amounts of their time to resettlement, depending upon the situation in the country and the number of eligible cases.

The Resettlement Learning Programme

Resettlement staff are encouraged to take advantage of the opportunity to apply for the Resettlement Learning Programme (RLP)[32] when it is offered in their region. The RLP is a six month thematic programme that complements the Protection Learning Programme (PLP) by offering distance self-study, coached modules and a workshop that deal specifically with resettlement. The RLP aims at enhancing the knowledge and skills of resettlement practitioners, contributing to a more coherent and predictable resettlement delivery that addresses refugees' needs with diligence, integrity, transparency and accountability.

The RLP is an important component of UNHCR's learning strategy towards harmonizing enhanced quality of resettlement activities and in ensuring the effective delivery of international protection in general. To this effect, it is envisaged for the RLP to become an essential, mandatory component of the training requirements for UNHCR staff with functional competencies related to resettlement.

In line with the principles of the *Agenda for Protection* and the *UNHCR Code of Conduct*, the Resettlement Learning Programme broadly aims at:

- fostering a common understanding on protection and international legal standards;
- enhancing protection knowledge and skills;
- promoting a team-based and partnership approach;
- soliciting feedback and opinions on operational concerns in the field and on how problems can be addressed collectively;
- examining ways in which resettlement capacities can be enhanced;
- enhancing the more strategic use of resettlement, including within regions affected by refugee movements;
- promoting the more efficient use of resettlement both as a protection tool and as a durable solution.

The methodology adopted for the RLP assists in enhancing a knowledge base and the development of skills, and reinforces good practices by combining a number of learning techniques including self-study, a workshop and the implementation of resettlement projects. The Resettlement Learning Programme also aims at encouraging participants to implement resettlement activities or strategies in their offices.

[32] All staff and partners are encouraged to consult the self-study module available online: UNHCR, *Self-Study Module: Resettlement Learning Programme*, October 2010, Rev., http://www.unhcr.org/refworld/docid/4ae6b9b92.html

Online training

- UNHCR, *UNHCR and International Protection: A Protection Induction Programme*, 1 June 2006, http://www.unhcr.org/refworld/docid/466e71c32.html
- UNHCR, *Self-Study Module: Resettlement Learning Programme*, October 2010, Rev., http://www.unhcr.org/refworld/docid/4ae6b9b92.html
- UNHCR, *Self-Study Module 1: An Introduction to International Protection. Protecting Persons of Concern to UNHCR*, 1 August 2005, http://www.unhcr.org/refworld/docid/4214cb4f2.html
- UNHCR, *Self-Study Module 2: Refugee Status Determination. Identifying Who is a Refugee*, 1 September 2005, http://www.unhcr.org/refworld/docid/43141f5d4.html
- UNHCR, *RLD4 - Interviewing Applicants for Refugee Status*, 1995, RLD4, http://www.unhcr.org/refworld/docid/3ccea3304.html

4.9 RESETTLEMENT STATISTICS AND DATA

The regular reporting of precise and up-to-date resettlement statistics and relevant additional data is a crucial component of UNHCR's reporting to the Executive Committee (ExCom) and to other governmental and non-governmental bodies. Statistics assist the work of resettlement partners meeting as the Working Group on Resettlement (WGR) and the Annual Tripartite Consultation on Resettlement (ATCR).

Resettlement statistics assist UNHCR and all concerned parties in:

- assessing resettlement needs and priorities;
- planning and developing policy directions for UNHCR;
- helping in planning and developing policy for governments, including setting quotas/admission targets of resettlement places;
- monitoring of progress and problems;
- analyzing quotas used by UNHCR and governments;
- programming and budgeting of resettlement projects;
- resettlement pledging and negotiations for required places;
- fund raising; and
- public information (improving awareness/understanding).

Resettlement issues generate much public interest as well as critical examination, especially among the donor governments and non-governmental organizations (NGOs).

In order to provide reliable, comprehensive and credible information on resettlement activities, UNHCR country offices must complete the Resettlement Statistical Report (RSR) accurately and submit it on a timely basis.

The RSR should be consistent with information recorded in the previous RSRs and Annual Statistical Reports (ASR) forms (which cover general statistics on overall populations, some of whom are in need of resettlement assistance). There may also be instances in which UNHCR Country Offices need to develop internal statistical reports for local use or for reporting on particular resettlement programmes which benefit from earmarked funding. In this case, it is essential that consistency exists among the various statistical reporting and between these, the RSR and the ASR.

4.9.1 Guidelines for completion of the RSR forms

The Resettlement Statistical Report (RSR) forms are provided to country offices in the field in Excel file. In order to facilitate the completion of the RSR form, the Excel file which contains the form also includes explanatory notes related to each field of the form, guiding the user in the exercise. Country Offices should refer to the IOM/FOM "*Instructions and Guidelines on Reporting*" that is issued at the beginning of each year for the most current guidance on completion of the RSR.

In order to enhance accurate statistical reporting, field offices are encouraged to closely liaise with the International Organization for Migration (IOM) locally to cross-check departure figures. Regional Office (RO) Washington is in the process of enhancing statistical information verification with resettlement States on a global basis.

Accurate reporting on the resettlement submission categories, including women and girls at risk, and children at risk, as well as providing the breakdown of departure figures by age and sex, contributes to ensuring that the age, gender and diversity sensitive approach is applied to resettlement activities, and that relevant ExCom Conclusions (105 and 107) are implemented.

Should further clarification be needed for the accurate completion of the RSR, country offices are encouraged to contact the Resettlement Statistics Focal Point in Washington at usawares@unhcr.org.

Frequency and submission of the RSR forms

Country Offices are requested to forward the completed RSR forms directly to the Resettlement Statistics Focal Point in Regional Office (RO) Washington, D.C. by email to usawares@unhcr.org and, where appropriate, copy the regional statistics focal point person. The Resettlement Statistics Focal Point in the RO Washington will review and correct the data in consultation with the Country Office. Country offices are requested to respect the following submission deadlines:

Quarter ending	Due at RO Washington
31 March	15 April
30 June	15 July
30 September	15 October
31 December	15 January

The Resettlement Service and the Resettlement Statistics Focal Point in RO Washington are responsible for the provision of correct and consistent global resettlement statistics. The Resettlement Statistics Focal Point will produce quarterly and annual *Global Resettlement Statistical Reports*. Besides sharing internally through posting on the UNHCR intranet, the Annual and Quarterly Global Resettlement Statistical Reports, where applicable, are shared with external resettlement partners at various multilateral and bilateral meetings including the Annual Tripartite Consultations on Resettlement (ATCR) and the Working Group on Resettlement (WGR). The Resettlement Service, with support from RO Washington, analyzes trends in UNHCR's global resettlement activities, identifies unmet needs and gaps in resettlement process, and draws strategies for enhanced resettlement delivery.

4.10 MANAGING STRESS IN A RESETTLEMENT OPERATION

Stress tends to accumulate in any intense work environment, and may be triggered by factors that are external to the workplace. Individuals vary widely in how they react to stress, and how they cope with it. In general it helps to follow healthy routines – to eat well, to rest enough, to exercise, and spend time with friends. Cumulative stress can be responsible for numerous mental and physical health problems, and can also harm the quality of work and staff dynamics. For all of these reasons, it is important to look out for the signs and symptoms of cumulative stress and try to mitigate them at the individual and managerial levels. The reference materials provide guidance on what can be done to manage and respond to stress.

In the context of resettlement operations, it is also important to be aware of the possibility of experiencing vicarious trauma. **Vicarious trauma** or secondary traumatization refers to the stress and trauma reactions that can occur in response to witnessing or hearing about traumatic events that have happened to others. Conducting interviews for resettlement is very demanding, and listening to refugees recount the persecution, loss, human rights abuses, violence and even torture they have experienced can also be very traumatizing, especially over a long period of time. Contributing factors include:

- repeated exposure to traumatic experiences;
- acute pressure to process difficult cases quickly;
- lack of variation in the caseload;
- personal experience of trauma;
- lack of experience in similar jobs;
- over-identification with interviewees;
- failure to take regular rest or vacation breaks (causing burnout);
- lack of support or understanding from managers;
- short-term contracts and job insecurity; and
- self-imposed pressure to perform.

Care for staff well-being in the workplace is a joint responsibility of the individuals concerned, peers, managers and the organization as a whole. The organization has a duty of care to set the appropriate policies and provide resources for stress management, and managers contribute to it by setting team norms that include stress management and support their staff members to adhere to them.

Being informed and aware of what can be done in such circumstances is an important consideration for the health and well-being of all staff working with refugees. It also helps ensure that the work is conducted effectively, efficiently, and in safety. A tired, weak, and depressed workforce not only has a negative impact on the ability to perform the resettlement work, but it could also make staff more vulnerable to security incidents through being less attentive and unable to respond quickly to a situation.

Stress management strategies are the most effective when incorporated in the usual work routine and implemented regularly.

Recognizing stress symptoms and seeking support

Since people respond very differently to emotional pressure and exhaustion, the symptoms of stress and vicarious trauma vary widely. Examples might include:

- **physical**: headaches, increased heartbeat, intense fatigue, difficulty in concentrating, hyper arousal and exaggerated startle reflex;
- **psychological and emotional**: anxiety, fear, over-preoccupation and identification with victims, sadness, anger, helplessness, mood swings;
- **behavioral**: inability to rest or let go, periods of crying, social withdrawal, limiting contacts with others, substance abuse;
- **cognitive**: hyper vigilance, safety concerns, intrusive images;
- **interpersonal**: suspicious and mistrustful, increased conflict, decreased empathy;
- **spiritual**: loss of meaning.

It is important to recognize the symptoms of stress and vicarious trauma and to take them seriously. Tired and depressed staff will perform badly, and are also more likely to make mistakes that put people at risk or expose themselves to danger, because they are inattentive or unable to respond quickly to sudden changes of situation. In addition, for understandable reasons, individuals may not want to admit to their state of mind when stressed, and may be in denial about it. When starting to feel the reactions described above, they may:

- feel insecure about what to do;
- feel ashamed for not being able to cope;
- worry about the stigma, and that they will be seen as weak and unable to do the job;
- worry about losing their job.

Individuals who recognize this pattern in themselves are strongly encouraged to reach out to trusted colleagues, or seek confidential advice and support from UNHCR's Staff Welfare Section, Peer Support Persons where they are identified, or counsellors of other UN organizations.

It is very natural and human to be emotionally affected by the tragic experiences of refugees, and no shame or blame should be attached to such a response. UNHCR has a duty of care to their staff as well as to the refugees they protect. Being informed and aware of what can be done in such circumstances is an important consideration for the health and well-being of all staff working with refugees. It also helps ensure that the work is conducted effectively, efficiently, and in safety.

Managers in resettlement operations should familiarize themselves with the characteristics of emotional exhaustion, stress, and vicarious trauma. They should talk about these risks with their staff, and put in place arrangements and rules that will ensure colleagues are in a position to share problems, seek support and give support to each other when it is needed. Occasional debriefings can be very important, especially around peak periods. In a range of ways, managers should create opportunities to demonstrate care, affirm relationships, and re-energize staff. Even an informal chat at the end of the day or an informal after-work gathering can be extraordinarily helpful in sharing and reducing stress. Bringing in experts from time to time to discuss stress and vicarious trauma is also recommended – not least because this will relieve the pressure on the managers or team leaders themselves.

UNHCR Staff Welfare Section

UNHCR's Staff Welfare Section within the Division of Human Resource Management promotes the psychosocial well-being of UNHCR staff. Staff Welfare Officers are trained counsellors who provide individual support to staff who face personal or work-related problems, including stress and trauma. Consultations are conducted in person, by email or by phone (Skype), and they are confidential.

Staff Welfare Officers can also support managers in matters relating to staff morale, interpersonal relations, and other aspects of staff well-being. Managers, especially those in charge of large resettlement operations, are strongly recommended to consult Staff Welfare Officers about the work environment and involve them in designing programmes to mitigate stress and prevent vicarious trauma.

The Staff Welfare Section trains and coordinates the Peer Support Personnel Network, a network of UNHCR staff members who volunteer to offer support when colleagues are dealing with personal and work-related problems.

Guidance, tools and advice for dealing with various personal and work-related experiences, such as traumatic incidents; cumulative stress and fatigue; security evacuation of staff; team building; maintaining respectful relations; alcohol and other substance abuse, etc. are also available from the Staff Welfare Section under Staff Resources on the UNHCR Intranet.

Essential reading

- UNHCR, *Managing the Stress of Humanitarian Emergencies*, August 2001, http://www.unhcr.org/refworld/docid/4905f1752.html
- UNHCR, *Handbook for Emergencies*, February 2007, Third edition, http://www.unhcr.org/refworld/docid/46a9e29a2.html *(especially Chapter 25: Coping with Stress)*.
- UNHCR, *Traumatic Stress Reactions: An Informative and Educative Guide for the Survivors of Traumatic Events*, 2004, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4905ef102.html
- UNHCR, Staff Welfare Section's resources and links, including *Well-Being in the Workplace, Cumulative Stress and Fatigue* etc., under Staff Resources, UNHCR Intranet.

CHAPTER FIVE

CHAPTER FIVE
PROTECTION CONSIDERATIONS, AND THE IDENTIFICATION OF RESETTLEMENT NEEDS

Introduction

Properly identifying refugees in need of resettlement consideration is one of the most crucial, yet challenging, aspects of resettlement. It requires detailed knowledge of the refugee population, their protection risks and specific needs, as well as a comprehensive assessment of not only the prospects for durable solutions, but also the opportunities for using resettlement strategically.

The identification of refugees potentially in need of resettlement must be part of an ongoing, active and collaborative effort of all UNHCR staff and implementing partners to identify protection needs and provide the appropriate response, either in the country of asylum, or perhaps through resettlement. Tools have been developed to improve the identification of vulnerable individuals for whom resettlement is the most appropriate form of protection, as well as the identification of populations in need of resettlement as a durable solution.

Purpose

The purpose of this chapter is to:

- highlight key protection considerations in the identification process;
- draw attention to specific protection needs and potential vulnerabilities within refugee populations;
- explain the tools and methods to map and profile the refugee population to identify protection needs and vulnerabilities, and to identify appropriate durable solutions; and
- outline the importance of referral systems and cooperation with key partners in the identification of refugees in need of resettlement.

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5.1 KEY PROTECTION CONSIDERATIONS IN THE IDENTIFICATION PROCESS

While resettlement is not a right, the refugees who are most in need of resettlement should have access to the process in a timely manner. Efficient and transparent identification of refugees for resettlement consideration is essential to ensuring a continuum of refugee protection. An effective and consistent identification process is also critical to ensuring that refugees are provided with fair access to resettlement processing, and can decrease potential for the fraudulent use of the resettlement system or any perceptions of arbitrariness in resettlement decision making.

Resettlement is incorporated in the development of overall protection strategies as part of regional and country operational planning. However, the identification of refugees potentially in need of resettlement, and the subsequent assessment of individual cases must be an ongoing, active and systematic process. It requires detailed knowledge and documentation of the refugee population and of their specific needs and vulnerabilities, and collaboration between UNHCR Protection, Community Services and Durable Solutions staff and implementing partners to identify and implement appropriate responses.

The following sections will highlight overarching protection principles and considerations regarding specific needs and vulnerabilities of certain refugee populations to take into consideration as part of the process to identify resettlement needs.

Preconditions for resettlement consideration

- the applicant is determined to be a refugee by **UNHCR;*** and
- the prospects for all durable solutions were assessed, and resettlement is identified as the most appropriate solution.

* Exceptions can be made for non-refugee stateless persons for whom resettlement is considered the most appropriate durable solution, and also for the resettlement of certain non-refugee dependent family members to retain family unity.

5.1.1 Age, gender, and diversity sensitive approach

UNHCR's mission to safeguard the rights and well-being of all persons of concern can only be achieved if women, men, girls and boys of all ages and backgrounds are able to benefit equitably from UNHCR's interventions. All groups must have equal access to UNHCR's protection, services and resources, and be able to participate equally in the making of decisions that affect them. UNHCR is committed to addressing discrimination and inequality not only to ensure equitable outcomes for all persons of concern, but also to safeguard against inadvertently contributing to further discrimination and injustice through the use of procedures and practices that neglect age, gender and diversity considerations.

To achieve this objective, UNHCR has adopted an age, gender and diversity sensitive approach and targeted actions to address protection gaps. The age, gender and diversity mainstreaming (AGDM) strategy promotes gender equality

and the rights of all persons of concern regardless of age or background, and calls for the meaningful participation of displaced girls, boys, women and men, so that their problems, initiatives and solutions can be incorporated into all of UNHCR's programmes and policies.

Age: Age refers to the different states in one's life cycle. It is important to be aware of where people are in their life cycle as their needs may change over time. Age influences and can enhance or diminish the capacity to exercise rights.

Gender: Social differences between men and women are learned, changeable over time and can vary within and between cultures. Gender often defines the roles, responsibilities, constraints, opportunities, and privileges of women and men in any context.

Diversity: Within each group of people there exist differences of age, gender, culture, different levels of mental and physical ability/disability, class, sexual orientation, ethnicity and other backgrounds. These differences must be recognized, understood and valued by UNHCR in order to ensure that all groups of people access protection equally.

There is often a misconception that gender refers only to women, and that gender mainstreaming largely refers to creating special projects for women. Age, gender and diversity mainstreaming is a key institutional commitment and an operational priority that includes men and women of all ages, including children.

Participatory assessments undertaken by multi-functional teams are key to the age, gender and diversity sensitive approach, and are part of UNHCR's operational planning. These assessments identify vulnerabilities specific to age, gender, or other diversity characteristics, such as sexual orientation or ethnicity, by recognizing challenges such as discrimination and power relations, as well as possible strengths and existing coping mechanisms within the community to help resolve such challenges.

Participatory assessments may help identify individuals in urgent need of intervention, who may be referred for resettlement consideration. The assessments may also uncover specific types of vulnerabilities that have not previously been recognized or considered.

A participatory assessment is a process of building partnerships with refugee women and men of all ages and backgrounds 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, the underlying causes, their capacities to deal with the risks, and their proposed solutions. Participatory assessment forms the basis for implementing of a rights- and community-based approach and helps mobilize communities to take collective action to enhance their own protection. Participatory assessment is also a phase of a comprehensive situation analysis.[1]

[1] UNHCR, *The UNHCR Tool for Participatory Assessment in Operations*, First edition, May 2006, p. 1-2

The **rights-based approach** integrates the norms, standards and principles of the international human rights system into policies, programmes and processes. It is founded on the principles of participation and of empowering individuals and communities to promote change and respect for rights.

A community-based approach ensures an inclusive partnership with communities of persons of concern that recognizes their resilience, capacities and resources. The community of persons of concern is central to all programme activities.[2]

5.1.1.2 Responses to sexual and gender-based violence

Sexual and gender-based violence (SGBV) is a widespread and systematic human rights violation. It is exacerbated by unequal gender relations within communities and used as a means of exercising power. SGBV is a serious, life-threatening health and protection issue predominantly affecting women and girls, but also men and boys albeit to a lesser extent. SGBV can be a cause of forced displacement, and it is often also an intolerable consequence of the breakdown of law and order, and family and community structures that accompany displacement.

UNHCR places the well-being of the survivor at the centre of any intervention. Individuals or groups who have suffered sexual and gender-based violence may be referred to as either victims or survivors. While victims should be treated with compassion and sensitivity, referring to them as survivors recognizes their strength and resilience. The word victim may imply powerlessness and stigmatization, characterizations that are to be avoided by all concerned parties.

Terminology

UNHCR's *SGBV Guidelines for Prevention and Response* (2003)[3] use terminology based on the UN General Assembly *Declaration on the Elimination of Violence against Women* (1993)[4]. Sexual and gender-based violence (SGBV) refers to violence that is directed against a person on 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, whether occurring in public or in private life. Rape is one of the most serious forms of SGBV, and is considered torture under international human rights law.

Sexual violence (SV), gender-based violence (GBV), sexual and gender-based violence (SGBV) and violence against women (VAW) are terms that are used interchangeably. Each refers to violations of fundamental human rights that perpetuate gender-stereotyped roles, deny human dignity and the self-determination of the individual and hamper human development.

http://www.unhcr.org/refworld/docid/462df4232.html

[2] UNHCR, *UNHCR Manual on a Community Based Approach in UNHCR Operations*, March 2008, http://www.unhcr.org/refworld/docid/47da54722.html

[3] UNHCR, *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons. Guidelines for Prevention and Response*, May 2003, http://www.unhcr.org/refworld/docid/3edcd0661.html

[4] UN General Assembly, *Declaration on the Elimination of Violence against Women*, 20 December 1993, A/RES/48/104, http://www.unhcr.org/refworld/docid/3boof25d2c.html

Addressing SGBV is an integral part of UNHCR's protection mandate and requires both short and long term intervention strategies of prevention and response. UNHCR employs an inclusive conception of sexual and gender-based violence that recognizes that, although the majority of victims/survivors are women and children, boys and men are also targets of sexual and gender-based violence.

The ethical principles[5] that underpin all actions with individuals are:

- **ensuring the physical integrity** of the survivor(s) and close family members and/or advocates or witnesses;
- guaranteeing **confidentiality and informed consent** to the extent possible;
- **respecting the wishes, the rights, and the dignity of the survivor(s)** and their close family members and/or advocates or witnesses;
- considering the **best interests of the child** when making any decision on the most appropriate course of action to prevent or respond to an incident of SGBV; and
- **ensuring non-discrimination** and access to health, protection and social services including education for children, as well as livelihoods and skills training for adolescents and adults.

Resettlement can be an important protection tool for refugees who have survived or are facing a threat of sexual and gender-based violence, including rape, assault against sexual minorities, trafficking for the purposes of sexual slavery, female genital mutilation (FGM) and forced marriage.

5.1.2 The principle of family unity

A fundamental principle of refugee protection, the unity of the family, derives directly from the universally recognized right to family life. UNHCR's promotion of the unity of the family is supported by the principle, set forth in both the *Universal Declaration of Human Rights* of 1948 and the International *Covenant on Civil and Political Rights* of 1966, which states: *"the family is the natural and fundamental group unit of society and is entitled to protection by society and the State."*[6]

The same principle is embodied in the 1989 *Convention on the Rights of the Child*, which states:

> *"the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community."*[7]

[5] *UNHCR, Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response*, 2003, http://www.unhcr.org/3f696bcc4.html

[6] UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), http://www.unhcr.org/refworld/docid/3ae6b3712c.html and UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, http://www.unhcr.org/refworld/docid/3ae6b3aao.html

[7] UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, http://www.unhcr.org/refworld/docid/3ae6b38fo.html Articles 9 and 10 concern children separated from their families and emphasize that the reunification of children

In its Final Act, the Conference of Plenipotentiaries which adopted the 1951 *Convention relating to the Status of Refugees* unanimously approved the following recommendation on the subject of family unity in the case of refugees:

> *"The Conference,*
>
> *Considering* that the unity of the family, the natural and fundamental group unit of society, is an essential right of the refugee, and that such unity is constantly threatened, and
>
> *Noting* with satisfaction that, according to the official commentary of the *ad hoc* Committee on Statelessness and Related Problems the rights granted to a refugee are extended to members of his family,
>
> *Recommends* Governments to take the necessary measures for the protection of the refugee's family, especially with a view to:
>
> (1) Ensuring that the unity of the refugee's family is maintained particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country,
>
> (2) The protection of refugees who are minors, in particular unaccompanied children and girls, with special reference to guardianship and adoption."[8]

In seeking to promote the unity of the family and the reunion of separated refugee families (as well as the right to found a family), UNHCR is guided by basic humanitarian considerations and also by its Statute which entrusts the organization, *inter alia*, with the functions of improving the situation of refugees and facilitating their integration[9] within new national communities.

The Executive Committee of the High Commissioner's Programme (ExCom) has adopted a number of Conclusions on family unity and reunification.[10] Conclusion No. 9 on *Family Reunion* (1977), reiterated the fundamental importance of the principle of family reunion and reaffirmed the coordinating role of UNHCR with a view to promoting the reunion of separated refugee families through appropriate interventions with governments and with inter-governmental and non-governmental organizations. The *Conclusion on Children at Risk* of 2007

with their parents should be dealt with in a "positive, humane and expeditious manner."

[8] UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, *Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons*, 25 July 1951, A/CONF.2/108/Rev.1, http://www.unhcr.org/refworld/docid/40a8a7394.html

[9] While both Article 34 of the 1951 Convention and UNHCR's Statute make reference to "assimilation" rather than "integration", the international community has otherwise generally rejected the notion that refugees should be expected to abandon their own culture and way of life, so as to become indistinguishable from nationals of the host community. See UNHCR, *Global Consultations on International Protection/Third Track: Local Integration*, 25 April 2002, EC/GC/02/6, http://www.unhcr.org/refworld/docid/3d6266e17.html

[10] See also, for example, Executive Committee Conclusions Nos. 1, paragraph (f); 9; 15 paragraph (e); 24; 84 paragraph (b); 85 paragraphs (k), (u), (v), (w), (x); 88; 100 paragraph (d); 101 paragraph (n), 103 paragraph (n); 104 paragraph (n) (iv); 105 paragraph (k), and 107 paragraph (h). UNHCR, *Conclusions Adopted by the Executive Committee on the International Protection of Refugees*, December 2009, 1975 – 2009 (Conclusion No. 1 – 109), http://www.unhcr.org/refworld/docid/4b28bf1f2.html

recommends that States, UNHCR and other relevant agencies and partners "take a flexible approach to family unity, including through consideration of concurrent [resettlement] processing of family members in different locations, as well as to the definition of family members in recognition of the preference to protect children within a family environment with both parents."[11]

If one family member is being considered for resettlement (e.g. on protection grounds), **UNHCR will seek to ensure**, where possible and in line with the principle of family unity, **that all of the refugee's family members, including dependent non-nuclear family members, are resettled together**. However, there is no single, universally agreed-upon definition as to what constitutes a family, which can make ensuring family unity through resettlement challenging, both in the context of initial resettlement and subsequent family reunification.

UNHCR recognizes the different cultural dimensions and societal norms that result in the variety of definitions of the family unit. It therefore promotes a path of cultural sensitivity combined with a pragmatic approach as the best course of action in the process of determining the parameters of a given refugee family.[12] The nuclear family is clearly the core, but the element of dependency among family members, physical and financial, as well as psychological and emotional, should find its appropriate weight in the final determination.

This culturally sensitive understanding of the family is important for refugees who have been forced to flee due to persecution and civil conflict. The refugee family is often severely reduced due to violence and flight, and extended relations may be the last line of defence for individuals who rely exclusively on the family unit for survival, psychological support, and emotional care.

Who is a member of the family?

A **nuclear family** is generally accepted as consisting of spouses and, their minor or dependent, unmarried children and minor siblings. UNHCR considers not only legally-recognized spouses (including same-sex spouses), but also individuals who are engaged to be married, who have entered a customary marriage (also known as "common-law" marriages), or who have established long-term partnerships (including same-sex partners), as spouses within the nuclear family.

Beyond this, the concept of **dependency** is central to the factual identification of family members.

Dependency infers that a relationship or a bond exists between family members, whether this is social, emotional or economic. For operational purposes, with regard to the active involvement of UNHCR offices in individual cases, the concept of dependant should be understood to be someone who depends for his or her existence substantially and directly on any other person, in particular for economic reasons, but also taking social or emotional dependency and cultural norms into consideration.

[11] UNHCR, *Conclusion on Children at Risk*, 5 October 2007. No. 107 (LVIII) 2007 http://www.unhcr.org/refworld/docid/471897232.html

[12] This approach is evident in the *Convention on the Rights of the Child* which uses differing concepts of family for different rights. See also UNHCR, *Family Protection Issues*, 4 June 1999, EC/49/SC/CRP.14, http://www.unhcr.org/refworld/docid/4ae9acaoo.html

The relationship or bond between the persons in question will normally be one which is strong, continuous and of reasonable duration. Dependency does not require complete dependence, such as that of a parent and minor child, but can be mutual or partial dependence, as in the case of spouses or elderly parents. Dependency may usually be assumed to exist when a person is under the age of 18 years, but continues if the individual (over the age of 18) in question remains within the family unit and retains economic, social and emotional bonds. Dependency should be recognized if a person is disabled and incapable of self-support, either permanently or for a period expected to be of long duration. Other members of the household may also be dependants, such as grandparents, single/lone brothers, sisters, aunts, uncles, cousins, nieces, nephews, grandchildren; as well as individuals who are not biologically related but are cared for within the family unit.

Except for certain special programmes,[13] eligibility for UNHCR assistance with family reunification requires that at least one person within the family unit which is to be reunited must be a refugee under UNHCR's mandate or a person otherwise of concern to the organization. In a case where a non-refugee is being resettled in order to join a family member who is a refugee, UNHCR considers that it is the refugee who is the recipient of the Office's assistance.

UNHCR activities to promote and support family unity while awaiting durable solutions

Refugee flight often results in family dispersal. Wherever possible, UNHCR Offices should promote the restoration of family unity within a country of refuge while the family awaits a durable solution. This applies to situations when family members are known to be either in different parts of the same country of temporary refuge, or dispersed to different countries of temporary refuge. *See **Chapter 6.6.2** for more details on UNHCR's activities to promote family reunification.*

If it is not possible to relocate family members to be together in a country of temporary refuge, close coordination should be maintained between offices during the process of assessing the prospects for durable solutions. In the resettlement context, it may be necessary for UNHCR field offices in those countries to intervene so as to ensure their admission to the same country of resettlement in accordance with the right to family unity. Such intervention is often required to prevent the separation of foster children, adult dependants, fiancé(e)s, or same-sex partners that form part of the basic family unit.

When the whereabouts of relatives is unknown, it may be necessary for UNHCR to facilitate tracing. Bio-data records, including UNHCR's *proGres* database and the records held by government authorities, are useful sources of information. The Central Tracing Agency of the International Committee of the Red Cross

[13] One example is the Orderly Departure Programme (ODP) from Viet Nam, where UNHCR was requested to undertake special programmes which could even benefit persons not within its mandate who were in need of assistance with family reunification.

(ICRC) and its national counterparts have special competence in this area, and the International Organization for Migration (IOM) and various NGOs can also provide support. Experience has shown, moreover, that the efforts of refugees themselves, using their own contacts, are often a most effective method of tracing. Caution must be exercised in relation to the country of origin for tracing purposes as this may violate UNHCR policy on confidentiality and international principles on data protection.

Promoting the adoption of appropriate national policies

One of the main functions of UNHCR in facilitating family (re)unification is to obtain the overall cooperation of States resettling refugees to exercise flexibility in their criteria for family reunification, and to dedicate resources to the process. This ongoing task of laying the political, legal, administrative and operational groundwork for the smooth and orderly resolution of family reunification cases is a normal part of UNHCR's international protection activities. Besides urging States to adopt generous and flexible policies, the Office seeks, whenever appropriate, to ensure that family members are granted the same legal status and accorded the same standards of treatment as refugees.

Governments are particularly encouraged to adopt inclusive definitions of family members, in recognition of the severe hardship separation causes to individuals who depend on the family unit for social and economic support even if they are not considered by the prospective country of reception to belong to what is known as the "nuclear family".

While there is justification in giving priority to safeguarding this basic unit, governments are encouraged to give positive consideration to the inclusion of other family members – regardless of age, level of education, marital status or legal status – whose economic and social viability remains dependent on the nuclear family. This includes non-refugee family members included in a resettlement submission due to their dependency on the family unit.

The definitions and policies set out in this Handbook, specifically as related to the concept of dependency in the identification of family members, are to be followed by UNHCR staff, despite the fact that UNHCR definitions may not always correspond with those applied by the State to which resettlement cases are submitted.

DNA testing

Whereas UNHCR recognizes that States have an interest in ensuring proper and accurate identification of family relationships, and in combating fraud to ensure that effective family reunion processes are preserved, UNHCR is concerned about the implications for privacy and family unity of increasing State reliance on DNA testing.

The *UNHCR Note on DNA Testing to Establish Family Relationships in the Refugee Context*[14] provides guidance on "(i) the general issue of how DNA testing is to be conducted so as to safeguard dignity and human rights; and (ii) safeguarding of applicable principles of family unity where DNA testing is conducted to verify family links.

UNHCR promotes a **rights and dignity-based approach** to DNA testing. In general, DNA testing should only be used to verify family relationships where, after all other proof of relationships has been examined, serious doubts remain; or where DNA testing is the only recourse available to prove or disprove fraud. Moreover, in recognition of complex familial compositions that are often formed in the refugee context, negative DNA results should not be the sole determinative factor in establishing family relationships.

For these reasons, clear criteria should be established by States in regard to the circumstances in which DNA is required. Persons being tested must be given appropriate counselling both pre- and post-testing to ensure that they fully understand the purposes of the testing, their rights in the process, and the use of the test results. Testing must only take place after full and informed consent is given, and proper procedures must be followed in the collection, transmission and retention of DNA material and data to ensure confidentiality.

Essential reading

- UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, January 2008, http://www.unhcr.org/refworld/docid/47cfc2962.html
- UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, http://www.unhcr.org/refworld/docid/3ae6b38f0.html
- UNHCR, *Conclusion on Children at Risk*, 5 October 2007. No. 107 (LVIII) 2007, http://www.unhcr.org/refworld/docid/471897232.html
- UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180, http://www.unhcr.org/refworld/docid/3b00f2244.html
- UNHCR, *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons. Guidelines for Prevention and Response*, May 2003, http://www.unhcr.org/refworld/docid/3edcd0661.html

Further reference

- UNHCR, *Family Protection Issues,* 4 June 1999, EC/49/SC/CRP.14, http://www.unhcr.org/refworld/docid/4ae9aca00.html
- UNHCR, *UNHCR Note on DNA Testing to Establish Family Relationships in the Refugee Context*, June 2008, http://www.unhcr.org/refworld/docid/48620c2d2.html

[14] UNHCR, *UNHCR Note on DNA Testing to Establish Family Relationships in the Refugee Context*, June 2008, http://www.unhcr.org/refworld/docid/48620c2d2.html

5.2 SPECIFIC PROTECTION NEEDS AND POTENTIAL VULNERABILITIES

The identification of refugees potentially in need of resettlement requires detailed knowledge of the refugee population and of their specific needs and vulnerabilities. However, the purpose of the various identification tools including registration, participatory assessments, and surveys is to assess the most appropriate type of *protection* intervention, not only to identify resettlement needs.

Furthermore, as active participants in their own quest for solutions, refugees must be seen as persons with specific needs and rights, rather than simply as members of "vulnerable groups". Seeing only the vulnerabilities can lead to insufficient analysis of the protection risks faced by individuals, and, in particular, disregard for their capacities. An inclusive and empowering approach in the development of protection strategies, including the assessment of appropriate durable solutions, requires an understanding of specific needs related to age, gender roles and mental and/or physical condition, and recognition of refugees' right to be actively involved in all action undertaken to protect them and determine their future. The specific protection needs and potential vulnerabilities within segments of the refugee population highlighted below could warrant resettlement intervention.

5.2.1 Women and girls

Conflict often serves to exacerbate discrimination and violence against women and girls. Such violence is endemic not only in conflict, but during its aftermath, as women and girls try to re-establish their daily lives. 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 and can constitute gender-related persecution.[15] Its primary targets are women and girls. Women and girls also risk abduction and forced recruitment by armed groups, whether as fighters, for sexual exploitation or other tasks.

The impact of forced displacement on women and girls can be devastating. Risks of abduction, rape, sexual abuse, harassment and exploitation are just some of the problems experienced by refugee women, whether they are single, widowed, or accompanied by a male family member. Threats to a refugee woman's safety may come from the host community, local government or military, other armed elements, or from within the refugee community itself. Members of her family or community may prove unable to address her concerns, or may even be unwilling to offer assistance due to social or cultural attitudes which do not recognize the rights of women. UNHCR and other aid agencies may also be unable to address these issues in the short-term in any effective way, due to the endemic nature of the problem or the difficulty in changing long-held cultural values and practices.

[15] UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01, http://www.unhcr.org/refworld/docid/3d36f1c64.html

Displacement may also separate families, removing the support and protection the family used to provide. Remaining family members may have to assume different roles and women and girls may become sole providers for their children/siblings. The number of single- and/or child-headed households increase during conflict and female adolescent heads of household are particularly at risk of rights violations and marginalization.

As refugee women and girls often face challenges reaching UNHCR or partner staff, proactive outreach is required to identify and address the needs of refugee women, including protection needs which might most appropriately be addressed through resettlement.

In camps, women's freedom of movement and capacity to earn a livelihood may be more restricted, and increasingly lengthy stays in camps, lead to a host of protection risks for women and girls. Gender-based violence, including domestic violence and alcohol abuse, increases in such circumstances. For example, women and girls may be attacked as they look for firewood or water outside the camp. Lack of, or biases in, judicial systems and/or in traditional justice mechanisms often leave them with no redress or result in further stigmatization and discrimination. As financial resources are depleted, adolescent girls are married off at increasingly younger ages. For some women and girls, survival sex becomes the only way to support themselves and their families.

Forcibly displaced women and girls in urban areas may be less able to exercise their rights effectively, and have more difficulty reaching UNHCR or implementing partner offices to seek protection and support. Urban refugees often live in squalid conditions and lack access to fundamental services, such as education and health care. Without money to pay for rent or even food, women risk sexual exploitation. Some displaced women and girls are virtually imprisoned indoors, fearing arrest and deportation, or the wrath of their husband, father, male siblings or other relatives, if they leave their homes. If they are employed as domestic workers, they could face violence and/or exploitation at the hands of their employers and may be less well-equipped than their male counterparts to resist such treatment.

In a given refugee context, women and girl refugees may be more vulnerable than other refugees, finding themselves separated from their family members or traditional support mechanisms, or isolated from their communities. Some women and girls may have to assume new roles and status as a result. In addition to coping with the reasons for their flight, they may be confronted with new challenges, such as providing for themselves and their children in situations of particular hardship, as well as new forms of violence and risks, in the country of refuge.

An accurate and gender-sensitive assessment of the refugee's protection needs and particular vulnerabilities in the country of refuge is critical in determining her need for resettlement. In this regard, it is important to respect the diversity of women and girls and recognize that factors such as age, language, ethnicity, race, caste, culture, religion, disability, sexual orientation, family and socio-economic status, and rural or urban background can create additional barriers to gender equality and effective protection.

When assessing applications for resettlement, States should recognize the disproportionate impact of displacement on women, the violence and discrimination women and girls may experience at every stage of the displacement cycle, and the limitations on their economic options. For example, with few alternates and inadequate social protection, sex work may be a means of survival, and resettlement States should not discriminate against those refugee women and girls who have engaged in survival sex.

Furthermore, discriminatory selection criteria such as integration potential, age, family size, health status, ethnicity, religion and nationality can serve to limit vulnerable women's access to resettlement opportunities. In particular, requiring that refugees possess good "integration potential" in order to be resettled, discriminates against women who have already been disadvantaged through limited access to education and/or employment opportunities, as well as those considered too old, ill, or infirm for the labour market. States should remove any barriers to ensuring women's equal access to resettlement opportunities.

Essential reading

- UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, January 2008, http://www.unhcr.org/refworld/docid/47cfc2962.html
- UNHCR, *Conclusion on Women and Girls at Risk*, 6 October 2006, No. 105 (LVII) 2006, http://www.unhcr.org/refworld/docid/45339d922.html
- UN Committee on the Elimination of Discrimination Against Women [CEDAW], *CEDAW General Recommendation No. 21: Equality in Marriage and Family Relations*, 1994, http://www.unhcr.org/refworld/docid/48abd52co.html

5.2.2 Children and adolescents

Who is a child?

A "child" as defined in Article 1 of the UN *Convention on the Rights of the Child* (CRC),[16] means "every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier". In terms of actions by UNHCR, the word "child" refers to all children falling under the competence of the Office, including asylum-seeking children, refugee children, internally displaced children and returnee children assisted and protected by UNHCR, as well as stateless children.

Refugee children face far greater dangers to their safety and well-being than the average child. The sudden and violent onset of emergencies, the disruption of families and community structures as well as the acute shortage of resources with which most refugees are confronted, deeply affect the physical and

[16] The CRC is the treaty which sets the most standards concerning children. While the CRC is not a refugee treaty, refugee children are covered because all CRC rights are to be granted to all persons under 18 years of age (Article 1) without discrimination of any kind (Article 2). UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, http://www.unhcr.org/refworld/docid/3ae6b38fo.html

psychological well-being of refugee children. Infants and young children are often the earliest and most frequent victims of violence, disease and malnutrition which accompany population displacement and refugee outflows. In the aftermath of emergencies and in the search for solutions, the separation of families and familiar structures continue to affect adversely refugee children of all ages. Children should be among the first to receive protection and assistance, and early and continuous identification of children at heightened risk is a UNHCR priority. Participatory assessments have helped give a voice to children of concern and ensure the right of children to have their views heard, notably in the development and improvement of programmes and protection responses.

The 1989 *Convention on the Rights of the Child* (CRC) is the main legal instrument on the protection of children. Although the rights in the CRC cover almost every aspect of a child's life, there are three rights that are so fundamental that they can be thought of as underlying the entire CRC:

- The **best interests of the child** shall be a primary consideration in all actions affecting children (Article 3).
- There shall be **no discrimination** on the grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. (Article 2).
- Children shall be assured the **right to express their views freely** in all matters affecting them, their views being given due weight in accordance with the child's age and level of maturity (Article 12).

These three rights are so important and so interrelated that it is helpful to think of them as a "triangle of rights". The three rights of the triangle reinforce each other to reach the objective: **"the survival and development"** of children.

States Parties also recognize that every child has the inherent right to life and shall ensure to the maximum extent possible the survival and development of the child (Article 6).

The CRC applies to everyone below the age of eighteen years unless, under the applicable law, majority is attained earlier (Article 1). In common usage a **child** is a person who has not yet reached puberty or sexual maturity, and a person who is no longer a child but not yet an adult is considered an **adolescent**. In different cultural contexts, factors other than age may be important in determining who is a child or an adolescent: factors such as social roles, gender, marital status and the capacity to contribute economically may be more important than chronological age in shaping expectations of children. In some cultures, "adolescence" is not considered a developmental stage, and puberty marks the entrance to adulthood. Nevertheless, under international law everyone under 18 is a child.

In accordance with their international obligations States should promote the establishment and implementation of child protection systems, and ensure non-discriminatory access to all children under their jurisdiction. A comprehensive child protection system comprises laws, policies, procedures and practices designed to prevent and respond effectively to child abuse, neglect, exploitation and violence. The ExCom *Conclusion on Children at Risk* (No. 107, 2007) calls on UNHCR and other relevant agencies and partners to assist States by

strengthening and supplementing national child protection systems in areas where gaps exist.

UNHCR's comprehensive approach to child protection recognizes that *all* children of concern require protection from violence, exploitation, abuse and neglect. However, selected categories of children, including **unaccompanied and separated children**, have heightened risks and require targeted support.

Definitions

Unaccompanied children (also called unaccompanied minors) are children 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.

Separated children are those separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.

Orphans are children, *both* of whose parents are known to be dead.

Factors that put children in a situation of heightened risk can include both risks in the wider protection environment and risks resulting from individual circumstances. The ExCom *Conclusion on Children at Risk* lists individual risk factors, as including, but not limited to:

- unaccompanied and separated children, particularly those in child-headed households as well as those accompanied by abusive or exploitative adults;
- stateless children;
- adolescents, in particular girl mothers and their children;
- child victims of trafficking and sexual abuse, including pornography, pedophilia and prostitution;
- survivors of torture;
- survivors of violence, in particular sexual and gender-based violence and other forms of abuse and exploitation;
- children who get married under the age specified in national laws and/or children in forced marriages;
- children who are or have been associated with armed forces or groups;
- children in detention;
- children who suffer from social discrimination;
- children with mental or physical disabilities;
- children living with or affected by HIV and AIDS and children suffering from other serious diseases; and
- children out of school.[17]

[17] UNHCR, *Conclusion on Children at Risk*, 5 October 2007, No. 107 (LVIII) - 2007, http://www.unhcr.org/refworld/docid/471897232.html

Key elements of case management for children at risk

Effective protection of unaccompanied and separated children, as well as other children at risk requires:

- measures to identify unaccompanied, separated and other children at risk;
- child-sensitive registration mechanisms;
- the appointment of a guardian;
- provision of temporary care arrangements and monitoring;
- refugee status determination;
- individual documentation;
- timely tracing, and verification of family relationship;
- family reunification; and
- identification and implementation of durable solutions.

5.2.2.1 Best interests of the child

The principle of best interests of the child must permeate all protection and care issues involving UNHCR and implementing partners, and should be applied in a systematic manner during every step of the displacement cycle, including considerations for durable solutions. All partner staff and communities need to be sufficiently informed about the best interests determination process and its purpose, and they must be trained on the identification and referral of children at risk.

The term "best interests" broadly describes the well-being of a child. Such well-being is determined by a variety of considerations, such as:

- individual factors including the age, sex, level of level of maturity and experiences of the child;
- social context factors such as the presence or absence of parents and quality of the relationships between the child and family/caretaker;
- physical and psychosocial situation of the child; and;
- the protection environment and security situation.

Depending on the circumstances, either a Best Interests Assessment or a Best Interests Determination is required in order to ensure the optimal implementation of the best interests principle in actions affecting individual children. UNHCR's *Guidelines on Determining the Best Interests of the Child* outline the policies and procedures to be followed.[18]

Normally, States have child protection systems with provisions to determine the best interests of the child. UNHCR should *only* conduct a Best Interests Determination in the absence of competent State authorities or when States are unable or unwilling to carry out the BID.

[18] UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, http://www.unhcr.org/refworld/docid/48480c342.html

The **Best Interests Assessment (BIA)** is a continuous process that starts from the moment of identification, and continues throughout the displacement cycle until a durable solution is reached. The best interests of the child should be assessed by the responsible officer for any decision or action affecting children of concern to UNHCR. Measures shall be taken to ensure that the child participates in the decision.

The **Best Interests Determination (BID)** is a formal process with specific procedural safeguards and documentation requirements conducted for certain children of concern to UNHCR. The decision maker is required to weigh and balance all the relevant factors of a particular case, giving appropriate weight to the rights and obligations recognized in the CRC and other human rights instruments, so that a comprehensive decision can be made that best protects the rights of children. More than one person has to be involved in the process and each step has to be documented.

Best Interests Assessment

A Best Interests Assessment (BIA) is an essential element of case management and general child protection work. As part of a BIA, the situation of the child is assessed, and recommendations on protection and care interventions are made. The BIA can result in a recommendation that a Best Interests Determination is required or recommended. Even if it is clear that a full BID will be required but kept pending, for instance to allow time for family tracing, a BIA is the first step. In such instances, a well-done BIA is the basis for the full BID and a tool for monitoring of progress in the situation of the child.

A BIA is required before any action affecting an individual child of concern to UNHCR is taken, although certain situations require a full BID.

A **BIA** is not limited to the following situations, but *must* be undertaken:

- as a **child protection assessment** for children at risk (e.g. unaccompanied or separated children, child subjected to sexual violence, child in hazardous labour, etc.);
- prior to **placement of a child in alternative care**, e.g. a foster family;
- prior to **family tracing**;
- prior to **family reunification** (NB: a BID is required in complex cases);
- to address a situation where a **child is denied access to education** by her/his caregiver;
- for **married child spouses** who are considered for resettlement together with a parent/caretaker (*see Chapter 5.3.6*);
- when a child is considered for a **durable solution with just one parent** who does not have sole custody and the other parent cannot be reached.

Best Interests Determination

When is a BID required?

The following situations require UNHCR and/or partners to undertake a BID for actions affecting children falling under their competence:

- ☑ **Temporary care arrangements for unaccompanied or separated children** in exceptional situations (BID Guidelines, pages 34-35):
  - in cases of (likely) exposure to abuse, neglect, exploitation or violence within a foster family or other care arrangement;
  - in cases where the care arrangement is not suitable for the child, e.g., regarding differences in cultural or ethnic background.
- ☑ The identification of **durable solutions for unaccompanied and separated children** voluntary repatriation, local integration or resettlement (BID Guidelines, pages 30-31).[19]
- ☑ The possible **separation of a child from her/his parents (or person holding custody rights by law or custom) against their will** if competent authorities are unable or unwilling to take action (BID Guidelines, pages 36-42):
  - in cases of (likely) exposure to abuse, neglect, exploitation or violence within the family.
- ☑ The **identification of durable solutions or decisions on care arrangements, in situations where the custody of the children remains unresolved** and national authorities are unwilling or unable to adjudicate on the custody (BID Guidelines, pages 40-44):
  - in cases of divorce/separation of the parents – and parents disagree as to which parents the child should stay with.[20]
  - in situations where one parent is being resettled and custody disputes remain unresolved (ExCom Conclusion No. 107 (LVIII), para. h (xviii)).

  IMPORTANT: UNHCR'S decisions in the above cases are limited to a best interests determination for the child. The BID is not a legal determination of custody.
- ☑ In complex cases, **prior to family reunification**.[21]

NOTE: The BID Guidelines (page 22) highlight three instances when a BID is required. The additional situations when a BID is required related to unresolved custody issues and family reunification are also in line with the BID Guidelines, but they are listed in separate sections of the BID Guidelines or in ExCom Conclusions as referenced.

[19] Please note that two married child spouses travelling without either set of parents are unaccompanied or separated children (UASC) and therefore a BID is needed. Further details are provided in Chapter 5.3.6.

[20] This also relates to separation or divorce in polygamous marriages.

[21] UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, Annex 4, p. 78. http://www.unhcr.org/refworld/docid/48480c342.html

Application of the Best Interests principle when considering the resettlement of a child with only one parent

If the parent who is not travelling cannot be reached (is missing):

- A **BIA** must be conducted to determine if resettlement together with one parent is in the best interests of the child.
- Explore whether documentation that would confirm status and location of the absent parent is available (e.g. death certificate, documentation relating to divorce or custody arrangements document, etc.).
- Discuss with the child if he/she wishes to pursue a tracing request for the absent parent, and in case of very young children, this should be discussed with the parent who is with the child. Staff must also assess whether tracing is deemed to be in the best interests of the child, and whether tracing can be done safely.
- All information about tracing efforts or any information on his/her identity and whereabouts must be recorded.
- Explore and document reasons for the separation and in particular if domestic violence could have triggered the separation from the missing parent.
- Explore and document to what extent the absent parent has exercised his/her parental rights.[22]
- The child's views on the possible separation from the absent parent must be taken into account.
- The child must receive age-appropriate information on longer-term implications of resettlement with just one parent, and be given an objective assessment of possible future family reunification in country of resettlement with the absent parent should he/she be found.

If the parent not travelling with the child can be reached:

- His/her informed written consent must be obtained.

If the parent not travelling with the child refuses to sign the consent form:

- Efforts must be made to engage competent national authorities to make a legal determination of custody.
- If local authorities are unwilling or unable, or procedures are inaccessible to refugees, UNHCR must undertake a BID to determine if resettlement together with one parent is in the best interests of the child.

Note: The parent who travels with the child should be advised to initiate procedures to acquire full custody rights upon arrival in the resettlement country.

A BID is essential in all cases in which the resettlement of one parent is based on a protection risk emanating from the family (e.g. domestic violence).[23]

[22] UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, pp. 42-43 http://www.unhcr.org/refworld/docid/48480c342.html

[23] UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, p. 41. http://www.unhcr.org/refworld/docid/48480c342.html

5.2.2.2 The BID process

Consult the *Field Handbook for the Implementation of UNHCR BID Guidelines,*[24] for details on establishing a BID process. A BID needs to be based on previous child protection assessments. Staff or partners with child protection, community services or child welfare expertise conduct further interviews and complete the BID report form. A UNHCR staff member must be designated as the BID supervisor, and is responsible for ensuring that Standard Operating Procedures are established and followed, including the signing of confidentiality oaths by all involved. A BID supervisor is responsible to review the BID report form before submitting it to a multi-disciplinary panel. The panel looks at cases on an individual basis.

For the integrity of the BID process, it is essential to adhere to the basic procedural safeguards as recommended in the Guidelines: adequate child participation; the involvement of persons with different relevant expertise; and the systematic documentation of each step of the procedure.

A BID process should be initiated early in the displacement cycle in order to avoid BIDs being conducted just prior to identification of a durable solution.

Best Interests Determination procedures should not be conducted in isolation but should be integrated into the overall protection programme which entails mechanisms for early identification of children at risk, appropriate response services and monitoring and follow-up, etc.

Gathering information

The process of gathering information by child protection staff must include:

- a verification of existing and documented information on the child;
- several interviews with the child using age-appropriate and gender- sensitive techniques and, if appropriate, observations;
- interviews with persons within the child's network including caregivers, family (extended and siblings), friends, neighbours, guardian, teachers, etc;
- background information on the conditions in the present location and in the location considered for the durable solution;
- where appropriate or necessary, views of experts.

Identifying the most appropriate durable solution for an unaccompanied or separated refugee child generally requires carefully balancing many factors. Decisions on voluntary repatriation, resettlement or local integration are likely to have a fundamental and long-term impact on the child. Before taking such decisions a BID must be carried out to ensure sufficient focus on the child's rights when identifying the most appropriate durable solution and the best time to implement it.

[24] UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, 2011, http://www.unhcr.org/refworld/docid/4dda4cb02.html

Family tracing, reunification, and alternative long-term care arrangements

As soon as a child is identified as unaccompanied or separated, **tracing** efforts are started. All tracing activities are carried out in a manner that protects the personal security of the child and family members concerned. No action is taken that may hinder eventual family reunification, such as adoption, change of name or movement to places far from the likely locations of family reunification. Usually, "passive" and "active" tracing efforts are simultaneously implemented by organizations working at the local level.

Passive tracing involves comparing records of children and records of parents searching for lost children in order to match them. This is done both centrally and at the local level by each organization involved in the registration and documentation of separated family members. Active tracing involves actually pursuing investigations concerning the identity of the child, the identity and location of parents or other close family members. The International Committee of the Red Cross (ICRC) and the National Red Cross and Red Crescent Societies have a mandate to trace across international agencies, and cross-border tracing should be coordinated with these organizations.

During the tracing process, coordination and information-sharing between the ICRC and organizations dealing with unaccompanied children is essential. The *Inter-agency Guiding Principles on Unaccompanied and Separated Children* outline common procedures and standards to ensure the retention of confidentiality and the best interests of the child.[25]

When tracing is successful, an assessment is undertaken to determine whether **family reunification** is in the best interests of the child. In some cases, such as after long term separation, when there are doubts about the relationship between the child and the traced individuals or in cases of past abuse, a BID needs to be conducted to determine if the reunification is in the best interests of the child. If assistance with family reunification is granted, follow-up with the reunited family should be undertaken by UNHCR or other qualified agents, including the host government departments.

However, **alternative long-care arrangements** should be made when tracing is unsuccessful, when family reunification is not possible within a reasonable period, or when the BID process determines that reunion would be harmful to the child's interests. Records of the foster arrangements must be kept, and all concerned should be notified of the child's movement so that the young person can be located in the event that family tracing is successful in the future.

Adoption

Adoption is not normally a resettlement possibility. In almost all cases where a child needs to be adopted there will be extended family members or others from the child's community of origin or country of asylum that can fulfil this need.

[25] Inter-Agency, *Inter-Agency Guiding Principles on Unaccompanied and Separated Children*, January 2004, http://www.unhcr.org/refworld/docid/4113abc14.html

There is rarely a need for international adoption if efforts are made to locate these persons, and perhaps to provide some initial support services.

In the resettlement context, adoption might be sought by extended family members or by persons unrelated to the child. In such cases, strict compliance with legal standards must be observed. The *Convention on the Rights of the Child* requires that "*the best interests of the child shall be the paramount consideration*", that is, the welfare of the child must never be compromised by competing interests, including those of the proposed adoptive parents. Furthermore, Article 21 of the Convention requires taking all necessary steps to: "*ensure that the adoption of the child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary*".

International adoption is also regulated by the 1993 Hague *Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* with respect to State parties to the treaty.[26]

The Convention also requires that "due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background" (CRC Article 20.3). This article does not prohibit inter-ethnic, -religious, or -racial adoptions. Instead, all factors must be considered, with the final judgement made on a case-by-case basis, with the child's best interests being the paramount consideration.

Adoption standards

Based on its experience, UNHCR has adopted standards which are applicable to all children of concern whenever **adoption** is being considered.

Refugee Children: Guidelines on Protection and Care states

"It is UNHCR's policy that children in an emergency context are **not** available for adoption. Any adoption of an unaccompanied child of concern to the High Commissioner must be determined as being in the child's best interests and carried out in keeping with applicable national and international law. It should not be carried out

- if there is a reasonable hope for successful tracing and family reunification in the child's best interests;
- a reasonable period (normally at least two years) during which time all feasible steps to trace the parents or other surviving family members have been carried out has not elapsed;

[26] UNHCR's policy on intercountry adoption is elaborated in UNHCR, *UNHCR Policy on Adoption*, 22 August 1995, http://www.unhcr.org/refworld/docid/42f9c3714.html. This document also contains relevant articles of the *Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (1993) and the *Recommendation concerning the Application to Refugee Children and other Internationally Displaced Children* (1994) of this Convention. See also, *Refugee Children,* Global Consultations on International Protection, 4th Meeting, UN Doc. EC/GC/02/9, 25 April 2002, in *Refugee Survey Quarterly*, Vol. 22, No. 2/3 2003, p. 267 f., para. 9, recommendations 6 and 7.

- it is against the expressed wish of the child or the parent; or
- voluntary repatriation in conditions of safety and dignity appears feasible in the near future and options in the child's country of origin would provide better for the psychosocial and cultural needs of the child than adoption in the country of asylum or a third country" (pages 130-131).[27]

Essential reading

- UNHCR, *Summary of UNHCR's Executive Committee Conclusion on Children at Risk No. 107 (LVIII) - 2007*, 5 October 2007, http://www.unhcr.org/refworld/docid/496630b72.html full text at: http://www.unhcr.org/refworld/docid/471897232.html
- UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, http://www.unhcr.org/refworld/docid/48480c342.html
- UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, 2011, http://www.unhcr.org/refworld/docid/4dda4cb02.html
- UNHCR, *International protection of children of concern*, 31 May 2010, C/61/SC/CRP.13, http://www.unhcr.org/refworld/docid/4cbd4c042.html
- Action for the Rights of Children, *ARC Resource Pack,* 2009, http://www.savethechildren.net/arc/using/index.html See specifically *Foundations Module: child rights-based approaches, and Critical issues: Separated children.*
- *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, Inter-Agency Standing Committee, 20 June 2007, http://www.unhcr.org/refworld/docid/46c0312d2.html
- UNHCR, *UNHCR Policy on Refugee Children*, 6 August 1993, EC/SCP/82, http://www.unhcr.org/refworld/docid/3f9e6a534.html

5.2.3 Older refugees

Crises and disasters have a disproportionate impact on older persons. Given that it is estimated that the number of older persons will increase globally from 11 per cent of the population to 22 per cent by 2050, and that over 80 per cent of older persons will be living in developing countries, the number of older persons in displacement will increase as well.[28] With significant numbers of refugees lingering in protracted refugee situations for decades, these refugee populations are also ageing. The definition of an older person adopted by the World Health Organization is a person over 60 years old. There is no fixed age to define an older refugee as elderly though, largely because life expectancy differs among groups, and the process of ageing is affected by a number of factors, such as an individual's physical and psychological health, along with family and social support, cultural background, living conditions and economic situation.

[27] UNHCR, *Refugee Children: Guidelines on Protection and Care*, 1994, http://www.unhcr.org/refworld/docid/3ae6b3470.html

[28] Inter-Agency Standing Committee, *Humanitarian Action and Older Persons. An essential brief for humanitarian actors*, October 2008, http://www.unhcr.org/refworld/docid/490b0c102.html

In both urban and camp environments, the challenges facing older persons can be considerable. Older refugees may be particularly vulnerable when confronted with the causes and effects of becoming a refugee. Frequently reluctant to leave, older persons are often the last to flee from danger. Some may have been separated from family, friends or community during their flight, or have witnessed the killing of family members. The loss of the family support network can have major impacts on older persons who need support. The physical hardship of exile, particularly for those without the support of family, may well take its toll on the older refugees, who, if already frail, may not have the strength to ward off disease and illness.

Whenever possible, older refugees should be reunited with their family or members of their community. An appropriate support should be found if the family members of an older refugee cannot be traced in the country of refuge (or in the country of origin). All efforts must also be made to retain family unity, and include older refugees dependent on family members in any considerations of durable solutions.

Older age can result in decreased mobility, sight, hearing and muscle strength, as well as in greater vulnerability to heat and cold. Minor conditions can quickly become major constraints that overwhelm older persons' ability to cope. They have more difficulty accessing services, and are less able to adjust to new situations. For instance, older persons have more difficulty accessing distribution points and carrying heavy supplies, while the loss of assistive devices can render them dependent on others.

Whereas in some instances older members might be seen as a community or family resource in terms of child care, traditional birth services, conflict mediation and the continuation of culture and wisdom, older persons may also be seen as a burden to their families and communities. Such treatment can result in depression, alcoholism, isolation and inattention to their specific needs. Older women can face double discrimination due to gender roles.[29]

Vulnerability to abuse

Elder abuse is a significant protection concern yet unfortunately is notoriously under-reported across all cultures. Elder abuse includes physical, sexual, psychological, financial abuse and neglect; the results of which can be injury, illness, lost productivity, despair and isolation.

Coupled with elder abuse is an often unperceived risk for sexual and gender-based violence for older women. It is known that older women have suffered rape and sexual assault in mixed gender communal shelters and collection centers while gathering firewood outside of camps, and in other countries have been maimed, ostracized or killed when labeled as witches in response to unexplained natural phenomena affecting communities. The violations may go undetected for a number of complex reasons. Chiefly, the high level of stigma attached to these violations makes it even harder for older women to report younger community members.[30]

[29] For further discussion see UNHCR, *The Protection of Older Persons and Persons With Disabilities*, 6 June 2007, EC/58/SC/CRP.14, http://www.unhcr.org/refworld/docid/4693775c1c.html

[30] See forthcoming 2011 UNHCR concise guidance note on "*Working with Older Persons in Forced Displacement*".

Durable solutions

In terms of solutions, older persons have fewer opportunities to integrate locally, due to factors such as the ability to speak the language, secure paid employment or access to regular pension, health and education schemes. In return situations, it can be a challenge to provide support to older persons wishing to return as international funding policies may focus on younger families, especially for the allocation of housing and land.

Resettlement opportunities may also be limited for older persons, as resettlement countries do not usually prioritize places for older persons. Furthermore, some resettlement countries set age limits for the admission of older dependent parents under their family reunification criteria or otherwise apply strict dependency criteria.

The interests and needs of older refugees within the family must be taken into account before a decision on resettlement is reached. Some older refugees are themselves the individuals with the strongest protection claim, and highest resettlement need in their family. However, other older refugees are reluctant to uproot themselves and leave an asylum country either with their families, or to join family members who are already living in a resettlement country.

Older refugees dependent on family members being resettled should be included in resettlement submissions, and resettlement States should be encouraged to accept the entire family unit.

There is no longer a separate resettlement submission category for Older Refugees. The submission category for cases of older refugees in need of resettlement should be selected according to their protection needs.

Essential reading

- UN World Health Organization, *Older people in emergencies: Considerations for action and policy development*, 2008, http://www.unhcr.org/refworld/docid/493653482.html
- Inter-Agency Standing Committee, *Humanitarian Action and Older Persons. An essential brief for humanitarian actors*, October 2008, http://www.unhcr.org/refworld/docid/490b0c102.html
- UNHCR, *The Protection of Older Persons and Persons With Disabilities*, 6 June 2007, EC/58/SC/CRP.14, http://www.unhcr.org/refworld/docid/4693775c1c.html
- Humanitarian Practice Network, *Protecting and Assisting Older People in Emergencies*, December 2005, Network Paper No. 53, http://www.unhcr.org/refworld/docid/43cfa4364.html
- UNHCR, *UNHCR's Policy on Older Refugees*, 19 April 2000, EC/50/SC/CRP.13, Annex II, http://www.unhcr.org/refworld/docid/47036b502.html

5.2.4 Refugees with disabilities

The United Nations *Convention on the Rights of Persons with Disabilities* defines persons with disabilities as: "those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others."[31]

Persons with disabilities, who may face difficulties in communication, concentration, understanding or mobility, are at increased risk of discrimination, exploitation and violence, and may also encounter serious barriers in accessing essential protection services. Refugee with disabilities may be unable to access transport, understand written and verbal information, register with institutions for documentation and support, or recall and recount with accuracy relevant details during interviews. Children with disabilities are also at a greater risk of abuse, neglect, abandonment, exploitation, health concerns, exposure to the risk of longer term psychosocial disturbances, family separation and denial of the right to education.

Persons with disabilities can be seen as a burden to their community, thereby increasing the sense of stigma and isolation, especially if there are no social services available to provide support.[32]

Women, children, and older persons with disabilities, those who are housebound, and those "hidden" (and possibly even restrained) due to cultural stigma may be especially vulnerable to sexual and other forms of exploitation and abuse, but are often excluded from SGBV prevention and response programmes. SGBV also increases vulnerability to HIV/AIDS. Often persons with disabilities have difficulty accessing legal, HIV/AIDS, and reproductive health services, and many available services do not take their needs into account.[33]

UNHCR's 2010 ExCom *Conclusion on Refugees with Disabilities and other Persons with Disabilities protected and assisted by UNHCR*:

- recognizes that host States, which are often developing countries, have limited resources and face various challenges in providing services and facilities for persons with disabilities;
- reaffirms the international community and UNHCR's role to assist States in fulfilling these responsibilities, in the spirit of international cooperation and responsibility sharing; and
- recommends measures such as providing training on the needs, rights and dignity of persons with disabilities, ensuring swift and systematic identification and registration of persons of concern with disabilities, ensuring programmes, services and procedures are accessible, enhancing

[31] UN General Assembly, *Convention on the Rights of Persons with Disabilities : resolution /adopted by the General Assembly*, 24 January 2007, A/RES/61/106, Article 1(2), http://www.unhcr.org/refworld/docid/45f973632.html

[32] For further discussion see UNHCR, *The Protection of Older Persons and Persons With Disabilities*, 6 June 2007, EC/58/SC/CRP.14, http://www.unhcr.org/refworld/docid/4693775c1c.html

[33] See forthcoming 2011 UNHCR concise guidance note on "*Working with Persons with Disabilities in Forced Displacement*".

international cooperation for improving living conditions and ensuring equal opportunities for durable solutions and appropriate support.[34]

Refugees with disabilities risk remaining "invisible" and excluded from support and services when repatriating, and from opportunities for self-reliance and local integration. Their prospects for resettlement may also be limited by overlooking their protection needs, as well as the restrictive policies of some resettlement States.

A disability is only one aspect of the attributes of any human being, and persons with disabilities should be considered for resettlement on an equal footing with other refugees. In those instances where their disabilities have led to increased protection risks, resettlement as a tool of protection may also be the most appropriate solution.

Essential reading

- UNHCR, *Conclusion on refugees with disabilities and other persons with disabilities protected and assisted by UNHCR, No. 110 (LXI) - 2010*, 12 October 2010, No. 110 (LXI) - 2010, http://www.unhcr.org/refworld/docid/4cbeaf8c2.html
- UN General Assembly, *Convention on the Rights of Persons with Disabilities: resolution / adopted by the General Assembly*, 24 January 2007, A/RES/61/106, http://www.unhcr.org/refworld/docid/45f973632.html
- Women's Refugee Commission, *Disabilities among Refugees and Conflict-affected Populations*, June 2008, http://womensrefugeecommission.org/programs/disabilities

5.2.5 Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) refugees

In many parts of the world individuals are subject to serious human rights abuses because of their real or perceived sexual orientation, gender identity, gender expression and even their sexed bodies. Sexual minorities, including individuals who are lesbian, gay, bisexual, transgender or intersex (LGBTI) may become targets of hate crimes and face serious violations of their fundamental rights, including executions, imprisonment and sexual and gender-based violence. Due to discrimination and abuse, many LGBTI people, including some who are still minors, flee their home countries and seek protection elsewhere. Non-conformance to expected gender roles often leaves LGBTI refugees marginalized and without family or community support, exacerbating their challenges in accessing protection and basic services.

An understanding of the multiple forms of harm and discrimination experienced by LGBTI persons throughout the displacement cycle is vital in order for States, NGOs and UNHCR to adequately respond to their protection needs.

[34] UNHCR, *Conclusion on refugees with disabilities and other persons with disabilities protected and assisted by UNHCR*, No. 110 (LXI) - 2010, 12 October 2010, No. 110 (LXI) - 2010, http://www.unhcr.org/refworld/docid/4cbeaf8c2.html

Terms

Sexual orientation refers to each person's capacity for emotional, affectional and sexual attraction to, and intimate relations with, individuals of a different or the same gender or more than one gender.

Gender identity refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth.

Gender expression refers to each person's external manifestation of gender, which can correspond or not with culturally normative expectations in terms of masculinity or femininity.

Sexed bodies (defined basically by each person's chromosomes, genitals and gonads) can vary from culturally established standards of maleness and femaleness, and constitute a key component of bodily diversity.

LGBTI is an umbrella term used to describe a diverse group or community of people who do not conform to traditional notions of male and female gender roles existing in most societies.

A **lesbian** is a woman whose enduring physical, romantic and/or emotional attraction is to other women.

Gay is often used to describe a man whose enduring physical, romantic and/or emotional attraction is to other men, although the term gay can be used to describe both gay men and lesbians.

Bisexual describes an individual who is physically, romantically and/or emotionally attracted to both men and women.

Transgender is an umbrella term for people whose gender identity and/or gender expression differs from the sex they were assigned at birth.

Intersex is an umbrella term covering bodily variations in regard to culturally established standards of maleness and femaleness, including variations at the level of chromosomes, gonads and genitals, and variations produced by medical interventions aimed to normalize intersex bodies.[35]

LGBTI persons are entitled to all human rights on an equal basis with others. The human rights principle of non-discrimination in relation to sexual orientation and gender identity is applicable in the refugee context, including in regard to the interpretation and application of the 1951 Convention. The 2007 *Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity* set out the human rights protection framework as applicable to LGBTI individuals, including in the refugee context.[36]

[35] See forthcoming 2011 UNHCR concise guidance note on "*Working with Lesbian, Gay, Bisexual, Transgender and Intersex Persons in Forced Displacement.*" See also UNHCR, *UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*, 21 November 2008, http://www.unhcr.org/refworld/docid/48abd5660.html and UNHCR, *The Protection of Lesbian, Gay, Bisexual, Transgender and Intersex Asylum-Seekers and Refugees*, 22 September 2010, http://www.unhcr.org/refworld/docid/4cff9a8f2.html

[36] International Commission of Jurists (ICJ), *Yogyakarta Principles - Principles on the application of*

Protecting LGBTI individuals is particularly challenging in countries with laws criminalizing same-sex relations, cross-dressing, or sex work. LGBTI asylum-seekers are exposed to potential further persecution, as making a refugee claim on the basis of their sexual orientation or gender identity in these countries is also an admission to "illegal behaviour". Morality laws aimed at public indecency and lewdness are also often used disproportionately against LGBTI individuals. Even when these laws are not enforced, their existence often reflects and promotes a culture of intolerance which can result in abuse and discrimination. Hostile societal attitudes to LGBTI persons, even within refugee or immigrant communities, further contribute to marginalization and exclusion.

A number of intersecting factors contribute to discrimination experienced by LGBTI asylum-seekers and refugees, including their sexual orientation, gender identity, age, nationality, race, and possibly also their HIV status, and general health. Full account needs to be taken of diverse gender expressions, evolving identities and the actual circumstances of the individual and their partners or other family members when assessing responses to their protection needs. Resettlement may be the only viable durable solution for LGBTI refugees facing intolerance and heightened risk in countries of first asylum, and emergency processing or evacuation may be required as lengthy processing can exacerbate the security risks.[37]

Essential reading

- UNHCR, *UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*, UNHCR Geneva, 21 November 2008, http://www.unhcr.org/refworld/docid/48abd566o.html
- International Commission of Jurists (ICJ), *Yogyakarta Principles - Principles on the application of international human rights law in relation to sexual orientation and gender identity*, March 2007, http://www.unhcr.org/refworld/docid/48244e602.html
- UNHCR, *The Protection of Lesbian, Gay, Bisexual, Transgender and Intersex Asylum-Seekers and Refugees*, 22 September 2010, http://www.unhcr.org/refworld/docid/4cff9a8f2.html

5.2.6 Refugees from minorities and indigenous groups

A minority is broadly understood to be a group of people with a common identity, based on ethnicity, language or religion, which is different from that of the majority group around them. The term "minority" as used in the United Nations human rights system usually refers to **national or ethnic, religious and linguistic minorities**.[38]

international human rights law in relation to sexual orientation and gender identity, March 2007, http://www.unhcr.org/refworld/docid/48244e602.html

[37] UNHCR, *Summary Conclusions: Asylum-Seekers and Refugees Seeking Protection on Account of their Sexual Orientation and Gender Identity*, November 2010, http://www.unhcr.org/refworld/docid/4cff99a42.html

[38] UN General Assembly, *Declaration on the Rights of Persons Belonging to National or Ethnic,*

Indigenous groups are descendants of the peoples who inhabited land or territory prior to colonization or the establishment of state borders. They often have strong attachment to their ancestral lands and natural resources, an attribute that can distinguish them from other minority groups. They may also have distinct social, economic and political systems, languages, cultures and beliefs. Their right to self-determination has frequently been impeded by subsequent migration of other ethnic groups into the territory where they reside.

Minorities and indigenous groups are usually in a non-dominant position in the society in which they live. This unfavourable position can lead to a lack of power to affect the decisions that concern them, and place them at risk of marginalization, discrimination and abuse. Particularly in situations of active conflict, this discrimination may take extreme and violent forms that ultimately lead to their flight. This may include:

- denial of their right to identify as a minority;
- barriers to freely practice their culture, language and religion, and persistent and systematic discrimination due to these identifying factors;
- multiple or intersectional discrimination i.e. on the ground of two or more identifying factors such as age, gender, disability, religion, language, or culture;
- a denial of the right to participate in the political and economic decisions that affect them;
- removal of possessions, land or property;
- scapegoating, violent attacks, mass killing, rape, displacement, or genocide.

In situations of forced displacement, persistent power differentials leading to discrimination may exacerbate the marginalization and abuse suffered by minority and indigenous people. Resettlement may be the most appropriate protection tool to address serious human rights violations suffered by a minority or indigenous group.[39]

Essential reading

- UN Office of the High Commissioner for Human Rights, *Minority Rights: International Standards and Guidance for Implementation*, February 2011, HR/PUB/10/3, http://www.unhcr.org/refworld/docid/4db80ca52.html
- United Nations, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, 20 December 1993, A/RES/48/138, http://www.unhcr.org/refworld/docid/3boof302c.html
- International Labour Organization (ILO), *Indigenous and Tribal Peoples Convention, C169*, 27 June 1989, C169, http://www.unhcr.org/refworld/docid/3ddb6d514.html
- UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples: resolution /adopted by the General Assembly*, 2 October 2007, A/RES/61/295, http://www.unhcr.org/refworld/docid/471355a82.html

Religious and Linguistic Minorities, 18 December 1992, A/RES/47/135, http://www.unhcr.org/refworld/docid/3ae6b38do.html

[39] See forthcoming 2011 UNHCR concise guidance note on "*Working with National or Ethnic, Religious and Linguistic Minorities, and Indigenous Groups in Situations of Forced Displacement.*"

5.3 SPECIFIC PROTECTION RISKS AND CONSIDERATIONS

Beyond the potential vulnerabilities of certain segments of the refugee population, there are other specific protection risks and considerations that arise in the context of identifying refugees and other persons of concern in need of resettlement. These issues have an impact both on considerations of urgency, and appropriateness of resettlement.

5.3.1 Non-refugee stateless persons

Persons of concern to UNHCR include stateless persons who are not refugees. In its *General Conclusion on International Protection* No. 95 (LIV) of 2003, the Executive Committee of UNHCR recommends that States consider resettlement of *non-refugee stateless* persons under certain exceptional circumstances:

> States are encouraged *"...to cooperate with UNHCR on methods to resolve cases of statelessness and to consider the possibility of providing resettlement places where a stateless person's situation cannot be resolved in the present host country or other country of former habitual residence and remains precarious".*[40]

Generally, solutions for stateless persons should be sought in a State with which they have links and of which they could ultimately acquire or reacquire nationality. In almost all cases, this will be either the State of birth or of current or former habitual residence (or a successor State).

Nonetheless, in some situations, despite repeated efforts made by the international community, it is clear that neither the present State of residence nor any former State of residence or of nationality will grant its nationality or a stable residence status in the foreseeable future. This leaves a stateless individual without the enjoyment of basic rights. In such circumstances, acute protection needs may arise, in particular where individuals are outside of a State with which they have links, and cannot return to that State.

Based on the foregoing, resettlement may be considered for cases where the individual:

- does not have in the current or a former State of habitual residence a secure, lawful residence status which brings with it a minimum standard of treatment equivalent to that set out in the 1954 Convention relating to the Status of Stateless Persons; and
- has no reasonable prospect of acquiring such a residence status or nationality; and
- has acute protection needs which cannot be addressed inside the country of current or former habitual residence.

Field offices considering resettlement of non-refugee stateless persons in these circumstances should consult the Resettlement Service prior to submission. *Guidance on the submission of such cases is provided in* ***Chapter 7.2.2***.

[40] UNHCR, *General Conclusion on International Protection*, 10 October 2003, No. 95 (LIV) - 2003, para. (v), http://www.unhcr.org/refworld/docid/3f93aede7.html

5.3.2 Human trafficking[41]

Trafficking in persons is prohibited by international law and criminalized in the national legislation of a growing number of States. Although States have a responsibility to combat trafficking and to protect and assist victims of trafficking, UNHCR has a responsibility to ensure that persons of concern do not fall victim to trafficking, and to ensure that individuals who have been trafficked or who fear trafficking have access to the asylum procedures. The specific protection needs or risks facing refugees who have been trafficked, or who risk being trafficked, may indicate a resettlement need.

By definition, victims of human trafficking have been exploited for profit – either through prostitution or other type of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.[42]

A victim of trafficking who has been determined to be a refugee may additionally fear reprisals, punishment or re-trafficking in the country of asylum. Victims who have escaped from their traffickers could be in fear of revealing the real extent of the persecution they have suffered. Some may be traumatized and in need of protection responses including medical and/or psychosocial assistance, as well as expert counselling.

Women in particular may feel ashamed of what has happened to them, may suffer from trauma caused by sexual abuse and violence, and, additionally, may fear rejection by their family or community.

Children also require special attention, and the impact of reprisals by members of the trafficking network, social exclusion, ostracism and/or discrimination against a child victim of trafficking needs to be assessed in a child-sensitive manner. For example, a girl who has been trafficked for sexual exploitation may end up being rejected by her family and become a social outcast in her community if returned. A boy who has been sent away by his parents in the hope and expectation that he will study, work abroad and send remittances back to his family likewise may become excluded from his family if they learn that he has been trafficked into forced labour. Such child victims of trafficking may have very limited possibilities of accessing and enjoying their human rights, including survival rights, if returned to their families.[43]

As part of a broader international response to improve the range of protection and assistance options available to victims of trafficking, UNHCR has also developed a stronger cooperation framework with IOM with the aim of combining the available expertise, capacities, and potential of both agencies. Options for the protection of *non-refugee* victims of trafficking, including the possibility of

[41] For further guidance see UNHCR, *Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked*, 7 April 2006, HCR/GIP/06/07, http://www.unhcr.org/refworld/docid/443679fa4.html

[42] UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000, Article 3, http://www.unhcr.org/refworld/docid/4720706co.html

[43] UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A) 2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, http://www.unhcr.org/refworld/docid/4b2f4f6d2.html

humanitarian evacuation, are also being explored, but these are outside the context of refugee resettlement.[44]

Essential reading

- UNHCR, *Considerations on the Issue of Human Trafficking from the Perspective of International Refugee Law and UNHCR's Mandate*, March 2009, http://www.unhcr.org/refworld/docid/49ca275d2.html
- UNHCR, *Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked*, 7 April 2006, HCR/GIP/06/07, http://www.unhcr.org/refworld/docid/443679fa4.html
- International Labour Organization (ILO), *Understanding child trafficking, Textbook 1, Training Manual to Fight Trafficking in Children for Labour, Sexual and Other Forms of Exploitation*, September 2009, http://www.unhcr.org/refworld/docid/4acc55ef2.html
- UNHCR, *International protection for trafficked persons and those who fear being trafficked*, 20 December 2007, ISSN 1020-7473, http://www.unhcr.org/refworld/docid/4c247bc32.html

5.3.3 Female Genital Mutilation

Female Genital Mutilation (FGM) is a form of gender-based violence that inflicts severe harm, both mental and physical, which UNHCR considers to amount to persecution.[45] The term "female genital mutilation" (also called "female genital cutting" and "female genital mutilation/cutting") refers to all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons.[46]

Female genital mutilation has been reported to occur in all parts of the world, but it is most prevalent in the western, eastern, and north-eastern regions of Africa, some countries in Asia and the Middle East, and among certain immigrant communities in North America and Europe. Although the practice varies, there is a very high incidence in some refugee camps. To take one example among Somali refugees, UNHCR estimates that 97 per cent of girls under the age of eight in Dadaab camp in Kenya have had FGM performed on them.[47]

[44] UNHCR, *Developing Standard Operating Procedures to Facilitate the Protection of Trafficked Persons*, December 2009, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4b5876442.html

[45] UNHCR, *Guidelines on International Protection No. 1: Gender-related persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, 7 May 2002, (HCR/GIP/02/01), para. 9. See also UNHCR, *Guidance Note on Refugee Claims relating to Female Genital Mutilation*, May 2009, http://www.unhcr.org/refworld/docid/4a0c28492.html

[46] Inter-Agency, *Eliminating Female Genital Mutilation*: *An Interagency Statement*, February 2008, http://www.unhcr.org/refworld/docid/47c6aa6e2.html

[47] UN General Assembly, *Assistance to refugees, returnees and displaced persons in Africa: report of the Secretary-General*, 26 August 2009, A/64/330, http://www.unhcr.org/refworld/docid/4ac379512.html

UNHCR is actively involved in campaigns against the practice, but recognizes that female genital mutilation is a manifestation of gender inequality that is deeply entrenched in social, cultural, economic and political structures. Where female genital mutilation is widely practiced, it is supported by both men and women, usually without question, and anyone departing from the norm may face condemnation, harassment, and ostracism.

It is difficult for families to abandon the practice without support from the wider community. In fact, it is often practiced even when it is known to inflict harm upon girls because the perceived social benefits of the practice are deemed higher than its disadvantages. Often, FGM is committed with the direct and active participation of family members in addition to the "cutter", thus designating a large proportion of affected societies as FGM – and thereby SGBV – perpetrators.

From the standpoint of international human rights law, UNHCR cannot condone FGM, and must not take a stance that is seen as acquiescing to the practice. However, it is not UNHCR's role to apply legal sanctions, or to invoke such sanctions as exist in a particular country of asylum for individual cases.[48] The responsibility for prosecuting such cases lies with the country of asylum. This must be treated separately from consideration of a refugee's protection needs, which fall within UNHCR's mandate. Regardless of whether a refugee has perpetrated FGM, resettlement is still a crucial protection tool and may, in practice, present the only available durable solution. Girls and women who have been subjected to FGM should additionally not be penalized for the actions of their family members, nor should their rights to family unity be violated by deprioritizing family member perpetrators for resettlement.

Resettlement may be an appropriate protection tool for girls *at risk* of FGM. However, cases must be carefully assessed in context, and require a BID if there is consideration of removing the child from her family.

5.3.4 SGBV perpetrators

Refugees must be protected from sexual and gender-based violence. When refugees are perpetrators of sexual and gender-based violence (SGBV), UNHCR encourages the host country to hold them accountable. At the same time, UNHCR recognizes that refugee perpetrators, as refugees, are entitled to international protection.[49]

[48] As of 2009, eighteen countries – Benin, Burkina Faso, Central African Republic, Congo, Côte d'Ivoire, Djibouti, Egypt, Eritrea, Ethiopia, Ghana, Guinea, Kenya, Niger, Senegal, South Africa, Sudan, Tanzania, and Togo – have enacted laws specifically criminalizing FGM, whereas Chad, the Democratic Republic of the Congo, Gambia, and Mauritania have not enacted specific provisions, but FGM may be penalized under sections of the Penal Code. Penalties range from a minimum of three months to a maximum of life in prison, and many States also impose monetary fines. However, in most of the named countries, with the exception of Kenya, there have been no convictions for commission of FGM, and in most cases, no charges were ever filed. See United Kingdom: Home Office, *Female Genital Mutilation (FGM)*, 20 June 2008.

[49] Some individuals may indeed be found *undeserving* of international protection and may be excluded from international protection because of SGBV-crimes of particular magnitude under Article 1F(a) ("a war crime, or a crime against humanity", or Article 1F(b) ("serious, non-political crime committed outside the country of refuge"). However, many SGBV-crimes, particularly – but not exclusively – crimes committed in the domestic sphere may not achieve the threshold of

Resettlement is a protection tool for refugees facing serious protection risks or vulnerabilities, and priority for resettlement consideration is given on the basis of need. For refugees facing acute protection problems, including for refugees who are alleged perpetrators of SGBV, or family members of alleged perpetrators, resettlement may be identified as the most appropriate durable solution for ensuring the protection of a refugee or his/her family.

Resettlement is also used to provide a durable solution for refugees in protracted situations, and other group resettlement contexts. In these circumstances, UNHCR assesses resettlement priorities within populations facing similar protection needs and vulnerabilities. Therefore, operational circumstances lead UNHCR to consider resettlement cases of individuals against whom allegations related to SGBV may exist, or where certain forms of SGBV—in particular domestic violence and harmful traditional practices such as female genital mutilation (FGM)—may be widespread in the population.

In the context of determining whether to submit a refugee who is suspected of having perpetrated SGBV, UNHCR works to balance the appropriateness of submission for resettlement and the integrity of the resettlement operation, while also applying a fair and coherent resettlement approach that respects the principles of protection, due process and family unity.

The *Resettlement Assessment Tool: Alleged Perpetrators of Sexual and Gender-Based Violence (SGBV)*[50] has been developed to harmonize procedures for assessing cases of refugees against whom there are allegations of sexual and gender-based violence and determining whether or not to submit the case for resettlement, and which details of SGBV should be included in the resettlement submission.

The tool guides staff to ensure that all considerations and procedural safeguards are taken into account to reach a final decision in accordance with UNHCR's responsibility to provide international protection to persons of concern, and with fundamental principles of international human rights law.

In view of the serious consequences for refugees, *all allegations need to be investigated, and if found to be substantiated, the nature of the act/crime fully clarified*. The refugee and his/her family members must also be informed of UNHCR's decision whether to submit the case and the details that UNHCR will share with the country of resettlement about the incident, and should be *individually counselled* regarding the implications of these decisions.

a "widespread, systematic attack against a civilian population" as required for crimes against humanity, may not be considered as a war crime, or may have been committed *within* the country of refuge (thereby not engaging Article 1F[b]). While some of the more serious allegations will trigger exclusion considerations, the majority of incidents brought to the Office's attention do not warrant exclusion under Article 1F.

[50] UNHCR, *Resettlement Assessment Tool: Alleged Perpetrators of Sexual and Gender-Based Violence*, June 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4dc7a99d2.html

Essential reading

- Inter-Agency, *Eliminating Female Genital Mutilation. An Interagency Statement*, February 2008, http://www.unhcr.org/refworld/docid/47c6aa6e2.html
- UNHCR, *UNHCR Policy on Harmful Traditional Practices* (Annexes), 19 December 1997, http://www.unhcr.org/refworld/docid/3efc79f34.html
- UNHCR, *Resettlement Assessment Tool: Alleged Perpetrators of Sexual and Gender-Based Violence (SGBV)*, June 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4dc7a99d2.html

5.3.5 Polygamous marriages

Polygamous marriages, where a husband has more than one wife (polygyny), or more rarely, a wife has more than one husband (polyandry), raise both serious concerns from an international human rights law perspective about abuse or serious discrimination, and also policy challenges from a resettlement perspective.

Under international law, polygamy is considered a violation of the principle of equality of men and women in marriage. The Human Rights Committee determined that polygamy violates a woman's dignity and should be abolished as an inadmissible discrimination.[51] The Committee on the Elimination of Discrimination against Women determined that polygamy is a violation of Article 5 of CEDAW and that it has serious implications for the emotional and financial well-being of a woman and her dependants.[52]

However, UNHCR aims to respect the culturally diverse interpretations of family membership and ensure the protection of members of polygamous families, and recognizes polygamy in its criteria for eligible unions. Therefore, where a polygamous marriage is contractually valid, all family members are eligible for UNHCR assistance, including consideration for resettlement. Where a relationship of dependency exists, particularly when children are concerned and when the marriage has been validly contracted according to the laws of the country of origin or asylum, UNHCR respects and promotes the unity of the family during resettlement.

Most resettlement States have national laws that prohibit such marriages and therefore refuse to admit such cases for resettlement. However, States may recognize a person engaged in polygamy (the "partner") as having only one legal spouse (the "legally recognized spouse"). Such resettlement country legislation frequently has led to families choosing to separate for purposes of admission to the resettlement country. In cases where *the spouses are dependent on*

[51] See para 24, UN Human Rights Committee (HRC), *CCPR General Comment No. 28: Article 3 (The Equality of Rights Between Men and Women)*, 29 March 2000, CCPR/C/21/Rev.1/Add.10, http://www.unhcr.org/refworld/docid/45139c9b4.html

[52] UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No. 21: Equality in Marriage and Family Relations*, 1994, para. 14, http://www.unhcr.org/refworld/docid/48abd52co.html See Article 5, UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180, http://www.unhcr.org/refworld/docid/3boof2244.html

the partner, this requirement can result in the subsequent separation or abandonment of dependent family members for purposes of resettlement, which contravenes the right to family unity and the rights of the child.

Also, in other cases, where a partner separated from, but never officially divorced, one spouse and then married and cohabited with another, there may still be social stigmas or other legal and protection issues that might arise should the partner be resettled with only the spouse with whom s/he is currently living. In both these situations, the spouse(s) and their children remaining behind in the asylum country are rendered more vulnerable to protection risks, and resettlement may need to be pursued separately.

Therefore, careful consideration is required when there is more than one spouse dependent upon a partner in a family, or when there is a protection issue that might arise for any separated spouses. In principle, UNHCR should avoid a situation where one wife is chosen over the other(s) in order for a man and his chosen family members to be submitted to a resettlement State, thereby putting the unity of the polygamous family at risk.

However, UNHCR has responsibilities to seek durable solutions for its persons of concern, and there may be circumstances where refugees in polygamous families present protection needs or vulnerabilities which warrant resettlement consideration. Given specific and serious social and legal protection challenges that resettlement of refugees in polygamous families would entail, additional considerations and procedural safeguards are required when assessing the resettlement needs of refugees in polygamous families. Important considerations include the current composition of the family and the principle of family unity, the best interests of the child, the protection needs, wishes and informed consent of each family member, as well as the prospective resettlement country legislation.

UNHCR's *Resettlement Assessment Tool: Polygamous Families*[53] has been developed to harmonize UNHCR's procedures for assessing polygamous families for resettlement consideration and to guide staff on the processing if it is decided to proceed with a resettlement submission.

In order to maintain family unity and to ensure that the non-legally recognized spouses and their children do not become more vulnerable to protection risks, UNHCR may consider separating a polygamous family into two or more cases and submitting them as cross-referenced cases to suit certain resettlement country requirements.

Where UNHCR determines that one case should not be accepted without the other, it is important to reinforce with resettlement countries the need to resettle non-legally recognized spouses and their children to the same country (and preferably the same municipality or community) as the partner and the legally recognized spouse. To avoid children being separated from one parent, a Best Interests Determination (BID) could be undertaken to advocate for the right of the children to remain with both parents.[54]

[53] UNHCR, *Resettlement Assessment Tool: Polygamous Families*, June 2011, (Internal) **http://swigea56.hcrnet.ch/refworld/docid/4dc7a9032.html**

[54] UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, p. 41., **http://www.unhcr.org/refworld/docid/48480c342.html**

The submission of cross-referenced cases of a polygamous family separated for purposes of resettlement should be based upon a dependency link between the partner and his/her spouses, best interests of the child, the consent of all of the spouses to separate the case for resettlement purposes and to be submitted for resettlement, and, most critically, the understanding of the non-legally recognized spouses that their relationship with the partner will not be legally recognized and the impact that will have on their rights and the rights of their children in the resettlement country.

Operational guidance on the submission of cases of polygamous families can be found in Chapter 7.3.6 and Chapter 7.4.4.

5.3.6 Child marriages

Child marriage, or the union of two persons at least one of whom is under 18 years of age, has been recognized as a harmful traditional practice.[55] However, child marriages are common in many parts of the world, especially in sub-Saharan Africa, South East Asia, and among some groups in the Middle East and other parts of Africa and Asia. International human rights bodies have consistently called for States to take measures to end harmful traditional practices, such as early marriage, that violate children's rights and affect the health of children, and this obligation is embedded in the *Convention on the Rights of the Child (CRC)*.[56]

To promote the protection of refugee children, the UNHCR Executive Committee has asked UNHCR, in conjunction with States, other relevant agencies and partners, to "*take effective and appropriate measures [...] to prevent and eliminate traditional practices that are harmful to children taking into account the physical and mental harm caused to the child, and the different impact on girls and boys.*"[57]

Where a case of child or forced marriage comes to UNHCR's attention, UNHCR works with national authorities and community leaders to prevent it and, if this fails, takes appropriate action to ensure that the child's best interests are taken into account.[58]

Prevention activities include:

- awareness-raising with parents, girls and boys and other people in the community on protection risks for children subjected to early marriage (violence and exploitation, school drop-out, premature pregnancy and related health consequences, etc.);
- promote access to education for girls and boys;

[55] See UNHCR, *UNHCR Policy on Harmful Traditional Practices (Annexes)*, 19 December 1997, http://www.unhcr.org/refworld/docid/3efc79f34.html

[56] See UN General Assembly, *Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages*, 7 November 1962, http://www.unhcr.org/refworld/docid/456d89064.html and UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, UN Treaty Series, vol. 1577, art. 24(3), http://www.unhcr.org/refworld/docid/3ae6b38fo.html

[57] UNHCR, *Conclusion on Children at Risk*, 5 October 2007, No. 107 (LVIII)-2007 para. (h) (vii), http://www.unhcr.org/refworld/docid/471897232.html

[58] UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, January 2008, section 5.2.2, http://www.unhcr.org/refworld/docid/47cfc2962.html

- income-generating activities to prevent negative coping strategies such as early marriage;
- long-term protection strategies and close cooperation with communities and national authorities to develop appropriate child protection legislation, policies and practices in collaboration with the United Nations Children's Fund (UNICEF) and other relevant partners.

Advocacy, awareness-raising and monitoring should be part of the broader child protection programme to prevent and respond to child marriage. Yet it may be extremely challenging to address child marriage, as it may be widespread and deeply rooted in cultural and societal practices and beliefs, which may only change in the long term. In addition, interventions in individual cases of child marriage may not always lead to solutions, as sometimes there are no favourable alternatives for the child.

When there are *clear indications that there are risks or signs of abuse, neglect, exploitation or violence* and *the child is at imminent risk*, measures should be taken to ensure the safety of the child, e.g. through referral to a safe house. The BID needs to determine if the "care situation" is in the best interests of the child. Married children often lack the care, protection and support of their parents. They should be regarded as an unaccompanied child who is facing multiple risks. Sometimes family mediation or support could help to reintegrate the child. Yet it may be very difficult to identify appropriate solutions, and the BID may just determine what is least harmful for the child.

Each case is different and therefore requires a case-by-case assessment. All decisions and procedures should be guided by the principle of best interests of the child. However, the **following general considerations should be assessed**:

- age and maturity of the married child;
- age difference between the child and the adult spouse;
- signs of abuse, neglect, exploitation or violence against the child;
- duration of the marriage and circumstances surrounding the marriage and/or elopement;
- whether the marriage is formal or informal (in some circumstances formalization of the marriage improves the situation of the girl, e.g. entitlement to certain benefits, etc.);
- possible risks and consequences for the child, if he/she was to be separated from the spouse;
- national legislation relating to age of marriage and separation/divorce (in country of origin, asylum and potential country of resettlement);
- existing support for the child outside the marriage; and
- possible children of girl mothers.

Best interests process for married children in the context of resettlement

UNHCR does *not* normally submit cases of married children for resettlement unless there are compelling protection risks that warrant resettlement, and resettlement is in the best interests of the child. A Best Interests Assessment (BIA) or a full Best Interests Determination (BID) must be conducted in these circumstances:

- **Two married child spouses**, being considered for resettlement without a parent/caregiver are considered separated children and require separate **BIDs**.
- **Two married child spouses**, when being considered for resettlement **together with a parent/caretaker** require only **BIAs**.
- **A child married to an adult** requires **either a BIA or a BID**, depending on the circumstances and the general considerations listed above.
- If the married child couple has a child, the best interests of that child should also be considered in the BID process.

The *Resettlement Assessment Tool: Married Children*[59] is designed to assist UNHCR staff to assess the protection needs, legal situation and social context of refugees in child marriages, and to process the resettlement submission in cases where it is determined that resettlement is in the child's best interests. *Protection considerations related to child marriages and the requirements for Best Interests Determinations (BID) are also discussed in* ***Chapter 5.2.2*** *of this Handbook.*

A resettlement submission for a married refugee child together with their spouse may be warranted when:

- a married refugee child has a compelling protection need or vulnerability; *or*
- a member of the refugee family upon which the married refugee child is dependent has a compelling protection need or vulnerability; *and*
- resettlement is considered the most appropriate option for addressing the specific protection need or vulnerability; *and*
- the married refugee child wishes to be resettled together with her/his spouse; *and*
- a Best Interests Assessment or formal Determination (BID) has determined that the refugee child should be submitted for resettlement with her/his spouse.

As recommended through the BIA/BID process, the resettlement of married refugee children may be necessary in order to:

- maintain family unity and prevent separation of the child from her/his parents/legal guardians;

[59] UNHCR, *Resettlement Assessment Tool: Married Children*, June 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4dc7a79f2.html

- ensure that the refugee or members of the child's family do not become more vulnerable to protection risks by having to wait until the child reaches the age of 18 years old to be submitted for resettlement;
- protect the child from sexual and gender-based violence or other violations of her/his human rights.

Family unity considerations

The principle of family unity should be applied only to the extent that it does not violate the rights of the child under international law. Under the *Convention on the Rights of the Child*, children have the right to know and be cared for by both parents, should not be separated from their parents against their will, and have the right to maintain relations and direct contact with both parents unless it has been determined contrary to their best interests.[60] A separation may only be carried out if it is in the best interests of the child.

The child's rights should be paramount in the process of assessing best interests, both for the refugee child and any children s/he may have. Where a refugee child who is married has children, these children's rights to family unity and to not be separated from their parents are also primary considerations.

While family unity is a guiding principle in determining both case composition and durable solutions, in the context of child marriage, maintaining family unity or promoting family reunification may not always be in the best interests of the child where a child may risk SGBV at the hands of a spouse or other family members.

Therefore, all protection concerns must be carefully identified and addressed in making a determination of whether resettlement is the most appropriate solution for a child who is married.

5.3.7 HIV and AIDS

The impact of the human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) on refugee protection continues to be an issue of concern. UNHCR has articulated an overview of how principles of refugee protection and human rights, including access to durable solutions, apply to those living with HIV and AIDS.

[60] *Convention on the Rights of the Child*, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, Entry into force 2 September 1990, in accordance with article 49, Arts. 7, 9, and 10.

10 Key Points on HIV/AIDS and the Protection of Refugees, IDPs and Other Persons of Concern[61]

1. **Non-Discrimination**: Persons living with HIV and AIDS are entitled to live their life in dignity, free from discrimination and stigmatization.
2. **Access to HIV and AIDS Health Care**: Refugees, IDPs and other persons of concern to UNHCR benefit as any other individual from the "right of everyone to the enjoyment of the highest attainable standard of physical and mental health."
3. **Access to Asylum Procedures and Protection from Expulsion and *Refoulement***: The HIV status of an asylum-seeker does not constitute a bar to accessing asylum procedures. HIV status is not a ground for any exception to the right to be protected against *refoulement*.
4. **Protection from Arbitrary Detention and Unlawful Restrictions on Freedom of Movement**: Detention or restrictions on the freedom of movement of persons living with HIV and AIDS would be in violation of the fundamental rights to liberty and security of the person, as well as the right to freedom of movement, if carried out solely on the basis of a person's actual or suspected HIV status.
5. **Respect for Confidentiality and Privacy**: In principle, personal data is confidential and should not be shared without the consent of the individual concerned; this includes data on the health status of the person.
6. **Provision of Voluntary Counselling and Testing (VCT)**: VCT programmes play an important role in preventing HIV transmission by providing people with accurate information about the virus.
7. **Freedom from Mandatory Testing**: UNHCR strictly opposes mandatory HIV testing of asylum-seekers, refugees, IDPs and other persons of concern as this is at variance with relevant human rights standards.
8. **Access to Durable Solutions**: The attainment of a durable solution should not be jeopardized by the HIV-status of a refugee or a family member. In the context of resettlement, although UNHCR opposes HIV testing as a prerequisite for such, certain resettlement countries require pre-departure health-screening, including HIV testing. Where testing is done, human rights should be respected and voluntary counselling and testing standards should be met. Where States deny entry to individuals who are HIV-positive or have AIDS, automatic waivers should be given for resettlement cases.
9. **HIV-related protection needs of women, girls and boys**: Women and girls are disproportionately affected by HIV and AIDS and gender inequality can play a significant role in the protection problems they face, including increased exposure to violence. Appropriate measures need to be taken to ensure their protection against sexual or physical violence and exploitation.
10. **Access to HIV information and education**: The right to health includes access not only to HIV treatment, but also to HIV-related education.

[61] UNHCR, *Note on HIV/AIDS and the Protection of Refugees, IDPs and other Persons of Concern*, 2006, http://www.unhcr.org/refworld/docid/4444f0884.html

The fact that a refugee has HIV should not adversely affect a resettlement claim based on core protection grounds unrelated to their HIV status. Whereas States may exclude people living with HIV, if those people have a legitimate need for asylum, UNHCR stresses that the need for asylum overrides any concerns about potential costs associated with treatment and care.

UNHCR's policies on *Antiretroviral Medication Policy for Refugees*[62] and on *HIV Testing and Counselling in Health Facilities*[63] provide guidance on access to treatment and HIV testing and counselling issues, including HIV testing for resettlement purposes. *See Chapter 6.4.3 for considerations related to resettlement submission.*

Some resettlement countries require pre-departure health screening, including HIV testing. UNHCR and IOM urge that any HIV testing in this context:

- be implemented under the conditions of the **three C's**: informed **C**onsent, **C**onfidentiality and **C**ounselling;
- not prejudice the right to seek asylum and the provision of resettlement as a durable solution;
- involve adequate resources and quality assurance, including appropriate pre- and post-test counselling.[64]

A key area of concern is the need to respect an individual's right to privacy and to confidentiality of all information relating to his or her HIV status. Procedural safeguards should be put in place to ensure that HIV test results are kept confidential and are only shared with third parties, including family members, implementing partners and UNHCR staff, after the concerned individual has given his or her informed consent.[65]

Children require special attention to ensure that their best interests are protected, and that they are not subjected to procedures such as mandatory HIV testing. The Committee on the Rights of the Child has explicitly stated that States must refrain from imposing mandatory HIV testing of children in all circumstances and to ensure protection against it.

The Committee on the Rights of the Child reiterates that children also enjoy the right to privacy, including within the health setting. Counselling and testing services would, however, have to pay due attention to the evolving capacities of children, and parental consent would normally be required subject to the best interests of the child and with due regard to applicable national legislation. Although information on the HIV status of children should not be disclosed to

[62] UNHCR, *Antiretroviral Medication Policy for Refugees*, 17 January 2007, http://www.unhcr.org/refworld/docid/45b4af612.html

[63] UNHCR, *UNHCR/WHO/UNAIDS Policy Statement on HIV Testing and Counselling in Health Facilities for Refugees, Internally Displaced Persons and other Persons of Concern to UNHCR*, 2009, http://www.unhcr.org/refworld/docid/4b13ba212.html

[64] *UNHCR, UNAIDS, IOM – Joint Statement on HIV Testing in the context of resettlement*, 2006, http://www.unhcr.org/refworld/docid/46822d001c.html

[65] See *UNHCR's Confidentiality Guidelines*, 1 August 2001, IOM/71/2001-FOM/68/2001, (Internal) http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html and *UNHCR Note on HIV/AIDS and the Protection of Refugees, IDPs and other Persons of Concern*, 5 April 2006, http://www.unhcr.org/refworld/docid/4444f0884.html, IOM 30/2006 - FOM/30/2006, 5 April 2006 (Internal) http:/swigea56.hcrnet.ch/refworld/docid/44ae7ca20.html

third parties, including parents, without the child's consent, this, of course, is subject to the age and maturity of the child as well as to a determination of his or her best interests.[66]

5.4 THE PROCESS FOR IDENTIFYING RESETTLEMENT NEEDS

Efficient and effective identification of refugees in need of resettlement is essential to ensuring a continuum of refugee protection. Pursuant to UNHCR's priority to use resettlement as a protection tool and as part of a comprehensive durable solutions strategy, UNHCR country offices undertake a yearly exercise of proactive planning for resettlement as an integral part of the overall planning process. UNHCR country offices forecast overall refugee resettlement needs for specific populations, as well as refugee resettlement needs for the next calendar year and UNHCR's capacity to address them. Each office's Comprehensive Needs Assessments should reflect resettlement planning to help ensure that resettlement activities do not occur in a vacuum, but rather are coordinated with the work done in other areas of protection.[67]

UNHCR offices seek to identify protection needs systematically, so that relevant data is available to develop durable solutions strategies. In principle, the most effective data-gathering activities are multi-functional exercises to facilitate identification of refugees' needs generally; identifying refugees in need of resettlement is one among a number of outcomes.

a. Initial Identification of resettlement needs

The initial identification of resettlement needs encompasses two main aspects:

1. **Strategic planning**, via such tools as *proGres* and *Focus*,[68] give an indication of overall needs and allows proactive durable solutions planning to provide a holistic picture of an operation's resettlement needs for current and subsequent years.
2. **Individual identification**, through use of participatory assessments, the *Heightened Risk Identification Tool,*[69] and referrals from partners or from other UNHCR units (Protection or Community Services, for example) can help augment registration data and identify the most vulnerable individuals for resettlement consideration.

[66] See Committee on the Rights of the Child *General Comment, No 3 (2003) on HIV/AIDS and the rights of the child,* http://www.unhcr.org/refworld/docid/4538834e15.html, paragraphs 22-24.

[67] UNHCR issues annual instructions and guidelines on planning, reporting and implementation. These instructions are available on the UNHCR Intranet. (Internal)

[68] *Focus* is Results Based Management (RBM) software used in UNHCR for de-centralized budgeting, monitoring and reporting on Field Operations.

[69] UNHCR, *The Heightened Risk Identification Tool*, June 2010, Second Edition, http://www.unhcr.org/refworld/docid/4c46c6860.html; *User Guide,* http://www.unhcr.org/refworld/docid/46f7cocd2.html

b. Identification of a case for resettlement submission

Moving forward with the identification of an individual case for resettlement submission requires another step of ensuring that refugees fall within one of the resettlement submission categories, which are discussed in detail in Chapter 6.

This section outlines some of the overall considerations regarding the establishment of effective identification system and referral systems, mapping and profiling of needs, identification tools and methodologies including partnerships, and the overall considerations for proactive resettlement planning within protection and durable solutions strategies.

5.4.1 Establishing identification systems

The demand for effective methods of identification has grown as UNHCR increases its attention to developing comprehensive approaches to durable solutions, and as the strategic use of resettlement expands.

UNHCR Country offices must consider how to approach resettlement identification appropriately and effectively in their particular situation. Different identification challenges arise in refugee camps than in less structured settings, such as in urban areas, and staff need different approaches for refugees recognized through individual status determination than for those recognized on a *prima facie* group basis. Identification systems can be put in place even with limited resources, by linking them to other ongoing activities organized by UNHCR or by partners (e.g. registration, renewal of documentation, counselling, workshops, etc.).

Identification systems should be designed and implemented to suit specific operational contexts as well as to mitigate the risks associated with unplanned resettlement delivery, such as unrealistic expectations, fraud, irregular secondary movements and inconsistent approaches to resettlement delivery. They should allow for proactive and systematic identification by UNHCR and its partners and ensure the early identification of refugees who are at risk of serious harm, including the refugees who may have the most challenges in having their needs made known. The identification systems should also be integrated into the overall protection and durable solutions strategy of the office and the region.

UNHCR identifies refugees for resettlement based on a refugee's objective *need* for resettlement and not on their subjective *desire* for it. Identification should not be based on the desire of any specific actors, such as the host State, resettlement States, other partners, or UNHCR staff themselves. Identification based on need also means that identification should not be limited by the expected capacity of the office, the number of resettlement places presumed available, additional criteria (whether formal or informal) introduced by resettlement States, or restrictions imposed by the country of asylum. UNHCR must cooperate with asylum and resettlement States for resettlement to succeed, but they should not influence UNHCR's identification process itself.

A designated officer oversees all identification efforts for resettlement purposes. An interrelated working environment and team dynamic should be fostered in

offices to maximize synergies between resettlement and other work areas (e.g. protection, field and community services) to strengthen case management and the search for durable solutions for refugees. It is also vital that UNHCR staff cooperate and coordinate with NGOs and other external partners to identify needs. While various actors may be involved in the identification of refugees in need of resettlement, it is essential that these actors are well managed and monitored by the UNHCR officer accountable for resettlement, as well as by senior management within the office, to ensure transparent and consistent identification.

Given the number of partners potentially involved in needs assessments and eventual resettlement identification, regular and effective communication will help ensure coordination of activities. It is also crucial to document the identification process well and to develop and implement transparent identification procedures in accordance with the *Baseline Standard Operating Procedures on Resettlement*.[70] Safeguards also need to be introduced into any identification mechanisms to mitigate the risk of fraud, abuse and threats to refugee and staff safety. Fear of such risks, however, should not prevent engaging in resettlement, since the establishment of an effective system for identifying refugees in need of resettlement will mitigate those risks.

Resettlement must be integrated into the overall protection and durable solutions strategy of the office and the region. Identification systems must be designed to ensure consistent delivery of resettlement and mitigate risks such as fraud and abuse.

5.4.2 Proactive planning for resettlement within operational planning

Assessment of the needs of populations of concern, and the design of the most appropriate strategy and means of bringing about changes in the condition and situation of the population of concern, are core UNHCR protection processes; as such, each fully concern and engage the management of the operation and the whole operations team. Incorporating resettlement into the planning process and the overall protection strategy of the office helps to ensure that all durable solutions are assessed comprehensively, and that any negative impacts either of resettlement on other activities, or vice-versa, are mitigated.

For the annual Regional/Country operation planning process in *Focus,* UNHCR teams conduct comprehensive assessments of the protection problems and needs of the population of concern, and record the results as a Summary Protection Assessment. These results are analyzed in order to design and develop their operations plan. Selecting the most appropriate goals for population groups, and developing or revising the protection and solutions strategy for that population are critical planning steps. As durable solutions strategies are often most effective when planned within a regional context, dialogue at the

[70] UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html

assessment stage with UNHCR offices in neighbouring countries of origin and asylum helps to ensure that the causes of displacement, as well as problems associated with finding durable solutions, are consistently reflected across their comprehensive assessments. Proactive planning for resettlement is an integral part of this annual process, which ensures that global resettlement needs are both assessed, and addressed, comprehensively.

Summary Protection Assessments aim to offer a concise narrative snapshot of the core protection problems currently affecting each type of population of concern (i.e. Refugees, Stateless persons, Returnees and IDPs) that can serve as a baseline for operational planning. Operational targets are set to reduce identified gaps between the baselines and the conditions UNHCR considers to be the minimum acceptable standard, and eventual impacts are measured against these indicators. Use of indicators in assessment is fundamental to results-based management.

Each Country Office that identified resettlement as one of the possible durable solutions for its population(s) of concern is requested to analyze total and immediate resettlement needs, protection and durable solutions strategies, and capacities and constraints. Country offices draw on various data sources and follow standard methodologies to reach an estimate of the number of refugees in need of resettlement for the following calendar year in the Country Operations Plan. Although offices are also requested to estimate or project their capacity to process cases within the programme year, the overall resettlement needs are based not on the office capacity, but the actual resettlement needs and, where applicable, involving the strategic use of resettlement. Country offices are asked to provide information including analysis of the use of resettlement within the protection framework and solutions strategy; implementation considerations and constraints; and identified resettlement needs and capacities.[71]

UNHCR Projected Global Resettlement Needs document

The information provided is compiled by the Resettlement Service in close consultation with relevant Bureaux and Regional Hubs/Offices into the *UNHCR Projected Global Resettlement Needs* document which reports on the resettlement needs for each country operation for the following calendar year. This document is the key document for planning the resettlement activities of the Office as it provides the rationale and scope of UNHCR's resettlement operations worldwide. This document is shared with the resettlement countries and NGO partners and serves as the primary reference document for dialogue on resettlement needs, priorities, likely gaps and challenges in programme delivery, allowing informed decisions on quota and resource allocations for the following year.

[71] See UNHCR Intranet for Instructions and Guidelines on the annual planning exercise.

5.5 TOOLS AND METHODOLOGIES TO ASSIST WITH IDENTIFICATION OF NEEDS

Operational planning on a global level, including resettlement planning is highly contingent on quality data from individual operations. The development of the *proGres* database has provided UNHCR with an essential resource not only for registration, but also for managing protection interventions, including resettlement.

Over the years, UNHCR has also developed a range of tools to strengthen assessments, participatory planning, strategic consideration, age, gender and diversity analysis, and capacity-building, as well as to enhance resource mobilization mechanisms. These have all helped to increase UNHCR's ability to identify needs, and respond better to them.

Assessment itself is best understood as data gathering from various sources, followed by analysis. Data comes from reports, from dialogue with refugees, governmental and non-governmental partners, visiting experts or community representatives, from registration or profiling information, from systematic studies of the situation of specific sub-groups of the population, or from the direct observations of UNHCR staff in the course of regular field visits.

For their part, individual operations must collect and maintain quality data on their populations of concern and individual specific needs starting with quality registration data, which should ideally be captured and updated in *proGres* (or an operation's alternate database for those operations without *proGres*).

In addition to making effective use of *proGres* and/or other databases, the projection of resettlement and other protection needs will depend on information gathered during participatory assessments with refugees and other interactions with persons of concern. The annual summary protection assessments provide important information for forward planning, and these data sources can also be further assessed to assist in the identification of individual cases. Use of the *Heightened Risk Identification Tool* (HRIT)[72] as well as establishing effective internal and external referral systems will further help ensure that vulnerable refugees in need of resettlement are identified. An effective case management framework that can ensure action is taken on identified cases also needs to be put in place. One such effort that may be initiated in an inter-agency fashion is the identification of psychosocial needs of a population. The Inter-Agency Standing Committee, including UNHCR, has issued *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*,[73] which is useful in this regard.

The sections below examine UNHCR's tools and methodologies for data collection and needs assessments. Sources include:

[72] UNHCR, *The Heightened Risk Identification Tool*, June 2010, Second Edition, http://www.unhcr.org/refworld/docid/4c46c6860.html *User Guide,* http://www.unhcr.org/refworld/docid/46f7cocd2.html

[73] Inter-Agency Standing Committee, *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, 20 June 2007, http://www.unhcr.org/refworld/docid/46c0312d2.html

- *proGres* and registration data;
- participatory assessments;
- internal and partner reports and dialogue;
- data from the *Heightened Risk Identification Tool* (HRIT); and
- internal and external referral systems.

5.5.1 Registration as a starting point for identification

A particularly important source of information is registration data. Registration is a systematic method of collecting and recording individual and family details. Registration data is used to identify a person, to confirm a person's identity, or to provide information pertaining to an individual's refugee or other status. This data is a principal means to know the population of concern on an individual basis, and is thus fundamental to effective protection.

UNHCR registration standards require that a core set of information be gathered about all members of the population of concern at an individual level as soon as possible and ideally within the first three months after the arrival of the person of concern. The timing or the extent of registration may, however, vary depending on the refugee situation. When dealing with a mass influx of refugees, any registration is likely to be quite basic. Other issues, such as security considerations, may also cause difficulties in obtaining registration data. Initial registration includes basic facts such as age, gender, and family size statistics for the refugee population. Factors that may also be captured are duration of stay in the country of asylum, national, ethnic and religious characteristics and, where possible, livelihoods, place of residence and specific needs.

With registration, resettlement staff can have access to at least basic biographical data on the refugee population. Where more detailed registration data is available (i.e. concerning specific protection and assistance needs), it may be possible to identify refugees not only for protection interventions but also for potential resettlement consideration. The more detailed registration data is, the more helpful it will be for purposes of identification.

UNHCR may undertake registration with the government and partners of the country of asylum, or only with NGOs. The *Multilateral Framework of Understandings on Resettlement*[74] emphasizes the importance of refugee registration to resettlement and why it should be available to all refugee populations.

Registration is, in principle, an ongoing process with continuing verification and registration of any changes in the data relating both to any individual or family/household, and to specific needs. Data verification is particularly important when the population is believed to have changed considerably, or registration data is otherwise not thought to be accurate. This is particularly important at all stages of the resettlement referral process to ensure that the information about the principal applicant and all family members is accurate and to prevent possibilities for misrepresentation.

[74] UNHCR, *Multilateral Framework of Understandings on Resettlement*, 16 September 2004, FORUM/2004/6, http://www.unhcr.org/refworld/docid/41597d0a4.html

Updated and accurate registration data helps to identify individuals at risk and those with specific needs. Correct registration data can help to protect a person from protection concerns such as *refoulement*, SGBV, unlawful detention, prolonged detention because of status, and forcible recruitment.

Registration can also help identify groups at risk and their specific needs. Specific protection programmes such as tracing, legal representation and family reunification can only be adequately implemented if current and reliable data is available. Registration needs to be a continuous process that records and updates essential information – such as births, deaths, marriages, divorces, new arrivals and departures – as it changes over time.

proGres and the UNHCR Handbook for Registration

UNHCR has made considerable advances in data management at the global level. The UNHCR database *proGres* is a key tool not only for registration, but also for the management of resettlement activities. The origin is Project Profile, which was initiated to implement the registration standards agreed upon in the ExCom *Conclusion on Registration of Refugees and Asylum-seekers* (No. 91, 2001).[75] The aim of the Project was to develop unified standards, procedures and tools to support the registration process of persons of concern to UNHCR. It also sought to establish a comprehensive system based on a unified approach which encompasses data collection, documentation and management. The *UNHCR Handbook for Registration*, which was provisionally issued in 2003, is another useful outcome of this project which serves to support more uniform global registration standards.[76]

UNHCR has placed emphasis on ensuring that registration data is collected with a view to the needs of all UNHCR activities. However, it is of critical importance for subsequent work on resettlement that the utility of the data is maximized. Resettlement staff members need to build effective liaisons with other units, and ensure that early and regular consultations are held during the registration design and implementation phases.

The *UNHCR Handbook for Registration* provides for three broad levels of registration. The levels are distinguished by the amount of data collected, the degree to which the generic process is respected, and the measure of compliance with the operational standards. The levels are not mutually exclusive or rigid categories, but rather suggest the progression that an operation's registration strategy should go through over time:

[75] ExCom *Conclusion 91* (LII): *reiterates* the fundamental importance of early registration as a key protection tool and the critical role of material, financial, technical and human resources in assisting host countries in registering and documenting refugees and asylum-seekers, particularly developing countries confronted with large-scale influxes and protracted refugee situations; *welcomes* in this context the significant progress achieved in the area of registration as evidenced by the ongoing roll-out of registration and documentation activities under the auspices of Project Profile; and *encourages* States and UNHCR to continue their work in this regard with the assistance of other relevant actors as appropriate. UNHCR, *Conclusion on Registration of Refugees and Asylum-seekers*, 5 October 2001, No. 91 (LII) - 2001 , http://www.unhcr.org/refworld/docid/3bd3e1d44.html

[76] See: UNHCR, *UNHCR Handbook for Registration*, September 2003, http://www.unhcr.org/refworld/docid/3f967dc14.html

- **Level 1** – Household-based registration to be conducted immediately in emergency operations with limited resources and/or capacity;
- **Level 2** – Individual registration augmenting Level 1 information to be conducted within 3 months in *prima facie*, camp management or voluntary repatriation operations with some resources/capacity;
- **Level 3** – Individual registration forming "profile" of a person augmenting Level 1 information to be conducted within 12 months in individual status determination, local integration or resettlement operations with adequate resources/capacity.

Individual specific needs are captured at all three registration levels. Early and accurate registration at Level 2 can itself be of considerable use in profiling for resettlement purposes, as it provides for identification of specific protection and assistance needs. These include categories such as:

- persons manifestly in need of protection;
- survivors of torture and persons suffering trauma;
- unaccompanied or separated children;
- single women or single parents;
- physically and mentally disabled persons; and
- persons requiring medical assistance.

Level 2 does not, however, contain the detailed information of Level 3, which is the most useful for resettlement purposes. In addition, information on specific needs likely requires verification, since registration staff are unlikely to be experts in identifying or confirming medical or psychosocial needs. Such persons should thus normally be referred to protection or community services staff for follow-up, who may be able to learn more information.

Registration is an ongoing process with continuing verification and registration of any changes in the data relating both to any individual or family/household, and to specific needs. Information should be regularly verified and updated.

The Office's SOPs should specify who has access to changing data in *proGres* and on the files.

Data verification is particularly important when the population is believed to have changed considerably, or registration data is otherwise not thought to be accurate. This is particularly important at all stages of the resettlement referral process to ensure that the information about the principal applicant and all family members is accurate and to prevent possibilities for misrepresentation.

Use of *proGres*

Registration data should normally be contained in a database, and thus searchable. Where *proGres* is in place, it must be used proactively by all colleagues including protection, RSD, field, community services and resettlement colleagues. Only then can its full potential for identification be realized.

Multivariate data analysis can show patterns within the population that may give rise to protection considerations, and that may assist with the design and implementation of participatory assessments and targeted surveys. It may be necessary to cross-check the data, particularly for specific needs and vulnerabilities, as these may be recorded in the database without verification. As a central depository of data from registration, RSD/protection, community services and resettlement staff, the *proGres* database greatly facilitates this task.

proGres in partnership

Under project PROFILE, *proGres* was first developed in 2003 to meet UNHCR's refugee registration and population data management requirements. As of 2010, *proGres* is used in over 75 countries and has become the main repository for the storing and management of personal data of persons of concern to UNHCR. *proGres* databases worldwide contain records of some 4.8 million individuals, of which 2.8 million records are active. The "*proGres* in Partnership" project developing version 4 of the software will take *proGres* to a new level of population data management. Some of the improvements foreseen for version 4 include a centralized data structure, data sharing and exchange among UNHCR offices and with external partners, and functionalities to enhance fast and efficient registration during emergencies and in urban settings.

5.5.2 Participatory assessments

Refugees must be at the centre of decision making concerning their protection and well-being. In order to gain a deeper understanding of the protection problems they face, it is essential to consult them directly and to listen to them. This tool provides an outline and steps for a structured dialogue and assessment with persons of concern.

Participatory assessments done in an age, gender and diversity sensitive approach produce critical data and may help identify individuals in urgent need of intervention or uncover specific types of vulnerabilities that have not previously been recognized or considered. The participatory assessments UNHCR and its partners conduct with the population of concern consider the problems the population is experiencing and the obstacles it is encountering in achieving protection or solutions. In this process, teams typically record detailed notes of the issues mentioned in discussion with groups of either mixed, or distinct, sex or age, or write down directly the words that people use because this is often the clearest way to describe their situation and to communicate it to others.

A participatory assessment is a process of building partnerships with refugee women and men of all ages and backgrounds 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, the underlying causes, their capacities to deal with the risks, and their proposed solutions. Participatory assessment forms the basis for implementing a rights- and community-based approach and helps mobilize communities to take collective action to enhance their own protection. Participatory assessment is also a phase of a comprehensive situation analysis.[77]

Resettlement needs are not the primary focus of the assessments, but they provide important information to assist with forward planning, especially with regard to the challenges and opportunities to promote resettlement, scope for working with partners, staffing and resources, and making effective use of resettlement tools to identify refugees at heightened risk. Indeed, the more a particular identification effort is distinguished from resettlement as a durable solution, the less likely it is that information obtained is skewed towards resettlement; this also mitigates the risk of fraud. Nevertheless, resettlement staff should be involved in the design of any assessment efforts to ensure that the needs for resettlement are properly identified.

5.5.3 Mapping and profiling refugee needs

Mapping or profiling the socio-demographic characteristics and protection needs and challenges of the refugee populations is an essential management tool, and provides invaluable data for the annual planning exercise.

Mapping identifies groups or categories of refugees with common needs and characteristics, and provides UNHCR a clearer picture of the population profile. This facilitates the proactive identification of individuals or groups likely to need priority intervention, as well as refugees for whom resettlement may be the most appropriate durable solution. Mapping allows for pre-emptive risk mitigation, and as an important planning exercise, its results should be reflected in the Regional/Country Operation Plans. UNHCR offices should seek to identify protection needs systematically by population group so that relevant data is available to develop durable solution strategies.

Any mapping and profiling of refugee populations should also include refugees who are difficult to access. The most detailed information is normally available for refugees living in camps, but efforts must be made to access refugees in urban or other areas.[78]

[77] UNHCR, *UNHCR Tool for Participatory Assessment in Operations*, First edition, May 2006, p. 1-2, http://www.unhcr.org/refworld/docid/462df4232.html

[78] See UNHCR, *UNHCR Policy on Refugee Protection and Solutions in Urban Areas*, September 2009, http://www.unhcr.org/refworld/docid/4ab8e7f72.html

Mapping and protection profiling also provides the oversight to ensure that the "universal imperative" is respected in the national assessments of resettlement needs and considered in regional operational planning. Thus, mapping serves as a mechanism to focus and prioritize protection and resettlement interventions by population group.

Ideally, more than one method of mapping and profiling is used, to ensure that the resettlement needs reflect the actual and updated needs. A multidisciplinary approach also helps bridge potential gaps and mitigates the risk of data bias. Identifying refugees in need of resettlement, however, should not add to the risks faced by individuals and groups, but rather should be sensitive to cultural and community dynamics and accurate in their portrayal of refugee situations. Confidentiality should be respected, and an individual's consent should be received before information is shared with other actors. Even then, information should only be shared when required for a specific purpose.[79]

The profile of the population in need of resettlement identified through mapping the protection needs and risks faced by individuals should be documented as comprehensively as possible, and the *proGres* database will prove a useful tool.

5.5.4 The Heightened Risk Identification Tool

Another methodology which is useful for identifying individuals and groups in need of protection intervention is the *Heightened Risk Identification Tool* (HRIT). This methodology, involving a multidisciplinary team approach to identification, was developed to enhance UNHCR's effectiveness in identifying refugees at risk by linking community-based and participatory assessments with individual assessment methods. The *Heightened Risk Identification Tool* (HRIT) and accompanying *User Guide* have been designed for UNHCR staff, (principally those involved in community services and protection, including resettlement), and for implementing partners to identify individuals at risk who require immediate intervention. The tool should be used comprehensively and not only for identification of refugees in need of resettlement.

The HRIT was initially developed in 2007 with three goals in mind:

- to implement ExCom *Conclusion on Women and Girls at Risk* (No. 105, 2006) and UNHCR's Global Strategic Objectives for 2007-09;
- to strengthen needs-based planning, identification methodologies and case management systems; and
- to promote age, gender and diversity mainstreaming.[80]

The HRIT is designed to be flexible and simple, yet comprehensive. It can be used in different ways and operational contexts, including:

[79] UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal) **http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html**

[80] The concept of "age, gender and diversity mainstreaming" implies that the significant 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.

- prior to and following RSD;
- in conjunction with a participatory assessment exercise;
- as a stand-alone methodology involving community-based consultations and individual assessments;
- as a tool to sample survey the refugee population to measure risk levels;
- as an interview format or checklist for case workers; and,
- as a checklist tool for roving officers to use in refugee camps or in urban settings.

Since the issuance of its first edition in 2008, the HRIT has been widely used and field-tested in UNHCR operations worldwide. Feedback from users led to the release of the second edition of the HRIT in 2010. The second edition is a simplified and more user friendly tool, with easy interface to UNHCR's registration database *proGres* to enhance case management.[81]

5.5.5 Consultation with internal and external partners in the identification process

Identifying resettlement needs, gaps, and capacities can be enhanced in many operations. Given UNHCR's focus on strengthening accountability and performance indicators, efforts to improve identification of resettlement needs are likely to increase. The responsibility of identifying refugees at risk, however, does not rest with resettlement staff alone, nor should resettlement be the only party pushing for enhanced identification efforts. Internal colleagues, external partners such as NGOs, and refugees themselves may have important information and access that can support identification of those at risk and in need of protection intervention.

Consultation with partners helps UNHCR gain insight into a refugee's particular vulnerabilities in the country of asylum, and provides access to additional data that can be used to cross-check available registration data. Participatory assessments, community consultations and surveys may also be useful sources of information against which to cross-check available data. All available sources of information – including standard reports and data from partners and refugees, reports from protection, community services and resettlement coordination and strategic planning meetings – should be used for verification. Country of origin information (COI) can also be a useful tool, not only for RSD purposes, but also for the identification and assessment of resettlement needs.

Internal coordination among UNHCR staff

Colleagues undertaking registration and RSD are likely to have information not only about who is a refugee, but also who might have suffered from torture, trauma, or other specific vulnerability. Refugee status determination data itself can be useful in identifying resettlement needs, and staff should automatically

[81] UNHCR, *The Heightened Risk Identification Tool*, June 2010, Second Edition, http://www.unhcr.org/refworld/docid/4c46c6860.html *User Guide*, http://www.unhcr.org/refworld/docid/46f7cocd2.html

review the files of newly recognized refugees (whether recognized under the 1951 Convention or under the broader definition) in order to identify any individuals with particular vulnerabilities, such as women at risk, medical cases, security cases, and survivors of violence and torture. This screening requires organization and coordination within the office, and may be undertaken by RSD, resettlement or other protection staff. As discussed in Chapter 3.1.4, however, there should be a clear separation between the steps of refugee status determination and the identification of resettlement need, not least because it adds an additional safeguard to manage expectations and risks associated with fraud and abuse.

Where refugees have been recognized on a *prima facie* group basis, field protection colleagues will likely have information on persons with particular vulnerabilities that will be useful for initial mapping and protection profiling of the refugee population for resettlement purposes. Submitting a *prima facie* case requires either an individual examination to reaffirm refugee status, or a less formal substantiation of the *prima facie* recognition depending on the context and on the resettlement country.[82] Close cooperation between RSD and resettlement staff on these cases is vital to ensure the credibility of UNHCR and the resettlement process.

Resettlement needs are not predicated on refugee status alone, but also on specific protection needs in the asylum country. Cooperation with protection colleagues is thus needed to identify, for example, which vulnerabilities cannot be dealt with in the asylum country, or which refugees may be at heightened risk.

Where community services units or officers exist, they may be helpful in identifying problems faced by people with specific needs, and highlighting vulnerabilities in local contexts. They may also be helpful in identifying specific cases for resettlement,[83] and may have access to information useful for mapping the protection needs or risks within a refugee population.

In small operations, there are no distinct units dealing with protection, community services and resettlement. It is still useful to understand the links between the different sectors of UNHCR's protection work in order to ensure attention to the larger context and avoid negative impacts of one activity on the other. In a larger operation, where separate units exist for each activity outlined above, good communication and cooperation between the different staff involved is particularly important.

Collaboration with external partners

External partners, such as non-governmental organizations (NGOs), also have access to refugees and potentially important information. These include implementing partners, and other organizations such as legal aid institutions, religious or charitable organizations and local foundations. Information from organizations not necessarily targeting refugees, especially those working with women, children, medical and social services may also be very useful.

[82] See Chapter 3.1 for more details on this point.

[83] For transparency and accountability, internal referrals should follow standard operating procedures. See Chapter 5.6.1 for more detail on referrals.

NGOs may be engaged as implementing partners specifically for the purpose of identification or may have identification included in their sub-agreement with UNHCR as a secondary protection function because their main activity is likely to bring them in close contact with persons who may be in need of resettlement. In other cases, NGOs may be unwilling to enter into a formal referral arrangement with UNHCR, but may be willing to share information informally and thus may help identify people at risk.

The *UNHCR-NGO Toolkit for Practical Cooperation on Resettlement*[84] provides practical guidance for UNHCR and NGO cooperation in all aspects of resettlement work, including identification. *See Chapter 8 for more details on partnership.*

In any arrangement, it is important to remain cognizant of the kinds of community pressures NGOs may face if refugees become aware that they are conducting resettlement identification activities, particularly if any NGO staff are also members of the refugee community. This needs to be addressed in developing a referral system.

5.6 REFERRAL OF INDIVIDUAL CASES FOR RESETTLEMENT CONSIDERATION

Ensuring that refugees most in need of protection and resettlement have access to those services is a fundamental aspect of UNHCR's mandate responsibility. Some especially vulnerable refugees may not be identified through mapping or other data analysis, but may be in particular need of access to resettlement. It is therefore essential for UNHCR to have effective referral systems in place that involve internal and external partners who bridge gaps in protection and resettlement delivery.

Referrals for resettlement consideration may be made internally by other UNHCR staff, by external partners, or directly by the concerned refugee as a self-referral. The most effective and responsive resettlement procedures will consider referrals from all three sources and will encourage proactive identification. However, to ensure consistency and reduce possibilities for fraud, the processing of all referrals, regardless of the source, must follow standard procedures as detailed in the Office's Resettlement SOPs.

Each office should have a designated focal point for receiving internal, external and self-referrals, and established procedures for documenting, forwarding and assessing the resettlement needs. Depending on the capacity of a given field office, the focal point for external and internal referrals may be the same individual.

The task of making, receiving and assessing referrals is facilitated through the use of a standard referral form. A sample resettlement consideration form is annexed to the Baseline SOPs, and many field offices have adapted internal and external referral forms to their operation's needs.

[84] The *UNHCR-NGO Toolkit for Practical Cooperation on Resettlement* is available from the UNHCR website **www.unhcr.org**. See **Chapter 8.2.2** for more information on the Toolkit.

The focal point for receiving referrals will raise any preliminary queries with the referring staff member or partner, and will document receipt of the referrals in *proGres* and the existing case file. If the Field Office does not hold a file for the refugee under consideration, an individual file should be created for the refugee at this stage, in accordance with the guidelines outlined in Chapter 4.7.2.

Operational guidelines regarding the assessment of referrals are covered under Chapter 7 of this Handbook.

Effective and well-managed referral systems bridge gaps in resettlement identification.

5.6.1 Internal referrals

Various sections within a field office may be well-placed to make resettlement referrals on the basis of their day-to-day contact with refugees. The Protection Unit can identify refugees with persistent protection problems and Community Service members are well placed to identify and refer vulnerable refugees for resettlement considerations. In principle, however, all UNHCR staff members, who come into contact with refugees, including those working with education, health issues, food distribution or other field activities, may identify individuals and families with protection issues or specific resettlement needs.

Coordination and training are essential within a field office to ensure that internal referrals are effective in identifying refugees in need of resettlement consideration. Field office staff must be well informed of the nature and limitations of resettlement to ensure that only appropriate referrals are made, and that unrealistic resettlement expectations are not raised.

To ensure that referrals are made primarily for legitimate and deserving refugees, those making referrals should be reminded of the following:

- All referrals must be made in writing and should contain the following basic information:
  - basic biodata;
  - the reason for the referral;
  - the immediacy of the need;
  - steps already taken to address the need;
  - the name and title of the referring staff member, and
  - the date of referral.
- Family composition should be verified in a non-resettlement context, either by registration data, home visits (preferably by community service staff), or reports from other staff members.
- The need for consistency in practice, and respect for the universal imperative. A case should only be referred if cases with the same profile are generally submitted.

The focal point for receiving referrals will raise any preliminary queries with the referring staff member, and will document receipt of the referrals in *proGres* and

the existing case file. A thorough search of *proGres* must be conducted before creating a new record, in order to avoid duplicate records.

5.6.2 External referrals

External referrals are usually made by NGO partners assisting UNHCR with implementation, NGOs who are otherwise involved in refugee work and other external partners such as governmental agencies. Some NGOs make resettlement referrals directly to resettlement States and/or to UNHCR for its assessment and submission to the resettlement country.

UNHCR supports the active involvement of NGOs and international organizations in resettlement. Given their expertise and knowledge of the refugee population, NGOs are particularly well-suited to make important contributions to the identification of vulnerable refugees facing protection problems.

External referrals are an important means of expanding access to resettlement and increasing capacity for identification, but they should not negate UNHCR's own efforts to proactively identify refugees in need of resettlement. UNHCR should maintain a central role in the resettlement process. As the internationally mandated agency for seeking solutions to refugee problems, UNHCR should retain responsibility for analyzing the protection context to ensure that resettlement is integrated into a larger protection and durable solutions strategy. NGO partnerships in resettlement must be coordinated in order to be effective, to prevent fraud and malfeasance, to ensure transparency and consistency in UNHCR resettlement submission categories, and to ensure that refugees' expectations do not result in protection problems in the field. Involving and counselling refugees has also been, and will continue to be, an integral part of resettlement work and its strategic use.

The relationship between UNHCR and external partners generally follows three primary arrangements through which partners play an active role in identifying potential resettlement cases. The local situation and the availability and willingness of partners to engage in the process determine which arrangement is used. A combination of approaches may be most useful in any operation.

Types of arrangements to receive external referrals

Formal arrangements

Through a specific project sub-agreement or a Memorandum of Understanding, NGOs or governmental agencies may run projects to assess protection and other needs in refugee populations. These formal arrangements usually include a framework for cases to be referred to UNHCR for appropriate follow-up, including for resettlement intervention. Given the complexities involved in operational projects and the need for cohesion with UNHCR's protection work, especially in large, protracted *prima facie* refugee situations, such arrangements usually involve consultation with UNHCR Headquarters.

Partnerships with secondary protection functions

Refugee assistance programmes benefit greatly from the contribution of partners who, by the terms of their sub-agreements with UNHCR or other less formal arrangements, provide services in refugee camps and settlements. The possibility of writing protection and heightened risk identification functions into these sub-agreements, especially in the case of NGOs working with particular groups of vulnerable refugees, may be explored. The development of any such arrangement must, however, involve the officer accountable for resettlement in addition to other protection staff and senior management, including the UNHCR country representative, and the NGO's country representative, where applicable.

Case-by-Case referrals

In many field operations, NGOs working with refugees may not wish to incorporate formal protection components or resettlement referral systems into their programmes for fear of compromising the purpose of the original programme. In such cases, mechanisms could be set up to receive informal referrals on a case-by-case basis. Such mechanisms could also be established with other external partners.

The success of these three possible types of arrangements, individually or as part of a combined approach, will depend on the field situation, the urgency and nature of the resettlement need, and the field capacities of NGOs and UNHCR. All three approaches do, however, hold significant potential and are, to a certain degree, already employed in various forms.

To ensure accountability and oversight, all arrangements should specify in writing the roles and responsibilities of the NGO and UNHCR, and these should be detailed in the Office's Resettlement SOPs.

The formal development of any external referral mechanisms must be authorized by the officer accountable for resettlement activities and must incorporate a number of important elements:

- **Training**: Any resettlement referral mechanisms involving actors external to UNHCR must be preceded by appropriate training on resettlement procedures and criteria.
- **Accountability and oversight**: Any referral mechanism must be formalized to the extent that it operates according to accountable and transparent standards. To this end, all arrangements must specify, *in writing*, guidelines on the specific roles and responsibilities of the NGO and UNHCR, responsibilities of feedback to the NGO and to the refugee, a definition of the relationship between the NGO and UNHCR, and recognition of the submission categories contained in the Resettlement Handbook. Oversight must also be ensured through regular meetings between representatives of the NGO and UNHCR to discuss activities and concerns and to conduct spot-checks on the referral activities.
- **Standardization**: Standard Operating Procedures (SOPs) must be developed detailing the referral, reception, treatment and follow-up on NGO-referred cases and measures must be implemented to ensure that all cases are referred according to these SOPs.

- **Safeguards**: In the interest of maintaining the integrity of not only the resettlement activities of the Field Office, but also the original NGO programme, safeguards must be incorporated into the mechanisms to ensure that possibilities for abuse are reduced. It must be clearly stated that all services are free of charge.
- **Managing expectations**: Any increase in identification activities will likely result in heightened resettlement expectations within the refugee population. As such, a common strategy must be developed for the management of resettlement expectations (*see Chapter 5.5*).
- Where appropriate, multiple **focal points** may be identified for **receiving external referrals**, depending on the nature of the external referral source. These focal points would be responsible for documenting receipt of the referral in the resettlement database or registry, retrieving any file or documentation held by the Field Office on the refugee in question, and forwarding the referral and documentation to the designated officer responsible for conducting a resettlement needs assessment (*see Chapter 7*).
- These focal points would retain responsibility for **liaising with the external referral source** throughout the resettlement process, and providing the referral source with regular updates on the status of the resettlement case.

5.6.3 Self-referrals

Self-referrals are approaches directly to UNHCR, generally in writing, by refugees, their relatives or friends, or refugee groups or committees. These unsolicited requests have become a common feature of resettlement activities in most UNHCR field offices around the world.

While the credibility of some written resettlement requests, including emails, may be considered questionable, they have proven to be both an effective means of identifying vulnerable refugees and providing refugees with direct access to the resettlement process.

However, extensive reliance on self-referrals raises a number of concerns in resettlement identification:

- **potential bias** against refugees who cannot express their protection needs in writing, or who otherwise have difficulty accessing UNHCR;
- **lack of control** over the type of information received affects whether informed decisions on resettlement eligibility can be made;
- **credibility** of self-referrals may be more questionable; and,
- **possibility of fraud**, such as brokers charging fees to present written claims to UNHCR.

Dealing with unsolicited requests can also prove to be a time-consuming task. Offices should ensure that time dedicated to unsolicited requests does not detract from internal and external referrals.

Clear and standardized procedures must be established to respond to self-referrals, including a process of verifying the details provided (through an interview, home-visit or file study), and managing the expectations raised. Care

must also be taken to adhere to UNHCR's *Confidentiality Guidelines* in answering requests made by third parties (provide no individual information about the refugee in question without obtaining the refugee's consent).[85]

Refugees submitting resettlement requests must be advised that the submission of a request will not necessarily result in the opening of a resettlement case, and will certainly not necessarily result in the resettlement of the refugee. Refugees submitting unsolicited requests for resettlement should also be advised on the processing times for such requests or if, in fact, all unsolicited requests will receive a response. There should be prior agreement on these issues with senior protection staff, and they should be covered in the Resettlement SOPs.

Refugees may request resettlement in response to a need that can and should be met by other units within UNHCR, or by a partner organization. Unsolicited requests should consequently be screened upon receipt to possibly identify a unit or partner organization that would be better suited to address the need conveyed by the refugee – typically the Protection Unit or the Community or Social Services Unit.

A resettlement programme's heavy reliance on self-referrals as a means to identify resettlement needs may indicate systemic problems or gaps in the protection framework of the operation.

5.7 IDENTIFYING GROUPS IN NEED OF RESETTLEMENT

Identifying resettlement as the most appropriate durable solution for entire groups of refugees is part of the development of protection and durable solutions strategies. The process of identifying an eligible group encompasses a series of steps which are outlined below. *The operational aspects of processing group submissions are included in Chapter 7.*

Identifying groups in need of resettlement through UNHCR's group methodology[86] supplements individual identification and serves as an additional component of UNHCR's resettlement and durable solution activities. Group resettlement can be an important component of a comprehensive approach to solutions for a specific population, often with respect to a protracted refugee situation. It must be noted, however, that group resettlement does not replace the responsibility and accountability of UNHCR offices for the identification and processing of individual resettlement cases based on established resettlement criteria and procedures.

The group resettlement methodology aims to expand resettlement opportunities whilst achieving operational efficiencies and, where possible, making strategic use of resettlement.

In practice, group processing involves a simplified large-scale processing of cases by UNHCR and resettlement States without requiring the full completion

[85] UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal) **http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html**

[86] UNHCR, *Methodology for Resettlement of Groups,* IOM/67 - FOM 67/2003, (Internal) **http://intranet.hcrnet.ch/support/policy/iomfom/2003/iom6703b.htm**

of individual Resettlement Registration Forms (RRFs). Considerable time is saved through the use of standardized abridged RRFs for groups,[87] or direct transmission of data without RRFs in the case of groups designated under Priority 2 processing to the United States of America.[88]

Group resettlement is generally considered for large numbers of refugees, where a number of conditions are met to minimize the risks associated with this type of approach. In this connection, it is important to underscore the requirement that all group resettlement proposals must be discussed with, and cleared by, UNHCR Headquarters (Resettlement Service and relevant Bureau) prior to finalization.

Operational procedures for group resettlement methodology are likely to vary depending on local circumstances, the nature of the eligible refugee group, the complexity of their cases, and the countries of resettlement.

Group resettlement within protection strategies

The group resettlement process begins with the consideration of the potential use of group resettlement methodology as part of the Field Office's planning of their protection and durable solutions strategies. Durable solutions strategies are often most effective when planned within a regional context. Dialogue with UNHCR offices in neighbouring countries during the assessment stage helps to ensure that the potential impact of launching a group resettlement programme is thoroughly considered.

5.7.1 Identifying a "group"

The Field Office considering use of group resettlement should examine certain parameters to identify potential refugee populations in protracted and other situations. The following parameters are a guide:

- Members of a group should ideally, but not necessarily, have the same nationality, a shared refugee claim and need for resettlement.
- The group of refugees should share some common characteristics, e.g., gender, age, political, ethnic or religious background, vulnerability, or any other characteristic which might distinguish them easily from other groups present in the country or region.
- A group must be clearly delineated and finite, so as to avoid infinite replenishment of the group and increased possibilities for fraud.
- The location(s) of the group should be known and established.

[87] See UNHCR, *Operational Guidance Note: Preparing Abridged Resettlement Registration Forms (RRFs) for Expedited Resettlement Processing*, 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4ddde4702.html

[88] For information on "Priority 2", see the United States of America's Country Chapter linked to this Handbook at http://www.unhcr.org/resettlementhandbook. For further details on direct transmission of data from *proGres* to WRAPS see Chapter 7.6.3 or consult: *Interface between proGres and WRAPS: Standard Operating Procedures for UNHCR Offices that are not covered by a UNHCR Resettlement Hub*, July 2007, Annexed to UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html

- Ideally, members of the group should already possess some form of identification (e.g. UNHCR/government attestations, ID cards with photos, ration cards, travel documents).

The group might be defined by the situational context (e.g. all persons in a camp) and/or specific characteristics such as nationality, refugee claim, flight history, and experience in the country of origin or host country, or political, ethnic, or religious background that might help easily distinguish the group from other refugees present in the country or region. Preferably, the characteristics used to define group membership should be verifiable by some concrete or objective data. Facts such as nationality, date of arrival, or residence in a certain camp during a certain period of time, can frequently be determined from information UNHCR has gathered in a non-resettlement context.

Identification methodology

The identification methodology adopted by a field office will depend on local needs and circumstances. Any combination of the following sources can help identify the potential groups for resettlement:

- **Internal** (e.g. participatory assessments and community consultations, risk assessments, social surveys and population needs-based mapping, protection assessments, RSD and Community Services-based data, *proGres* data);
- **External** (e.g. refugees, refugee hosting States, NGOs, embassies; the requirements of emergency circumstances);
- **Joint activities** (e.g. Annual Tripartite Consultations on Resettlement and Working Group on Resettlement/strategic use of resettlement initiatives).

Proposing a group

Once the Head of Office has approved the preliminary consideration of a group, the concerned Field Office must complete a preliminary group proposal (Step 1 of the Group Profile and Proposal Document). This document should be approximately two to four pages long and include:

- a basic description of the potential group (including estimated size, demographic data);
- the protection rationale for proposing the resettlement of the potential group;
- identification of the common characteristics of the members of the group;
- possible constraints to successful resettlement;
- preliminary resource implications for UNHCR and resettlement countries;
- recommended processing modality (e.g. verification exercise to determine membership and obtain consent from members of the group, expedited processing such as abridged RRFs and other local arrangements etc.);
- proposed timeline for implementation; and
- suggested countries for submission.

Evaluation and analysis

The preliminary group proposal must be submitted to the concerned Regional Resettlement Hub/Regional Office, the Resettlement Service and relevant Bureau at Headquarters for preliminary feedback, analysis and evaluation. The Resettlement Service should provide a substantive and consolidated response from UNHCR Headquarters within one month. One of the following four possible responses may be proposed to the field:

1. The concerned refugee population should be pursued as a "group" (proceed to feasibility stage).
2. Additional information about the proposed group is required before its feasibility can be determined. This may include field, Regional Resettlement Hubs/Regional Offices, Resettlement Service or inter-agency exploratory missions, or gathering of additional information as requested by Headquarters.
3. The proposal is not appropriate to be processed under group methodology, but the refugee population should be processed for resettlement on an individual basis. Staff are encouraged to explore the use of the abridged RRF for individual submission in order to streamline resettlement processing.[89]
4. The proposal is not appropriate for further action and resettlement of the proposed refugee population should not be pursued.

In determining which of the above responses is the most appropriate, the Resettlement Service will take into account:

- possible strategic value of the group resettlement within a comprehensive solutions strategy, and impact that group submission would have on the office's protection strategy;
- size of the proposed group, and stable or fluid nature of the population;
- whether or not the proposed group has undergone RSD; and commonality and complexity of refugee claims (resettlement countries emphasize common refugee claims, whereas complex refugee claims may not be appropriate);
- quality and accuracy of registration, and resources required for verification (level of assistance required by the Field Office);
- consistency with regional approach to a given refugee population and potential for pull factors;
- security concerns, (as well as access to population by UNHCR and resettlement partners);
- nature of local cooperation between UNHCR, IOM, embassies and partners (extent of cooperation, existence of established expedited processing mechanisms, processing capacity);
- existence of alternatives to group submission; and whether group or expedited processing is most efficient and economical (in terms of time and resources); and
- resettlement country preferences and capacities.

[89] UNHCR, *Operational Guidance Note: Preparing Abridged Resettlement Registration Forms (RRFs) for Expedited Resettlement Processing*, 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4ddde4702.html

5.7.2 The Group Profile and Proposal Document

Following a response by the Resettlement Service, and provided indications are positive about the proposal, the Field Office should prepare a full and complete Step 2 of the Group Profile and Proposal Document (GPPD).[90] The Field Office should submit this complete document to UNHCR Headquarters (Resettlement Service and relevant Bureau) through Regional Resettlement Hubs/Regional Offices for final clearance.

Depending on the resettlement country, the group profile document serves in lieu of individual RRFs, or replaces the refugee claim and resettlement need on abridged RRFs. It should address the general issues and questions resettlement country officials typically must examine in the context of resettlement selection.

Submitting the group proposal to resettlement countries

Once Headquarters has accepted the group proposal, the Field Office should coordinate with the Resettlement Service for submission of the group proposal to one or more resettlement States. Detailed discussions may already have taken place, but it is important to note that the Resettlement Service makes the formal approach to the appropriate resettlement State(s).

Normally only the Group Profile and Proposal Document (GPPD) will be shared, but in limited situations the Resettlement Service may also include an indicative list of the individuals belonging to the group – provided the group verification is completed, and the refugees have individually provided consent to have their details shared with a resettlement State for resettlement consideration.

5.7.3 Plan of action

Following a resettlement State's clear indication of interest in processing a particular group, the Field Office should prepare a Group Resettlement Plan of Action on the basis of consultations with the Regional Resettlement Hub/ Regional Office and Headquarters (Resettlement Service and relevant Bureau), resettlement countries, and local and implementing partners. Although plans will widely vary depending on local circumstances, they should include:

- processing modalities (agreement concerning contents of individual files, agreement with resettlement countries concerning the definition and process for dealing with dependency issues);
- procedures to mitigate risks (e.g. fraud) and to manage refugee expectations;
- a detailed description of the type of documentation to be provided in the submission and the form this will take;
- roles and responsibilities;
- timelines and work plan for verification exercise;

[90] A sample is annexed to the Baseline SOPs. See UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html

- resources needed (number and nature of personnel, logistical support including transportation and other arrangements, costing and budget);
- problem resolution mechanisms (including strategy for handling rejected cases, strategies for ensuring the best interests of children, integration issues specific to the group); and
- basic assumptions upon which processing will proceed.

In all cases, the Plan of Action should give special attention to the best interests of unaccompanied, separated and other children at risk. Similarly, possible reception and integration issues peculiar to the group should, where possible, be flagged for the attention of the resettlement State(s).

5.7.4 Verification and consent

Verifying who qualifies for inclusion in the group, and obtaining the consent of the refugees involved is an important phase of the group resettlement process. Care must be taken to ensure that only those cases that meet the definition of the group are presented for consideration to a resettlement country. The timing of this exercise will depend on the circumstances of the refugees, the existing data, and the definition and resettlement needs of the group.

The sophistication of the verification exercise is also likely to vary depending on how recently registration was conducted and the commonalities of the refugee claims. Where comprehensive, accurate, recent registration has taken place and group members can be identified through this information, verification exercises may not have to be elaborate. Care should be given to ensure that only those cases that meet the definition of the group are presented for consideration to a resettlement country.

Objectives of the verification exercise are to:

- ascertain preliminarily identified individuals for registration in the group (including identifying actual interest in resettlement among members of the group);
- verify that the refugees presenting themselves (e.g. for interview) are the rightful holders of ration cards, and that their dependants are genuine;
- verify family composition (and conduct BIDs if necessary);
- identify and remove persons not belonging to the group (e.g. potential imposters and exclusion cases); and
- obtain refugees' consent for UNHCR to share information with resettlement countries and, if applicable, partners.

Field offices may need to develop specific SOPs relating to this stage, in order to ensure that all necessary steps are followed, and that confidentiality and fraud safeguards are respected. Depending on the context, maintaining confidentiality with respect to the criteria for group members until relevant decisions have been taken may be a crucial fraud prevention measure.

The verification exercise is generally jointly undertaken by UNHCR and one or more partners: host governments, IOM, implementing partners or resettlement

countries. While the respective roles of the actors in the verification exercise is set out in the GPPD abstract, it will likely be supplemented by local meetings and agreements, which should be put in writing and kept on file. A verification exercise may require:

- manual pre-verification comparison of older lists of names with re-registration lists, to prioritize applicants meeting the "double-identification" test;
- pre-verification training of staff, and assignment of responsibilities (with respect to UNHCR staff and, if applicable, partner staff);
- reliance on a recent registration (sometimes, if appropriate, in lieu of interviews);
- interviews (including call-out for interviews, and notification that applicants should appear with their dependants);
- mass information campaigns (with sufficient time to provide general information to the entire group concerned with respect to eligibility, the resettlement country, the proposed resettlement and verification process, information-sharing, anti-fraud, and other important information);
- special case filing and tracking systems, security and anti-fraud measures; and
- tailored review and follow-up procedures.

This verification exercise also provides an opportunity to seek any additional information or requirements of resettlement processing. Standard questions and forms can be helpful in this regard.

Information and counselling

Information campaigns must be complemented by meetings and counselling to ensure that the composition of the group and the anticipated processing steps are understood and that the resettlement expectations are managed. The Field Office should make itself available to meet with individual refugees, groups of refugees, leaders and local authorities, etc. at all stages of the process to discuss specific needs, address issues related to the group composition (such as unregistered dependants), provide information, and answer questions.

5.8 CHALLENGES IN IDENTIFICATION

Identification is arguably the most crucial and challenging aspect of the resettlement process. UNHCR's focus on multi-year planning, the strengthened role of resettlement in comprehensive solutions strategies and improvements in the identification procedures have led to a substantial growth in the number of refugees identified as in *need* of resettlement. However, those refugees identified as in need of resettlement now far outnumber the current number of available places. This introduces new challenges related to prioritizing among those identified as in need of resettlement, establishing an order for resettlement submission, and advocating for the allocation of quotas and resources.

However, the identification of refugees potentially in need of resettlement and the assessment of cases must continue to be an active and systematic process. Close cooperation among all concerned staff across functional units and when applicable with implementing partners, is of considerable importance. Failure to identify a refugee in need of resettlement in a correct and timely manner will result in an unnecessary continuation of insecurity for that refugee. Incorrect identification of a refugee for resettlement could result in the development of unobtainable expectations.

Resettlement staff must consider how to approach resettlement identification appropriately and effectively in their particular situation. Identification systems can be put in place even with limited resources, by linking them to other ongoing activities or by developing a needs-mapping proposal that may then be used to obtain the required resources.

5.8.1 Managing expectations

As outlined in Chapter 4.5, one of the main challenges of any resettlement operation is managing expectations. Increasing identification activities often results in heightened and unrealistic expectations within the refugee population. Offices thus need to explore ways to collect information on protection and on the characteristics of the population without raising expectations of resettlement.

An effective method of limiting expectations is collaboration to link the process of identifying the needs and protection vulnerabilities of refugees to other protection interventions, not just to resettlement. The purpose of the various tools and methods for identifying refugees – registration, surveys, community consultations and participatory assessments – is thus not only to identify resettlement needs, but also to assess when other types of interventions are necessary.

Counselling and disseminating clear information on resettlement also helps to manage expectations and reduce fraud and malfeasance. It is therefore important for each office to develop an information strategy, which may include: regular public meetings that maximize reach to different groups of refugees, including women and children; standardized information on resettlement presented in brochures, signs and posters, TV and radio broadcasts; and individual counselling when refugees make specific enquiries to UNHCR or are interviewed concerning protection needs or assistance.

Transparency in the procedures, including the fact that identification, or self-identification, does not necessarily result in being submitted for resettlement, is crucial for maintaining realistic expectations.

Improving the ways UNHCR and its partners communicate with refugees, as well as by addressing their specific needs through participatory assessments, surveys and individual interviews can help to reduce misunderstandings and foster trust in the process. Finally, actively involving refugees in identifying their own needs and realistically assessing their potential solutions is one of the most effective methods of managing expectations.

5.8.2 Importance of training

All staff and partners need to understand that resettlement decisions are made according to the policies and procedures outlined in this Handbook. Incorrect identification of refugees for resettlement can result in unfairness, unrealistic expectations, frustration and perceptions of mismanagement and fraud. They should further understand how to integrate identification systems into their respective activities, including ways to improve access to the most vulnerable refugees. Finally, they should be able to distinguish between cases requiring emergency or urgent intervention and cases in which the need is less pressing.

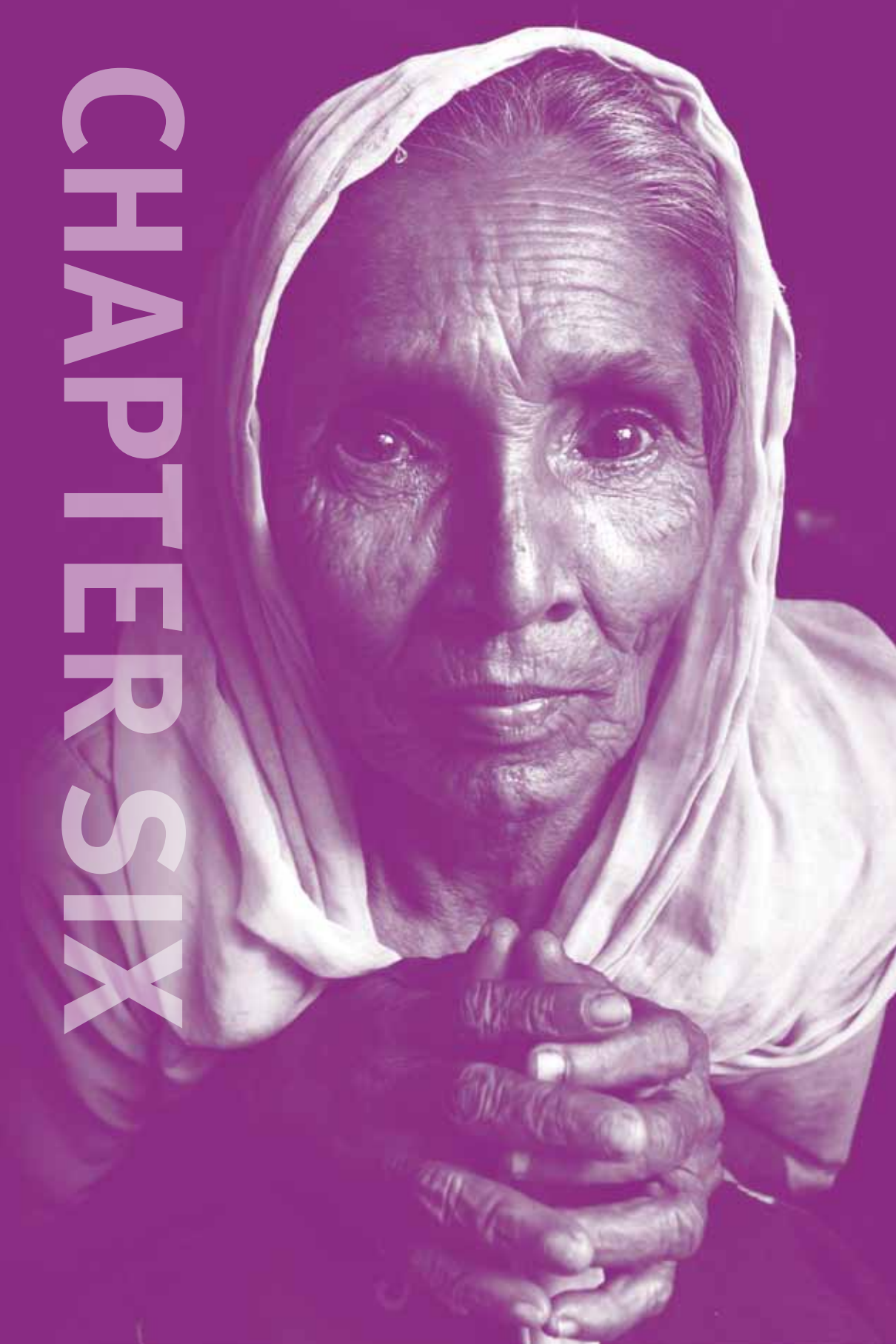
Joint information-sharing and training sessions should focus on specific aspects of resettlement case identification and management, UNHCR's code of conduct and confidentiality considerations, ways to mitigate risks such as fraud and abuse, and how to manage refugee expectations.

Training must be considered an important part of establishing identification systems, ensuring consistency, transparency and accountability, and countering any negative or ill-informed views regarding resettlement. All staff – junior and senior, international and national, internal and external – that may potentially be involved in identification and referrals should be trained on special needs criteria, and UNHCR resettlement policy and practice. *See Chapter 4.8 for more details on training.*

Essential reading

- UNHCR, *The Heightened Risk Identification Tool*, June 2010, Second Edition, http://www.unhcr.org/refworld/docid/4c46c6860.html; *User Guide,* http://www.unhcr.org/refworld/docid/46f7cocd2.html
- UNHCR, *UNHCR Tool for Participatory Assessment in Operations*, May 2006, First edition, http://www.unhcr.org/refworld/docid/462df4232.html
- UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html
- UNHCR, *UNHCR-NGO Toolkit for Practical Cooperation on Resettlement*, 2011, http://www.unhcr.org/ngotoolkit

CHAPTER SIX



CHAPTER SIX
UNHCR RESETTLEMENT SUBMISSION CATEGORIES

Introduction

Resettlement submission categories

Legal and/or Physical Protection Needs of the refugee in the country of refuge (this includes a threat of *refoulement*);

Survivors of Torture and/or Violence, where repatriation or the conditions of asylum could result in further traumatization and/or heightened risk; or where appropriate treatment is not available;

Medical Needs, in particular life-saving treatment that is unavailable in the country of refuge;

Women and Girls at Risk, who have protection problems particular to their gender;

Family Reunification, when resettlement is the only means to reunite refugee family members who, owing to refugee flight or displacement, are separated by borders or entire continents;

Children and Adolescents at Risk, where a best interests determination supports resettlement;

Lack of Foreseeable Alternative Durable Solutions, which generally is relevant only when other solutions are not feasible in the foreseeable future, when resettlement can be used strategically, and/or when it can open possibilities for comprehensive solutions.

Purpose

The purpose of this chapter is to:

- describe the UNHCR resettlement submissions categories;
- outline the requirements for submitting cases under each specific resettlement submission category; and
- provide guidance on the assistance UNHCR offices provide for family reunification *outside* of the context of a resettlement submission.

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6.1 BASIC CONSIDERATIONS

UNHCR resettlement activities constitute a means of providing international protection and appropriate durable solutions to refugees. As seen in previous chapters of this Handbook, offering refugees a durable solution through resettlement is also a tangible expression of international responsibility sharing.

The identification of resettlement needs is part of UNHCR's ongoing assessments of protection gaps. Refugees are identified as in need of resettlement when they are at risk in their country of refuge or have particular needs or vulnerabilities as detailed under the various categories in this chapter. Refugees without immediate protection risks are also identified in need of resettlement if this durable solution has been determined to be the most appropriate solution for them as part of a comprehensive needs assessment.

It is important that UNHCR resettlement activities are carried out on the basis of a correct and consistent application of the categories and considerations detailed in this Handbook. This approach will ensure that all refugees in need of resettlement receive the appropriate attention. It will, in addition, help to avoid frustration and aggression among refugees as well as other negative phenomena, like secondary or onwards movements, often related to inconsistent resettlement activities.

A coherent and transparent approach will, furthermore, strengthen the credibility of UNHCR in general and widen the confidence of refugees, resettlement countries and other partners, which in turn should help to ensure that resettlement can be done efficiently and effectively.

The notion of integration potential should not negatively influence the selection and promotion of resettlement cases. For example, educational level or other factors considered to be enhancing the prospects for integration are not determining factors when submitting cases for resettlement.[1]

Resettlement should not be pursued because individual refugees have become a burden or because of their behaviour or solely in response to action undertaken by refugees to draw attention to their demands – for example, violent or aggressive action towards office staff or hunger strikes.[2] While such individuals may have concerns which need to be heard and require an appropriate response, it is the merits of their case which determine if resettlement should be considered. Similarly, refugees who have cooperated with investigation activities, or have assisted UNHCR in some other way do not warrant resettlement as a reward, but should be considered on the merits of their case, including increased risk resulting from their cooperation.

[1] In the context of the *Global Consultations on International Protection* it has been stated that "Integration potential" should not play a determining role in the consideration of protection resettlement cases", see *Strengthening and Expanding Resettlement Today: Dilemmas, Challenges and Opportunities*, Global Consultations on International Protection, 4th mtg., EC/GC/02/7, 25 April 2002.

[2] For details on dealing with such situations see UNHCR, *Guidelines for Handling Protests, Demonstrations and other Group Disturbances among Refugees*, 15 September 2004, (Internal) http://swigea56.hcrnet.ch/refworld/docid/48b2c8112.html

Resettlement should not be promoted merely for reasons of pity for a refugee's plight, because of the individual's impressive qualifications or previous professional status or as a reward for a "deserving" individual.

To have their case submitted to a resettlement country, refugees must meet the requirements for submission under one or more of the **resettlement submission categories**. These submission categories, as outlined in the following sub-chapters, should be seen as inclusive. In many cases, resettlement submission categories may overlap, and submissions can effectively be made under both a primary and secondary category.

6.1.1 Resettlement priority levels

UNHCR resettlement submissions have three priority levels: emergency, urgent and normal.

Emergency priority

This level applies to cases in which the immediacy of security and/or medical condition necessitates removal from the threatening conditions within a few days, if not within hours. Emergency resettlement may be necessary to ensure the security of refugees who are threatened with *refoulement* to their country of origin or who face serious or life-threatening threats to their physical safety in the country where they have sought refuge. Ideally, there is a *seven-day maximum* time period between the submission of an emergency case for acceptance by the resettlement country, and the refugee's departure.

Submissions of emergency cases must only be made after a thorough assessment of both refugee status and the urgency of removal. Such selective application helps to preserve credibility and scarce resettlement places. Close communication between UNHCR and resettlement States is essential during the processing of emergency and urgent cases to ensure a common understanding of the refugee's current circumstances and how quickly resettlement *must* occur.

Each office is responsible for taking temporary protective measures pending resettlement and immediately notifying the Regional Resettlement Hub/ Regional Office/Headquarters. Offices should also consult immediately if the situation warrants evacuation to an Emergency Transit Facility. *See Chapter 7.6.4 for more details on emergency and ETF procedures.*

Urgent priority

Refugees who face conditions requiring their expeditious resettlement, but within a less limited time frame than indicated above, are categorized as *urgent* cases. These refugees have serious medical risks or other vulnerabilities requiring *expedited resettlement within six weeks* of submission. Field offices may request Headquarters' support, if it is not already involved in the original submission. Generally, urgent cases should be prepared and submitted to a resettlement State within two weeks of identification.

Normal priority

The majority of cases fall within this category. This level applies to all cases where there are no immediate medical, social, or security concerns which would merit expedited processing. If possible, normal submissions should be processed according to the specific need for resettlement: e.g. cases of women or children at risk should receive priority over submissions of refugees lacking foreseeable alternative durable solutions. UNHCR expects decisions and *departure within 12 months of submission*.

Staff are reminded to consider the appropriate level carefully and to proceed accordingly. Clearly, inappropriate use of the emergency and urgent priorities will erode the credibility of UNHCR's judgment concerning such submissions, thereby reducing the effectiveness of these channels.

Field offices must also ensure that systems are in place to minimize the time between needs identification and the submission for resettlement, to prevent normal and urgent cases from becoming emergency ones. Ensuring that submissions are complete is also important in order to avoid processing delays, which is especially critical for emergency or urgent cases.

6.2 LEGAL AND/OR PHYSICAL PROTECTION NEEDS

As an instrument of international protection resettlement is, first, a guarantee for the legal and physical protection of refugees. Resettlement may offer the only means to preserve fundamental human rights and to guarantee protection when refugees are faced with threats which seriously jeopardize their continued stay in a country of refuge.

The legal and/or physical protection needs of refugees may differ depending on personal characteristics of the individual concerned, such as their sex, age, disability, sexual orientation, gender identity, ethnicity or other characteristics.

6.2.1 Submission under the Legal and/or Physical Protection Needs category

It is the responsibility of any country to provide protection to and ensure the safety of refugees on its territory or at its borders. It is UNHCR's responsibility to intervene with the authorities of the country of refuge to ensure that such protection is provided. Only if all means of intervention have been exhausted or at least evaluated, should resettlement based on individual protection needs be considered.

For resettlement submission under the Legal and/or Physical Protection Needs category a refugee's situation must meet one or more of the following conditions:

- immediate or long-term threat of *refoulement* to the country of origin or expulsion to another country from where the refugee may be *refouled*;
- threat of arbitrary arrest, detention or imprisonment;
- threat to physical safety or fundamental human rights in the country of refuge, rendering asylum untenable.

6.2.2 Threat of *refoulement*, expulsion and arbitrary arrest and/or detention

In some circumstances, refugees fleeing from persecution may be refused entry by a potential country of asylum, or may be threatened with expulsion. Such a scenario is most likely to occur when the potential asylum country believes that the refugees concerned would threaten its political, social or economic stability if they were allowed entry or to remain. Refugees may also be under threat of deportation, possibly combined with prolonged arbitrary detention, in situations where the governments of the country of origin and the country of refuge enjoy a close political relationship and share a mutual antagonism towards the refugees concerned, or insist there is no reason to flee from the country of origin.

In some countries which are not signatories to the 1951 Convention or its 1967 Protocol, asylum-seekers or even refugees who are recognized under UNHCR's mandate are subject to detention and prosecution, if not deportation. In order to ensure that refugees will not be *refouled* or deported to a country where their life, safety and freedom may be endangered, resettlement may be the only option. A number of countries offer asylum to refugees only on a temporary basis, on condition that they are subsequently resettled, sometimes within a specific time frame. Whereas UNHCR in principle should promote state responsibility for refugee protection, including the provision of a durable solution, UNHCR may resort to resettlement for such cases if the State does not provide any alternative protection.

Where asylum-seekers or refugees are subjected to arbitrary detention, prosecution and or deportation in countries that *are* State parties to the 1951 Convention and/or its 1967 Protocol, UNHCR should advise the State of its obligations to meet international standards for refugee protection. Whereas the emphasis in such situations should be securing state protection rather resettlement, the urgency of the protection risk may make resettlement the only possible solution.

Each office is responsible for taking temporary measures to address immediate protection needs, which may include movement to a secure location pending emergency resettlement, or the consideration of transfer to an Emergency Transit Facility (ETF). *See Chapter 7.6.4 for more detail on the ETFs.*

6.2.3 Threat to physical safety or fundamental human rights in the country of refuge

Where a threat to the life and/or personal safety or other fundamental human rights guarantees of a refugee exists, resettlement may be the only solution. The threat must be real and direct, not accidental or collateral. While past harassment, especially when repetitive, may provide such an indication, it is not a prerequisite. The threat may be targeted at an individual, but it also can be aimed at a group – such as a family, a neighbourhood or a sexual minority. The threat must continue to exist. Past harassment, even if repetitive, would normally not be enough, although an assessment of the appropriateness of resettlement would depend on the circumstances.

Gender may play a role in determining both the nature of the threat and the required responses and/or preventative measures needed. For instance, in the case of refugee women and girls, the threat to physical safety may take the form of sexual violence including: rape, sex for survival or sexual coercion, trafficking for the purposes of sexual slavery, and forced marriage.

These acts can be committed at the hands of persons in authority, paramilitary groups, quasi-state actors, fellow refugees, members of the local population, or even nationals or residents of the refugee's country of origin who have easy access to the country of asylum due to porous borders or otherwise. However, the threat of violence may also come from family or community members, and take the form of domestic violence, sexual abuse of separated children in foster care, forced marriage, female genital mutilation, threats of "honour" killings, "corrective" rape of women perceived to be lesbians, or other punishment for transgressing gender discriminatory laws or social behavioural norms.

It is important to note that lesbian, gay, bisexual, transgender and inter-sex **(LGBTI) persons** may be under continuous threat of human rights abuses due to discriminatory laws and the prevalence of hostile societal attitudes in the country of refuge. Their behaviour may be perceived to contravene social, cultural or religious norms, putting them at risk of various forms of violence and discrimination by state or non-state actors, without being able to access effective state protection. *See Chapter 5.2.5 for more detail on the forms of harm and discrimination faced by LGBTI persons.*

In situations where it has been established that the denial of human rights places the refugee at risk and renders asylum untenable, resettlement should be pursued after all other efforts have been exhausted or at least considered. This would, for instance, include situations in which national laws emanate from traditional or cultural norms or practices not in conformity with international human rights standards, such as the criminalization of same-sex relationships, or the systematic denial of rights to minorities or indigenous groups.

In other situations, refugees who have been admitted to a country of asylum may be threatened not by the authorities of that State, but by other hostile groups or governments. If under such circumstances the host country is not willing or able to provide protection from such threats, resettlement may be the only solution.

This may also include cases of domestic violence, threats of human trafficking, or blood or family feuds where the physical safety or human rights of the refugee is threatened in the asylum country. In addition, such circumstances would also need to be deemed as rendering asylum untenable before pursuing resettlement as an option.

Re-establishment of protection by the authorities or relocation internally in the country of asylum – where feasible – should be pursued prior to submission for resettlement.

Essential reading

- UNHCR, *Self-Study Module 5: Human Rights and Refugee Protection*, 15 December 2006, Vol. I, http://www.unhcr.org/refworld/docid/466942032.html, Vol. II, http://www.unhcr.org/refworld/docid/466934c2.html
- UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, January 2008, http://www.unhcr.org/refworld/docid/47cfc2962.html
- UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01, http://www.unhcr.org/refworld/docid/3d36f1c64.html
- UNHCR, *UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*, 21 November 2008, http://www.unhcr.org/refworld/docid/48abd5660.html

6.3 SURVIVORS OF VIOLENCE AND/OR TORTURE

Refugees who have survived torture or violence may have specific needs that warrant resettlement consideration because the trauma they have endured may have a serious detrimental affect on their mental and physical well-being. The situation in the country of asylum may not be conducive for effective support (due to, for example, the inaccessibility of appropriate health care, counselling services or stability) and may compound the trauma. The specific form of torture or violence inflicted upon them may also vary depending on age, sex and particular vulnerability.

Survivors of violence and/or torture may not be easily identified unless they show clear signs of trauma, or inform UNHCR of their experiences. *Mental Health of Refugees*,[3] a joint publication by UNHCR and the World Health Organization (WHO), provides guidance on how to better recognize such cases.

[3] Chapters 8 and 9 in particular concern survivors of torture and other violence, including rape. UNHCR, *Mental Health of Refugees*, 1996, http://www.unhcr.org/refworld/docid/4a54bc010.html

6.3.1 Submission under the Survivor of Violence and/or Torture category

A refugee submitted for resettlement under the Survivor of Violence and/or Torture category:

- has experienced torture and/or violence either in the country of origin or the country of asylum; *and*
- may have lingering physical or psychological effects from the torture or violence, although there may be no apparent physical signs or symptoms; *and*
- could face further traumatization and/or heightened risk due to the conditions of asylum or repatriation; *and*
- may require medical or psychological care, support or counselling not available in the country of asylum; *and*
- requires resettlement to meet their specific needs.

6.3.2 Defining violence and torture

UNHCR encourages a broad interpretation of the terms "torture" and "violence" when considering the resettlement needs of refugees who have suffered extreme forms of abuse.

Violence itself is an extremely diffuse and complex phenomenon, and defining it is not an exact science. Notions of what is acceptable and unacceptable in terms of behaviour and what constitutes harm, are culturally influenced and constantly under review as values and social norms evolve. A useful definition has however been produced by the World Health Organization:

Violence is the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation.[4]

Torture has been defined in international instruments and conventions. Internationally, the most commonly cited definition is contained in the United Nation's *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT) adopted in 1984 (hereinafter the Convention against Torture).

[4] World Health Organization, *World Report on Violence and Health*, 2002, http://www.who.int/violence_injury_prevention/violence/world_report/en/full_en.pdf

Torture as defined under the Convention against Torture (CAT)[5]

"Article 1(1) For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third persons has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

Article 16 refers to acts of cruel, inhuman or degrading treatment or punishment.

It is worth noting that under the CAT definition, **public officials are accountable** not only for acts of torture which they **personally commit** or instigate, but **also if they consent or acquiesce** when someone else commits such an act. State responsibility also arises where national authorities are "unable or unwilling" to provide effective protection from ill-treatment (i.e. fail to prevent or remedy such acts), **including ill-treatment by non-State actors**.[6] This includes failure to protect individuals from domestic violence and harmful traditional practices perpetrated by private citizens when these amount to torture.

Both Article 5 of the *Universal Declaration of Human Rights*[7] and Article 7 7 of the *International Covenant on Civil and Political Rights*[8] prohibit "torture", and "cruel, inhuman or degrading treatment or punishment." The *Inter-American Convention to Prevent and Punish Torture*[9] adopted in 1985 further defines, "Torture shall also be understood to be the use of methods upon a person intended to obliterate the personality of the survivor or to diminish his physical or mental capacities, even if they do not cause physical pain or mental anguish."

International law also recognizes that rape is a form of torture. The UN Special Rapporteur on Torture in 1992 stated that "[s]ince it was clear that rape or other forms of sexual assault against women in detention were a particularly ignominious violation of the inherent dignity and the right to physical integrity

[5] UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: resolution/adopted by the General Assembly*, 10 December 1984, A/RES/39/46, http://www.unhcr.org/refworld/docid/3boof2224.html

[6] UN Office of the High Commissioner for Human Rights, *Fact Sheet No. 4 (Rev.1), Combating Torture*, May 2002, No. 4 (Rev.1), p. 34, http://www.unhcr.org/refworld/docid/4794774bo.html

[7] UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), http://www.unhcr.org/refworld/docid/3ae6b3712c.html

[8] UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, http://www.unhcr.org/refworld/docid/3ae6b3aao.html

[9] Organization of American States, *Inter-American Convention to Prevent and Punish Torture*, 9 December 1985, OAS Treaty Series, No. 67, http://www.unhcr.org/refworld/docid/3ae6b3620.html, see also definitions of torture in Arabic/Islamic – Miscellaneous, *Cairo Declaration on Human Rights in Islam*, 5 August 1990, http://www.unhcr.org/refworld/docid/3ae6b3822c.html and UN General Assembly, *Rome Statute of the International Criminal Court* (last amended January 2002), 17 July 1998, A/CONF. 183/9, Article 7(2)(e), http://www.unhcr.org/refworld/docid/3ae6b3a84.html

of the human being, they accordingly constituted an act of torture."[10] Men and boys are also victims of rape, and may be particularly traumatized by feelings of shame.

6.3.3 Forms of violence and torture

Although international human rights and humanitarian law consistently prohibit torture under any circumstance, torture and ill-treatment are practiced in more than half of the world's countries.[11] Torture methods are designed to force the victim to do what the torturer wants. Physical techniques include all kinds of beatings, mutilation, burns, asphyxiation, sexual abuse and electric shock. People may also be deprived of food, water, sound, light, privacy, human contact, or movement. Torture can also take the form of severe humiliation, intimidation, and behavioural coercion such as the forced breaking of cultural or religious taboos. Psychological techniques such as false accusations, threats of death or fake executions are used to confuse the victim and break down resistance.

Refugees may have themselves survived or witnessed other forms of extreme violence in their country of origin or their country of asylum including:

- experiencing the violent death of family members or others close to them;
- witnessing the torture, severe mistreatment, or rape of family members or others close to them;
- sexual and gender-based violence including: rape, defilement, sexual abuse or exploitation, forced prostitution, trafficking or sexual slavery, severe emotional or psychological violence and abuse, or harmful traditional practices such as female genital mutilation (FGM) and honour killing and maiming; or
- substantial non-criminal detention, including kidnapping.

The protection environment needs to be carefully assessed to ensure that interviewing torture survivors will not endanger other members of their families or result in post-interview retaliation against survivors. Where possible, assessments should be conducted by protection staff who have technical expertise and who understand the local context. This is particularly important when conducting assessments on sensitive issues such as rape, torture or detention.

6.3.4 Consequences of violence and torture

Some forms of torture and violence leave physical wounds, scars, or long-lasting impairments or disabilities. There may also be acute psychological and social

[10] (Summary record of the twenty-first meeting, United Nations document E/CN.4/1992/SR.21, para. 35) quoted in UN Office of the High Commissioner for Human Rights, *Fact Sheet No. 4 (Rev.1), Combating Torture*, May 2002, No. 4 (Rev.1), http://www.unhcr.org/refworld/docid/4794774bo.html

[11] For further details on torture and its consequences, see UN Office of the High Commissioner for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol")*, 2004, HR/P/PT/8/Rev.1, http://www.unhcr.org/refworld/docid/4638aca62.html

impacts of violence and torture in the short term, which can persist to undermine the long-term mental health.

However, not all torture survivors develop medical conditions which are easily identifiable. In cases of refugees who sustained torture but do not show obvious consequences of it, one should always consider the risk of latent effects.

Common consequences are psychological ones such as fear, depression and nervousness. The person who has survived torture or violence may experience difficulty in concentrating, may be unable to sleep or may have nightmares. Other ongoing effects can include psychosomatic trauma, or disorders in which mental factors play a significant role in the development, expression, or resolution of a physical illness. These problems usually start immediately but in some cases, they may begin months or years after the original event. Symptoms can be chronic, or fluctuate over extended periods. The diagnosis most commonly associated with the psychological consequences of torture is post-traumatic stress disorder, or PTSD.[12] The diagnosis of PTSD is made by a psychiatrist or psychologist.

Women and men may experience violence and torture differently and they may have coping mechanisms that are particular to their gender, age, family status and sexual orientation. There is no doubt that rape and other forms of gender-related violence, such as dowry-related violence, female genital mutilation, domestic violence, and trafficking are acts which inflict severe pain and suffering – both mental and physical – and which have been used as forms of persecution, whether perpetrated by State or private actors. Rape and other forms of sexual assault can lead the survivor to be ostracized by their communities or families. Where acts of physical and sexual abuse against sexual minorities go unpunished and/or where same-sex acts are criminalized, LGBTI-perceived individuals and their families may be subjected to further victimization and isolation from their communities with severe psychological and psychosocial consequences over and above any physical harm.

6.3.5 Assessment and support of Survivors of Violence and/or Torture

In dealing with resettlement cases considered under this category, specific aspects – procedural and otherwise – need to be taken into consideration.

It is important to remember that the families of the survivors may have complex feelings of trauma, guilt and helplessness and may in turn need special care and attention. Furthermore, information on how a particular community reacts to trauma, loss, grief and mental illness will have to be considered and included in the resettlement file. This is particularly relevant in cases of sexual violence, including rape, where the survivor and the survivor's spouse and family may face further victimization and/or ostracism by their community.

[12] UN Office of the High Commissioner for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol")*, 2004, HR/P/PT/8/Rev.1, http://www.unhcr.org/refworld/docid/4638aca62.html

Where there are physical symptoms or injuries, the report of a qualified physician having examined a refugee's physical condition should be included in the Resettlement Registration Form (RRF). Ideally, qualified observations and comments by a psychologist or psychiatrist on a refugee's psychological state would also be included. These reports will include information about any treatment provided to address urgent problems, and the availability of required treatment and counselling.

However, medical assessments are not available in all locations and resettlement submissions can be made based on reported mental or physical health impacts. If it is not feasible to obtain a psychological assessment and/or medical report in the first country of asylum, this should be explained in the "Specific Needs" section of the RRF. In addition, any overt signs of possible mental or physical health effects of torture that the refugee may have mentioned or indicated during the resettlement interview, as well as the length of time the refugee has been experiencing them, should be noted in this section.

In cases of refugees who sustained torture but who do not show obvious consequences, it is particularly important to ensure that the RRF is properly documented so that the receiving country will have as much relevant information on the refugee's background as possible. The receiving country and community should be informed of the history of torture in order that appropriate services can be provided.

Care must be taken that survivors of violence and torture are resettled to locations where adequate services, both medical and psychological, will be available to meet their needs. Resettlement to a secure environment and the possibility of re-establishing a productive life is for many survivors itself a key component of their recovery. However, survivors of torture or other severe forms of violence may require coordinated medical care, counselling and other types of special assistance, in particular when they suffer from physical and/or serious psychological problems.

Good documentation, and good communications with Headquarters, officials of resettlement States as appropriate, and UNHCR offices in resettlement countries will help ensure that refugees receive appropriate assistance in the country of resettlement. It should, however, be noted that UNHCR cannot guarantee that the refugee will always have access to required counselling and support services.

Confidentiality

It must be kept in mind that family members may not all be aware of the violence that individuals in the family have faced. For example, a survivor of rape or other sexual violence may not have informed other family members. Care must be taken to retain confidentiality.

Essential reading

- UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85, Article 1, http://www.unhcr.org/refworld/docid/3ae6b3a94.html
- UNHCR, *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons. Guidelines for Prevention and Response*, May 2003, http://www.unhcr.org/refworld/docid/3edcd0661.html
- UNHCR, *Mental Health of Refugees*, 1996, http://www.unhcr.org/refworld/docid/4a54bc010.html
- Inter-Agency Standing Committee, *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, 20 June 2007, http://www.unhcr.org/refworld/docid/46c0312d2.html
- UNHCR, *Handbook for Emergencies*, February 2007, Third edition, http://www.unhcr.org/refworld/docid/46a9e29a2.html
- The Victorian Foundation for Survivors of Torture Inc, *Perspectives on Torture: the law, the effects, the debate*, 2007, www.foundationhouse.org.au

6.4 MEDICAL NEEDS

Before considering a person for resettlement under the medical needs category, all staff concerned must exercise special care to ascertain whether the basic considerations have been fully applied. The resettlement of persons with medical needs is challenging, and resettlement opportunities are limited.

Persons to be considered by UNHCR for resettlement on these grounds are to be assessed individually without discrimination (i.e. adhering to AGD sensitive approach), taking into account both the medical facts of the case and compelling humanitarian considerations. It is, therefore, essential that a qualified medical doctor be consulted when determining the medical diagnosis and prognosis for treatment. In order to respect the objectivity and impartiality of the assessment, it is strongly recommended that an independent clinical practitioner, rather than medically qualified UNHCR staff, complete the Medical Assessment Form (MAF).[13] It is also essential that UNHCR identifies the most serious and compelling cases that can only be addressed through resettlement.

Most refugees with medical needs will not require or qualify for resettlement under this category. It is important, therefore, to determine the nature of the medical need and what possibilities exist for referral and treatment in the country of asylum before resorting to a resettlement submission on medical grounds. Given the complexity and difficulty in promoting the resettlement of persons with medical needs it is advisable that UNHCR offices establish and communicate transparent standard operating procedures to assess the eligibility of individuals for resettlement under this submission category.

[13] UNHCR, *Revised UNHCR Medical Assessment Form (MAF) and Guidance Note*, IOM/044-FOM/044/2010, (Internal) UNHCR Intranet.

It is also important to note that individuals who have a medical condition but who do not qualify for resettlement under this category may be eligible for resettlement under other submission categories. A medical condition does not prejudice resettlement consideration under any of the other resettlement submission categories. Documenting medical information carefully is important to ensuring that refugees' needs are addressed.

6.4.1 Submission under the Medical Needs category

For resettlement submission under the Medical Needs category all of the following four conditions must be met:

1. **Diagnosis**

- The health condition and/or disability is life-threatening without proper treatment; **or**
- There is a risk of irreversible loss of functions without proper treatment; **or**
- The particular situation/environment in the country of asylum is the reason for or significantly worsens the health condition;

2. **Treatment**

- Adequate treatment is not available (e.g. due to lack of medical facilities or expertise) or is inaccessible (e.g. due to imposed restrictions or lack of funds) in the country of asylum;[14] **and**
- Adequate treatment cannot be ensured through temporary medical evacuation to a third country;

3. **Prognosis**

- The health condition and/or disability presents a significant obstacle to leading a normal life, becoming well adjusted, and from functioning at a satisfactory level, and puts the individual and/or dependent family member(s) at heightened risk in the country of asylum; **or**
- The particular situation/environment in the country of asylum significantly worsens the health condition and/or disability; **and**
- There is a favourable prognosis that treatment (including supportive rehabilitation and healthcare arrangements) and/or residence in the country of resettlement would significantly improve the health condition and/or disability or lead to an improvement in daily functioning and quality of life;

4. **Informed Consent**

- It is the expressed wish of the individual, after having been counselled, in particular with regard to prospects for treatment of the medical condition or disability as well as the social, cultural and psychological adaptation required in a new community.

[14] UNHCR, *UNHCR Principles and Guidance for Referral Health Care for Refugees and Other Persons of Concern*, December 2009, http://www.unhcr.org/refworld/docid/4c1726e82.html

6.4.1.1 Guidance on the circumstances of medical needs

Diseases and other medical conditions

Cases in which a disease or medical condition can be adequately addressed by medication, a change in diet, or through other treatment available in the country of asylum, should not be referred for medical resettlement.

Where it is believed that a medical condition would benefit from treatment elsewhere, it should be determined if indeed such treatment is available locally, or whether medical evacuation or other alternatives to medical resettlement might be feasible.

In cases where the four conditions outlined above are not met, consider the applicability of other UNHCR resettlement categories for all members of the case.

Disabilities

Refugees who are well-adjusted to their disability and are functioning at a satisfactory level are generally not to be considered for resettlement under this category. Only when such disabilities cannot be treated locally or within the UNHCR medical referral scheme, and when they seriously threaten the person's safety or quality of life, should resettlement on grounds of medical needs be explored.

In cases where the four conditions outlined above are not met, consider the applicability of other UNHCR resettlement categories for all members of the case. Indeed, in some situations an individual's disability might expose her/him to heightened risk necessitating resettlement under the "legal and/or physical protection" category, for example. *See Chapter 5.2.4 for more detail on the protection risks faced by refugees with disabilities.*

6.4.2 Prioritization of medical resettlement needs

Cases to be submitted on medical grounds should be prioritized based on the severity and/or stage of the condition and urgency for treatment. The assessment and application of the resettlement priorities is important for the care of the patient and for the submission process. In order to ensure a timely response to medical needs, the assessing physician must indicate the proper priority level. Submissions without correct prioritization are prone to delays that could cause the health condition to worsen, leading to irreversible loss of function or even death. The prioritization also impacts the country of submission, as not all resettlement countries have the capacity to process cases with medical needs on an emergency basis.

Priority Level	Severity of Condition: Any medical condition that:	Time frame for medical intervention	Time frame for resettlement (departure)
Emergency	Is immediately life threatening (i.e. life-saving surgery).	**< 1 month**	within 1 week
Urgent	Requires life-saving interventions, but that is not immediately life threatening. Is at risk of major progression or complication without further intervention (i.e. many cancers).	**to < 6 months**	within 6 weeks
Normal	Is not life threatening or at risk of major progression/ complication, but requires intervention in order to ensure reduction of risk of progression/ complications and to improve the person's quality of life and overall functioning.	**≥ 6 months**	within 52 weeks

Additional considerations after determining the prioritization of medical cases

UNHCR should ensure a non-discriminatory and clinical approach in giving priority consideration to individuals with the most compelling needs for resettlement on medical grounds, taking into consideration the medical facts of the case. In certain situations, where a number of cases have been identified for resettlement falling within the same priority level (e.g. normal priority), UNHCR staff may be required to further prioritize cases.

In deciding which cases should be prioritized within the same category, staff must consider the medical condition in addition to other non-medical considerations such as the vulnerabilities of family members. Furthermore, while in specific situations it may be appropriate to give priority to the needs of persons whose medical condition is directly related to their persecution, flight or exile such as survivors of violence and torture, this should not prejudice the access to resettlement of others who have similar or more compelling medical needs or related vulnerabilities.

Timely identification of refugees with medical conditions can make a significant impact on the prognosis, which in turn can impact the likelihood of acceptance by a resettlement country. Field offices must ensure that Medical needs submissions are made as soon as possible. Medical Assessment Forms (MAFs) are valid for six months only.

6.4.3 Refugees living with HIV and AIDS

Refugees living with HIV and AIDS qualify for resettlement on medical grounds only if their overall health situation meets the conditions set out above at Chapter 6.4.1.

Furthermore, the fact that a refugee has HIV should not adversely affect a resettlement claim based on core protection grounds unrelated to their HIV status. Whereas States may not admit people living with HIV, UNHCR stresses that the need for asylum overrides concerns about potential costs associated with the treatment and care of *any* medical condition.

In some circumstances, the HIV status of a refugee might result in human rights violations related to their HIV status – for example a person's relatives' physical safety – or jeopardize the individual's asylum status. Such cases, although caused by a medical condition, may need resettlement based on legal/protection grounds.

As detailed in Chapter 5.3.7, all resettlement countries that require HIV testing as a precondition to resettlement are encouraged to have guidelines on HIV testing and counselling in place that conform to international standards, and to ensure that these are applied and monitored.

UNHCR's policies on *Antiretroviral Medication for Refugees*[15] and on *HIV Testing and Counselling in Health Facilities*[16] should be consulted for guidance on access to treatment and HIV testing and counselling issues. Offices should inform authorities from the concerned country and the Resettlement Service of any incidents where pre- and post-test counselling has not been provided to an individual, or confidentiality has not been maintained in the notification of results. These include instances when the responsibility for notification has fallen erroneously to a UNHCR Officer.

6.4.4 Operational aspects of cases submitted under the Medical Needs category

For submissions under the Medical Needs category, the following operational aspects should be borne in mind:

- A UNHCR Medical Assessment Form (MAF) must be fully completed by the examining physician.
- Although a MAF is valid for up to six months, MAFs supporting emergency or urgent submissions must be recent enough to accurately reflect the prognosis.
- The Medical Assessment Form and/or other medical reports should be legible.

[15] UNHCR, *Antiretroviral Medication Policy for Refugees*, 17 January 2007, http://www.unhcr.org/refworld/docid/45b4af612.html

[16] UNHCR, *UNHCR/WHO/UNAIDS Policy Statement on HIV Testing and Counselling in Health Facilities for Refugees, Internally Displaced Persons and other Persons of Concern to UNHCR*, 2009, http://www.unhcr.org/refworld/docid/4b13ba212.html

- All documents should be signed and dated.
- X-rays, CT scans, photographs, etc., if available, should be included in the file.

The Resettlement Service coordinates the submission of medical dossiers, and allocates a limited number of places to the Regional Resettlement Hubs. As there are limited dossier places available for medical cases, field offices are encouraged to explore local submission options as well.

Family unity

Persons who are deemed to warrant resettlement under the medical needs category should be resettled together with dependent family members, including in some situations non-family caregivers where a relationship of dependency is firmly established. *Review Chapter 5.1.2's guidance on the concept of dependency and the right to family unity.*

In circumstances where the resettlement country requires the separation of the dependent family into multiple cases, the most appropriate submission category must be selected for each case, keeping in mind that the family reunification category is restricted to cases facilitating reunification with a family member already in a resettlement country. *See Chapter 7.4 for guidance on case composition.*

If emergency or urgent resettlement results in family separation, measures should be taken to ensure that family members/dependants of the resettled refugee are reunified with him or her in the country of resettlement.

Essential reading

- UNHCR, *UNHCR's Principles and Guidance for Referral Health Care for Refugees and Other Persons of Concern*, December 2009, http://www.unhcr.org/refworld/docid/4c1726e82.html
- UNHCR *Note on HIV/AIDS and the Protection of Refugees, IDPs and other Persons of Concern*, 5 April 2006, http://www.unhcr.org/refworld/docid/4444f0884.html
- UNHCR, *Policy Statement on HIV Testing and Counselling in Health Facilities for Refugees, Internally Displaced Persons and other Persons of Concern to UNHCR*, 2009, http://www.unhcr.org/refworld/docid/4b13ba212.html
- UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal) http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html

6.5 WOMEN AND GIRLS AT RISK

Women and girls may face unique or gender-related forms of persecution or violence, and specific action is required to ensure that women and girls enjoy protection and access to durable solutions on an equal basis with men and boys.

Key protection concepts discussed in Chapter 5 should be reviewed when considering the resettlement of a woman or girl at risk.

This includes the importance of early identification and immediate response to the protection needs and potential vulnerabilities of segments of the refugee population, including refugee women and girls, and how community-based and age, gender and diversity sensitive approaches operate in a complementary way to enhance protection responses.

Like other refugees, refugee women and girls may face physical and legal protection problems in the country of refuge. In this respect, they need to be safeguarded against *refoulement*, arbitrary arrest or other forms of human rights violations. They also require a legal status that accords adequate social and economic rights and access to such basic necessities as food, shelter and clothing.

However, ExCom *Conclusion on Women and Girls at Risk* (No. 105, 2006), acknowledges that there are extra challenges involved in securing the protection of women and girls at risk which must be addressed holistically, and in partnership with governments, UNHCR, UN organizations, NGOs, women and their communities. The conclusion identifies preventive strategies, responses and solutions, including the need for partnerships and actions to

> *"strengthen the use of resettlement as a protection and durable solutions tool for refugee women and girls at risk; enhance identification of refugee women and girls at risk for resettlement, including through training; and streamline processing further, including by establishing measures to enable the speedier departure of refugee women at risk and their dependants."*[17]

Historically, recognition of this need for specific responses is one of the reasons why certain countries introduced special resettlement quotas and/or programmes for refugee women. While resettlement opportunities for women and girls exist equally under the other resettlement categories, the particular nature of their protection needs and/or the complexity of their individual situations may warrant submission under the Women and Girls at Risk resettlement category.

The rationale for the Women and Girls at Risk category:

- to provide international protection and assistance through resettlement to refugee girls and women who face particular protection problems related to their gender;
- to obtain expeditious processing and accelerated departure for those refugee girls and women considered "at risk"; and
- to ensure that refugee women and girls at risk receive specialized care, if needed, and appropriate support upon arrival in the country of resettlement with a view to achieving socio-economic integration and self-sufficiency.

[17] UNHCR, *Conclusion on Women and Girls at Risk*, 6 October 2006, No. 105 (LVII), 2006, http://www.unhcr.org/excom/EXCOM/45339d922.html See also UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, January 2008, http://www.unhcr.org/refworld/docid/47cfc2962.html

An accurate and gender-sensitive assessment of the refugee's protection needs and particular vulnerabilities in the country of refuge can sometimes be critical in determining her need for resettlement. In this regard, it is important to respect the diversity of women and girls and recognize that factors such as age, language, ethnicity, race, caste, culture, religion, disability, sexual orientation, family and socio-economic status, and rural or urban background can create additional barriers to gender equality and effective protection.

Definition of a Woman or a Girl at Risk

UNHCR considers as a women at risk or a girl at risk **those women or girls who have protection problems particular to their gender**, and ***lack effective* protection** normally provided by male family members.

They may be: **single heads of families, unaccompanied girls or women, or together with their male (or female) family members**.

Refugee women or girls may be at risk of or have suffered from a wide range of protection problems, including expulsion, *refoulement* and other security threats, sexual violence, physical abuse, "corrective" rape of women perceived to be lesbians, intimidation, torture, particular economic hardship or marginalization, lack of integration prospects, community hostility, and different forms of exploitation.

Such problems and threats are often compounded by the effects of past persecution sustained either in their country of origin or during flight. The trauma of having been uprooted, deprived of normal family and community support systems and cultural ties, the abrupt change in roles and status, the fact or threat of violence, or the absence of male family members (while not an absolute condition), may render some refugee women or girls particularly vulnerable.

6.5.1 Identifying Women and Girls at Risk

Identification and analysis of various risk factors help determine which women and girls are at risk, enabling targeted responses to be implemented. However, women and girls are often less visible in displaced populations than men and boys and may not be able to report protection incidents, particularly if these occur in the private domain or are perpetrated by humanitarian workers. Risks of abduction, rape, sexual abuse, harassment and exploitation are just some of the problems experienced by refugee women, whether they are accompanied by a male family member, widowed, or single. The establishment of secure environments including through the strengthening of justice systems to uphold women's rights, and actions and partnerships to empower refugee women and girls are key strategies to both prevent and identify risks.

In particular instances, past traumatic experiences in the country of origin and circumstances of severe hardship in the country of refuge may magnify or exacerbate the protection problems of refugee women and add to the precariousness of their situation. Early identification and assessment of these protection problems is critical for the implementation of appropriate

immediate responses and subsequent solutions, including where appropriate, a resettlement submission under this category.

Remember that female refugees will likely be more comfortable and forthcoming about their protection problems speaking through a female interpreter to a female interviewer.

Accurate assessment of the refugee protection situation

A proper and correct identification of refugee women and girls at risk begins with an accurate, systematic and early assessment of the overall protection situation in the country of refuge. Close and regular monitoring activities should be engaged by protection, field and resettlement staff, as well as community, social and medical services staff. Other partners such as religious leaders, local hospitals, local charitable organizations, and in particular refugee groups, should be involved in the process, in particular, refugee women's groups and leaders. A multi-sectoral approach is essential to the early and effective identification of the protection needs of refugee women and girls. *Please review* ***Chapter 5.5*** *for an overview of identification tools and methodologies including the Heightened Risk Identification Tool.*[18]

Risk factors in the wider protection environment may include:

- insecurity and armed conflict;
- sexual and gender-based violence (SGBV);
- inadequate or unequal access to assistance and services;
- the position of women and girls in the host community which can lead to marginalization and discrimination;
- lack of access to livelihoods;
- legal systems which do not uphold the rights of women and girls; and
- asylum systems which are not sensitive to the needs and claims of female asylum-seekers.

Refugee Girls

Special attention should be given to **refugee girls**, who, because of their age and level of maturity, may be at increased risk of violence, abuse or exploitation, and may be less able to cope with any associated trauma, or their circumstances of displacement. Refugee girls may be at greater risk of exploitation, potentially facing forced or early marriage; female genital mutilation against their will, trafficking or sexual slavery.

Young girls without adult supervision due to separation from family members, or death of parents, often find themselves responsible for younger siblings. In such cases, the burden on young girls is particularly severe, with access to

[18] UNHCR, *The Heightened Risk Identification Tool*, June 2010, Second Edition, http://www.unhcr.org/refworld/docid/4c46c6860.html; User Guide, http://www.unhcr.org/refworld/docid/46f7cocd2.html

school limited due to other household and family responsibilities, and heavy responsibility for younger family members who may also be at risk of various protection threats.

Girls in foster care also often face deprivation of their rights to participate in community life, including school, and may face threats of exploitation. Such girls may need to be separated from their foster families and be placed in appropriate care arrangements.

Best Interests Assessments or Determinations are required for unaccompanied, separated and other girls at risk. *Also see Chapter 6.7 for guidance on the Children and Adolescents at Risk category.*

6.5.2 Submission under the Women and Girls at Risk category

After identification, women and girls at risk require a response to their immediate protection needs, followed by an assessment of their longer-term protection needs.

Resettlement is not necessarily the most appropriate solution in all cases of refugee women and girls facing particular protection problems related to their gender. For all unaccompanied, separated children and other children at risk, a Best Interests Determination (BID) is a crucial step in the identification of the most appropriate solution, and a BID must be conducted prior to resettlement. *Please review Chapter 5.2.2.1 for further details.*

An assessment of a woman or girl at risk's resettlement needs should include a review of the *intensity* of one or more of the factors mentioned below, as well as the *urgency* of her case, and should determine any specific follow-up action in the country of resettlement.

Resettlement submission of refugee women and girls under the Women and Girls at Risk category is considered when:

- She faces precarious security or physical protection threats as a result of her gender;
- She has specific needs arising from past persecution and/or traumatization;
- She faces circumstances of severe hardship resulting in exposure to exploitation and abuse, rendering asylum untenable;
- There has been a change in the social norms, customs, laws and values resulting in the suspension of or deviation from traditional protection and conflict resolution mechanisms and the lack of alternative systems of support and protection. This places the refugee woman or girl at such risk that it renders asylum untenable.

Precarious security situations

As discussed in **Chapter 5.2.1**, refugee women may suffer from a wide range of threats to their personal security, including risk of expulsion, *refoulement*, or sexual and gender-based violence, such as: sexual harassment, domestic violence, abuse, torture, trafficking for the purposes of sexual slavery or exploitation or forced labour, and other forms of exploitation. Family members may be unable or unwilling to assist, and UNHCR and other aid agencies may also be unable to address these issues in the short term in any effective way, due to the endemic nature of the problem or the difficulty in changing long-held cultural values. Strict social codes in the refugee community can mean that the physical protection of refugee women is further jeopardized.

The victimization and stigmatization of women survivors of rape, abuse, or other forms of violence, is not uncommon, particularly in traditional societies, and can require the immediate removal of such survivors, possibly by way of third country resettlement.

Specifically as regards cases of domestic violence considered for resettlement under the Women and Girls at Risk category, there are a number of practical and legal factors that require protection intervention. For example, it may be required to move the woman and any children in the relationship to a secure location pending emergency resettlement. It may later be necessary to change that location for security reasons. Moreover, if the partner of the woman becomes aware of the involvement of UNHCR and/or other organizations, this may lead to security concerns for staff members. The office may also need to address complex legal issues relating to child custody, or other rights of the husband or partner as they become relevant in the course of pursuing resettlement for the woman and child(ren). Where children are involved, and custody is not resolved, Best Interests Determination procedures should be applied.[19] *See **Chapter 5.2.2***.

As these issues may, however, be contentious and complex, and put the office under some strain as a result, Headquarters should be consulted and kept informed of the case(s) in question. Moreover, it is crucial that national authorities in the country of asylum and authorities in the potential resettlement country have indicated their willingness to accept resettlement as a solution and offer their full cooperation throughout the procedure.

Specific needs arising from past persecution and/or past trauma

Past persecution may affect a refugee woman's protection situation in the country of refuge and her ability to cope with the challenge of displacement. The assessment of past persecution provides important indicators of the needs of refugee women and the required response or preventive action required.

Very often, refugee women who have already been severely traumatized in their country of origin are more vulnerable to being re-traumatized. Latent psychological effects of past torture or trauma, coupled with adverse circumstances in the country of refuge, are likely to exacerbate their state

[19] UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, 2011, http://www.unhcr.org/refworld/docid/4dda4cb02.html

of mental health. Such women may require mental, psychological or social counselling or rehabilitation or qualified medical care for any meaningful recovery, and such opportunities may not be readily available in the country of refuge.

Past trauma may also negatively affect a refugee's capacity and willingness to integrate locally in the country of refuge and to provide for her own children. It is equally important, in the search for solutions, to ensure the protection of secondary victims, often her children or family members. In the case of women survivors of sexual violence, specific medical assistance may be needed in order to address the consequences of, for example, sexually transmitted diseases including HIV/AIDS, self-practiced abortion, or other related health problems.

Circumstances of severe hardship

For some refugee women or girls, severe hardship in the country of refuge, combined with a precarious legal and social status, may result in further exposure to the risk of abuse and exploitation/extortion. Asylum becomes untenable, and resettlement may be warranted.

Circumstances of hardship may be particularly acute in the context of urban settings, where access to humanitarian assistance and income-generating activities is often minimal. Women who have managed to find employment may suffer from discrimination and harassment by their local employers because of their sex, ethnicity or uncertain legal status. In the context of a precarious legal regime, some refugees may face eviction from their homes and be forced to live in abject poverty. To overcome these difficulties, some refugee women have no other option than to rely on "local protectors" in exchange for material assistance, accommodation, personal documentation and/or residence permits. Other women may be forced to sell their personal possessions to provide for themselves and their children, or they may be forced into prostitution.

Protracted situations of severe hardship may result in higher levels of physical and mental illness for refugee women and/or their families, as well as increases in domestic violence.

Changes of social status as a result of suspension or deviation of social norms

Consideration should be given to resettlement if changes in social status or social norms place the refugee woman or girl at such risk that it renders asylum untenable. Social norms are often spontaneously suspended in times of civil conflict and refugee displacement. Suspension of social norms, customs, laws and values under refugee conditions often leaves women unprotected and subject to various violations of their human rights. The perpetration of particular crimes, such as rape or other forms of sexual aggression, increases significantly in situations of displacement compared with non-refugee situations, due to the breakdown in traditional or legal protection and conflict resolution mechanisms, leaving women and girls particularly vulnerable and perpetrators free from prosecution or sanctions.

Suspension of traditional norms brings changes in the prevailing social mores, including the attitude and the perception of the "proper" role of women. In some instances, this triggers a positive redefinition of traditional notions of sex and gender in women's favour and results in an improvement of women's self-definition. New and creative mechanisms such as women's associations or networks may replace traditional protection structures and provide alternative reference points and different systems of support.

In other cases, however, traditional mechanisms of protection and social norms remain in place but deviate substantially within the refugee context, thus becoming a threat to refugee women. Shifts in cultural values, in fact, may lead to clashes within the refugee's family or the extended community and this often results in instances of serious domestic violence or stigmatization of the refugee woman by her community.

In the case of survivors of sexual or gender-based violence within the refugee community, the implementation of community-based customary practices to settle the offence may result in serious violations of a woman's basic human rights.

6.5.3 Counselling of refugee women and girls at risk

Because of the sensitivities often associated with the protection needs of refugee women, discrete and confidential counselling services should be provided to refugee women and girls identified as "at risk" by trained female staff.

Each refugee woman or girl at risk being considered for resettlement should be counselled prior to the submission of her case to a resettlement country, as well as in preparation for departure. This counselling should include an explanation of the reasons for her submission under the specific category selected, and an overview of the resettlement procedures she can expect to undergo, including further interviews and examinations. All family members and particularly the refugee's spouse where applicable, should receive appropriate counselling.

6.5.4 Operational aspects for submissions under the Women and Girls at Risk category

A number of resettlement States have special programmes to address the integration needs of women and girls at risk. Please refer to the Country Chapters linked to this Handbook online for details on each resettlement State's policies, procedures and settlement supports, including the capacity to receive emergency cases.

Submissions under this category must include a detailed explanation of why the refugee is considered a woman or girl at risk. The *Specific Needs* section of the Resettlement Registration Form (RRF) should be completed, drawing on any assessments or reports provided by protection staff or implementing partners. As with all individual submissions, careful attention should also be paid to ensuring that the details of the refugee claim are well articulated for each adult in the case.

Essential reading

- UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, January 2008, http://www.unhcr.org/refworld/docid/47cfc2962.html
- UNHCR, *Conclusion on Women and Girls at Risk*, 6 October 2006, No. 105 (LVII), 2006, http://www.unhcr.org/excom/EXCOM/45339d922.html
- UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180, http://www.unhcr.org/refworld/docid/3boof2244.html
- UN Committee on the Elimination of Discrimination Against Women [CEDAW], *CEDAW General Recommendation No. 21: Equality in Marriage and Family Relations*, 1994, http://www.unhcr.org/refworld/docid/48abd52co.html
- UNHCR, *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons. Guidelines for Prevention and Response*, May 2003, http://www.unhcr.org/refworld/docid/3edcdo661.html
- UNHCR, *Mental Health of Refugees*, 1996, http://www.unhcr.org/refworld/docid/4a54bco10.html (Especially Unit 9: Helping victims of rape and their communities.)
- UNHCR, *Ensuring Gender Sensitivity in the Context of Refugee Status Determination and Resettlement. Module 2: Ensuring Gender Sensitivity in Refugee Status Determination - Procedural Issues (Resource Package)*, October 2005, 2, http://www.unhcr.org/refworld/docid/43e73b644.html
- UNHCR, *The Heightened Risk Identification Tool*, June 2010, Second Edition, http://www.unhcr.org/refworld/docid/4c46c6860.html; *User Guide*, http://www.unhcr.org/refworld/docid/46f7cocd2.html

6.6 FAMILY REUNIFICATION

The importance of resettlement as a tool of international protection extends to cases where it preserves or restores the basic dignity of a refugee's life through family reunification. When refugees flee their country of origin, family members are frequently left behind or dispersed during flight. In some cases, refugee families are separated when a family member has not been able to accompany the rest of his or her family to a country of resettlement.

Family separation leads to hardship and sometimes has tragic consequences. It may also create serious obstacles to a refugee's integration in a new country, and the realization of family unity is considered an important aspect of all durable solutions.

Please review the core principle of family unity, and UNHCR's definition of a family as covered in Chapter 5.1.2 of this Handbook.

Without the opportunity to reunite with family members, resettlement runs the risk of not being a meaningful, durable and sustainable solution. Promoting family reunification and restoring supportive relationships was identified as one of the

eight key goals for integration in countries of resettlement, putting into operation the principles developed and endorsed at the International Conference on the Reception and Integration of Resettled Refugees.[20] Guided by both humanitarian and practical considerations, and pursuant to its responsibility under the Statute to provide international protection to refugees, to promote measures designed to improve the situation of refugees and to facilitate their integration within new national communities, UNHCR seeks to ensure the reunification of refugee families separated as a result of their persecution or flight.

As reviewed in **Chapter 5.1.2**, obtaining the cooperation of States to lay the political, legal, administrative and operational groundwork for the smooth and orderly resolution of family reunification cases is a normal part of UNHCR's international protection activities. UNHCR encourages States to adopt generous and flexible policies, including an inclusive definition of the family, and to dedicate resources to permit speedy family reunification. Given the limited number of resettlement places available, UNHCR also encourages resettlement States to develop family reunification programmes *outside* of their resettlement quotas. Whenever appropriate, UNHCR seeks to ensure that family members are granted the same legal status and accorded the same standards of treatment as refugees.

The involvement of UNHCR field offices in supporting and facilitating family reunification in the resettlement context takes various forms, *including* the submission of a resettlement case under family reunification as a primary or secondary submission category. The circumstances and protection considerations of each individual case need to be carefully weighed to determine whether the submission of a resettlement case or the facilitation of other immigration options is the most appropriate action to reunite the family.

The definitions and policies set out in this Handbook, specifically as related to the concept of dependency in the identification of family members, are to be followed by UNHCR staff despite the fact that UNHCR definitions may not always correspond with those applied by the State to which resettlement cases are submitted.

6.6.1 Submission under the Family Reunification category

By definition, the submission of a resettlement case under the Family Reunification category is made to reunite refugees with a family member already in a resettlement State.

The family reunification policies and procedures of the relevant resettlement State must be reviewed carefully prior to a submission decision in order to determine whether a resettlement submission is the most appropriate option, or whether UNHCR should facilitate processing under a State's family reunification or humanitarian migration programmes. As State policies, procedures and

[20] For a full list of the integration goals and further details, see UNHCR, *Refugee Resettlement. An International Handbook to Guide Reception and Integration*, September 2002, http://www.unhcr.org/refworld/docid/405189284.html

resources dedicated to family reunification vary considerably, decisions must be made on a case-by-case basis.

The factors to consider when determining whether to make a resettlement submission under the Family Reunification category are:

- the urgency of the resettlement need;
- the short and long-term protection implications for the refugees;
- a realistic appraisal of the availability and accessibility of other immigration options; and
- the resettlement State preferences.

In some situations the most efficient route to family reunification is under the State's direct family reunification or other humanitarian programmes. But in other situations family members may not meet the State's criteria, there may be very long waiting lists, or the circumstances of the family member in the resettlement country makes it unlikely that the reunification will be processed quickly. In these cases a resettlement submission may be warranted.

For submission under the Family Reunification category all four of the following conditions must be met:

- At least one person within the family unit to be reunited is a refugee under the UNHCR mandate or a person of concern to UNHCR; and
- The individuals to be reunited are family members under UNHCR's inclusive definition (see Chapter 6.6.2); and
- The individuals are reuniting with a member of the family already in a resettlement country (see Chapter 6.6.3); and
- The availability and accessibility of other family reunification or migration options has been reviewed and the submission of a resettlement case has been determined to be the most appropriate option given the resettlement needs and protection implications for the family member (see Chapter 6.6.4, and Chapter 6.6.5).

6.6.2 Types of family reunification promoted by UNHCR

Family reunification is undertaken, in accordance with the basic principle of family unity, with a view to respecting basic rights as well as improving the prospects for integration upon resettlement. In accordance with the principles of family unity as outlined in Chapter 5.1.2, the following types of family reunification should receive the support of UNHCR.

6.6.2.1 Reunification of the nuclear family

There is international consensus concerning the need to reunite members of the *nuclear family*. Priority should be given to the nuclear family members mentioned below, and in particular to unaccompanied children.

Spouses

UNHCR considers not only legally-recognized spouses (including same-sex spouses), but also individuals who are engaged to be married, who have entered a customary marriage (also known as "common-law" marriages), or who have established long-term partnerships (including same-sex partners), as spouses within the nuclear family.

The same applies in principle to spouses in a polygamous marriage, if it was contracted in a valid manner. However, most resettlement countries will only accept one spouse in view of their own national legislation forbidding polygamy, and care must be taken in the assessment of the most appropriate solution for such cases. Please consult the *Resettlement Assessment Tool: Polygamous Families*[21] for further guidance.

On the other hand, estranged spouses who do not intend to live as a family unit in the country of resettlement are not normally eligible for UNHCR assistance for reunification with each other; they may, however, qualify for reunification with their children.

Parents and children

Although some States make a distinction between children under 18 and those who have come of age, it is UNHCR policy to promote the reunification of parents with socially, economically or emotionally dependent, unmarried children, regardless of age, who were living with the parents in the country of origin. This would include adopted children, whether adopted legally or on a customary basis.

Separated and unaccompanied children and parents or siblings

The needs of children and adolescents for a stable family environment mean that the reunification of separated and unaccompanied children with their parents or guardians should be treated as a matter of urgency. In recognition of the importance of the support that siblings can give to each other, reunification of an unaccompanied child with a sibling should also be prioritized.

Family reunification may not, however, always be the best solution for a child/adolescent. In all situations involving separated or unaccompanied children, a Best Interests Determination (BID) should be conducted. The quality of the relationship between the child and the parent(s) and whether the parents will be able to offer guidance, support and emotional care are among the issues which must be assessed. *See **Chapter 5.2.2.1** for more information on the BID process.*

If a child has arrived first in a country of asylum or resettlement, the right to family unity requires that the child's next of kin be allowed to join him or her in that country, unless it is in the best interests of the child under the circumstances to join the relative in the country where the relative resides or in a third country.

[21] UNHCR, *Resettlement Assessment Tool: Polygamous Families*, June 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4dc7a9032.html

6.6.2.2 Reunification of other dependent members of the family

It is UNHCR's position that the right of family unity also requires reunification of the following categories of persons of particular concern.

Dependent parents of adult refugees

Based on humanitarian and economic considerations, reunification should be carried out for dependent parents who originally lived with the refugee or refugee family, or who would otherwise be left alone or destitute.

Other dependent relatives

Where persons such as single/lone brothers, sisters, aunts, uncles, cousins, etc. were living with the family unit as dependants in the country of origin, or where their situation has subsequently changed in such a way that they have become dependent upon refugee family members in the country of asylum (e.g., by the death of a spouse, parent or wage earner/breadwinner), they should also be considered eligible for family reunification.

Unaccompanied children may be considered for family reunification with relatives who are not part of the nuclear family when this is in the child's best interests, and when it will not interfere with family tracing. In all cases a BID needs to be conducted, to determine if the family reunification and resettlement as a durable solution are in the best interests of the child.

Other dependent members of the family unit

Sometimes families have taken in and cared for other individuals, such as unaccompanied children or elderly neighbours, with whom there is no blood relation. If these individuals are in the same dependent situation as the relatives mentioned under "Other dependent relatives" above, they should also be considered eligible for UNHCR assistance with reunification. Particular care should be taken to verify the accurate situation and circumstances of such persons.

A BID needs to be conducted for all unaccompanied children, in this case to determine if family reunification with a foster family in a third country is in the child's best interests. As with all unaccompanied and separated children, arrangements should be made to maintain records and notify all concerned of the child's location, in order to ensure that the child can be easily located if tracing efforts are successful.

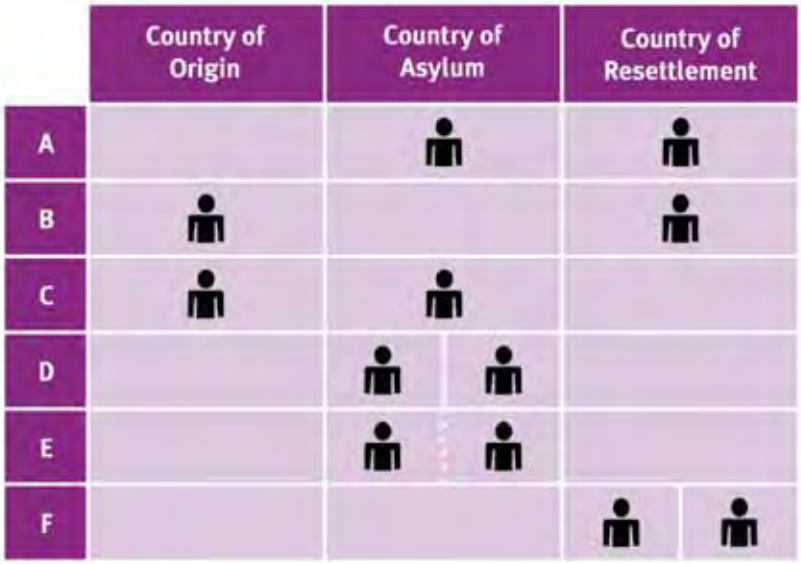
6.6.2.3 Other relatives who may be considered for reunification

In certain cultures, the basic family unit also includes grandparents, grandchildren, married brothers and sisters, their spouses and children, etc. For practical reasons, however, it is not the policy of UNHCR to actively promote the reunification of members of an extended family or other relatives who are *not* dependent on the family unit.

UNHCR nevertheless strongly supports the adoption by States of broad and flexible criteria for family reunification with respect to the selection of refugees for resettlement. Efforts should be made to preserve the integrity of family groups in the course of resettlement operations and to promote the admission of refugees who need to be resettled in countries where they have relatives or other personal ties.

6.6.3 Family reunification scenarios and challenges

UNHCR provides family reunification assistance in all of the main scenarios outlined below. However, a UNHCR resettlement submission under the Family Reunification category is restricted to cases facilitating reunification of refugees in a country of asylum with a family member already in a resettlement country. Specifically, resettlement cases are submitted only when required for family reunification under scenario A.



- **Scenario A: One part of the family has reached a country of resettlement, while the other is in a country of asylum**. Although in this case all members of the refugee family have left the country of origin, reunification sometimes still presents problems. Difficulties or delays may be encountered in obtaining admission of the remaining family members into the country of resettlement and UNHCR intervention in this respect is often necessary. Should reunification under the resettlement State's migration or humanitarian programmes not be accessible or feasible, UNHCR may submit a resettlement submission under the family reunification category.
- **Scenario B: One part of the family has reached a country of resettlement, while the rest of the family is still in the country of origin**. This is a common situation in which UNHCR assistance with family reunification is warranted.

It may be necessary to intervene with the respective authorities in order to obtain authorization for the departure of family members from the country of origin and/or for their entry into the country of resettlement.

- **Scenario C: One member of the family is in a country of asylum while the other member of the family is in the country of origin**. This is also a common situation in which UNHCR assistance with family reunification may be warranted. Careful documentation of family members still in the country of origin is required to facilitate eventual family reunification. Depending on the evolution of circumstances, reunification might be in the country of asylum, in a resettlement country, or in the country of origin after voluntary repatriation.
- **Scenario D: Members of the same family are in different countries of asylum**. In such cases, field offices should where possible promote the reunification of the family members in one of the countries of asylum while awaiting a durable solution. If particular physical, legal and material protection needs or other situations arise requiring the urgent relocation of one or both parts of the family under other UNHCR resettlement categories, resettlement should be coordinated between relevant UNHCR offices, governments and partners to facilitate family reunification in the same country of resettlement. Such intervention is often required to prevent the separation of foster children, adult dependants, fiancé(e)s, or other relatives forming part of the basic family unit. The assistance of UNHCR Headquarters should be requested when the matter cannot be resolved by the field offices concerned.
- **Scenario E: Members of the same family are separated in different parts of the same country of asylum**. This often occurs when refugees are confined in camps in situations of mass influx. The Office should promote reunification of family members as soon as this is feasible.
- **Scenario F: Members of the family find themselves in different countries of resettlement**. Owing to the absence of precise rules concerning which part of a family should join the other, problems may arise if the authorities of the countries of resettlement concerned refuse entry because each is of the opinion that reunification should take place in the other country. Although dependants can normally be expected to proceed to the country where the head of the family is resettled, a different solution may be appropriate under certain circumstances, e.g. when the prospects for the successful integration of the family in that country are poor or when the family has much closer links elsewhere.

6.6.4 State approaches to family reunification

Ensuring family unity through resettlement can be challenging, both in the context of initial resettlement and subsequent family reunification. All efforts should be made to resettle the entire family unit together, but this is not always possible due to the dispersal of family members.

While States and UNHCR agree on the need to respect the principle of family unity, UNHCR's definition of the family, which relies on the concept of dependency, is more inclusive than that used by some resettlement States.

Various mechanisms exist for family tracing and reunification, including direct processing by resettlement countries, and immigration procedures initiated by family members either in the country of resettlement or from abroad.

UNHCR encourages resettlement States to develop family reunification programmes outside of their resettlement quotas. Some States have created separate quotas for such cases under humanitarian categories, and others do not limit the number of family reunification cases. Some States, however, consider family reunification cases only within their overall quota.

The definition of eligible family members, the criteria for eligibility, and the procedures involved varies considerably among resettlement countries. Each resettlement State provides detailed information on their family reunification policies and procedures in their Country Chapters, and these should be consulted by UNHCR offices considering family reunification cases.

States are encouraged to grant the same status to reuniting family members as resettled refugees. However, in some States a family member may be granted a residency status that provides less protection against deportation, possibly amounting to *refoulement*, than does refugee status.

Particular challenges to family reunification arise from certain State policies and procedures as described below.

Restrictive definitions of family members

In some cases, a refugee's family members remain behind in the country of origin, or in a country of first refuge, because they are not considered by the prospective country of resettlement to belong to what is known as the "nuclear family", that is to say father, mother and minor children. While it may not always be possible to reunite entire groups which, in the country of origin, formed part of a family in the broad or traditional sense, States are encouraged to give positive consideration to the inclusion of dependent family members – regardless of their age, level of education or marital status. *This concept of dependency is set out in greater detail in* ***Chapter 5.1.2***.

Requirements for documentary evidence

A related problem is that of proving the marital or civil status of family members for admission purposes. While every effort should be made to establish parentage and family relationships, the particular circumstances existing in the refugees' country of origin or in their country of refuge may need to be taken into account.

These circumstances may make it difficult or even impossible for a refugee to meet formal requirements or to bring the documentary evidence normally required before family reunification can be authorized. UNHCR should therefore encourage governments to take a flexible approach within legislation and practice on family reunification which will enable alternative proof of relationships.

DNA testing should only be used to verify family relationships where, after all other proof of relationships has been examined, serious doubts remain; or where DNA testing is the only recourse available to prove or disprove fraud. *See Chapter 5.1.2 for more information.*

Limited quotas

The demand for family reunification in certain contexts may lead to long waiting periods for family reunification due to limited annual processing quotas and competing migration priorities.

Special measures

Family reunification is often prevented or delayed by the operation of general domestic immigration regulations requiring that individuals sponsoring applicants be able to provide accommodation and support them. Refugees are often unable to fulfil such requirements especially if family members are experiencing economic, employment or housing problems in the country of resettlement. As it is known that prolonged separation creates serious social problems for both sides of split families, it is highly desirable that in such cases receiving States adapt their legal provisions in this respect or take special measures to assist refugees to accommodate their dependants, thereby facilitating early reunification.

Status of joining family members

The status provided for refugees under the relevant international instruments and national legislation has as one of its principal aims to facilitate their integration in new national communities and to help them to cease being refugees as rapidly as possible. In order to promote the smooth and timely integration of refugee families in the country of settlement, it is necessary to grant joining family members the same legal status and facilities as those family members already present. Unless their personal situation expressly excludes them (e.g. due to formal consideration, such as a different citizenship, or the application of exclusion clauses), the family members concerned should have their status as refugees regularized, if they so wish.

6.6.5 UNHCR family reunification assistance outside of resettlement submissions

This section addresses the assistance UNHCR offices can provide refugees with family reunification *outside* of the context of a resettlement submission. This assistance may also be relevant to refugees accessing other humanitarian migration programmes, even if these are not specifically family reunification programmes.[22]

[22] An example is Canada's Private Sponsorship of Refugees Programme, which is usually initiated by a volunteer sponsoring group in Canada that may or may not be related to the identified refugee.

As discussed in Chapter 6.6.1, field offices should review the family reunification policies and procedures of the relevant resettlement State carefully to determine whether a resettlement submission is the most appropriate option, or whether UNHCR should facilitate processing under a State's family reunification or humanitarian migration programmes.

UNHCR promotes and assists the reunification of families of persons who are refugees under its mandate. In addition, UNHCR may extend such assistance to displaced persons outside their country of origin who are considered to be of concern to the Office by virtue of applicable UN General Assembly Resolutions.

Except for certain special programmes,[23] eligibility for UNHCR assistance with family reunification requires that at least one person within the family unit which is to be reunited must be a refugee under UNHCR's mandate or a person otherwise of concern to the organization.

In a case where a non-refugee is being assisted in order to join a family member who is a refugee, UNHCR considers that it is the refugee who is the recipient of the Office's assistance.

6.6.5.1 Types of UNHCR assistance in individual cases

The Office encourages members of dispersed families to take the first steps towards reunification and to initiate the necessary formalities, whenever this is possible without risk to themselves or other family members. In such cases, the role of the Office is limited to informing refugees of the procedures to be followed and monitoring the process.

In many cases, however, the help of UNHCR is required to bring about reunification, outside of the submission of a resettlement case. UNHCR assistance may extend to assistance with tracing, documents, visas and travel arrangements.

Tracing family members

As reviewed in Chapter 5.1.2, when the whereabouts of relatives is unknown, it may be necessary for UNHCR to facilitate tracing through the review of bio-data records including *proGres*, and through collaboration with the Central Tracing Agency of the International Committee of the Red Cross (ICRC) and its national counterparts, the International Organization for Migration (IOM) or relevant NGOs.

Travel documents

When it is not feasible for family members to use passports issued by their country of origin, some other form of travel documentation will be necessary.

[23] One example is the Orderly Departure Programme (ODP) from Viet Nam, where UNHCR was requested to undertake special programmes which could even benefit persons not within its mandate who were in need of assistance with family reunification.

In some cases, depending on the itinerary, the mode of travel and the administrative requirements of the countries involved, a letter in lieu of a visa from the authorities of the destination country may suffice. Often, however, a more formal travel document is needed. Certain countries of temporary stay may be willing to issue a special, or aliens' passport. In States party to the 1951 Convention and/or its 1967 Protocol, a Convention Travel Document shall be granted to family members who also qualify for refugee status. When no other travel document is available and the family members are outside their country of origin, an ICRC Travel Document may be obtained. UNHCR Headquarters should be consulted if assistance is needed.

Entry visa

Refugees residing in a country of settlement who wish to be reunited with other family members who are still in the country of origin or in third countries should be advised, in the first instance, to apply to the competent authorities for the necessary entry visas or immigration authorization for their family members.

Should difficulties arise, the competent UNHCR Field Office may have to intervene with the Government concerned in order to seek permission for such reunification, pointing where necessary to the relevant international instruments and to the Executive Committee Conclusions on the subject. Where countries make admission contingent upon the fulfilment of conditions which the refugee cannot meet, or refuse altogether to authorize certain types of family reunification, such difficulties should be reported to UNHCR Headquarters. Since the objective is reunification of the refugee family, the Office should ensure that any visa issued allows indefinite stay.

Exit visa

In many cases, family members are required to make a formal application for authorization to leave the country of origin or temporary refuge. Where this is feasible, family members in the country of origin should try to obtain these authorizations themselves provided they can do so without placing themselves or others at risk. When required, and where authorized by state authorities, the International Organization for Migration (IOM) can take responsibility for assisting refugees and family members to apply for exit permits, as per the framework agreement between UNHCR and IOM.[24] This includes facilitating the documentary requirements including photographs, and the payment of any required fees. Family members should be counselled in advance however, that interventions may be a very delicate matter and are not always successful.

Travel arrangements

Unless travel is arranged within the framework of an ongoing resettlement operation, making travel arrangements is in principle the responsibility of the

[24] UNHCR, *Guidance Note on Co-operation Between IOM and UNHCR in the Transportation Sector*, May 2000, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4a54bc020.html

refugee family. Nevertheless, some countries make the travel arrangements for the individual family reunification of refugees, usually through IOM, and meet the costs.

UNHCR would provide assistance only if needed, as, for example, in the case of separated or unaccompanied children. Family members may, however, be advised to contact IOM for more information about its subsidized migration schemes. Under these schemes, IOM helps refugees and other persons in need of assistance, in particular through the handling of pre-departure and transport arrangements. IOM has concluded special pricing agreements with the airline industry which allow for considerable reductions in airfares and may also provide an increased free baggage allowance. Where direct communication between family members and IOM is not possible, UNHCR field offices may be requested to help.

Family Reunification Travel Assistance Project

Unless travel is arranged within the framework of an ongoing resettlement operation, the financing of the travel of family members from abroad is in principle the responsibility of the refugee family. Family members should also be advised of the possibility of procuring air tickets at reduced fares directly through IOM, without UNHCR involvement or approval.

UNHCR does have limited funds available to assist with the financing of family reunification cases, should no other funding be available. A grant under the Family Reunification Travel Assistance Project,[25] which is administered by UNHCR's Resettlement Service, may be considered if the case meets all of the following conditions:

- All family members concerned are eligible for family reunification under the established criteria.
- At least one of the family members has been determined as a refugee under UNHCR's mandate.
- The separation of the refugee family was involuntary and related to persecution or flight.
- The anticipated country of resettlement (destination country) will grant an entry visa and legal residence to the family members upon arrival.
- The granting of assistance is appropriate under UNHCR guidelines.
- The family members are in need and therefore unable to meet the travel expenses themselves.
- No other source of funding is available (e.g. from the receiving country, relatives, sponsors or charitable organizations).
- Sufficient financial resources are available under UNHCR Resettlement Service's Travel Assistance Project for Family Reunification. In some cases field offices may have their own funds available.

[25] Further information on the Family Reunification Travel Assistance Project, including application forms Part A and Part B, is available from the resettlement page on the UNHCR intranet, under the *Delegation of Authority to the Field: Guidelines on Resettlement Dossier Case Submissions and Family Reunification Procedures* in "Tools and Resources".

The application process requires the completion of forms by both the applicant in the destination country, and by the beneficiaries, who are the family members in the country from which the movement will take place. UNHCR field office staff – in both the destination country and the country from which the family members will travel – are asked to assist in the process by interviewing the family members in order to complete the required forms, and assessing their eligibility and needs. When undertaking the interviews, home visits by UNHCR staff or in-country partners are encouraged.

Assessing the needs for family reunification travel assistance includes ascertaining family links and the financial needs of the refugees concerned; therefore supporting documents such as birth or marriage certificates are also requested. In some instances, a Best Interests Assessment (BIA) or Determination (BID) may be required. It is important to note that the Resettlement Service cannot process a case unless it is confirmed that the destination country has granted or promised an entry visa, and will grant legal residence to the family members upon arrival.

If the case meets the required conditions, field offices send the completed applications and supporting documentation to the Resettlement Service for review. Upon approval of the request, UNHCR Headquarters will liaise with the International Organization for Migration (IOM) to make travel arrangements or alternatively authorize the Field Office to arrange travel locally, providing the appropriate budget codes in the travel authorization. Travel arrangements should be made only after the necessary authorizations have been issued and travel documents and visas have been obtained.

6.6.6 Separation due to admission criteria

A refugee family risks being separated during resettlement because if one or more of the family members do not meet the specific resettlement State's criteria for admission. In such cases, it is often necessary for the Office to approach the authorities of the resettlement country to advocate for the family member to be admitted on humanitarian grounds.

In cases where UNHCR has determined that a family must not be separated due to their dependency bonds, the Field Office should consider withdrawing the case from a resettlement State that does not accept the entire family, and resubmitting the case to another State. *See **Chapter 7.7.8** for guidance on split decisions of dependent family members.*

Spousal relationships created after resettlement

Some resettlement countries do not provide for family (re)unification of refugee families where a resettled refugee marries or finds a partner outside of the resettlement country subsequent to the arrival in the resettlement country. Sometimes refusal to allow entry would present a serious impediment to (re) establishing family life, bearing in mind in particular that the refugee cannot be returned to his or her country of origin.

If, in such situations, it would be practically impossible for the refugee to live outside the country of asylum, then any interference in the right to family unity and to marry and found a family[26] would need to be proportionate to the legitimate aim pursued by the State. To make this assessment, it would be necessary to bear in mind the refugee's particular situation, which precludes return to the country of origin, and to assess whether family life could be established elsewhere, including whether refugee status would be maintained with no danger of *refoulement* in the alternative country. Other relevant factors include:

- the situation of the spouse/partner;
- the degree of family members' economic and social integration and prospects for the future in each State;
- the State in which the greater number of family members resides;
- the duration of residence in each State; and/or
- the likelihood of maintaining a livelihood and of achieving effective protection, including access to durable solutions.

6.6.7 Family reunification cases outside the competence of UNHCR

UNHCR offices sometimes receive requests for help with family reunification or travel with respect to persons not eligible for assistance under the established criteria and procedures.

Such requests may involve persons not within the mandate of the Office, relatives not belonging to the family unit, or family members wishing merely to visit the refugee family in the country of asylum. Requests often relate to the completion of formalities, obtaining visas and travel documents, or even the financing of travel. When it is determined that a request is outside the mandate of UNHCR, an applicant should be advised that UNHCR cannot assist and should be directed to the relevant embassy, immigration office or non-governmental organization, where appropriate. An applicant may be advised to contact IOM for information about the latter's subsidized migration schemes.

[26] According to the Human Rights Committee, "[t]he right to found a family implies, in principle, the possibility to procreate and live together …". See Human Rights Committee, *General Comment No. 19 on Article 23 of the 1966 International Covenant on Civil and Political Rights* (ICCPR), 1990, paragraph 5. The right to marry and found a family is contained in Article 16 of the 1948 *Universal Declaration of Human Rights* (UDHR); Article 23 of the 1966 ICCPR; Article 5 of the 1965 *International Convention on the Elimination of All Forms of Racial Discrimination* (providing that States Parties undertake "to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of… the right to marry and choice of spouse"); Article 17 (2) of the 1969 *American Convention on Human Rights* (ACHR); and Article 12 of the 1950 *European Convention for the Protection of Fundamental Rights and Freedoms* (ECHR).

Essential reading

- UNHCR, *Summary Conclusions: Family Unity*, June 2003, adopted at Global Consultation on International Protection, Geneva Expert Roundtable, Nov. 2001, in *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection,* (edited by Erika Feller, Volker Türk and Frances Nicholson, Cambridge University Press, 2003), 604-608, http://www.unhcr.org/refworld/docid/470a33bed.html
- UNHCR, *Protecting the Family: Challenges in Implementing Policy in the Resettlement Context*, June 2001, http://www.unhcr.org/refworld/docid/4ae9aca12.html

Further reference

- Jastram, Kate and Kathleen Newland, *Family unity and refugee protection* in *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection*, (edited by Erika Feller, Volker Türk and Frances Nicholson, Cambridge University Press, 2003), 555-603, http://www.unhcr.org/refworld/docid/470a33beo.html
- UNHCR, *Refugee Resettlement. An International Handbook to Guide Reception and Integration*, September 2002, http://www.unhcr.org/refworld/docid/405189284.html
- UNHCR, *IOM/052/1983 - FOM/049/1983 The Reunification of Refugee Families*, 18 July 1983, IOM/052/1983 - FOM/049/1983, (Internal) http://swigea56.hcrnet.ch/refworld/docid/3c29fa1f4.html

6.7 CHILDREN AND ADOLESCENTS AT RISK

Children and adolescents are entitled to special care and assistance under the Convention on the Rights of the Child. Their developmental needs, their dependency, and their legal and social status make this special attention essential, and early and continuous identification of children at heightened risk a UNHCR priority.

Chapter 5.2.2 of this Handbook describes the specific protection needs and potential vulnerabilities of refugee children and adolescents, outlines key elements of a child protection system for children at risk, and reviews the *UNHCR Guidelines on Determining the Best Interests of the Child*.

Please review this crucial information when considering the resettlement of a child or adolescent at risk.

This Section will specifically discuss the submission of resettlement cases under the Children and Adolescents at Risk category.

Who is a child?

A "child" as defined in Article 1 of the Convention on the Rights of the Child (CRC), means "every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier".[27] In terms of actions by UNHCR, the word "child" refers to all children falling under the competence of the Office, including asylum-seeking children, refugee children, internally displaced children and returnee children assisted and protected by UNHCR and stateless children.

Although in common usage a *child* is a person who has not yet reached puberty or sexual maturity, and a person who is no longer a child but not yet an adult is considered an *adolescent*, under international law everyone under 18 is a child.

Unaccompanied children are children 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.

Separated children are those separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members or caregivers.

(**Orphans** are children, *both* of whose parents are known to be dead. Note that in some countries a child who has lost one parent is also called an orphan. Due to the ambiguous meaning, UNHCR rarely uses the term orphan.)

6.7.1 Submission under the Children and Adolescents at Risk category

Children at risk have legal and physical protection needs, may be survivors of violence and torture, and may be submitted for resettlement to facilitate family reunification. Girls at risk may also be submitted under the Women and Girls at Risk category. *See Chapter 6.5.2*.

However, Children and Adolescents at Risk remains a separate resettlement submission category to highlight the specific protection needs of refugee children and adolescents at risk, and to ensure that they receive priority processing. Listing this as a secondary submission category also serves to draw attention to the presence of a separated child or other child or adolescent at risk within a resettlement case.

This category has historically been applied predominately to cases of unaccompanied children being resettled without a caregiver. Some resettlement States have developed intensive settlement support programmes and alternative care arrangements geared specifically to meet the needs of unaccompanied children.[28]

[27] UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, http://www.unhcr.org/refworld/docid/3ae6b38f0.html

[28] For guidance on settlement programmes for children and youth see Chapter 3.3 of UNHCR, *Refugee Resettlement. An International Handbook to Guide Reception and Integration*, September

Submission under Children and Adolescents at Risk as a primary category is also appropriate when the protection needs of a child or adolescent within a refugee family are the most compelling factors leading to the determination of resettlement as the appropriate durable solution. Among others, this could include situations where a child or adolescent faces protection risks due to their political or social activities or sexual orientation.

A child and adolescent submitted for resettlement under the Children and Adolescents at Risk category:

- is under 18;
- may or may not be an unaccompanied or separated child;
- has compelling protection needs which are not addressed in the country of asylum and resettlement has been determined to be the most appropriate solution.

The following considerations must be kept in mind when preparing a submission of an unaccompanied or separated child under the category of Children and Adolescents at Risk:

- A Best Interests Determination (BID) must identify resettlement as the most appropriate solution.
- The services and supports offered for unaccompanied or separated children should be considered when determining the resettlement State to which such a case will be submitted.
- The ability of the child to articulate a refugee claim may also be a factor in determining the resettlement State.
- Records should be kept carefully to facilitate family tracing and potential reunification in cases of unaccompanied and separated children.

6.7.2 Best Interests Determination

All unaccompanied and separated children being considered for resettlement require a Best Interests Determination (BID) according to the standards and procedures outlined in the *UNHCR Guidelines on Determining the Best Interests of the Child*.[29] The BID will assess whether resettlement is in the child's best interests.

As outlined in the BID Guidelines and reviewed in Chapter 5.2.2, a best interests assessment of the situation of unaccompanied and separated, as well as other children at risk, should begin immediately after the identification of the child at risk. As part of this assessment, the process of family tracing is initiated, and the short-term care and protection needs are addressed.

2002, http://www.unhcr.org/refworld/docid/405189284.html For specific details on resettlement State programs see the Country Chapters linked to this Handbook at http://www.unhcr.org/resettlementhandbook

[29] UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, http://www.unhcr.org/refworld/docid/48480c342.html

Experience globally shows that the vast majority of unaccompanied or separated children and adolescents do in fact have parents or other relatives alive who can be located through tracing activities and who are able and willing to care for the child. Recognition of this fact is fundamental to the approach to helping unaccompanied and separated children and to the basic principles of child protection.

A formal Best Interests Determination (BID) process should begin within two years of the identification of the unaccompanied or separated child, or earlier if there are concerns regarding the temporary care arrangements, or if durable solutions or family reunification are being considered.

6.7.3 The child's refugee claim

In the context of resettlement, it should be borne in mind that some countries require that every individual, including children, meet the refugee definition, whether or not the child is the principal applicant. UNHCR encourages countries to consider the best interests of the child principle when conducting RSD, and to determine refugee status using the broadest possible interpretation when reviewing a resettlement submission of a child at risk.

It may be difficult for an unaccompanied child to establish refugee status using the same refugee criteria and procedures applied to adults. Children may not be able to articulate their claims to refugee status in the same way as adults and, therefore, may require special assistance to do so.

Furthermore, children and adolescents' unique experiences of persecution may not always be taken into account, due to factors such as their age, their level of maturity and development and their dependency on adults.

In its *Conclusion on Children at Risk* (2007), UNHCR's Executive Committee underlines the need for children to be recognized as "active subjects of rights" consistent with international law. The Executive Committee also recognized that children may experience child-specific forms and manifestations of persecution.[30]

UNHCR's *Guidelines on Child Asylum Claims* offer substantive and procedural guidance on carrying out refugee status determination in a child-sensitive manner. The specific rights and protection needs of children in asylum procedures highlighted are also relevant in the review and articulation of the refugee claim required in the resettlement process.[31]

[30] UNHCR, *Conclusion on Children at Risk*, 5 October 2007, No. 107 (LVIII) - 2007, para. (b)(x)(viii), http://www.unhcr.org/refworld/docid/471897232.html

[31] UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, http://www.unhcr.org/refworld/docid/4b2f4f6d2.html

Essential reading

- UNHCR, *Conclusion on Children at Risk*, 5 October 2007, No. 107 (LVIII) - 2007, http://www.unhcr.org/refworld/docid/471897232.html
- UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, http://www.unhcr.org/refworld/docid/48480c342.html
- UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, http://www.unhcr.org/refworld/docid/4b2f4f6d2.html
- UNHCR, *Best Interests Determination Children - Protection and Care Information Sheet*, June 2007, http://www.unhcr.org/refworld/docid/46a076922.html
- UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, January 2008, http://www.unhcr.org/refworld/docid/47cfc2962.html
- UNHCR, *International protection of children of concern*, 31 May 2010, EC/61/SC/CRP.13, http://www.unhcr.org/refworld/docid/4cbd4c042.html
- *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, Inter-Agency Standing Committee, 20 June 2007, http://www.unhcr.org/refworld/docid/46c0312d2.html
- UNHCR, *UNHCR Policy on Refugee Children*, 6 August 1993, EC/SCP/82, http://www.unhcr.org/refworld/docid/3f9e6a534.html
- Inter-Agency, *Inter-Agency Guiding Principles on Unaccompanied and Separated Children*, January 2004, http://www.unhcr.org/refworld/docid/4113abc14.html

6.8 LACK OF FORESEEABLE ALTERNATIVE DURABLE SOLUTIONS

This submission category focuses on refugees who do not require resettlement for immediate protection needs, but who require an end to their refugee situation – a durable solution. These refugees are unable to return home in the foreseeable future, and have no opportunity to establish themselves in their country of refuge. In many cases, these refugees are in protracted refugee situations.

Most resettlement submissions under the Lack of Foreseeable Alternative Durable Solutions category (previously titled "refugees without local integration prospects") are in coordination with national or regional strategies to address the needs of specific refugee groups, as described in Chapter 5.7.1. However, individual cases may also be submitted under this category.

Identifying resettlement as the most appropriate durable solution for entire groups, or individuals within certain populations is part of the development of a protection and durable solutions strategy. Resettlement under this category is particularly promoted by UNHCR when resettlement can be used strategically, implemented within comprehensive solution strategies, and/or can help unlock protracted refugee situations.

A **protracted refugee situation** is any situation "in which refugees find themselves in a long-lasting and intractable state of limbo. Their lives may not be at risk, but their basic rights and essential economic, social and psychological needs remain unfulfilled after years in exile. A refugee in this situation is often unable to break free from enforced reliance on external assistance."[32]

Proactive planning for resettlement is an integral part of the annual planning process, during which the protection needs of populations of concern are assessed, and the most appropriate strategies to bring about changes in the condition and situations of population groups, including durable solutions strategies, are identified. The potential for voluntary repatriation, the quality of asylum and the level of social prospects inherent in the country of asylum are key considerations in the assessment of appropriate durable solutions. Incorporating resettlement into the planning process and the overall protection strategy of the office helps to ensure that all three durable solutions are assessed comprehensively, and that any negative impacts either of resettlement on other activities, or vice-versa, are mitigated.

Local integration as a durable solution is defined in Chapter 1.3.4 of this Handbook, as is the relationship between local integration and self-reliance. As a concept, local integration sets explicit legal, economic, social and cultural standards for its attainment. The Lack of Foreseeable Alternative Durable Solutions Resettlement category is future-oriented. It balances the quality of asylum in a given country at a given moment against the prospects of enhancing asylum and prospects of local integration or voluntary repatriation within a foreseeable time frame.

The major challenge for UNHCR in this respect is to continue upholding its protection principles by resettling refugees who objectively are without local integration prospects in the host country, while at the same time working towards expanding and strengthening the quality of asylum and the refugees' local integration prospects in that same country. Likewise, where voluntary repatriation is beginning or ongoing, resettlement activities should continue, but be delivered carefully, so as not to undermine the voluntary repatriation. All resettlement efforts, in particular resettlement as a durable solution, should be incorporated into a broader and comprehensive protection framework that provides for a clear strategy in this regard.

It should be recalled that *self-reliance* is promoted by UNHCR at all times, and provides the basis for any of the three durable solutions. As such, it does not in itself constitute local integration nor does it preclude resettlement. Field offices should reflect this in communicating with refugees, governments and other partners, in order to address any misperceptions and to ensure a correct understanding of the applicability of the Lack of Foreseeable Alternative Durable Solutions category for resettlement submissions.

[32] Definition used in UNHCR, *Protracted Refugee Situations*, Standing Committee to the Executive Committee of the High Commissioner's Programme, 30th meeting, EC/54/SC/CRP.14, 10 June 2004, http://www.unhcr.org/refworld/docid/4a54bcood.html

Submission under the Lack of Foreseeable Alternative Durable Solutions category

The submission of groups of refugees under this category requires prior consultation with the Resettlement Service at UNHCR Headquarters, as well as resettlement States. An abridged Resettlement Registration Form (RRF) may be developed under the group methodology. *See Chapter 5.7*.

When assessing a group or an individual case for resettlement under the Lack of Foreseeable Alternative Durable Solutions category the preconditions and the indicators relating to legal protection and durable solutions, conditions of asylum, the socio-economic situation, and the individual's psychosocial situation must be carefully considered.

When submitting an individual case under Lack of Foreseeable Alternative Durable Solutions as the primary resettlement submission category, it is paramount to include adequate justification in the RRF.

6.8.1 Basic considerations and methodology

As with all cases to be submitted for resettlement, the preconditions for resettlement consideration as outlined in Chapter 5 must be met. The use of standard identification tools and methodologies to identify needs as outlined in Chapter 5.4 and Chapter 5.5 facilitates the implementation of this category, and helps ensures consistency. Chapter 5.7.1 addresses the identification of groups in need of resettlement. Please review these sections of this Handbook.

The first step in considering the application of this category is *the profiling or mapping of a refugee population*. Mapping the socio-demographic characteristics and protection needs and challenges of the refugee populations identifies groups or categories of refugees with common needs and characteristics. Mapping and protection profiling also provides the oversight to ensure consistency across national assessments of resettlement needs and to facilitate regional operational planning. Understanding the needs of the refugee population, and providing appropriate solutions to their specific problems, is the primary means of realizing the complementarity of the three durable solutions, an element that is of particular importance in assessing the potential applicability of the Lack of Foreseeable Alternative Durable Solutions resettlement submission category.

Second, in determining whether a refugee or a group of refugees should be considered for resettlement under this category, the formulation and application of a set of *objective indicators related to different areas of protection* is crucial. These include indicators related to the availability of protection and solutions, conditions of asylum, socio-economic considerations, and psychosocial factors.

Third, it should be noted that an *individual-level analysis* may identify case-specific grounds for utilizing this resettlement submission category.

Fourth, as will be apparent, the objective indicators provided below are of an *interrelated, general and non-exhaustive nature*. Therefore, UNHCR field offices are encouraged to develop additional, country-specific, and in some case, region-specific indicators as needed and appropriate.

6.8.2 Setting objective indicators

In order for a particular refugee or refugee groups to be considered for resettlement under this category, all the indicators below must be met. These indicators confirm that neither voluntary repatriation nor local integration is an option and that refugees are therefore at risk of languishing in a protracted refugee situation.

6.8.2.1 Indicators relating to legal protection and durable solutions

a. Legal, social and economic protection in the country of refuge

The definition of local integration, as included under Chapter 1.3.4 of this Handbook includes as a key element a *legal process*, where refugees are granted a progressively wider range of rights similar to those enjoyed by citizens. Broadly speaking, this can be translated into the question as to whether the country of refuge – at the minimum – provides a protection regime which complies with the principles enshrined in the 1951 Convention with regard to the treatment of refugees as well as with basic international human rights instruments. In the affirmative, the refugees in question would not be a resettlement priority at the moment.

Where, however:

- refugees are at best only tolerated in the country of refuge and/or considered as "illegal immigrants", or
- their stay in the country of refuge is based on a temporary protection regime, which is discretionary in nature,

the Lack of Foreseeable Alternative Durable Solutions submission category would still be an option, and application of the remainder of the indicators would need to be analyzed.

b. Prospects for voluntary repatriation in the foreseeable future

A determination of whether voluntary return to the country of origin is feasible in the foreseeable future is necessary. While this assessment needs to take into account individual socio-economic and psychosocial aspects (see below), an analysis of mere objective factors may lead to the assumption that:

- voluntary repatriation in safety and with dignity is still precluded for the specific refugees under consideration; *and*
- there are no indicators that the situation in the country of origin will improve in the foreseeable future.

Both would be indicators that the Lack of Foreseeable Alternative Durable Solutions submission category might remain an option for the refugee(s) in question.

Voluntary repatriation does not necessarily foreclose the possibility of resettlement for individuals under other resettlement submission categories. In situations where spontaneous voluntary repatriation takes place or when voluntary repatriation is actively promoted, there may be individuals who are unable to repatriate due to a continued fear of persecution in their country of origin. In the absence of the possibility of local integration in the country of asylum, resettlement for these refugees may provide the only durable solution. Such cases should be processed with discretion and in consultation with UNHCR Headquarters to avoid unrealistic resettlement expectations.

c. Do refugees have meaningful prospects of local integration in the country of refuge?

Refugees may not have meaningful prospects in situations where local authorities remain firmly opposed to even limited integration opportunities for the refugee population in general or the group/nationality under consideration, despite efforts on the part of UNHCR, refugees themselves and other actors.

Indications of meaningful integration prospects include (but are not limited to):

- issuance of work permits;
- inclusion of refugees in local apprenticeship schemes;
- significant number of marriages between refugees and the members of the local population; and
- an inclination on the part of the authorities to grant citizenship to refugees of a specific nationality/category.

An individual refugee's case for resettlement should, furthermore, be examined in light of conditions faced by other refugees similarly situated. This includes a realistic evaluation of how best to address the needs of other refugees in a similar category or those in identical circumstances in the country of refuge or neighbouring countries. For these purposes and to ensure regional consistency of durable solutions strategies, UNHCR offices with a refugee population of a similar profile should consult closely.

Resettlement under this category can also serve to open possibilities for comprehensive solutions strategies. Providing a durable solution for those refugees within a certain population who are not able to repatriate or integrate, can facilitate the return or integration of the remainder.

6.8.2.2 Indicators relating to conditions of asylum

a. Length of stay in the country of refuge

There is no definite length of stay in a country of refuge after which it can be said that a refugee lacks a durable solution. The emphasis in this regard is on the careful assessment of the foreseeable local integration prospects of the individual or group rather than on hard and fast rules relating to time frames.

Individual refugees may sometimes be quickly identified as having no prospect of either ever returning to their country of origin, or ever integrating in their country of refuge due to their cultural, social, religious or educational backgrounds. Resettlement under this category may be the most appropriate solution for such refugees.

However the length of stay is a factor in determining local integration prospects, under the basic assumption that the longer the stay without having been provided with a durable solution, the lower the potential for eventually being allowed to locally integrate.

Protracted stays in refugee camps (formally defined as five years or more) can increase the risks to which refugees may be exposed, and have negative consequences. Refugee children and adolescents born in the country of refuge that have never known any other environment (refugee camp, urban area) nor seen their homeland are particularly affected. Given their overall situation, these children/adolescents are at risk of becoming a "lost generation".

b. Refugees' living conditions in the country of refuge

Where refugees are located in closed camps, or in an urban setting in below standards living conditions (i.e. with an income below the minimum wage of local daily labourers in the host country), this would indicate that local integration prospects are limited.

If refugees, on the contrary, are based in open camps with freedom of movement from/to the camp and opportunities for interaction with the local population this would represent the opposite assumption. This also applies for refugees living under reasonable living conditions in an urban setting (meaning that they reach the minimum wage of local daily labourers in the host country).

c. Refugees' living conditions within the region compared to refugees of the same group/category

In the event that living conditions in the country of refuge are worse or similar to those of refugees in other countries within the region, resettlement should be maintained as an option.

For example, if refugees of a particular profile (ethnicity, nationality etc.) are hosted in closed camps in the asylum country under consideration, but enjoy freedom of movement in a neighbouring country, use of the Lack of Foreseeable Alternative Durable Solutions submission category would warrant further analysis.

6.8.2.3 Socio-Economic Indicators

a. Access to fundamental services

In the instance that refugees do not have access to basic services (essentially constituting certain human rights), indications are that resettlement may be relevant. The pointers listed below are indicative of the lack of local integration prospects:

Education

- Refugee children do not have access to primary public education facilities.
- Refugee children and/or adults do not have access to the secondary public education or vocational training schemes.

Medical services

- Refugees have no access/limited access to public medical facilities:
  - because they are refugees, or
  - because as refugees belonging to a minority they have poorer facilities or limited access to general facilities.

Access to work

- Refugees do not enjoy the right to employment or access to other economic activity because, for example, they are prevented from trading in local markets or vulnerable to harassment or detention when pursuing economic opportunities in urban areas.

Access to property

- Refugees are *de jure* or *de facto* prevented from renting or buying property. A *de facto* obstacle may derive from discrimination against the refugee category or population generally and take the form and shape of, for example, an obligation to pay higher prices than the local population.

b. Overall living standards for local population in a similar situation

Where refugees, compared to the local population in a similar situation, are discriminated against with regard to access to services and/or accommodation, as a matter of government policy, and such treatment cannot be justified under the 1951 Convention or international human rights instruments, this may indicate that resettlement should be pursued if other indicators equally point to this solution.

c. Resettlement opportunities for the particular refugee category within the region

The below listed assumptions indicate that resettlement might be appropriate:

- Resettlement under this category is carried out consistently for the same profile of refugees within the country of refuge, whether in camps or in urban areas.
- Refugees belonging to the profile under consideration have equal resettlement opportunities within the region.
- Resettlement for the refugee profile under consideration is carried out as part of a comprehensive durable solutions strategy that aims at attaining local integration for other profiles among the same refugee constituency (e.g. refugees married to local citizens; refugees with the same cultural and linguistic background).

d. Family support and integration into the refugee community

This indicator goes more to the subjective level of the individual refugee. It should be established whether the refugee individual/group is: separated from close family members; or has lost close family members; or s/he is single. In addition, s/he has no sustained support from the refuge community. If it is concluded that family or community support is absent, resettlement should be considered.

e. The refugee's individual socio-economic profile

- The individual/group is excluded from refugees' predominant social, economic and community networks. (This is particularly relevant in urban contexts, where refugees are known to survive thanks to the support of community-based networks and the sharing of resources among members of the same clan or community.)
- The individual/group is entirely dependent upon UNHCR's assistance and is inactive for external reasons (e.g. a Government's restrictive approach to refugees).

In these cases, resettlement should be considered.

6.8.2.4 Psychosocial Indicators

a. The refugee's past history of persecution and circumstances of flight

As with other indicators listed in this section, if the subjective indicators outlined below are met, resettlement should be considered insofar as all the other indicators also apply.

- The persecution history of the individual/group is **relatively more severe** than that of other refugees/groups in a similar situation. While the circumstances of the refugee's/the group's flight did not create specific needs which warrant resettlement under one of the other submission categories, the circumstances of asylum have resulted in a negative impact on his/her/its motivation, emotional capacity and strength to cope with the challenge of integrating in his/her/its present country of refuge.
- The individual/group has a **several-year multiple flight history** behind him/her/them (e.g. Refugees who were uprooted from their home country at a very young age and have not stopped fleeing ever since then).
- Their history has strongly affected the refugees' emotional stability and their opportunities for self-development (education and training). Refugees under this category are considered **socially and economically disadvantaged**.

b. Efforts made on the part of the refugees to improve their personal situation

The individual/group has demonstrated **self-initiative** and **resourcefulness** in trying to improve his/her/its own situation in the country of refuge by taking advantage of all existing opportunities (e.g. community work, self-education, language-training).

6.8.3 Adverse effects

When it is determined that there is a need for resettlement due to a lack of other durable solutions, it is important to ensure that there will be no negative effects on other areas such as the prevailing asylum conditions and the standards of protection in the region for other individuals or groups of refugees.

As durable solutions strategies are often most effective when planned within a regional context, dialogue at the assessment stage with UNHCR offices in neighbouring countries of origin and asylum helps to ensure consistency and prevent having "pull factors" compromise or overwhelm a specific initiative.

6.8.4 Consultation process

Proactive planning for resettlement is an integral part of the annual planning process, and produces an overview on the resettlement needs for each country operation for the following calendar year, as well as a resource assessment of their processing capacity. The *UNHCR Projected Global Resettlement Needs* document which is compiled annually and shared with resettlement partners serves to raise awareness of populations identified as in need of resettlement to provide them with a durable solution. This is critical as resettlement consideration for those lacking foreseeable alternative durable solutions must take into account State receptiveness to cases submitted under this category.

The document provides the rationale and scope of UNHCR's resettlement operations worldwide, and serves as the primary reference document for dialogue on resettlement needs, priorities, likely gaps and challenges in programme delivery, allowing informed decisions on quota and resource allocations for the following year.

Consultations on solutions for specific refugee populations can also promote the formation of broad-based multilateral approaches, involving several resettlement countries as outlined in the *Multilateral Framework of Understandings on Resettlement*,[33] and can support the strategic use of resettlement within comprehensive solution strategies. Various multilateral core groups and contact groups have formed over the years to collaborate on the resettlement of groups of refugees submitted primarily under this category, previously titled Refugees without Local Integration Prospects.

[33] UNHCR, *Multilateral Framework of Understandings on Resettlement*, 16 September 2004, FORUM/2004/6, http://www.unhcr.org/refworld/docid/41597d0a4.html

Overall, UNHCR field offices should consult with UNHCR Headquarters early on in the resettlement consideration of such population groups in order to help inform their decision making and ensure that a realistic assessment of resettlement possibilities can be made. *Prior* to initiating resettlement interviews or indicating to refugees that resettlement is a possibility, a resource assessment of the availability of resettlement places, financial requirements and the processing capacity of all parties involved has to be undertaken. This includes detailed planning and negotiations with countries of resettlement, UNHCR Headquarters, and interested and experienced NGOs.

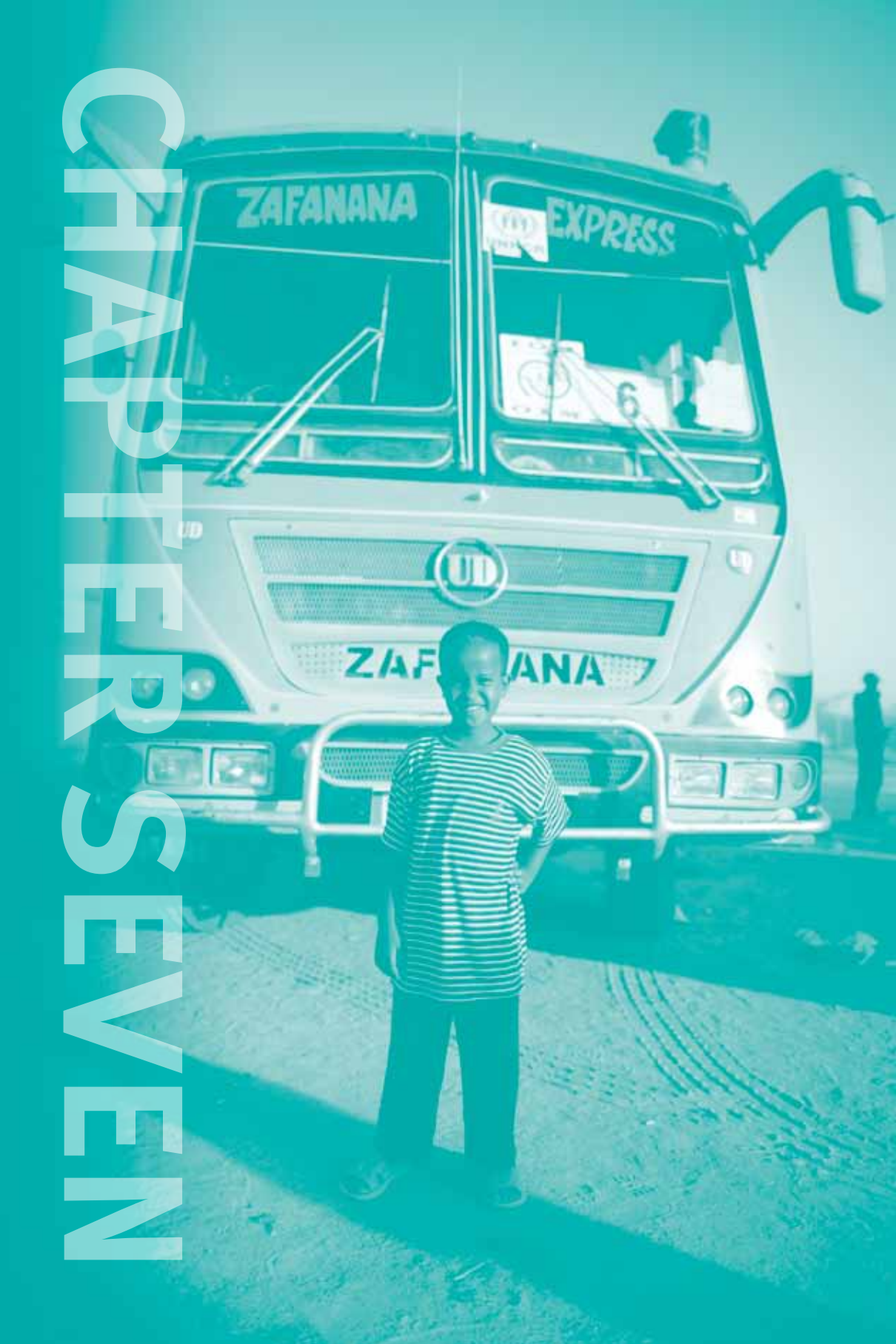
6.8.5 Setting priorities

Individuals or groups should be submitted for resettlement under this category only where the resettlement places and required resources are available, or are made available. It is recognized that cases submitted under the category Lack of Foreseeable Alternative Durable Solutions have an ongoing, not an urgent, need for resettlement. When resettlement places are limited, or adequate resources for conducting resettlement activities are not available, cases related to more urgent protection concerns will *always* take precedence.

Further reference

- UNHCR, *Protracted Refugee Situations*, Standing Committee to the Executive Committee of the High Commissioner's Programme, 30th meeting, EC/54/SC/CRP.14, 10 June 2004, http://www.unhcr.org/refworld/docid/4a54bcood.html
- UNHCR, *Framework for Durable Solutions for Refugees and Persons of Concern*, 16 September 2003, EC/53/SC/INF.3, http://www.unhcr.org/refworld/docid/4ae9ac93d.html
- UNHCR, *Multilateral Framework of Understandings on Resettlement*, 16 September 2004, FORUM/2004/6, http://www.unhcr.org/refworld/docid/41597d0a4.html
- UNHCR, *Refugee Resettlement. An International Handbook to Guide Reception and Integration*, September 2002, http://www.unhcr.org/refworld/docid/405189284.html
- UNHCR, *Position Paper on the Strategic Use of Resettlement*, 4 June 2010, http://www.unhcr.org/refworld/docid/4cod10ac2.html
- UNHCR, *The Strategic Use of Resettlement*, 3 June 2003, http://www.unhcr.org/refworld/docid/41597a824.html

CHAPTER SEVEN



CHAPTER SEVEN
BASIC PROCEDURES TO FOLLOW IN PROCESSING RESETTLEMENT SUBMISSIONS

Introduction

The preparation of resettlement submissions must pass through the following common stages of the resettlement process: **identification** of refugees in need of resettlement consideration; **assessment** of individual resettlement need; **preparation** of a resettlement submission; UNHCR **submission** decision; resettlement country **decision**; and **pre-departure** arrangements and monitoring.

Purpose

Chapter 5 reviewed the first stage in the resettlement process: identification of refugees in need of resettlement consideration.

The purpose of this chapter is to:

- examine the roles that UNHCR field offices have to play in each of the resettlement process stages after the initial identification:
  - case assessment and verification;
  - conducting interviews;
  - preparation of documentation (including BID, MAF) and a Resettlement Registration Form (RRF);
  - UNHCR submission decision; routing of submissions;
  - preparing for state selection missions; decisions and practices;
  - post-decision: resubmissions, family unity;
  - departure arrangements and monitoring;
- provide guidance on the established standards in meeting these roles most effectively; and
- introduce practical tools designed to facilitate the implementation of the baseline standards.

Both individual case submissions and submissions under the group methodology are addressed.

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7.1 SAFEGUARDS IN THE PROCESSING OF RESETTLEMENT SUBMISSIONS

Regardless of the field context, the resettlement management safeguards and standards as detailed in Chapter 4 are critical to the integrity of resettlement processing. Resettlement submissions should be processed in line with a number of key principles. In particular, they should:

- follow Standard Operating Procedures (SOPs);[1]
- consistently apply the resettlement policies;
- ensure transparency, oversight and accountability.

Each field office's Resettlement Standard Operating Procedures (SOPs) must incorporate the baseline standard for all UNHCR operations in assessing and submitting individuals for resettlement, and detail the procedures specific to the office for each of the stages of the resettlement process:

1. **Identification** of refugees in need of resettlement consideration;
2. **Assessment** of individual resettlement need;
3. **Preparation** of a resettlement submission;
4. UNHCR **submission** decision;
5. Resettlement country **decision**;
6. **Pre-departure** arrangements and monitoring.

Transparency of the process

Documenting each step in the resettlement process is vital. A refugee's case file should clearly indicate why and by whom each decision was taken. Staff should also utilize and record resettlement process on *proGres*, where it is in place. All documentation should be signed, dated and kept in the refugee's physical case file.

Transparency is also important vis-à-vis resettlement partners. UNHCR should hold regular meetings with resettlement partners to discuss protection needs and interventions as appropriate, and to keep them informed of the resettlement process, albeit while fully respecting principles of confidentiality.

Oversight and accountability

The Accountable Officer for resettlement activities oversees and coordinates all resettlement activities, and ensures effective management and compliance with SOPs. This oversight function may include random checks of individual cases at different stages in the process.

Remember: Update *proGres* to reflect every action taken on the case.

[1] UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html

7.1.1 Case identification

As discussed in detail in Chapter 5.4, identification of refugees in need of resettlement is arguably the most crucial and challenging aspect of the resettlement process. Resettlement needs must be identified proactively, as part of UNHCR's standard assessment of protection and durable solutions needs, rather than reactively through the demand of an individual. For this reason, resettlement is employed as part of a comprehensive protection strategy to address the needs of refugees in a country of asylum and includes an identification and referral system to facilitate the active identification of cases.

For the annual regional/country operation planning process in *Focus* each resettlement operation analyzes the total multi-year and immediate resettlement needs of their population(s) of concern. Offices follow standard methodologies to reach an estimate of the overall number of refugees in need of resettlement, and the number needing resettlement in the following calendar year, drawing on available data sources including specific needs identified within *proGres,* participatory assessments, and the application of the *Heightened Risk Identification Tool*.

However, those refugees identified as in need of resettlement now far outnumber the current number of available places. This introduces new challenges related to advocating for the allocation of quotas and resources, prioritizing among those identified as in need of resettlement, establishing an order for resettlement submission, and managing refugee expectations.

Furthermore, the identification of refugees potentially in need of resettlement and the assessment of cases are not tied only to the planning process, but constitute an active and systematic process of cooperation between operational partners in the field and the relevant units within a given office.[2]

The cases of those refugees who are identified as in need of **emergency or urgent** resettlement through any of the identification methodologies will be processed and submitted immediately.[3] Those whose individual resettlement needs are assessed to be of **normal** priority will have their cases submitted on an ongoing basis, as per the office's annual resettlement plan. **Groups** identified as in need of resettlement will have their cases processed only when the resettlement of their population has been prioritized, and resettlement States have allocated places.

Emergency and urgent resettlement must be used selectively and based on a thorough and objective assessment of both refugee status and urgency of removal. UNHCR and resettlement countries must take rapid action, and provide extra resources to process emergency and urgent cases.

[2] Please review Chapter 4 for more details on identification methodologies and safeguards.

[3] The immediacy of security and/or medical condition of emergency cases necessitates removal from the threatening conditions within a few days, if not within hours. Urgent cases have serious medical risks or other vulnerability requiring expedited resettlement within six weeks of submission.

7.2 CASE VERIFICATION AND ASSESSMENT

Organizational structures and the availability of human resources vary among field offices. Each field office will have to adapt the guidance provided in this chapter to their specific circumstances, and detail their local procedures in their Resettlement SOPs.

Preconditions for resettlement consideration

- the applicant is determined to be a refugee by **UNHCR;*** and
- the prospects for all durable solutions were assessed, and resettlement is identified as the most appropriate solution.

* Exceptions can be made for non-refugee stateless persons for whom resettlement is considered the most appropriate durable solution, and also for the resettlement of certain non-refugee dependent family members to retain family unity.

All refugees identified as being in need of resettlement consideration must pass through **verification and assessment stages** before a resettlement submission may be prepared:

1. verification of **registration details**;
2. verification of **refugee status**, or qualification for resettlement on exceptional grounds;
3. **resettlement needs assessment** in line with priorities, policy considerations and submission categories.

The officer accountable for resettlement nominates a staff member with designated resettlement responsibilities to undertake these verifications, according to the urgency of resettlement need. If the case was referred internally, the staff member who conducts this verification and assessment should be different from the person who referred the case. This serves to strengthen objectivity, bridge gaps in quality assurance, reduce perceptions of individual bias and safeguard against fraud.

These verifications are designed to ensure the credibility and resettlement needs of the individual case, and to ensure consistency in the field office's resettlement activities. The Annex of the Baseline SOPs includes sample forms that will assist field offices to develop appropriate, efficient and effective mechanisms and procedures for these stages.

For submissions under the group methodology

- As described in Chapter 5.7.4, a verification exercise must be conducted to determine inclusion in the group, and to obtain refugees' consent for UNHCR to share information with resettlement countries.
- This verification exercise also provides an opportunity to seek any additional information required for resettlement processing.
- The SOPs developed for the processing of the group will outline the procedures for the verification exercise, and the steps required before submission of the cases.

7.2.1 Verification of registration details

The following registration details need to be verified for each refugee who is identified for resettlement consideration:

- bio-data in *proGres* (or other database) is current; and photographs of the Principal Applicant and all dependants are included;
- family composition is accurate and complete.

Preferably, these details can be confirmed in a *non-resettlement context* (i.e. through a home visit, or an interview with protection staff where resettlement is not mentioned directly with the refugee). This precaution is important for two reasons. First, it ensures that the details contained in the file, especially family composition, are accurate and not biased by resettlement considerations. Second, it does not raise premature resettlement expectations on the part of the refugee.

If there is reason to doubt the relationship claimed by the head of the family, dependants should be interviewed independently. If doubts persist about the credibility of the family composition, the resettlement consideration may be kept on hold by the Field Office until these doubts can be effectively addressed and resolved. Discrepancies may indicate fraudulent misrepresentation of family composition, but may also indicate misguided fears about the possible separation from dependants who are not nuclear family members.

BIDs, Counselling, MAFs, and Investigations

This verification process may reveal family composition details or protection needs that require protection assessments including BIDs or counselling before proceeding with resettlement consideration. These could include separated or unaccompanied children, polygamous families, or married children. Cases with medical needs may require medical or psychosocial assessments.

A *proGres* check could also reveal specific needs codes regarding alleged violence that may require further investigation.

If these assessments have not been completed, the case should be referred to the appropriate protection staff as required.

7.2.2 Verification of refugee status, *or* qualification for resettlement on exceptional grounds

It must also be verified that the refugee has been recognized as a refugee under UNHCR's mandate. Refugee status should be cross-checked with *proGres* and the physical file. However, additional checks with protection staff responsible for refugee status determination (RSD) may be required.

If status determination was undertaken by UNHCR under its mandate, all steps should have been fully documented, including the decision, the grounds on which the individual has been recognized, a credibility assessment and any exclusion considerations as applicable. Any such determination must be

undertaken by trained RSD staff, but it is important that resettlement staff have a good understanding of the requirements for refugee status determination, which were examined in Chapter 3.

Individual RSD is normally required for purposes of resettlement. However, in some instances, resettlement countries have accepted resettlement submissions from UNHCR on behalf of refugees recognized on a *prima facie* basis. Therefore, it may be sufficient for UNHCR resettlement staff to substantiate the *prima facie* recognition as part of the resettlement submission, provided the refugee cases do not show evident exclusion elements. *Please refer back to Chapter 3.1.3 for more information.*

If any **exclusion triggers** arise during the review, the case **must** be sent back to the Protection Unit for a full-fledged exclusion analysis, the outcome of which will determine whether to proceed with the resettlement submission or not.

If RSD has been undertaken by the government of the country of asylum, this fact needs to be entered in *proGres* and in the physical case file.

There are certain exceptions to the requirement to be recognized as a refugee in order to be submitted for resettlement by UNHCR. Exceptions can be made for non-refugee stateless persons for whom resettlement is considered the most appropriate durable solution, and also for the resettlement of non-refugee dependent family members to retain family unity.

Resettlement of non-refugee stateless persons

Persons of concern to UNHCR include stateless persons who are not refugees. In line with the *General Conclusion on International Protection* No. 95 (LIV), UNHCR can consider resettlement for non-refugee stateless persons on an exceptional basis. *See Chapter 1.2.3 and Chapter 5.3.1 for more detail.*

Resettlement may be considered for non-refugee stateless persons where the individual:

- **does not have** in the current or a former state of habitual residence a **secure, lawful residence status** which brings with it a minimum standard of treatment equivalent to that set out in the 1954 *Convention relating to the Status of Stateless Persons*; and
- has **no reasonable prospect of acquiring** such a **residence status** or nationality; and
- **has acute protection needs** which cannot be addressed inside the country of current or former habitual residence.

Field offices considering resettlement of non-refugee stateless persons in these circumstances should consult the Resettlement Service. Prospective resettlement countries also need to be consulted prior to submission to confirm their willingness to consider the case, and the possibility of processing stateless persons under their national legislation.

Ideally, States should give similar status to resettled non-refugee stateless persons as that given to resettled refugees. Namely, a status that provides the person in question and their accompanying dependants the enjoyment of civil, economic, social and cultural rights similar to those enjoyed by nationals and the opportunity to eventually become a naturalized citizen of the resettlement country. At the very minimum, the resettled individuals should be granted status as stateless persons under the 1954 *Convention relating to the Status of Stateless Persons*, encompassing rights and obligations enshrined in this instrument.[4]

Resettlement of non-refugee family members

In exceptional circumstances, UNHCR may also include a dependent non-refugee family member in a resettlement submission in order to retain family unity. This is primarily relevant when a dependent spouse or other relative is a national of the country of asylum, as most other dependants are eligible for derivative refugee status.

During RSD, dependants who are determined to fall within the criteria for refugee status in their own right are granted refugee status rather than derivative refugee status. The family link to the resettled refugee may itself lead to persecution, and "membership in a particular social group" may apply.

Dependants of a recognized refugee, who do not have grounds to make an independent claim, may be granted derivative refugee status in most circumstances. These include dependants who arrive in the country of asylum subsequent to the recognition of the principal applicant, or who are in another country of asylum. Individuals who obtain derivative refugee status enjoy the same rights and entitlements as other recognized refugees, and should retain this status notwithstanding the subsequent dissolution of the family through separation, divorces, death or the fact that a child reaches the age of majority. Therefore, in most circumstances, the dependants of refugees have refugee status or derivative refugee status.

However, nationals of the country of asylum are not eligible for refugee status. Therefore, the inclusion of a non-refugee family member in a resettlement submission is appropriate to retain family unity when the non-refugee is emotionally, socially, and economically dependent on the refugee family and their citizenship does not accord any protection or rights to the family unit.

A detailed assessment of all available documents and the personal circumstances of the family member must be conducted to document the dependency. The agreement of the resettlement country to consider a family including non-

[4] The 1954 Convention contains provisions regarding stateless persons' rights and obligations pertaining to their legal status in the country of residence which are similar to the legal regime provided by the 1951 *Convention Relating to Refugee Status*. These rights include access to courts, property rights, which are, at a minimum, equal to those granted to aliens generally, and freedom to practice their religion. Obligations include conformity to the laws and regulations of the country. The Convention further addresses a variety of matters that have an important effect on day-to-day life, such as gainful employment, public education, public relief, labour legislation and social security. UN General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, http://www.unhcr.org/refworld/docid/3ae6b3840.html

refugees is also required. The possibility of processing other immigration channels should be explored with the resettlement State if the State does not agree to the inclusion of the non-refugee family member on the resettlement submission. However, the risk of short-term or prolonged separation must be weighed carefully, and the family must be counselled before a decision is taken to remove a fully dependent non-refugee from a resettlement case. *Review Chapter 4.1.2 for more guidance.*

UNHCR also facilitates **family reunification** processed through the immigration programme of a resettlement country – outside of the context of a UNHCR resettlement submission. At least one of the parties seeking the assistance of the Office – either the individual requesting the reunification or the family member with whom he or she is seeking to be reunited – should be a refugee, although it is not necessary that all parties are refugees. *See Chapter 6.6.5 for more details on the type of assistance the Office can offer.*

7.2.3 Resettlement needs assessment

A preliminary assessment of an individual's need for resettlement should be conducted based on the information contained in the referral (internal, external or unsolicited) and any relevant information contained in the refugee's file.

The preliminary resettlement needs assessment should preferably be completed within two weeks of the receipt of the referral. The Annex of the Baseline SOPs includes a sample Resettlement Needs Assessment Form that can be adapted for use, as well as a sample refusal letter for unsolicited requests. Information gathered at this stage may later be transferred directly to the Resettlement Registration Form (RRF).

As part of the preliminary resettlement needs assessment the reviewing staff member should:

- **determine if sufficient information is available** to make a proper assessment of the need for resettlement – such as reports by specialist staff or external experts (e.g. medical assessments, and Best Interests Determination in specific cases involving children);
- **identify any problems with the file** that would prevent the applicant from being interviewed for resettlement (e.g. including fraud indicators such as evidence of tampering);
- **review the protection environment**, and appropriateness of resettlement:
  - prospects for voluntary repatriation;
  - quality of asylum, including respect for basic human rights in the host country and the possibility of local integration;
  - whether resettlement is appropriate, considering the universal imperative and/or possible strategic dividends;
- assess resettlement need and **identify primary, and** if applicable, **secondary resettlement submission categories;**

- verify that **all relevant information** and documentation in the file is **translated**;
- **review** the case for **family links** in other countries;
- **assess priority of the case**, i.e. whether the individual requires urgent or emergency resettlement intervention (*see Chapter 6.1.1*);
- **produce a written summary**, including a recommendation for follow-up action.

Based on the analysis of the assessment, one of three possible follow-up actions may be recommended:

- **additional information** is required, perhaps from the referral source prior to finalizing the resettlement assessment; or
- the resettlement need appears to be **founded**, and should proceed to a resettlement interview; or
- resettlement intervention appears **unfounded** or lacks merit according to UNHCR guidelines and priorities, and the referral source should be notified that the refugee will not be considered for resettlement referral at that time.

Emergency and urgent resettlement priority

When faced with an emergency resettlement requirement, time available for investigation of a refugee's statement may be severely limited. Nevertheless, such time as may be available must be used to the maximum with a view to checking the veracity of the story and its consistency. It is important that these priorities only be used when this is clearly appropriate, to avoid undermining the credibility of UNHCR and the responsiveness of resettlement States.

Staff must bring cases identified as requiring emergency or urgent resettlement submission to the immediate attention of the Accountable Officer and the responsible Protection Officer. Ideally, **emergency** priority cases should be prepared and submitted **within 24 hours** of identification and **urgent** cases **within two weeks**. Each office is responsible for taking temporary measures to address immediate protection needs.

Secondary review and follow-up

The refugee file including the written assessment and the recommendation should be passed to a supervising officer for review. For normal priority cases, the supervising officer should review the recommendation within two weeks of receipt.

Once the supervising officer has confirmed the appropriate course of action, the relevant follow-up steps below should be taken, taking care also to update the refugee's file and *proGres*.

If additional information is required:

- Send a letter/email requesting additional information to the referral source, and attach a copy of the correspondence to the refugee's file.

- Schedule an interview with the refugee if this is required to gather sufficient information to complete the resettlement needs assessment adequately.

It is important to emphasize that the completion of a resettlement needs assessment does *not* necessarily mean that UNHCR will submit the refugee's case for resettlement. Staff must take special care to avoid raising resettlement expectations at this stage in the process.

If resettlement need is founded:

- Schedule the refugee in question for a resettlement interview with all dependants.

If resettlement intervention appears to be unfounded:

- Notify the referral source that the refugee will not be considered for resettlement at that time. The notification should preferably be in writing, and should outline the basis of this assessment. Attach a copy of this notification to the refugee's file and update *proGres*.

The referral source may request UNHCR to reconsider this assessment if circumstances change or new elements arise. Such requests must be made in writing, and should be considered by the Field Office in light of the priorities of other pending resettlement cases.

7.2.4 Assessments from specialist staff and external experts

Reports from specialist UNHCR staff or external experts are essential to assessing the resettlement needs of refugees with certain specific needs and family situations.

Medical assessments

Cases being assessed for resettlement on medical needs should be accompanied by a medical report. If the case merits consideration, UNHCR staff must refer any individual being considered for resettlement submission under the Medical Needs category to recognized and qualified professionals for the completion of a Medical Assessment Form (MAF).[5] This specialized medical form must be completed in a timely and accurate manner by qualified medical practitioners with the required knowledge and clinical training. Furthermore, in order to respect the objectivity and impartiality of the assessment, it is strongly recommended that an independent clinical practitioner perform the medical assessments of refugees being considered for resettlement submission. Medically qualified UNHCR staff should in principle not be requested to complete the MAF.

The MAF records pertinent information derived from clinical findings and the interpretation of diagnostic tests. It must be completed in a detailed, clear and comprehensible manner while respecting medical ethics. The compilation of

[5] UNHCR, *Revised UNHCR Medical Assessment Form (MAF) and Guidance Note*, IOM/044-FOM/044/2010, (Internal), available on the UNHCR Intranet

pertinent medical information on the MAF helps UNHCR staff determine the individual's eligibility and priority for resettlement on medical grounds. Timely identification of refugees with medical conditions can favourably affect the recovery process, which can in turn directly impact the decision of a resettlement country on the case.

Best Interests Assessments and Determinations

In the same way, the collection and analysis of comprehensive information on the child and his or her environment for a Best Interests Determination should be undertaken by trained child protection, community services, or child welfare staff.

The best interests of the child are an overriding consideration in all decisions and actions concerning unaccompanied or separated children and other children at risk. The office must comply with the *UNHCR Guidelines on Determining the Best Interests of the Child*[6] and the *Convention on the Rights of the Child*.[7] Formal BID reports are required for the resettlement submission of all separated or unaccompanied children, as well as for other children at risk as detailed in the *Field Handbook for the Implementation of the UNHCR BID Guidelines*[8] and reviewed in Chapter 5.2.2.

Consult the Regional Resettlement Hub/Regional Office or the Resettlement Service for advice if there is no access to specialist staff, or if for any reason there are unusual delays in preparing necessary reports.

Field offices must ensure that systems are in place to minimize the time between needs identification and the submission for resettlement, to prevent normal and urgent cases from becoming emergency ones.

7.2.5 Regular resettlement meetings

Field offices may hold regular resettlement or durable solutions meetings, with the participation of relevant staff from the Protection and Community or Social Services Units to discuss the assessment of resettlement needs and the subsequent submission of resettlement cases.

In the experience of many field offices regular meetings provide an effective forum for discussing protection needs and appropriate responses to difficult cases, as well as for reviewing resettlement practices and procedures. Conducted in a systematic and transparent manner, such meetings also serve as an anti-fraud mechanism. While it is desirable to introduce such forums where possible, a balanced approach is required to ensure that this does not result in

[6] UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, http://www.unhcr.org/refworld/docid/48480c342.html

[7] UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, http://www.unhcr.org/refworld/docid/3ae6b38f0.html

[8] UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, 2011, http://www.unhcr.org/refworld/docid/4dda4cb02.html

a bottleneck in the process. The officer accountable for resettlement activities remains responsible for ensuring that resettlement cases are authorized and processed in a timely manner.

Further reference

- UNHCR, *UNHCR Manual on a Community Based Approach in UNHCR Operations*, March 2008, http://www.unhcr.org/refworld/docid/47da54722.html
- UNHCR, *UNHCR Tool for Participatory Assessment in Operations, May 2006*, First edition, http://www.unhcr.org/refworld/docid/462df4232.html
- UNHCR, *Revised UNHCR Medical Assessment Form (MAF) and Guidance Note*, IOM/044-FOM/044/2010, (Internal), available on the UNHCR Intranet

7.3 CONDUCTING INTERVIEWS

The advice of the Field Security Advisor should be sought concerning precautions and practices to be followed in each interview location. *Staff should also review the security precautions outlined in Chapter 4.6.*

Submissions under the group methodology

The SOPs developed for the processing of the group will outline the specific procedures to be followed after the verification exercise, including the circumstances under which additional interviews might be required.

7.3.1 Preparing for an interview

Interviews may play an important role in the preparation of a resettlement needs assessment, and will *always* be necessary during the preparation of a resettlement submission.

The Baseline SOPs provide detailed instructions on how to prepare for, conduct and document the interview. Field Office Resettlement SOPs may include procedures and tools developed specifically for the local context, including resettlement interview checklists designed to ensure both that staff have asked the required information from the refugee(s), and have conveyed required information to the refugee(s).

When scheduling an interview, it is important to inform the refugees of the purpose of the interview, and to stress the importance of bringing all dependants and all relevant documentation to the interview.

A refugee scheduled for a resettlement interview will not necessarily have their case submitted. To help manage expectations the interviewer must inform the refugee that the interview is a thorough assessment as to whether the refugee qualifies for resettlement according to established policies and priorities, regardless of any preliminary assessment that has been done of the case.

Training and Guidelines

Interviewers are encouraged to consult the documents referred to under "Essential Reading" for guidance on interviewing in the refugee context. Of particular relevance is the *Training Module RLD4: Interviewing Applicants for Refugee Status,*[9] which includes general interviewing guidelines, as well as issues pertinent to interviewing women, children and survivors of trauma. The *Field Handbook for the Implementation of the UNHCR BID Guidelines*[10] provides guidance on communicating with children. Basic guidance on how to recognize and interact with survivors of violence or torture can be found in *Mental Health of Refugees.*[11]

Overall, interviewers are encouraged to develop *age-appropriate* and *gender and diversity sensitive* interviewing and communication skills to help ensure that the needs and protection risks of more vulnerable family members are adequately identified, and that their views are taken into account.

Case-specific preparation

It is important to be fully prepared for interviews. The interviewer should have a good understanding of the current conditions in the refugee's country of origin and country of asylum.

Prior to the interview, the interviewer should carefully review the contents of the file and ensure that all relevant information including the RSD report is included. The interviewer should note any inconsistencies with regard to the information, or doubts about the genuineness of any documentation. If not yet completed, translations of required documents can be requested.

In addition, staff should prepare for interviewing particularly vulnerable persons in the family, including survivors of violence (e.g. of sexual or gender-based violence), because sensitive questioning will occur, and it is important to address such issues in a culturally respectful, gender-sensitive and age-appropriate way. When possible, the interviewer and the interpreter should be of the same sex as the refugee being interviewed. Preparations should be made for interviewing family members separately, and with discretion.

[9] UNHCR, *RLD4 – Interviewing Applicants for Refugee Status*, 1995, RLD4, http://www.unhcr.org/refworld/docid/3ccea3304.html

[10] UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, 2011, http://www.unhcr.org/refworld/docid/4dda4cb02.html

[11] UNHCR, *Mental Health of Refugees,* 1996, http://www.unhcr.org/refworld/docid/4a54bc010.html

Pre-interview RRF generation and preparation

In certain contexts, it will be useful for the interviewer to generate a Resettlement Registration Form (RRF) from *proGres* for use during the interview, and complete it as thoroughly as possible in order to ensure the accuracy of the bio-data. *Review the guidance on preparing the RRF in Chapter 7.5.1 before proceeding.*

Preparing a draft summary of the refugee claim based on the RSD assessment may also help to facilitate interviewing the refugee.

The PRA's situation should be summarized from a factual point of view on the refugee claim section of the RRF. For example, do not write "*The PRA claimed/explained that she was raped*." Instead state "*The PRA was raped*."

7.3.2 Working with interpreters

The majority of interviews are held with the assistance of an interpreter. Interpreters do not replace the interviewer, but play a vital role to facilitate communication with the refugee.

Interpreting is a skill, and interpreters must be adequately trained to ensure professionalism, integrity and confidentiality in their tasks. Staff should consult UNHCR's *Guidelines for the Recruitment, Training, Supervision and Conditions of Service for Interpreters in a Refugee Context*.[12] Mandatory induction training includes the *Self-study Module 3: Interpreting in a Refugee Context*.[13]

Interpreters are required to sign the *UNHCR Code of Conduct*[14] and the *UNHCR Interpreter Undertaking of Confidentiality and Impartiality*[15] when they take up their duties. This undertaking sets out the obligations and ethical requirements of interpreters. *Additional anti-fraud considerations related to interpreters are covered in Chapter 4.4.4*.

It is essential that interpreters understand the confidential nature of all protection interviews, and resettlement interviews in particular. Interpreters must agree, in advance, to the following conditions:

- that they will not share the contents or nature of any interview in which they assisted;
- that they will not share the contents or nature of any documents they handle within the UNHCR premises related to their duties as an interpreter;
- that they will not solicit or accept any fee, including services in kind, either directly or indirectly, from refugees;

[12] UNHCR, *Interpreting in a refugee context: Guidelines for the recruitment, training, supervision and conditions of service for interpreters in a refugee context*, IOM - FOM/005/2009, 19 January 2009, (Internal) http://swigea57.hcrnet.ch/refworld/docid/497f147c2.html

[13] UNHCR, *Self-Study Module 3: Interpreting in a Refugee Context*, 1 January 2009, http://www.unhcr.org/refworld/docid/49b6314d2.html

[14] UNHCR, *UNHCR Code of Conduct*, June 2004, http://www.unhcr.org/422dbc89a.html

[15] See Annex 2, *UNHCR, Interpreting in a refugee context: Guidelines for the recruitment, training, supervision and conditions of service for interpreters in a refugee context*, IOM - FOM/005/2009, 19 January 2009, (Internal) http://swigea57.hcrnet.ch/refworld/docid/497f147c2.html

- that they will not provide advice or guidance to any refugee about the resettlement process, either during interviews or outside their official functions;
- that they must indicate if they have a conflict of interest related to the refugee being interviewed before the start of the interview;
- that they will uphold the highest standards of efficiency, competence and integrity in their work;
- that they will be dismissed from their duties as an interpreter if they breach these conditions.

Selecting an interpreter

Interpreters should be both neutral and objective in their role. It is important to be sensitive to a refugee's culture, gender, age and background when selecting an interpreter:

- Female refugees will likely be more comfortable speaking through a female interpreter to a female interviewer. Many refugee women are unwilling to speak to male interpreters and interviewers.
- There may be occasions when a male refugee would be more at ease with a male interpreter and a male interviewer.
- When working with children and adolescents, care should be exercised to select interpreters who have the necessary skills.

Given the importance of an interpreter's neutrality and objectivity, field offices should **avoid using refugee interpreters** when possible. Where refugee interpreters are used, it is important to ensure that they are not in any way related to the refugee being interviewed, either through a family relationship, or through other ties such as political associations. It is also important to ensure that interpreters are not perceived to be associated in any way with the agent of persecution, or any group antagonistic to the refugee community.

To ensure the independence of the interpreter and to safeguard against fraud, where possible, the interpreter for a resettlement interview should not be the same person who interpreted during previous interviews, including in particular refugee status determination interviews. As a further safeguard and quality assurance mechanism, interpreters should rotate between case officers, and should not know in advance which refugee case they will be assigned.

Interpreter's role

Interpreters should always:

- have a clearly defined role, and understand the purpose of the interview;
- have the support of the interviewer;
- remain neutral;
- work with accuracy;
- be treated with respect;
- have arrangements made for their personal safety and security.

An interview should begin by introducing the interpreter to the refugee and explaining his or her role. It is also important to assure the refugees of their right to confidentiality, and that both the interviewer and the interpreter will respect this. The interpreter must also be asked if there is any potential conflict of interest, which would mean that she or he should not interpret during the interview.

Refugees should also be advised that they may stop the interview or refuse the services of a given interpreter if they are not satisfied with the interpretation. If there are reasonable objections to using the interpreter the interview should be postponed until another interpreter is found.

Questions should be directed to the refugee, and not to the interpreter. The interpreter should translate precisely what is said by the interviewer and the refugee, and not summarize, elaborate or attempt to provide an explanation of what is said. The interpreter should also be trained to take notes during the interview. This will assist in recording all the information accurately, especially important facts such as dates, names of persons and places. All notes taken by the interpreter during an interview should be kept in the refugee's file.

Security for the interpreter

Special attention should also be paid to the security of interpreters. Cases have been reported where interpreters have been threatened and even attacked by refugees not submitted for resettlement. Interpreters may be blamed for influencing the outcome of the resettlement interview, and consequently the resettlement process. It is for this reason that special attention must be paid to not only the selection and training of interpreters, but also arrangements to ensure the personal safety and security of interpreters involved with the resettlement process. In this regard, it is suggested that advice be sought from specialized security personnel, especially the Field Security Advisor.

7.3.3 Refugees who fail to appear for a scheduled interview

The methods of communication between UNHCR offices and individual refugees depend on the local context. The reliability of these methods may have an impact on the number of missed appointment interviews, and the ability to follow-up efficiently with the refugee. UNHCR staff should contact a refugee who does not appear for a scheduled resettlement interview by letter or other appropriate confidential means to request that s/he come to the office within two weeks. Offices may vary this timeframe depending on the reliability of the method of communication.

Refugees must explain their failure to appear for the scheduled interview. If their reason for missing the interview is valid, then the refugee should be rescheduled for a resettlement interview upon approval by the supervising officer. Refugees should also be reminded of their obligation to notify UNHCR of any changes in their contact address, telephone number and email. Any reasons provided, as well as subsequent decisions, should be recorded in *proGres*.

If the refugee does not contact the office within the specified timeframe, the case should be brought to the attention of the supervising officer for a decision. In certain cases, it may be appropriate to try other ways to contact the refugee, if this has not already been done. The fact that a refugee has failed to appear should be shared with the Protection Unit since refugees may have been detained. If there is no success after all reasonable efforts are made to contact the refugee, then the resettlement case should be suspended, based on lost contact. The Protection Unit may also consider closing the file according to the file management SOPs. *proGres* must also be updated.

If the refugee contacts the office after the specified timeframe, the Accountable Officer should assess the reasons provided for missing the interview, and determine whether the resettlement processing should recommence. The case may also be referred for alternative action.

7.3.4 Receiving the refugees and opening the interview

Where the file concerns a family, at least the principal applicant, his/her spouse, and all adults should be interviewed. If deemed necessary, any adolescent children may also be interviewed with the consent of their parent or caregiver. Family members should appear together, but adults should be interviewed separately. The interviewer will be asking about sensitive issues of a personal nature, and must foster a relationship of trust and respect with the refugee. Care should be taken to approach issues in a culturally respectful, age, gender and diversity sensitive way and to allow for a relaxed atmosphere, because misunderstandings are likely to arise due to different cultural contexts. Where possible, separate waiting rooms should also be used for persons prior to and after the individual interviews to prevent collusion and retain confidentiality.

The interviewer must ensure that the principal applicant and all dependants are present on the day of the interview, and that their identities are verified before starting the interview. Unless the case is of an urgent nature, and depending on the context, an interview might be postponed if the family is not complete, or if identity documents are not produced.

There are a number of important steps to follow at the beginning of an interview to ensure the refugee is fully aware of the purpose of the interview and his or her rights and obligations:

- **Introductions**: The interviewer and interpreter must introduce themselves by name and title, and the interviewer must explain their roles.
- **Identity verification**: The interviewer should verify the identity of each member of the family by checking their identity documents and the picture in the file and/or *proGres*.
- **Fitness for interview**: If there is any doubt about whether the refugee is fit for interview, the interview should be rescheduled. The refugee should also be asked if s/he is well enough for the interview, with the reassurance that the interview could be rescheduled.
- **All UNHCR services are free of charge**: The interviewer should notify the refugee that they should never be asked to provide money or services by

UNHCR staff or people employed by UNHCR, and advise them of the process to report any charging.

- **Resettlement counselling**: The interviewer must explain the purpose of the interview within the resettlement process. The interviewer should also explain the nature and constraints of resettlement, including the fact that there are set criteria and defined procedures that will be followed.
- **Refugee's rights**: The refugees should be asked if they understand the interpreter and if they have any objections to the particular interpreter being used. They should also be informed that they could stop the interview if they feel that they are not being understood or if they need a break, and that this is acceptable.
- **Refugee's obligations**: The interviewer should notify the refugees of their obligation to tell the truth, and not to conceal information. They should also be notified that fraud, including using forged documents or falsifying any information, is a crime, and may lead to prosecution by the authorities and rejection for resettlement.
- **Conduct of interview**: The interview should explain the process of the interview, including that interview notes will be taken, and that adults in the family will be asked questions separately.
- **Questions:** The interviewer should ask whether the refugees fully understand the steps of the resettlement process and answer any questions about the process before beginning the interview.

7.3.5 Conducting the interview

There are a number of components to a standard resettlement interview, including a review of the family composition, the history of persecution and flight and the resettlement needs. Throughout the interview, the interviewer should keep in mind the limited purpose of the interview, and strategies for ensuring the interview is focused and effective.

- Use **"open" questions** to encourage the refugee to freely recount his or her story, and use "**closed" questions** to draw out specific details.
- If refugees find it difficult to give exact **dates** for events, but it is important to clarify when different events took place, it may be helpful to ask them to relate an event to a season, religious holiday, or other event. If an exact date is known on a national calendar, take care to translate the date into the standard Gregorian calendar accurately, noting the original date as well for clarity and cross-referencing.
- **Limit questions to a "need to know" basis**, especially for sensitive issues.
- Remember that it is inappropriate for interviewers to be shown or request to see **scars or wounds** on a body part not normally visible to the public. If verification of such physical evidence is required, medical or nursing personnel should be asked to witness the evidence and assess whether it is likely to have been caused in the manner described by the refugee.

- Collect as much information as possible, and take care to **cross-check facts and address gaps in chronology**. The interview is intended to help clarify any inconsistencies, and verify information that is unclear or misleading. This will serve not only to confirm whether a submission is warranted, but will also assist in producing a complete and consistent RRF.
- A formal question-by-question transcript of the interview is not mandatory, although advisable. Depending on the operational context, notes may be entered directly into the RRF. However, **if complex issues arise** during the interview, **separate notes of what was discussed must be prepared for the file**.

Verifying Family Composition

The right to family unity is a fundamental principle that interviewers should keep in mind as an overarching concern throughout the interview process. Before going through the refugee's history of persecution and resettlement prospects, the family composition should be reviewed. This verification not only ensures that the data available to UNHCR is correct, but also helps maintain the unity of the family and the prospects for future family reunification.

Following is a list of interview techniques developed to facilitate the process of verifying family composition. The questions below should be asked in a sensitive, non-threatening and conversational way. As family composition, including estimated ages, should have been previously verified in a non-resettlement context, any inconsistencies should be clarified in a respectful and neutral, rather than accusatory, fashion.[16] The goal of this process should be to ensure that all individuals who are legitimately a part of a family structure, whether by blood or custom, are considered together for resettlement. For dependants that are not part of the nuclear family, it is crucial to note the nature of the dependency – social, emotional or economic – and to document this carefully.

- Ask the family relationship for each individual. These relationships can be cross-checked with each of the family members when separately interviewed.
- Verify the full name, date and place of birth for all family members, both present and not present. Compare and verify the physical appearance of individuals with the photographs, prints and/or signature on the case.
- Confirm which family members are living and which are deceased, which remain in the country of origin, which are in other countries, which are present in the country of asylum, and which are together with the family.
- Record principal applicant's and his/her spouse's parents, and verify that both father and mother are the biological parents.
- Confirm whether the principal applicant and spouse have had any prior marriages, or are in polygamous relationships. If either has more than one partner, record the names of all partners, as well as whether the marriage is legal or informal (this information can be cross-checked at separate interviews with other family members).

[16] For guidance on estimating age, consult UNHCR, *UNHCR Handbook for Registration*, September 2003, http://www.unhcr.org/refworld/docid/3f967dc14.html

- Confirm that the bio-data is recorded for all offspring, including those from previous relationships.
- For siblings, confirm that both father and mother are the same. If the sibling has a different father or mother, record the bio-data and the relationship.
- For children, confirm their biological parentage. If the parents are not the principal applicant and his spouse, record the names of the other biological parent(s) and the relationship to the person on the case. Ensure that information concerning the location of the other parent and how the child came to live with the applicants is recorded (*verify this with registration database and community service records, if available, and request custody counselling or a BID as appropriate*).
- Ask women of childbearing age whether they are pregnant.
- Ask whether "family" members are blood relatives, neighbours, members of the same clan or tribe. (That is, define "brother," "sister," "cousin," "aunt," "uncle," etc. by asking if the mother of the aunt is the same as the mother of their mother.)
- Establish whether others were living in the same household in the country of origin or asylum, specifying whether that means under the same roof, in the same compound, or as part of the household economic unit.
- Establish whether persons who were living in the same household in the country of origin are part of the household in the asylum country, and if not, where they are.
- Ask the refugee about relatives living in other countries than his/her country of origin. Distant relatives should also be noted if the relationship is important in the resettlement submission context (e.g. they live in a resettlement country).

Family Unity

All individuals who are legitimately part of a family structure must be considered together for resettlement. See Chapter 7.4 for more guidance on case composition.

UNHCR staff must follow the definitions and policies set out in this Handbook, specifically as related to the concept of dependency in the identification of family members, despite the fact that UNHCR definitions may not always correspond with those applied by the State to which the resettlement case is submitted.

Refugee claim

The interviewer must review the claim of each member of the family over the age of 18, with the possible exception of the dependent spouse. The time required to review the refugee claims during a resettlement interview will depend largely on whether the refugee family was recognized through individual refugee status determination or on a *prima facie* basis.

The role of the resettlement interview is not to conduct RSD, or examine the claims in every detail. If the refugee family underwent **individual refugee status determination**, the interviewer should focus on clarifying any details or inconsistencies that may give rise to questions by resettlement States. This may include completing information that is missing or unclear, checking chronology gaps, or verifying the accuracy of UNHCR records.

For the resettlement submissions of refugees recognized on a *prima facie* basis, it may be sufficient to **substantiate the *prima facie* recognition,** provided the refugee cases do not show evident exclusion elements. The Convention ground(s) relevant for the group recognition, and the objective situation in the country of origin that supported the acceptance of the group as mandate refugees *prima facie* could be referred to in a generalized manner, or elaborated into a group profile for use with the group methodology.

In other contexts resettlement submissions regarding refugees recognized *prima facie* do require an individual examination to reaffirm refugee status and to document in detail the basis of refugee status recognition. This examination, however, does not represent individualized refugee status determination. The substantive and due process principles that apply to the examination of eligibility for refugee status (see Chapter 3) are also relevant in resettlement interviews to draw out and elaborate the individual elements of the claim for refugees recognized on a *prima facie* basis.

It is also important to draw out the elements of an individual refugee claim for **all dependants over the age of 18** (other than the dependent spouse) that did not undergo individual refugee status determination but were accepted on a *prima facie* basis or were granted derivative refugee status. Including details of individual needs for protection on the RRF may help protect family unity, particularly as some resettlement States require each adult to be able to articulate an individualized refugee claim, and may not accept UNHCR's definition of a dependent family. While a claim is not necessarily required for the spouse, the details of the claim should be drawn out if the spouse has a different flight history or a claim arising from a different ground. Each family member should be given a chance to express his/her own refugee claim.

In some circumstances, **a child** may also have a refugee claim unrelated to that of the remainder of the family, in which case the elements of the child's claim should also be summarized.

A dependant's refugee claim may be completely unrelated to that of the principal applicant and may therefore strengthen the case as a whole. However, it is important to draw out these individual refugee claims even if the family shares a common flight history and the claims are based on the same grounds as that of the principal applicant, or are due to their relationship to the principal applicant. This reinforces the importance and interdependence of the family unit, and improves the prospects of acceptance of the entire family by ensuring that each individual's need for protection is properly expressed.

If any information arises that might trigger exclusion, cessation or cancellation considerations, the interviewer should **refer the case file back to the Protection Officer** for review of the original decision including an exclusion analysis. This includes facts that may not have been adequately reviewed previously, issues that involve significant discrepancies as well as issues that arise for the first time during the resettlement interview. *Please consult Chapter 3.7 for further details.*

Resettlement need

The interview should also confirm the refugee family's need for resettlement, as guided by the requirements and resettlement submission categories set out in Chapter 6 of this Handbook. The interviewer should review the resettlement needs of each individual member of the family and take note of interdependencies within the family. In many cases the protection needs of a dependent adult would become more acute should the remainder of the family be resettled without them.

As noted, it is important to confirm that voluntary repatriation is not a viable option for the family, and that specific vulnerabilities cannot be dealt with in the country of asylum. It is also essential to resolve any doubts or inconsistencies relating to vulnerabilities.

If sufficient information is available, the interviewer should confirm the appropriate primary and secondary resettlement submission categories for the case, noting the reasoning for the choice on the file.

Closing the interview

The interview must provide refugees with an opportunity to ask any questions, and provide information they consider important that has not been covered. The interviewer also needs to ensure that all documentation in the file is accurate and that the file is complete. If any additional **supporting documents** are required, the interviewer should request the refugee to provide them by a specific date.

If possible, the interviewer should review the notes of the refugee's statements during the interview together with the refugee, who can then add information or correct misunderstandings. This also provides an opportunity to clarify any discrepancies or gaps. The interviewer incorporates the changes proposed by the refugee where they clarify the refugee's statements.

Updating *proGres*

When updating the *proGres* events after the interview, remember to enter the details of the relatives of the individuals interviewed. Ensuring that the bio-data of all immediate family members including parents, spouses, children and siblings is recorded accurately will simplify the process of completing the Resettlement Registration Form (RRF).

7.3.6 Interviewing polygamous families

Interviewing polygamous families for resettlement requires careful consideration of the social and legal challenges posed by their marital status, and the protection needs that could arise from the separation necessitated by resettlement processing. *UNHCR's Resettlement Assessment Tool: Polygamous Families*[17] provides guidance on the procedures to be followed when considering whether resettlement is the appropriate solution for polygamous families.

As discussed in Chapter 5.3.5, polygamy is widely considered a violation of the principle of equality of men and women in marriage.[18] However, UNHCR aims to respect the culturally diverse interpretations of family membership, and recognizes polygamous families as eligible for UNHCR assistance, including consideration for resettlement.

Most resettlement countries accept only one wife in view of their own national legislation forbidding polygamy, and in the context of resettling polygamous families, children risk being separated from either their biological mother or father.

In principle, UNHCR should avoid a situation where one wife is chosen over the others in order for a man and his chosen family members to be submitted to a resettlement State, thereby putting the unity of the polygamous family at risk.

However, there are circumstances where refugees in polygamous families present protection needs or vulnerabilities, which warrant resettlement consideration. Given specific and serious social and legal protection challenges that resettlement of refugees in polygamous families would entail, additional considerations and procedural safeguards are required when assessing the resettlement needs of refugees in polygamous families.

UNHCR may consider the submission of **all** members of a polygamous family for resettlement in cases where:

- a member of a polygamous family has a **resettlement need,** and is eligible for submission under a resettlement category; and
- the principle of family unity and physical, financial, psychological and/or emotional dependency dictate that the **entire family must be resettled together**.

Submitting the family together, even if split onto separate cases, helps to maintain family unity and to ensure that wives not legally recognized by resettlement States and their children do not become more vulnerable to protection risks by being left behind in the country of asylum.

The willingness of a resettlement State to accept such submissions must be confirmed early in the process.

[17] UNHCR, *Resettlement Assessment Tool: Polygamous Families*, June 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4dc7a9032.html

[18] UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No. 21: Equality in Marriage and Family Relations*, 1994, para. 14, http://www.unhcr.org/refworld/docid/48abd52c0.html See Article 5, UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180, http://www.unhcr.org/refworld/docid/3b00f2244.html

As detailed in the *Resettlement Assessment Tool: Polygamous Families*, **each adult** member of the polygamous family must be separately interviewed, counselled, and consulted, in order to:

- determine each adult's wishes;
- confirm their dependency link;
- identify any protection needs; and
- elicit elements of an independent refugee claim.

The physical, financial, psychological and emotional dependency among the spouses is a crucial factor in determining whether polygamous families should be submitted for resettlement. No resettlement State will allow the family to maintain polygamous practices.

Interdependency

The wives within a polygamous family may be dependent on each other, as well as on the husband. For example, if one of the wives is disabled she may depend on the other wife for care and support. In these cases it is important to determine how best to ensure the protection of both wives and to consult resettlement States regarding any possible solutions.

During the resettlement process, the implications of the resettlement State legislation for the legal rights of the wives and children submitted as cross-referenced cases should be identified, including:

- refugee recognition and the risk of a split decision;
- legal rights of each of the wives in the resettlement State;
- legal rights of the children in the resettlement State; and
- rights of cohabitation in the resettlement State.

Where required by the resettlement State, the refugees' marital status should be legally documented, including:

- a legal marriage certificate for the legally recognized wife;
- legal divorce certificates for the other wives.

It is important to assess all of the specific legal and social consequences for each of the wives and their children and to discuss these consequences thoroughly with each family member before they make a decision regarding their consent to the submission of the family for resettlement (and separation into individual cases, where applicable).

These interviews must be conducted with sensitivity to determine that no family member is being coerced. In addition, UNHCR must counsel each family member that their decision will remain confidential so as to alleviate potential concerns about repercussions from other family members should the individual not consent to the submission of the family for resettlement, and the family not be submitted for resettlement.

Each child member of the family must also be separately interviewed, counselled, and consulted in order to:

- identify any protection needs; and
- obtain the child's input into the decision-making process.

Even if the intention is to submit the entire family to the same resettlement country, most situations require the family to be separated into two or more cases.

Parents must also be interviewed and counselled, in order to:

- determine whether the parents are in **genuine agreement** regarding whether the family should be submitted for resettlement;
- determine **how the family will be divided** for purposes of resettlement, and discuss **custody** arrangements; and
- if one parent will not be included in the individual case, determine whether that parent is willing to provide **informed written consent** for the resettlement of his/her child with the other parent.

If the parents do not agree on custody issues, efforts should be made to engage competent national authorities to make a legal determination of custody. If local authorities are unwilling or unable, or procedures are inaccessible to refugees, UNHCR should undertake a BID to determine if resettlement together with one parent is in the best interest of the child. The parent who travels with the child should be advised to initiate procedures to acquire full custody rights upon arrival in the resettlement country.

To avoid children being separated from one parent, a Best Interests Determination (BID) could also be undertaken to advocate for the right of the children to remain with both parents.[19]

As detailed in the *Resettlement Assessment Tool: Polygamous Families*, in both scenarios where wives wish to be resettled together and those where wives wish to be resettled separately or to remain in the country of asylum, the family should be counselled about the following:

- the separate assessment of their refugee claims and possibility that one of the wives may be rejected for resettlement;
- the resettlement State's specific domestic legislation regarding the legality of their relationships; and
- any legal requirement that they not cohabit in the resettlement State.

Case composition considerations for polygamous families are discussed in Chapter 7.4.4.

7.3.7 Interviewing married refugee children

The presence of a married refugee child under the age of 18 within a refugee family requires special considerations before determining that resettlement is

[19] UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, p. 41, http://www.unhcr.org/refworld/docid/48480c342.html

the appropriate solution. In all cases of married children, either a Best Interests Assessment (BIA) or a formal Best Interests Determination (BID) is required in order to determine that the child should be submitted for resettlement with her/his spouse.

The *Resettlement Assessment Tool: Married Children*[20] has been developed to ensure UNHCR's obligations to promote family unity, durable solutions, and protection for refugee children in accordance with its mandate and fundamental principles of international human rights law are considered when assessing cases of refugee children who are married. The tool outlines the considerations and procedural safeguards that should be taken into account to reach a decision regarding resettlement needs. *Protection considerations related to child marriages and guidelines on assessing best interests when considering the resettlement of married children are also discussed in Chapter 5.3.6 of this Handbook.*

Because child marriage has no legal effect under international law and widely treated as a form of sexual and gender-based violence, *UNHCR does not, in principle, submit cases of married refugees under the age of 18 years old with their spouses*, unless there are compelling protection risks that can best be addressed through resettlement.

As recommended through the BID process, resettlement of married refugee children *may* be necessary in order to:

- ensure that the child's protection needs are addressed;
- maintain family unity and prevent separation of the child from her/his parents/legal guardians;
- ensure that the child or members of the child's family do not become more vulnerable to protection risks by having to wait until the child reaches the age of 18 years old to be submitted for resettlement.

Where a BID determines that it is in the child's best interests that s/he be submitted for resettlement, the BID recommendation should provide guidance on which family members will be included on the refugee child's case; and family members, if any, will be included as linked cross-referenced cases.

For example, the child and her/his spouse may be submitted:

- on the same case as the child's parents; or
- as a linked case to the same resettlement State as the child's parents.

The child may also be submitted with her/his parents and without the spouse, in which case their marital status would not be marked as married.

Resettlement States may consider the married child to be an adult. Therefore, **each *married* refugee under the age of 18 should also be interviewed** in order to elaborate an individual refugee claim.

[20] UNHCR, *Resettlement Assessment Tool: Married Children*, June 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4dc7a79f2.html

In contrast, child marriage may not be recognized as legally valid by the resettlement State, and the child's spouse may not be accepted if included in a submission with the child's parents. The family should be counselled that there is always a risk that the child and her/his parents may be accepted, while the spouse will be rejected, and vice versa.

7.3.8 Conducting interviews in places of detention

In some circumstances one may be obliged to conduct an interview in a place of detention, which means that an applicant is not free to leave a place under official control. This could include airport detention centres, prisons, or police stations. Conducting interviews in such locations should, if at all possible, be avoided. However, authorities may not allow access to the individual in any other location.

It should be recalled that the UNHCR Executive Committee has recommended that refugees and asylum-seekers who are detained be provided with an opportunity to contact UNHCR, or in the absence of such office, available national refugee assistance agencies. In countries without a UNHCR office, but with United Nations Development Programme (UNDP) representation, the latter usually assists in interviewing asylum-seekers and refugees and in documenting their cases.

The following precautions should be taken if an interview is to be conducted in a place of detention:

- the interviewer and any accompanying personnel should have proper identification documents when attending to an interview;
- it is also important to seek prior authorization from the competent authorities to access the detention centre;
- the person to be interviewed should be given advance notice of the appointment;
- the interpreter should be provided by UNHCR and be briefed on the circumstances of the interview, including the interview environment;
- the interview should be conducted in a private room – if this is not possible, no other persons (such as guards, other detainees, etc.) should be present or able to overhear the interview proceedings;
- before beginning the interview, a brief discussion should be held with the applicant to create a calm and reassuring atmosphere;
- when taking notes during the interview, it should be considered whether they may be confiscated or photocopied by the authorities upon leaving the detention centre (if this is a possibility, only brief notes using key words should be made during the interview and full notes prepared immediately after leaving the premises).

7.3.9 Home visits

Home visits conducted by staff or partners are a legitimate and valuable tool to assist UNHCR in better understanding the living situation and specific needs of refugees. The Field Office Resettlement SOPs should establish clear criteria for determining when home visits are required, as well as guidelines clarifying the nature of home visit questioning and reporting. Home visits may be used:

- **As a general integrity measure**: Home visits should be used selectively to ensure the integrity§of the resettlement process (depending on local needs and circumstances, as a spot-checking device, and possibly for consistent use in situations of widespread fraud, or where the specific living situation is a factor in determining resettlement intervention). In this connection, home visits could be used to test the credibility of the case.
- **To enhance case documentation**: Home visits can be useful for providing additional supporting details for resettlement submissions, as well as assisting staff to recommend interim or alternative protection and solution interventions.
- **To assess women and girls at risk**: When conducting visits in the case of women/girls at risk, the visiting officer should focus broadly on *all elements* of the women and girls at risk definition, not exclusively on the presence or absence of males of a certain age/ability/relationship in the household or as part of an extended family circle.

Safeguards in implementing home visits

The decision to conduct a home visit must be reasoned, documented, and authorized by a supervising officer. Privacy concerns, the desire to avoid harm to the refugee(s) of concern, and the existence of a power differential between refugee applicants and UNHCR require that field staff implement certain safeguards in using home visits as an effective tool.

- Only trained staff or partners (see below) should be allowed to conduct home visits, and this duty *cannot* be delegated to untrained individuals. Subject to resource constraints, local needs and circumstances, national staff may be better suited for local visits.
- If feasible, the visiting officer should be a different person than the officer responsible for the applicant's case (ideally, a Community Services Officer should conduct the home visit).
- If the home visit is to a household headed by a woman, a female officer (accompanied by a female interpreter if needed) should conduct the visit.
- Consent must be obtained from the refugee prior to the home visit. If s/he denies consent to a home visit, the reasons for her/his refusal should be recorded, and the credibility of such reasons assessed.
- In certain situations, when a home visit is required to ensure the integrity of the resettlement process, the refugee might be asked to come to the UNHCR office without notification that a home visit is planned. Once the refugee provides consent, the visiting officer should accompany the refugee back to their home from the UNHCR office.

- In all cases, the refugee must be fully informed of the reason for the home visit, how it will be conducted, and what implications this may have in terms of future case management.
- The staff who conducted the home visit should draft a home visit report assessing the results of the visit, which s/he should then forward to the Supervising Officer for a final review and further advice or action.

Training

- Any staff conducting home visits must receive adequate training in order to ensure that the visit is conducted with sensitivity. Training should include activities aimed at:
- cultural sensitization (to provide in-depth knowledge of the refugee population; to foster awareness of the fact that the home visit may harm the individual concerned by drawing attention to her/his situation which may lead to heightened risk, in which case the Office should balance the benefits and harms associated with a visit and all other information in the applicant's file);
- gender-sensitivity training;
- Code of Conduct training;
- ensuring good interviewing and negotiating skills;
- ensuring good interpersonal and communication skills.

Essential reading

- UNHCR, *RLD4 - Interviewing Applicants for Refugee Status*, 1995, RLD4, http://www.unhcr.org/refworld/docid/3ccea3304.html
- UNHCR, *Guidelines for Interviewing Unaccompanied Minors and Preparing Social Histories,* October 1985, http://www.unhcr.org/refworld/docid/47fdfae5d.html
- UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, http://www.unhcr.org/refworld/docid/48480c342.html
- Finland: Directorate of Immigration, *Guidelines for Interviewing (Separated) Minors*, March 2002, http://www.unhcr.org/refworld/docid/430ae8d72.html
- UNHCR, *Self-Study Module 3: Interpreting in a Refugee Context*, 1 January 2009, http://www.unhcr.org/refworld/docid/49b6314d2.html
- UNHCR, *Guidelines for the recruitment, training, supervision and conditions of service for interpreters in a refugee context*, IOM/005-FOM/005/2009, (Internal) http://swigea57.hcrnet.ch/refworld/pdfid/497f147c2.pdf
- UNHCR, *Safety Guidelines for Sensitive Individual Refugee Cases in an Urban Context*, 4 September 2002, (Internal) http://swigea57.hcrnet.ch/refworld/docid/3dca8ead4.html
- *UNHCR Code of Conduct and Explanatory Notes*, June 2004, http://www.unhcr.org/422dbc89a.html

7.4 CASE COMPOSITION

Preserving family unity is essential to the successful integration of resettled refugees, and UNHCR is committed to ensuring that resettlement should not separate dependent family members. The family is often the strongest and most effective emotional, social and economic support network for a refugee making the difficult adjustment to a new culture and social framework.

However, UNHCR staff often encounter challenges in determining the appropriate family composition of resettlement cases, due to differing State definitions of family and variations in procedures for processing cases.

UNHCR's *Operational Guidance Note on Resettlement Case Composition*[21] provides guidance for determining the appropriate family composition of resettlement cases and for preparing resettlement cases to ensure family unity in the expeditious achievement of a durable solution.

The Principal Applicant on a resettlement case (PRA)

When compiling a resettlement case, careful assessment of the refugee claims of all adults is required. The Principal Applicant needs to be able to articulate a refugee claim.

At registration, the head of household (HR1) or principal applicant is usually selected according to traditional concepts of family structure.

The **Principal Applicant** does not usually change as long as the individual can articulate a refugee claim. However, in some circumstances, it may be warranted to change the Principal Applicant to be the adult with the resettlement need that triggered the submission. The nature of the resettlement need and the possible need for confidentiality must also be kept in mind. Children would normally not be made the PRA if there are adults on the case who can articulate a claim, despite the fact that the child might have the strongest resettlement need.

Examples:

A couple is being submitted under the category Women and Girls at Risk due to the wife's experiences, and the fact that her husband cannot offer *effective* protection. **The wife should be the PRA.**

A family is being submitted under the category Survivor of Violence and/or Torture due to the 20-year-old dependent daughter's experiences in the country of refuge that are not known to her father. The family has a well-founded fear of persecution. **The daughter should not be made the PRA.**

A family is being submitted under the category Legal and/or Physical Protection Needs due to the insecurity of their situation in the country of refuge. The 20-year-old dependent daughter has been arrested and faces *refoulement*; however **she does not become the PRA.**

A family is being submitted under the Medical Needs category due to the illness of the son who is 17 years old. **The son should not be made the PRA.**

[21] UNHCR, *Operational Guidance Note on Resettlement Case Composition*, June 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4dc7aa0d2.html

7.4.1 All dependent family members should be submitted together

In line with the principle of Family Unity highlighted in Chapter 5.1.2, all dependent members of the family should, in principle, be **included in a single case**, to be submitted together on one RRF.

The definitions and policies set out in this Handbook, specifically as related to the concept of dependency in the identification of family members, are to be followed by UNHCR staff despite the fact that UNHCR definitions may not always correspond with those applied by the State to which resettlement cases are submitted.

The dependent members of the "family unit" include the nuclear family, dependent members of the extended family, and household members who have strong ties to the family, but may not be related.

Members of the nuclear family, that is, the principal applicant, his or her spouse and his or her dependent children are part of the family unit.

- It is imperative that all **dependent children**[22] are submitted as integral members of the family, and, unless the best interests of the child so determine, are not separated or subject to split submission. Dependency, rather than age or marital status, determines whether an individual should be included in a case with his or her parent(s) or guardian(s). Similarly, the case should include dependent siblings and dependent children under foster care or guardianship arrangements that are not biologically related.
- **A common-law or same-sex spouse** should be considered an integral member of the nuclear family, and should therefore enjoy the same rights to derivative refugee status and inclusion in the resettlement submissions as those individuals whose union has been legally recognized. The standard and burden of proof as to the genuineness of the relationship applied to same-sex couples should be the same as is applied to common-law couples; with additional recognition of the difficulties (or inability) same-sex couples may face in obtaining legal recognition of their union. The choice of resettlement country should be sensitive to the treatment of such individuals in the country.
- **Dependent non-refugee spouses** should also be included in the case to retain family unity. A detailed assessment of all available documents and the personal circumstances of the family member must be conducted to document the dependency and to advocate for inclusion on the resettlement case. The agreement of the resettlement State to consider a family including non-refugees is also required.

[22] The *Convention on the Rights of the Child* (1989), Article 1, defines a child as "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier." Dependency is presumed for all individuals less than 18 years of age.

Other dependent members of the household are also members of the family unit. This includes dependent parents or older persons, extended family members, or other individuals who may or may not be related by blood but are strongly tied to the principal applicant by psychological, physical, economic, and/or emotional bonds, as guided by the dependency principle. In exceptional circumstances, this could also include non-refugees who are completely dependent on the refugee family.

Some States allow **the inclusion of all unmarried offspring under age 21** on the same case, regardless of dependency. Staff are encouraged to follow this aspect of State guidance in the completion of an RRF as it supports wider family unity.

7.4.2 Reinforcing individual refugee claims to help ensure family unity

When submitting an RRF including dependent adults, UNHCR staff are advised to include a summary of each adult's refugee claim, as well as a detailed description of the family links and dependencies. As discussed in Chapter 7.3.5, including individual assessments of the need for resettlement strengthens the case as a whole, reinforces the importance and interdependence of the family unit, and improves the prospects of acceptance for the entire family by ensuring that each individual's need for protection is properly expressed.

Some States use narrower interpretations of the family, split single UNHCR submissions into several cases, and require each individual to articulate a refugee claim. States may also issue "split decisions", accepting only some members of a family and rejecting others. To help reinforce the case, there is a need to include separate paragraphs on the RRF outlining the details of individual refugee claims and individual vulnerabilities of all adults above 18.

These paragraphs might be quite brief if the refugee claims are closely linked to that of the principal applicant. There might be a common flight history, and the individual's claim may derive from the same reasons as that of the principal applicant, or be due to their relationship to the principal applicant. However, compiling a separate paragraph for each adult on the case nonetheless ensures that each individual's refugee claim is expressed.

Family unity considerations in determining the resettlement country

There are a number of factors influencing the determination of the country of submission for a particular case. *This point is elaborated in Chapter 7.6.1.*

As well as any extended family or community links to a particular country, staff should consider State practices and requirements that might support or undermine family unity. These include age and marital status restrictions, flexibility in accepting dependent adult household members, recognition accorded to same-sex or common-law unions, policy on the resettlement of polygamous families, and family reunification programmes.

7.4.3 State requirements to split resettlement cases

The main objective of submitting all dependent members of a family together on a single RRF is to ensure that the unity of the family is preserved, and that there is no risk of abandoning vulnerable family members.

However, UNHCR recognizes the practical necessity to prepare cases according to resettlement State restrictions in order to facilitate durable solutions for those under UNHCR's mandate. Some resettlement States may not require UNHCR staff to split resettlement cases, and may have leeway to accept broad definitions of family, or may split the case themselves in the course of their processing.

Other States may require UNHCR to split cases into two or more resettlement cases for separate consideration. For example, some States require all individuals over age 18 to be submitted as separate but cross-referenced cases, irrespective of dependency. While cases may be split to facilitate processing by resettlement States, this should not result in family separation or undermine the recognition of dependency. Therefore, it is important to consider the following aspects in dealing with all potential or necessary splitting of resettlement cases:

- In all cases where splitting is envisaged, field staff should first discuss all possible options with the resettlement State.
- Where UNHCR determines that, due to strong dependency ties, no family member should be resettled without all others, split cases must be **submitted together** as cross-referenced cases to the same resettlement country in order to retain **family unity**.
- The **potential consequences of a split submission** must be thoroughly weighed. Such consequences include, most notably, the possibility of receiving a split decision, but also the possibility that one or more of the linked cases will be delayed, perhaps for months or years, and/or that family members may travel separately, which may be very problematic in some cases.
- Where splitting the case is required, it is essential to provide thorough counselling on the reasons and potential consequences of splitting the cases and to obtain the refugees' consent. Each adult member of the family should be *separately advised* and consulted to obtain his or her **individual informed consent** to splitting a case into cross-referenced cases before they can be submitted for resettlement. It is very important that these cases are carefully evaluated to help ensure that no family member has been coerced into a decision.
- The respective Office's Standard Operating Procedures (SOPs) need to describe the **proper procedures for splitting and/or merging cases** in *proGres*.
- Split cases must be **cross-referenced** (listed in Sections 1 and 7 of the RRF), emphasizing the dependency.
- **Appropriate resettlement submission categories** must be selected for the cross-referenced cases. The family reunification resettlement submission category may not be used for cases submitted together.[23]

[23] A resettlement submission under the Family Reunification submission category is used solely to reunite families in resettlement when they have been separated from each other, i.e. when one part of the family has been resettled and the rest of the family remains in the country of origin/refugee, or

7.4.4 Case composition considerations for polygamous families

As outlined in UNHCR's *Resettlement Assessment Tool: Polygamous Families*,[24] the risk of family separation must be carefully assessed when considering polygamous families for resettlement.

Most resettlement States will not consider the submission of a case with multiple spouses, and children risk being separated from either their biological mother or father through resettlement processing. *Chapter 7.3.6 outlines the protection concerns that need to be considered when assessing a polygamous family's resettlement needs.*

If it is determined that resettlement *is* the most appropriate solution for the family, despite the fact that only one spouse will be recognized, careful attention must be paid to the dependency assessments and the case composition. In principle, UNHCR promotes the submission of such cases only after extensive consultation with the family and the resettlement State, and on the condition that the State considers the entire family as one case or as cross-referenced cases.

The first wife is usually the legally recognized spouse. In specific situations, some resettlement States may allow the resettlement of non-legally recognized wives and their children to the same community as their husband. Whether or not legal divorces are required in these instances, the marriages would not be legally recognized, and the couple would be prohibited from practicing polygamy after resettlement.

In rare instances, a resettlement State may permit the submission of all family members on a single RRF, if specifically agreed upon for a particular population of refugees. The resettlement State will still assess the individual refugee claims of each of the wives who are not legally recognized separately from their husband's claim.

Some resettlement countries also may be willing to accommodate polygamous families as separate but cross-referenced resettlement cases in order to respect the rights and best interests of the child(ren).[25] In these cases the polygamous family unit is separated into two or more cases, whereby the husband, his legal wife and her biological children are included in one Resettlement Registration Form (RRF), and the other wife(s) and her children are included in a separate cross-referenced RRF.

The safeguards related to splitting cases outlined above in Chapter 7.4.2 and Chapter 7.4.3 should also be followed closely when considering the submission

when members of the same family in different countries of temporary refuge will be reunited through resettlement to the same country. *See Chapter 6.6 for further guidance.*

[24] UNHCR, *Resettlement Assessment Tool: Polygamous Families*, June 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4dc7a9032.html

[25] ExCom Conclusion 107 encourages States to "enhance the use of resettlement as a protection and durable solutions tool for children at risk; where appropriate, take a flexible approach to family unity, including through consideration of concurrent processing of family members in different locations, as well as to the definition of family members in recognition of the preference to protect children within a family environment with both parents…" UNHCR, *Conclusion on Children at Risk*, 5 October 2007, No. 107 (LVIII) - 2007, para. (h) xviii, http://www.unhcr.org/refworld/docid/471897232.html

of polygamous families. Careful consideration of the options are required if the resettlement State does accept only part of the family and will not reconsider the split decision. *The options available are discussed in Chapter 7.7.8.*

7.4.5 Other cross-referenced cases

Families whose dependants have been split into separate cases to meet resettlement State requirements must be cross-referenced for joint consideration by the resettlement State. Section 7 of each of these RRFs should include a statement emphasizing the need to consider the cases jointly due to their mutual dependency.

Other cases may also be cross-referenced. These include extended relatives, close friends and community members whose resettlement to the same destination may provide mutual support during the resettlement process and facilitate integration. For these cases, Section 7 of the RRF could include a request to consider the cases jointly if they are submitted concurrently, or to resettle the case(s) to a specific location due to community ties, as appropriate.

A clear distinction should be made between cases evidencing genuine dependency, which must always be submitted together, and for which joint consideration should always be strongly urged, and those cases presenting potentially beneficial relationships, for which destining to the same community could be recommended or requested.

7.5 PREPARATION OF A RESETTLEMENT REGISTRATION FORM (RRF)

On the basis of the resettlement needs assessment, the officer accountable for resettlement may authorize the preparation of a resettlement submission.

Each individual submission **must** include a Resettlement Registration Form (RRF) and attached documentation as appropriate to the case profile and resettlement submission category.

The RRF is the primary tool at UNHCR's disposal to represent the needs of individual refugees to resettlement countries, and a high standard in the RRF is essential to ensuring a high level of acceptance of resettlement cases. States base their decisions either on interviews conducted during selection missions, or solely on the RRF received as a "dossier submission".

The RRF must be:

- clear and easy to read, without jargon;
- concise enough to be interesting and understood in one reading;
- complete, with all relevant information included and required documents attached;
- consistent and without contradictions; and
- factually correct, objectively presented and thoroughly checked.

Ensuring quality control for the preparation of RRFs will make resettlement activities more efficient, as fewer RRFs are returned for questions and corrections, and more credible, as RRFs received by resettlement countries will be more consistent.

Submissions under the group methodology

- In agreement with resettlement States, **an abridged RRF** is used for group submissions.
- Due to the interface between *proGres* and the Worldwide Refugee Admissions Processing System (WRAPS), submissions to the United States of America under the group methodology do not require an RRF. (*See Chapter 7.6.3.*)

Abridged RRFs for individual submission

- An abridged RRF may also be used for individual expedited processing when refugees share similar refugee claims and/or resettlement needs but were not designated as a group.

7.5.1 Section-by-section guidance following the RRF User Guide

UNHCR staff members must complete the RRF (which includes affiliate workforce such as deployees under direct UNHCR supervision). The detailed instructions on completing the RRF provided in the document *Resettlement Registration Form (RRF) for proGres Users: User Guide* should be followed closely.[26]

Where *proGres* is not installed in the Office, staff should load the updated non-*proGres* RRF template and follow the instructions provided in the *Resettlement Registration Form (RRF) for Non-proGres Users: User Guide*.[27]

The **RRF User Guides** were prepared to provide objective standards for the preparation of individual submissions.

All Offices should adhere to the standards of the Guide in order to increase the quality of individual submissions, reduce the number of returned RRFs, and most importantly, increase the probability of acceptance by resettlement countries. The Resettlement Service will notify field offices when the RRF templates and User Guides are revised.

All UNHCR staff members who are responsible for preparing resettlement submissions should be fully versed in the standards presented in the RRF User Guide. The Accountable Officer is responsible for ensuring that RRFs submitted from their field office conform to these standards.

[26] UNHCR, *Resettlement Registration Form (RRF) for proGres Users: User Guide*, revised 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4ad303552.html

[27] UNHCR, *Resettlement Registration Form (RRF) for Non-proGres Users: User Guide*, revised 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4ae579692.html

An RRF can be generated through ***proGres***, which **populates the basic case information** including the bio-data for members of the case and their relatives.

Staff must then **add** the **case information that is not populated** from *proGres*. This includes:

- a comprehensive outline of the refugee claim and of the UNHCR determination for each adult on the case;
- a substantiated explanation of the need for resettlement;
- detailed information on any specific needs and vulnerabilities; and
- any additional information including dependency assessments.

This section of the Handbook covers some of the key points related to the completion of the RRF. However, the RRF User Guides are more detailed, and must be followed closely.

Sections 1 & 2

The case and bio-data information in both of these sections will either be automatically populated for *proGres* users, or selected from pull-down menus for non-*proGres* RRFs. In all cases, however, these details should be very carefully checked to ensure that the data is current, and accurately reflects the details on the physical file.

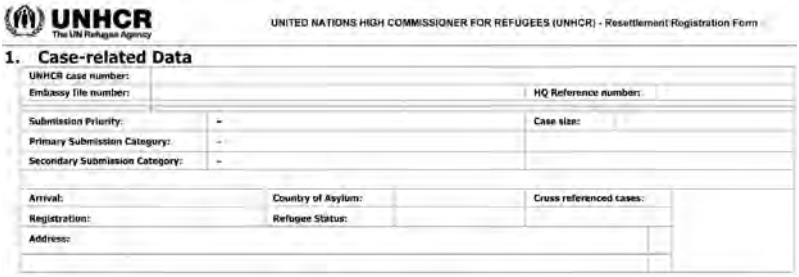
Before generating the RRF

Offices using *proGres* should ensure that an authorized staff member enters all known information on the *proGres* basic bio-data screen before generating the RRF, including the name of each individual's biological mother and father. The Field Office's Resettlement SOPs should specify which staff members are authorized to revise registration and bio-data.

Corrections

Any required corrections to any of the information populated by *proGres* **must be entered into *proGres***. This includes any changes to the case composition or to individual bio-data details.

Section 1: Case-related data


UNHCR
The UN Refugee Agency

UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) - Resettlement Registration Form

1. Case-related Data

UNHCR case number:			
Embassy file number:		HQ Reference number:	
Submission Priority:	-	Case size:	
Primary Submission Category:	-		
Secondary Submission Category:	-		
Arrival:	Country of Asylum:	Cross referenced cases:	
Registration:	Refugee Status:		
Address:			

Case, File and Reference Numbers: The UNHCR case number is mandatory and will be automatically assigned to the case for *proGres* users. The embassy file number is assigned by the resettlement country, and the HQ reference number will be assigned to dossier cases submitted through the Resettlement Service by the Processing Unit.

Submission Priority: Ensure that justification for emergency and urgent prioritization is provided in Section 5. Confirm the prioritization of cross-referenced cases, especially the cases of dependent family members that should travel together but have been separated onto their own cases at the request of the resettlement country.

Resettlement Submission Category: In many cases, categories may overlap, and submissions can effectively be made under two or more resettlement submission categories. Staff are encouraged to identify both a primary and secondary relevant category.

Case Size: Take care to ensure that all family members, including potential non-refugee dependants included on the case are counted. The case size must match the number of family members listed in Section 2.

Cross-Referenced Cases: Ensure that all cross-referenced cases are listed accurately. This is particularly important where dependent family members have been split into separate cases at the request of the resettlement country. Ideally, the cases should be submitted to the resettlement country together, as part of the same submission. All linked cases should be listed, including those cases previously submitted to the resettlement country.

Section 2: Individual bio-data

2. Individual Bio Data
(If NOT currently living with Principal Applicant, explain under Section 7 - Additional Remarks)

Relationship to PRA

UNHCR Registration Number:						
Alias Names:		Sex:	DOB:	Est.	Age:	
Marital Status:		Country of Origin:				
Citizenship:		Place and Country of Birth:				
Religion:		Name of Father:				
Ethnic Origin:		Name of Mother:				
Education:						
Occupation/Skill:						
Languages:						
Specific Needs:						

Inaccurate or incomplete information in this section can significantly delay the processing of the case. Points to remember:

- Children should be listed in birth order from oldest to youngest.
- Other dependants should be listed after the spouse and children.
- Verify and cross-check bio-data carefully, including date of birth, and spellings of names for all members of the case. Ensure consistency in the spelling of names between linked cases.
- Verify that the identity of each person on the case matches their photo on the RRF. Photos are an important anti-fraud measure. Ensure that each case

member's photo is of good quality and recent.[28] (If the RRF is not *proGres*-generated, full name and case number should show on each picture.)

- Include the names of each individual's biological mother and father and note in parentheses if the parent is deceased.

Section 3: Relatives of principal applicant and spouse not included in this submission

3. Relatives of principal applicant and spouse not included in this submission

ALL OTHER CLOSE RELATIVES OF THE APPLICANTS in the country of origin, the country of refuge / asylum or any other country. *Note: Record at least all immediate biological and legal parents, spouses, children and siblings, including step and half relationships, of each person listed in Section 2. Where possible include any other relatives (e.g. more distant relatives residing in a country of resettlement) if the relationship is important in the context of the resettlement submission (e.g. sole surviving relative). People in a relationship of dependency to anyone listed in Section 2, but are unable to be included in the submission under Section 2, must be recorded. In the case of separated and/or unaccompanied children in Section 2, include all known family members.*

Name:	Sex:	DOB:	Est.	Age:	
Relative of:					
Relationship:					
Place and Country of Birth:					
Country of Residence:	Legal Status:		Marital Status:		
Comments:					

List all close relatives and dependants of the members of the case in this section. Ensuring that the details provided in this section are complete and accurate is important for retaining family unity, demonstrating linkages to individuals already resettled, and for future family reunification. Points to remember:

- Relatives should be listed starting with the Principal Applicant's relatives, then the spouse's relatives, then the children's relatives, and finally any relatives of other adult dependants included in the case.
- Verify that all immediate biological and legal parents, spouses, children and siblings, including step- and half- relationships, of each person on the case are listed.
- Include individuals who are dependent on a member of the case, but were not able to be included in the case. (A comment should be added in Section 7 regarding such dependants.)
- Include relatives in the country of origin, the country of asylum, a resettlement country, or any other country.
- Include any family members that are missing, even if they are presumed to be dead.
- Where possible, include more distant relatives if the relationship is important in the context of the resettlement submission. This includes relatives residing in a country of resettlement, and sole surviving family members.
- Include all known family members of unaccompanied/separated children.

[28] UNHCR, *UNHCR Handbook for Registration*, September 2003, Chapter 16, page 151-154, http://www.unhcr.org/refworld/docid/3f967dc14.html

- Remember to list the relatives from any cross-referenced cases who are included in the submission, or who have already been submitted for resettlement to any country.
- Verify consistency in the bio-data between cross-referenced cases.
- If available, provide the address and telephone number of relatives. Resettlement States note that this is especially important if the applicant has relatives already living in their country, as it helps facilitate the security screening.

Non-*proGres* Users

It is recommended that UNHCR staff protect the document before completing the narrative part of the RRF (select: Tools/Protect document). This operation will protect the format and allow staff to navigate between sections by using the tab button.

Section 4: Refugee claim

The RRF must include a comprehensive outline of the refugee claim and of the UNHCR determination of the case. A well-articulated overview of the refugee claims of all members of the family over the age of 18 is important for all submissions, as the majority of resettlement States will carry out an eligibility determination as part of their decision-making process. Comprehensive, well-drafted overviews of each individual's refugee claim are particularly crucial for refugees who will not be interviewed, but will have their files reviewed by States as dossier submissions.

Cross-check data and information regarding the refugee claim with cross-referenced cases as well as BIAs and BIDs to avoid discrepancies. In particular, pay attention to dates and relationships.

Under the following headings, indicate the profile of the claim of the Principal Applicant (PRA), spouse, and any person over the age of 18 who is also included in the case, drawing from the relevant sections of the RSD Assessment Form.

4.1 Summary of the Basis of the Principal Applicant's Refugee Recognition

- Provide a few sentences in chronological order on PRA's age, sex, marital status, and number of children, ethnicity, religion, political affiliation, military service, occupation, place of habitual residence, and any other relevant background information.
- Provide **a summary of the accepted facts** that are directly related to the PRA's fear of persecution. Summarize the facts describing the PRA's situation from a factual point of view.

Example: *Do not write: "The PRA claimed/explained/alleged that his brother was kidnapped." Instead state: "The PRA's brother was kidnapped."*

- The summary should include **relevant facts** related to:
  i. **Profile of the PRA** – Highlight the aspects of the profile that are related to the risk faced. These may include the PRA's ethnicity, religion, profession, gender, sexual orientation, membership in clan, family or tribe, place of origin, status as draft evader/deserter. If the PRA was affiliated with a political or other group, provide details regarding any title or rank held and responsibilities assigned or performed;
  ii. **Experiences of the PRA** – Describe experiences of the PRA that may have contributed to the risk faced. These may include activities in which the PRA engaged, opinions expressed, events attended or witnessed, threats received. Provide the relevant details regarding these experiences, including how, when or where they took place, the surrounding circumstances, other people involved etc. Indicate if the PRA is unable to recall exact dates or sequences of experiences or events;
  iii. **Experiences of others** – Describe the experiences of other individuals who are related to the PRA, including family members or associates, or who have a similar profile as the PRA. Provide specific details to indicate how the experience of others is considered to be an indicator of the risk faced by the PRA.

Example: "*The PRA's brother, Samuel, who is a member of the youth wing of the XXX party, was frequently interrogated by the security services regarding his political activities and has been detained without charge since May 2009.*"

4.2 Summary of Legal Analysis

Provide a short summary of the legal analysis of the case, including the following elements:

i. **Well-founded fear** – Provide a short statement summarizing the harm UNHCR considers to be reasonably possible were the PRA to return to the country of origin;
ii. **Persecution** – Explain why the forms of harm identified amount to persecution, highlighting the relevant human right(s) at stake, as appropriate;
iii. **Link to the Convention grounds** – Explain how reasons for the harm faced are linked to one or more 1951 Convention grounds.

The content of the legal analysis will depend upon the eligibility issues raised in an individual case, and should, as a general rule, closely reflect the issues addressed in the legal analysis in the RSD Assessment Form.

4.3 Summary of Exclusion Analysis

- If no exclusion issues were triggered, provide a simple statement that the PRA does not fall within Article 1F:

Example: *"There is no indication that the PRA was involved in or may have been associated with events that could bring him or her within the application of the exclusion clauses in Article 1F a, b, or c of the 1951 Refugee Convention."*

- If an exclusion review, interview, and/or analysis was conducted for the refugee's case, and the refugee was found not to be excludable, provide a paragraph detailing the findings.

Exclusion Assessments

If the case has raised exclusion concerns, it is essential for UNHCR to include a convincing argument for why the applicant does not fall within the scope of Article 1F. Failure to address exclusion concerns adequately can easily lead to a rejection of the case, despite strong protection needs, particularly for cases submitted on a dossier basis.

4.4 Concluding Statement of eligibility

Conclude the PRA's summary of refugee claim with a statement of eligibility.

Example: *"The UNHCR has determined that the PRA meets the criteria set out in Article 1A of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. He has a well-founded fear of persecution in Iraq because of his political opinion and religion."*

4.5 Summary of dependent adult family members' individual refugee claims

- Include a brief paragraph outlining the individual refugee claim of each adult dependant (age 18 and above) other than the spouse included on the case (e.g. parents, siblings). Indicate if the person has undergone individual refugee status determination, was granted derivative refugee status, or was recognized on a *prima facie* basis. Note whether all the individuals on the case fled together or at different times. If the claim of the dependants and their fear of return is the same as the principal applicant's this can simply be stated in this section. While a claim is not necessarily required for the spouse, the details of the claim should be included if individual RSD was conducted, or if the spouse has a claim arising from a different ground.
- If no exclusion issues were triggered among the dependants, then the summary stating that the principal applicant does not fall within Article 1F should be broadened to include the dependants.
- However, separate paragraphs detailing the findings should be included for each dependant who underwent an individual exclusion review.

For RRFs submitted under the group methodology

- The completion of Section 4 is not required.

For individual submissions using an abridged RRF

- A shortened summary of the refugee claim can be provided.

Section 5: Need for resettlement

This section is not populated by *proGres*. To save time in the preparation of resettlement submissions, the information from the resettlement-needs assessment may be transferred to the RRF, on the condition that the information is prepared according to the standards presented in this section.

In this section, describe as accurately and concisely as possible the refugee's need for resettlement and why this is deemed the most appropriate (or the only) durable solution.

5.1 Lack of prospects for voluntary repatriation to the country of origin or local integration in the country of asylum

- Specifically mention the measures that have been undertaken to explore voluntary repatriation.
- Specifically mention the refugee's situation in the country of refuge/asylum; the overall prevailing situation and any relevant circumstances affecting the protection of refugees in the country; *and* measures that have been undertaken to explore local integration possibilities.
- Where applicable, note the date when the PRA and her/his family's visas expired/will expire.

5.2 Resettlement submission category and prioritization

- Start with an introductory sentence stating that the PRA is submitted under the following resettlement submission category in accordance with the *UNHCR Resettlement Handbook*, [list section].
- Use boldface headings for each submission category described and explained. Make sure that this matches the order of primary and secondary resettlement submission categories listed in Section 1, and that the most important category is listed first.
- Provide details on the individualized resettlement needs related to the submission categories. For example, if the PRA is submitted under the resettlement submission category Survivor of Violence and/or Torture, include information on the violence the PRA was subjected to, the effects of this violence, and the anticipated benefit of resettlement.
- If the case is submitted under the Medical Needs category, note the conclusions of the Medical Assessment Form (MAF). The submission must be made as soon as possible. MAFs more than six months old are not acceptable.

5.3 If the priority is EMERGENCY or URGENT, clearly set out the reasons for this prioritization

- Clearly indicate the nature of the urgency/emergency, i.e. whether the need is for an urgent/emergency **decision** by the resettlement country or urgent/emergency **departure** of the refugee from the asylum country or both.
- Justify the need for urgent as opposed to normal priority submission and the need for emergency as opposed to urgent priority submission.

Example: "*UNHCR is submitting the PRA's case as an EMERGENCY priority, as the PRA has faced serious security problems in the country of asylum. He is currently in detention for overstaying his visa, and he risks imminent refoulement.***"**

For RRFs submitted under the group methodology

- The completion of Section 5 is not required.

For individual submissions using abridged RRFs

- A separate standard document outlining the particular refugee group's need for resettlement replaces Section 5. This "Summary Analysis of Resettlement Needs" document includes an analysis of the prospects for voluntary repatriation to the country of origin and local integration in the country of refuge, identifying resettlement as the most appropriate durable solution.
- Individualized information related to the PRA's local integration can be added in point form following the reference to the Summary Analysis of Resettlement Needs.

Section 6: Specific needs assessment

The specific needs codes recorded in *proGres* will be imported into Section 2 for all members of the case. However, a detailed summary of specific needs that impact resettlement is not stored in *proGres*.

Provide any additional details about specific needs of any member of the case that should be brought to the attention of the resettlement country in this section. This provides valuable background information to assist the resettlement country in the selection process and to ensure that the refugee receives the support required during the departure and integration process. Resettlement countries are encouraged to share the information contained in Section 6 with an appropriate settlement agency (either government or non-governmental) in order to provide for effective on-arrival services.

The physical or mental health conditions, specific needs or vulnerabilities of any family member that were not sufficiently explained in previous sections of the RRF should be noted and explained here.

In particular, provide details of any medical or psychological treatment, or specific type of assistance or consideration related to disabilities required by

any member of the case. Also note here if any member of the case is pregnant, and provide the expected month of delivery.

Any attached documentation regarding the specific needs should be summarized in this section. This documentation may include a Medical Assessment Form (MAF) or other medical reports, a psychosocial assessment, a Best Interests Assessment or Determination (BIA or BID), or other relevant reports.

Example 1: ***Sexual and Gender-Based Violence*** *"The Principal Applicant's wife received medical treatment in 2009 for injuries sustained during the rape that took place in the DRC but has not received any follow-up treatment since that time. As detailed in the attached Medical Assessment Form she is in need of another surgical procedure which is unavailable in the country of asylum. In addition she likely suffers from trauma and could benefit from psychological counselling if resettled to a third country."*

Example 2: ***Disability*** *"Due to an injury, the mother of the Principal Applicant uses a wheelchair, although she is able to walk short distances with crutches. Please refer to the attached medical report."*

Section 7: Additional remarks

Use this section to provide any information that may have been unclear in the previous sections. These additional remarks may be necessary to ensure smooth processing of the case.

For example, provide (detailed) explanations regarding:

- the dependency link (economic, social, emotional) of adults (other than the spouse) included on the case;
- the dependency of cross-referenced cases, and the need to process the cases together;
- the dependency of non-refugee family members, the lack of protection or rights accorded by the country of their citizenship to the refugees on the basis of the relationship, and the reasons for including them in the resettlement submission;
- immediate relatives who are in different locations than the Principal Applicant;
- prior marriages, complex family relationships or family histories;
- custody documents, custody consent forms, or any challenges securing them;
- previous attempts at family reunification;
- difficulties in name spellings, registration data irregularities, difficulties in documenting the age(s) of the persons included in the RRF;
- reasons for inconsistencies in identity documents, justification for lack of identity documents;
- discrepancies in dates;
- anything else that may be relevant or useful to the resettlement State.

Information requested by some resettlement States

Resettlement States may request that Section 7 include particular details important for their screening, or for the destining and integration of the refugee family. This may include information about military service or political activity if not already provided as part of their profile or refugee claim, as well as additional details about family linkages to the resettlement country, or details on education, occupation or languages if these were not included in Section 2.

Section 8: Declaration

8. DECLARATION

I/We, the undersigned, authorize UNHCR to share all information and any documents pertaining to me/us and my/our family/dependants in the context of a resettlement submission with officials of Governments other than my/our own. In this connection, I/we authorize the Government authority receiving this resettlement submission from UNHCR to share information contained in Sections 1-3 and 6-7 with an appropriate settlement service agency (either governmental or non-governmental) provided a confidentiality agreement exists between the agency and the Government authority to protect the confidentiality of that information. Furthermore, I/we authorize UNHCR to receive any information relating to a resettlement submission on my/our behalf from such Government authority. This includes, in particular, my/our agreement that the reasons for a decision relating to a resettlement submission are shared with UNHCR. All persons affirm that the information provided to UNHCR for the purpose of this submission is correct and truthful to the best of their knowledge.

Place and Date	

Place and Date	Signature of UNHCR Interviewer
	Name:
	Title:

Place and Date	Signature of Interpreter (if applicable)
	Name:

The signing of the RRF declaration is a significant stage in the overall resettlement process. The declaration is an essential tool for the refugee(s) to affirm and guarantee that the information contained in the RRF is complete and correct. If handled correctly, the signing of the RRF can be a useful occasion to manage resettlement expectations, address concerns about fraud and counsel refugees on the meaning of resettlement.

By signing the declaration, the refugee(s) authorize:

- UNHCR to use the information and any documents pertaining to the family to pursue the case with Governments other than her/his own; and
- the Governments receiving the resettlement submission to share information contained in Sections 1-3 and 6-7 with an appropriate settlement service agency (governmental or non-governmental) provided a confidentiality agreement exists between the agency and the Government authority to protect the confidentiality of that information; and
- UNHCR to receive any information relating to resettlement submission on the refugee's behalf from the Government authority. This includes, in particular, the refugee's agreement that the reasons for a decision relating to a resettlement submission are shared with UNHCR.

Where feasible, the RRF declaration should be signed once the entire RRF has been completed, and the refugee(s) have had an opportunity to review the information contained in the completed RRF and correct any errors. Where this is not feasible, the RRF declaration may be signed during an interview.

To assist in ensuring accuracy and transparency, the declarations must be re-signed should the submission not be made within six months of the signature date.

The following steps **must** be followed before the refugee is asked to sign the declaration:

- The claim or a summary of the claim should be read back to the refugee(s) to ensure that the information is accurate, and to correct any errors.
- The refugee(s) should be counselled that they are responsible for the information they have provided to UNHCR, and that their case will be rejected and likely closed if that information is later found to be fraudulent.
- The refugee(s) should be given the opportunity to correct or clarify information given during the interview, including family composition details, before signing the declaration.
- The refugee(s) should be notified of the reports and recommendations that will be included in the RRF. This may include medical reports, reports regarding protection incidents or criminality, recommendations from BID reports, or other recommendations regarding supports required after resettlement.
- The refugee(s) should be given the opportunity to ask questions and consider these implications before signing the declaration.
- The refugee(s) should be counselled that signing the declaration does not guarantee that they will be resettled. UNHCR submits the application, but the final decision remains with the resettlement country.
- The refugee(s) should be counselled that signing of the declaration authorizes UNHCR to share their information as described above.
- Unaccompanied children who will be presented as the principal applicant on a resettlement submission should be counselled in a child-friendly manner, using simple and age-appropriate language.

If the refugee(s) agree, the principal applicant, the spouse, any other individuals on the case above the age of 18, the UNHCR interviewer and the interpreter (if applicable) should **all sign the declaration page on the same occasion,** recording the date and place of the signatures. An unaccompanied child submitted as the principal applicant should also sign the declaration if they have the capacity to give consent. *proGres* will automatically import a signature block for each adult. Thumbprints should be taken from individuals who are not able to provide signatures.

The name and title of the UNHCR staff member who can be contacted for clarification or more information about the case should also be provided.

To assist in managing expectations, the refugee(s) should be counselled on the next steps in the process, including that:

- the processing of their application can take a long time;
- the proposed country of resettlement may not necessarily be the refugee's country of choice;
- during the process, the office will inform the refugee on new developments in the case, and the refugee can also contact the office for information;
- the process is free of charge, and any individual requesting money to process a case should be reported in confidence to the office; and
- the refugee is responsible for informing UNHCR as soon as possible of any changes in family composition or circumstances that would be important for their case. (This should be done in writing whenever possible.)

See Chapter 7.5.7 for guidance on sharing information with the applicant.

The resettlement submission must be made within six months of the signing of the Declaration. The refugee(s) must be counselled and asked to sign a new Declaration if the submission (or resubmission) is delayed beyond six months.

Section 9: Attachments

List all attachments to the submission in this section. Copies of all relevant and available documents should be attached to the RRF. These include:

- identification documents from country of origin or country of asylum;
- marriage certificates, divorce papers;
- custody documents;
- Best Interests Determination (BID) or Best Interests Assessment (BIA) reports (*see Chapter 5.2.2*);
- Medical Assessment Forms (MAF) (no older than six months – mandatory for Medical Needs submission category);
- other medical reports (x-rays, scans, etc.);
- other documents referred to in the RRF (these may include police reports or witness reports related to incidents, medical reports related to injuries or dependencies, other protection or community service reports) released in line with the UNHCR *Confidentiality Guidelines;*[29]
- authorized English translations of all supporting documents;
- other documents relevant to the case.

For dossier submissions, attach identification documents issued by UNHCR if no other identity documents are available.

Original documents which are not in English must be labelled clearly with a description of the nature of the document.

[29] UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal) http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html

To make retrieval as easy as possible, include a list of all documents in this section, and label each of the attached documents clearly. If the documents have been, or will be, sent separately from the RRF, record the reference numbers and the actual or anticipated mailing or transmission date on the list of documents. Label each attached document with the file number, the name of the refugee, and the country of refuge.

Certain reports are mandatory!

MAF

- For all submissions under the Medical Needs category.

BID or BIA Report

- For unaccompanied or separated children.
- For families in which there were unresolved custody disputes.
- For married refugee children.
- For children being resettled with only one parent who does not have legal custody or written consent from the non-accompanying parent.

7.5.2 Country-specific guides for completing RRFs

A number of field offices have prepared country-specific guides for completing RRFs, intended to provide guidance or standard text on issues related to the resettlement operation. Such guides typically make reference to issues particular to that field context that would affect a significant number of refugees submitted for resettlement. For example, particular recurring concerns relating to family relations, presentation of names, validity of travel documents or period of detentions could be addressed.

The preparation of such country-specific guides is a useful practice, but should be undertaken mindful of the standards contained in the *RRF User Guide* and in consultation with the Regional Resettlement Hub/Regional Office and the Resettlement Service.

The RRF template was adopted in close consultation with the resettlement States, and should in principle not be altered or adapted locally. There have been certain instances in particular in the group resettlement context where field offices negotiated and obtained agreements by resettlement States to accept shortened or abridged RRFs. Such adaptations also require previous consultation with the Regional Resettlement Hub/Regional Office and the Resettlement Service to ensure that standards are not compromised.

UNHCR has developed standard abridged RRFs that resettlement countries are encouraged to accept in order to harmonize and simplify procedures. UNHCR staff are expected to adhere to the standard abridged RRF.[30]

[30] UNHCR, *Operational Guidance Note: Preparing Abridged Resettlement Registration Forms (RRFs) for Expedited Resettlement Processing*, 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4ddde4702.html

7.5.3 RRF review

Ensuring quality control of completed RRFs serves to improve efficiency, consistency and credibility. The RRF review procedures must be outlined in the Office's Resettlement SOPs.

The case officer should pass the completed RRF and case file to the Accountable Officer or another designated Officer for a required quality assurance review. A different staff member than the one who completed the RRF should conduct the review prior to referral to a Hub/Regional Office or Headquarters, and submission to a resettlement country.

A control sheet is a useful aid for ensuring a thorough review of RRFs, and a template that offices can adapt for their use is attached to the Baseline SOPs.[31]

Review steps

The reviewing officer will:

- ensure that the refugee has been recognized under UNHCR's mandate (or is a stateless non-refugee, or a non-refugee dependant as described in Chapter 7.2.2), that resettlement is the appropriate solution, and that the individual meets the requirements of the submission category or categories as described in Chapter 6;
- check that the RRF has been prepared according to the proper standards outlined in the User Guides;
- ensure that additional information on specific needs of all members of the case is provided;
- check whether the physical file contains the following:
  - ✓ initial referral with necessary supporting documentation;
  - ✓ preliminary resettlement needs assessment and documented decision;
  - ✓ verified registration and refugee status;
  - ✓ completed and signed RRF with all necessary supporting documentation;
  - ✓ signed declaration page;
  - ✓ photographs of all applicants in the case (check photograph(s) in *proGres* to determine whether pictures have been changed or updated and ensure that the full name and case number shows on each picture if the RRF is not *proGres*-generated);
  - ✓ if applicable, proof of changes in family composition, such as birth certificates, adoption documents, etc. is provided, or justification for the absence of such documentation is included in Section 7;
- be aware of the possibility of fraud where internal consistency is lacking (especially with respect to the narrative and family composition);

[31] UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html

- discuss and follow up on any required modifications in the completed RRF with the case officer.

7.5.4 Regional Resettlement Hub or Regional Office review

In regions with a Regional Resettlement Hub or a Regional Office, resettlement submissions must be routed through the Regional Resettlement Officer to ensure the quality and integrity of the resettlement process. The procedures and required authorizations should be elaborated in the resettlement SOPs, including procedures for emergency cases.

Elements to be reviewed

The case should be reviewed by an officer who has not previously been involved in the referral or preparation of the case at the originating office. The reviewing officer will review the RRF and all attachments and check:

- UNHCR mandate status and 1951 Convention grounds;
- resettlement need;
- evidence of fraud, other malfeasance or non-compliance with procedures;
- consistency (both internally and with other cases);
- completeness, and adequate evidentiary support;
- clarity and readability.

Corrections/changes

- The reviewing officer may make changes to the RRF including grammatical and spelling modifications, correction of errors in content, and adjustments to country of origin information, as may be deemed necessary. Such changes are made to uphold standards of professionalism and efficiency of processing.
- In some cases, the reviewing officer in the Regional Resettlement Hub/ Regional Office may request that the person who drafted the RRF make changes in order for the RRF to be strengthened – which will also help the drafter learn from the process.
- As an anti-fraud measure, any changes concerning Sections 1-3 which are populated by *proGres* can only be made by the originating office.
    - The reviewing officer will work with the originating office to resolve issues and finalize the RRF. Any substantive changes the Hub/ Regional Office makes to an RRF will usually be based on written authorization provided by the author of the RRF. In some circumstances, such as where the author of the RRF is no longer available, the concerned office may authorize the changes. However, if the changes are very substantial, the originating office should provide a new declaration page.

7.5.5 Review stage refusal or approval

Upon completion of the RRF review, and approval of their recommendations by the Accountable Officer or his/her designate, the reviewing officer must update the file action sheet, the quality control sheet or checklist, and *proGres* accordingly.

The review of the RRF and the case file may lead to the conclusion that the **refugee is ineligible for resettlement**. In this case, all members of the case should be scheduled for counselling as soon as possible.

If the RRF is approved, it proceeds either to the Hub/Regional Office or Headquarters for their review, or to the submission decision stage within the office.

7.5.6 Additional RRF controls

- **Electronic versions of RRFs must be stored on a limited access computer drive or be password protected**. Electronic versions of partial or completed RRFs must be stored in a way that prevents unauthorized access and/or alterations. In cases where RRFs are stored on a network drive, safeguards should be implemented to ensure that accesses to those documents are password protected. In cases where RRFs are stored on a computer's hard drive, it should be ensured that access to that drive is strictly limited.
- **Corrections to RRFs should not be handwritten**. If corrections by hand are absolutely necessary, they should not be made with whiteout. Instead, the old information should be crossed out, the new information written above in pen, and the date and initials of the individual changing the information should be noted next to the correction.

7.5.7 Sharing information with the applicants

Refugees are only entitled to copies of some sections of their completed RRF. According to UNHCR's *Confidentiality Guidelines on the Sharing of Information of Individual Cases* the refugee is in principle entitled to obtain information s/he has provided. The same applies to the duly authorized representative of the refugee. However, information generated or obtained by UNHCR (such as interview transcripts, case assessments, instructions or legal opinions from UNHCR offices, correspondence with UNHCR offices and external parties, medical and social counselling records and the RRF) are not normally shared with the refugee. Staff safety considerations are often an important factor in this context.[32]

In the context of the RRF, this means that although a refugee may have a copy of the information they provided for the *preparation* of the RRF, the refugee is not necessarily entitled to a copy of UNHCR's analysis of refugee status (Section 4 of the RRF) or resettlement need (Section 5). Please contact the Resettlement Service in UNHCR Headquarters for additional guidance.

[32] UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal) http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html See also Chapter 4.2.4.

Essential reading

- UNHCR, *Resettlement Registration Form (RRF) for proGres Users: User Guide*, revised 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4ad303552.html
- UNHCR, *Resettlement Registration Form (RRF) for Non-proGres Users: User Guide*, revised 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4ae579692.html
- UNHCR, *Revised UNHCR Medical Assessment Form (MAF) and Guidance Note*, IOM/044-FOM/044/2010, 21 July 2010, (Internal) available on UNHCR Intranet
- UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal) http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html

7.6 UNHCR SUBMISSION

The UNHCR office decision to submit a refugee's case to a resettlement country for resettlement consideration must be made in a transparent way, and according to objective criteria. The final decision should be taken in full consultation among staff and be cleared by the Accountable Officer. Documenting each step of the process, (in *proGres* and on the refugee's file) helps ensure that the resettlement process was followed in accordance with the standards established in this chapter.

When determining if the case in question should be submitted for resettlement, these requirements must be met:

- The case in question must, at minimum, have been recognized as a refugee under the mandate of UNHCR, according to Chapter 3 of this Handbook, (or be eligible as a stateless non-refugee, or non-refugee dependent family member as described in Chapter 7.2.2).
- The prospects of other durable solutions must have been given full consideration and resettlement identified as the most appropriate durable solution.
- The case in question must have been found to have resettlement needs according to the resettlement submission categories outlined in Chapter 6 of this Handbook.

If the case is found to meet these requirements, then the case can be submitted for resettlement. Wherever possible, cross-referenced files of dependent family members should be submitted together to one resettlement country, as part of the same submission.

7.6.1 Determining the country of submission

After determining that a particular case should be submitted for resettlement, the next step is to identify a suitable resettlement country if this is not already confirmed. Major considerations include:

- family links, particularly those in resettlement States;
- resettlement submission priority, vulnerability, and the resettlement country's average processing time and capacity for urgent processing;
- selection criteria and admission priorities of resettlement countries;
- allocation of annual quotas of resettlement States;
- health requirements / availability of treatment;
- language abilities;
- cultural aspects;
- nationality;
- family configuration; and, if possible:
- the refugee's expressed preference for a resettlement country.

Considering the options

Most resettlement cases are submitted to an established resettlement State, and field offices should consult the Country Chapters of this Handbook (available at http://www.unhcr.org/resettlementhandbook) for information on a particular State's resettlement programme.

Resettlement States set their **annual quota** according to their regulations and priorities, and consult with UNHCR to determine the allocation of their annual quota among refugee populations in need of resettlement. As well as specifying the regions or specific refugee populations from which they agree to receive submissions, some States also allocate sub-quotas for emergency or urgent cases, family reunification cases, or refugees with specific needs such as medical needs, or women at risk. The Resettlement Service compiles details on resettlement country quotas and submission procedures as a reference for field offices to plan for submission targets and selection missions.

Some resettlement States allocate a portion or their entire quota to **dossier submissions**, on which they make decisions without requiring a direct interview with the refugee. A State may specify from which refugee population they wish to receive dossier submissions, or leave this open to UNHCR discretion.

In other cases, resettlement States, by either discretion or law, require an individual interview with the refugees under resettlement consideration. These interviews typically take place during resettlement **selection missions** to the country of asylum.

Submissions may also be made to countries which do not have an established annual quota, but accept resettlement cases on an *ad hoc* basis, including for cases with family links. These countries may also maintain special programmes benefiting refugees with specific needs, or respond to appeals for certain refugee populations.

Field offices are encouraged to consult the Regional Resettlement Hub/Regional Office or the Resettlement Service if there are questions on the appropriate country of resettlement submission.

Family Unity

All efforts must be made to preserve or restore family unity in the course of resettlement operations. UNHCR staff should promote the admission of refugees to a country where they have relatives or other personal ties, whether or not this is an established resettlement State.

Field offices should also ensure that refugees are counselled on the resettlement country to which their case has been submitted. This is an important aspect of managing resettlement expectations.

7.6.2 Prioritizing submissions

The urgency of the resettlement needs can impact the selection of the resettlement country, and the routing of the submission. As outlined in Chapter 6.1.1, resettlement submissions can be made on three priority levels: normal, urgent, and emergency. Field offices must ensure that systems are in place to minimize the time between needs identification and the submission for resettlement, to prevent normal and urgent cases from becoming emergency ones.

The immediacy of the security risks or the severity of the medical condition facing **emergency** cases necessitates their removal from the threatening conditions within a few days, if not within hours. Ideally, emergency cases should be submitted within 24 hours of identification. **Urgent** cases have serious medical risks or other vulnerability requiring expedited resettlement within six weeks of submission. Ideally, urgent priority cases should be prepared and submitted within two weeks of identification.

UNHCR and resettlement countries must take rapid action, and provide extra resources to process emergency and urgent cases. Some States have allocated emergency sub-quotas, and have developed accelerated procedures to meet emergency needs, whereas other States, including some countries without annual quotas, will consider emergency resettlement submissions and can and do respond rapidly when circumstances warrant.[33]

RRFs designated for urgent and emergency submission should clearly indicate the nature of the urgency/emergency, i.e. whether the need is for an urgent/emergency decision by the resettlement country or urgent/emergency departure of the refugee from the asylum country or both. Emergency and urgent cases must be treated expeditiously at all stages, and tracked to ensure effective follow-up.

33 Consult the Resettlement Service for updated information on resettlement country quotas and submission procedures.

Timely identification of refugees with medical conditions can make a significant impact on the prognosis, which in turn can impact the likelihood of acceptance by a resettlement country. Field offices must ensure that submissions under the Medical Needs category are made as soon as possible. Although a Medical Assessment Form (MAF) is valid for up to six months, MAFs supporting emergency or urgent submissions must be recent enough to accurately reflect the prognosis.

7.6.3 The resettlement submission

Depending on UNHCR policy and the resettlement State, resettlement submissions are routed through Regional Resettlement Hubs or Regional Offices, through UNHCR Headquarters, or directly to resettlement countries.

Emergency dossier submissions generally need to be routed through the Processing Unit of the Resettlement Service at Headquarters, or through a Regional Resettlement Hub.

Some resettlement countries also require other cases to be routed through the Processing Unit, while other countries allow submissions directly to local embassies that have immigration representation with a designated procedural role. The United States of America, Canada and Australia, for example, allow submissions directly from field offices. However, submissions to these countries should be submitted through the Regional Resettlement Hub or Regional Office where these have been established. This provides an additional safeguard for the quality and consistency of the submissions.

For more details, refer to the instructions given by the Regional Resettlement Hub/ Regional Office, or the Resettlement Service and consult the Country Chapters of this Handbook available at http://www.unhcr.org/resettlementhandbook. These chapters outline each country's procedures for routing submissions, and may include specific instructions distinguishing between cases to be assessed on a dossier basis, and those to be interviewed during a selection mission.

A covering email or memo from the Accountable Officer authorizing the resettlement submission should accompany the RRFs and the required supporting documentation. The email or memo should specify:

- the name of the principal applicant;
- the case file number;
- the case size;
- the nationality and country of asylum of the applicants;
- the prioritization of the submission, and specific details regarding vulnerabilities that impact the timing of the processing;
- cross-referenced cases that should be processed together, where applicable.

A copy of this submission email or memo should be kept in the refugee's file, along with the original signed RRF. The submission must also be recorded in *proGres*. When multiple RRFs are submitted at the same time, which is recommended for cross-referenced cases of dependent family members, a single

email or memo should be prepared with a submission table listing the above details for each case.

When submissions are made to countries without annual resettlement quotas, the UNHCR Office responsible for the resettlement country should be advised and be provided with a copy of the submission memo or email.

Field offices should make consistent efforts to use selection mission places and normal dossier places, if available, in order to save scarce emergency, urgent and medical dossier quotas for critical emergencies.

Dossier submissions

Field offices should consult the specific instructions provided by the Resettlement Service on the procedures for dossier submissions. These include instructions on the use of limited emergency, urgent and medical dossier quotas, an overview of quotas allocated by all resettlement countries, instructions on submissions, and relevant contact details.[34]

Each field office should maintain a general GroupWise ID for case processing and statistical purposes. It is the responsibility of the Field Office to ensure that statistical data concerning submitted, pending, accepted and departed cases is accurately recorded and reported (*see Chapter 4.9*).

Emergency and urgent submissions

To make the most effective use of the limited numbers of available dossier places for emergency and urgent cases, the Processing Unit coordinates these submissions. A certain number of emergency, urgent and medical needs quota places are allocated to the Regional Resettlement Hubs.

Upon the identification of an **emergency** case, the Field Office is encouraged to consult with the Country Office/Regional Resettlement Hub/Regional Office or the Processing Unit of the Resettlement Service to discuss the details of the case and its possible submission routing. Staff should be prepared to discuss the nature of the emergency, the required time frame for departure, as well as third country links or other details that impact the selection of the country of submission. Offices should designate a *focal point* to follow up on individual emergency and urgent cases, and to ensure that unnecessary delays are avoided.

Field offices are encouraged to simultaneously examine local submission options, due to the limited number of places available under dossier quotas for emergency, urgent and medical needs cases. Close communication between UNHCR and resettlement States is essential during the processing of emergency and urgent cases to ensure a common understanding of the refugee's current circumstances, and how quickly resettlement *must* occur.

[34] These instructions are issued as the *Guidelines on Resettlement Dossier Case Submissions and Family Reunification Procedures* together with annexes updating annual quotas, lists of contacts and focal points, and statistical report forms. Contact the Processing Unit of the Resettlement Service at HQRS00@unhcr.org for the current version.

A full dossier submission, including a complete RRF justifying the priority and supporting documentation, should ideally be sent to a resettlement State within 24 hours for emergency cases, and within two weeks of identification for urgent cases.

Resettlement States are urged to make a decision on an emergency case within 24 hours of the receipt of submission. In some circumstances, the rapid notice of acceptance by a resettlement State can prevent *refoulement,* or ease other protection risks. In all emergency cases, however, the resettlement State is encouraged to ensure departure as soon as possible – ideally within one week after acceptance.

Similarly, resettlement States are encouraged to provide a decision on an urgent submission within two weeks, and facilitate departure within four weeks of acceptance.

The UNHCR focal point is encouraged to maintain close communication with the IOM and resettlement country counterparts to facilitate departure after the travel instructions have been received.

If direct departure to the resettlement country is not possible within the required time frame, transfer to an Emergency Transit Facility may be considered. *See Chapter 7.6.4 below for guidance.*

Multiple (Parallel) submissions

As a general rule submissions should only be made to one country at a time. However, owing to unique protection problems, UNHCR may on an exceptional basis make "parallel" or "multiple" submissions, (two or more States considering the case at the same time). A parallel submission should only be undertaken for emergency cases after consultation and agreement with the Resettlement Service at UNHCR Headquarters, and with the full understanding of the concerned States. In exceptional circumstances a parallel submission of an urgent case may be made, but only with prior authorization from the Resettlement Service. The Field Office must immediately advise all parties of an acceptance.

WRAPS upload

Where established, submissions to the United States of America may be made through the electronic web interface between *proGres* and the US Department of State Refugee Processing Center's Worldwide Refugee Admissions Processing System (WRAPS). The WRAPS system is used by the Resettlement Support Centers (RSCs – previously known as Overseas Processing Entities) and the Refugee Processing Center to coordinate and standardize data entry for refugees into the U.S. Refugee Admissions Program.

The electronic web interface can be used for:

- individual resettlement submissions based on UNHCR's standard Resettlement Registration Form (RRF); and
- group submissions based on UNHCR's group resettlement methodology.

For specific information on the WRAPS interface with *proGres* consult the *Standard Operating Procedures developed for UNHCR Offices that are not covered by a Resettlement Hub*.[35] Official submissions from a Hub are coordinated with WRAPS transfers from field offices.

7.6.4 Emergency Transit Facilities

Wherever possible, the cases of refugees with emergency or urgent resettlement needs should be processed expeditiously, and resettled directly to their destination resettlement countries. However, this is not always feasible. As introduced in Chapter 2.3.3, UNHCR has established Emergency Transit Facilities (ETFs) to create systematic and expeditious mechanisms to transfer refugees temporarily, pending their processing for onward permanent resettlement to a third country.

UNHCR Staff should follow the procedures outlined in the *Guidance Note on Emergency Transit Facilities*[36] to ensure that evacuation occurs expeditiously.

Profiles of refugee who may be considered for evacuation

Some emergency cases may not be suitable for evacuation. Given the lack of specialized medical treatment available at the ETF, refugees with serious illnesses or in need of immediate major medical interventions may not be considered. Furthermore, the approvals process for transfer to an ETF may be too long for cases requiring immediate removal.

Cases of individuals or groups that may be appropriate for consideration for evacuation to a transit facility include refugees:

- at immediate risk of *refoulement* or facing other acute, life-threatening situations;
- in detention conditions which warrant resettlement as the most appropriate form of protection, and swift release from detention requires a transfer out of the country;
- whose cases are particularly sensitive or high-profile and face imminent or serious protection problems;
- for whom resettlement processing cannot be completed in the host country due to inaccessibility, such as where resettlement countries are denied entry visas by the asylum country, or where access is restricted due to lack of security;
- in need of resettlement for whom a resettlement country and/or UNHCR requires that their final destination for permanent resettlement not be disclosed to the asylum country;

[35] UNHCR, *Interface between proGres and WRAPS: Standard Operating Procedures for UNHCR Offices that are not covered by a UNHCR Resettlement Hub*, July 2007, Annexed to UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html

[36] UNHCR, *Guidance Note on Emergency Transit Facilities: Timisoara, Romania /Manila, Philippines / Humenné, the Slovak Republic*, May 4, 2011, http://www.unhcr.org/refworld/docid/4dddec3a2.html

- in situations where it is more expedient and incurs lower costs to process the cases even if the refugees concerned are not necessarily at immediate risk; and
- in other situations as appropriate.

In certain types of cases, confidentiality may be of greater than normal importance. The offices concerned will need to ensure that appropriate care is taken to restrict information about the evacuation.

Evacuation procedures

Any transfer to an Emergency Transit Facility is preconditioned upon a resettlement country agreeing to undertake further resettlement processing in the ETF, even if no guarantee of acceptance is provided at the time of transfer. This will help reduce the risk that a refugee is stranded at the ETF.

The individual situation will determine the complexity of the evacuation process, and the number of partners that will be involved. In all contexts, though, active ongoing coordination between UNHCR field staff, ETF staff and Headquarters is required to ensure that evacuation movements take place efficiently and in a predictable and systematic manner.

The basic procedures in the evacuation process are:

- UNHCR Field Office, Hub or Regional Office **identifies case(s) in need of evacuation** and makes a request by email to the ETF Focal Point in the Resettlement Service, DIP and the relevant Bureau.[37] If possible, the completed RRF should be attached. In some situations, the resettlement country may request a transfer to the ETF to facilitate case processing.
- The Resettlement Service and the Bureau jointly **assess the case as to its suitability for evacuation**, and respond within 24 hours.[38]
- The Resettlement Service **ensures space is available at the ETF** and conveys the decision to the Field Office.
- The Resettlement Service contacts IOM Geneva and the Authorities of the resettlement country with details of the proposed movement. IOM Geneva notifies their field counterparts of the clearance and activation of the **Rapid Response Transportation Fund**.
- The **resettlement submission** is processed through the same channels as emergency submissions: the Field Office forwards the case documentation to the Regional Resettlement Hub/Regional Office or, in offices not covered regionally, to the ETF Focal Point in the Resettlement Service, for **screening and quality control**, along with documents required by the State hosting the ETF.[39]

[37] All emails must be copied to the ETF email address: HQDIPETF@unhcr.org

[38] Approval may take longer for contentious, high-profile or sensitive cases, where there may be questions about the RSD, exclusion interview or need for evacuation, and where additional information may be required.

[39] These include a completed list of names and bio-data, a group profile, and a copy of UNHCR Refugee Certificates for each individual.

- The Hub, Regional Office or ETF Focal Point **forwards the approved documents** to the designated staff member at the ETF, copying relevant focal points in the Resettlement Service and in the Bureau.
- Concurrently, the Field Office ensures that **all required partners needed for the evacuation have initiated the necessary steps** (including as required: International Committee of the Red Cross (ICRC) for travel documents, IOM for transportation, transit visas, visas, travel escorts if required) and liaises with all relevant local authorities regarding issues within their competence.
- The designated staff member at the ETF reviews the submitted materials and forwards them to the **Host Country Government Authorities**, who formally advise UNHCR within 7 working days whether the refugees have been **accepted for entry and temporary stay**.
- The designated staff member at the ETF immediately advises the Resettlement Service, the Bureau, the Regional Resettlement Hub/Regional Office and the Field Office preparing the evacuation of the acceptance.
- The Field Office must ensure that refugees are fully counselled about the resettlement process and transit facility and that they have given their consent.
- The Field Office provides any additional information to ensure that adequate services and assistance are available at the ETF on arrival, and continues planning for the evacuation, keeping all actors informed of developments until the refugees arrive safely.

The individual resettlement State determines which procedures are required to finalize the resettlement processing after the arrival of the refugee(s) at the Emergency Transit Facility. If interviews with the refugees are required, the resettlement State may arrange a mission to the ETF or may interview the refugees via video conference. Medical examinations may be required, and the State may arrange cultural orientation and language lessons prior to departure.

The Field Office and Regional Resettlement Hub/Regional Office must be kept informed of the final processing and the departure of the refugees from the ETF, and must update the refugee's file and *proGres* accordingly.

7.7 STATE SELECTION

While UNHCR submits cases for resettlement, it cannot guarantee that the case will be accepted by a resettlement country.

Resettlement depends on the willingness of the resettlement country to accept a refugee for legal stay in its territory, in accordance with its laws and regulations. Each resettlement country has its own regulations and procedures in respect to the resettlement of refugees, as detailed in the Country Chapters of this Resettlement Handbook available at http://www.unhcr.org/resettlementhandbook.

As reviewed in Chapter 7.6.1, in accordance with their regulations and procedures, resettlement countries may consider submissions on a dossier basis, and not require a direct interview with the refugee. In other cases, resettlement

countries, by either discretion or law, conduct individual resettlement interviews with refugees under resettlement consideration. Such interviews typically take place during a resettlement selection mission.

7.7.1 Selection missions

Selection missions to the field are an important opportunity for States to consider a large number of resettlement cases at the same time through direct interviews with refugees, and to gain familiarity with the asylum context. They also provide an opportunity for UNHCR to dialogue with officials from resettlement countries to promote understanding of UNHCR goals and encourage flexibility on selection decisions.

Selection missions require good planning, as they call for considerable effort not only to prepare the agreed number of submissions ahead of time, but also to manage logistics and support during the mission itself. Once each resettlement State's allocation of their annual quota is confirmed, the timing of the selection missions can be negotiated between the resettlement State and the Field Office, Regional Resettlement Hub/Regional Office or the Resettlement Service as appropriate.

Preparation for the mission

UNHCR is a partner in global resettlement activities, along with resettlement countries, their missions abroad, NGOs, Resettlement Support Centers (for the USA), and the International Organization for Migration (IOM). Each of these actors has a potential role to play in the planning and support of resettlement selection missions.

UNHCR field offices capacities vary, and not all offices will be able to support selection missions in the same way. What is possible, however, is an early proactive assessment of what a field office can and cannot provide in support of a selection mission. Timely notice of possibilities and limitations will enable resettlement countries to make alternate arrangements to ensure that they have the support they require during their resettlement selection missions.

In order to facilitate early planning leading to successful selection missions, UNHCR has developed a comprehensive pre-mission questionnaire and pre-mission checklist to assist with the planning and coordination of resettlement interviews during selection missions.[40] While not mandatory, the completion of the questionnaire by the resettlement State and UNHCR facilitates preparations, and is encouraged in situations where the mission requires support from UNHCR. The checklist confirms that preparations are in place.

The questionnaire and checklist facilitate the exchange of details regarding:

- contact persons;

[40] See UNHCR, *Pre-Mission Checklist for Resettlement Interview Missions*, 5 January 2009, http://www.unhcr.org/refworld/docid/49631d2e2.html; and UNHCR, *Pre-Mission Questionnaire for Resettlement Interview Missions*, 5 January 2009, http://www.unhcr.org/refworld/docid/49631d782.html

- anticipated dates of the selection mission;
- agreed number and composition of the resettlement cases;
- target dates for submissions;
- information resettlement States wish to receive in advance including details on the refugee population, political and security conditions in the country of asylum, and other information;
- interest in orientation briefing from UNHCR to take place on arrival.

Sending the questionnaire back and forth between the resettlement State and the Country Office also facilitates the negotiation on UNHCR's capacity to provide support required by selection missions. The questionnaire and checklist address the requirements of selection missions for assistance with:

- entry visas;
- airport reception;
- ground transport for the delegation;
- accommodation;
- facilities and services including: interview rooms, separate waiting areas, security personnel, interpreters, additional staff support, transport of the refugees to the interview location, access to computers, printers, internet, telephone, electricity, cameras, and other required facilities or services;
- interview scheduling;
- notification of refugees to be interviewed;
- briefing of interpreters;
- organization of briefing session for refugees about the interview, or cultural orientation;
- medical examinations;
- organization of meetings with government officials or other agencies;
- any other special needs.

Wherever possible, visiting selection missions should rely on their own resources for interview space, transport and equipment, in order to minimize disruption to UNHCR operations in the country concerned. Before requesting assistance, missions should consider using non-UNHCR premises for interviews, such as embassies, implementing partner's premises or hotels. The availability of interpreters is often limited, and the selection mission may need to cover the costs.

In certain remote locations, UNHCR may be able to provide assistance with accommodation. It may be possible to board at a guest house within a UNHCR compound, (usually at the cost to the delegation), but this cannot be guaranteed for all remote locations. Living conditions in some remote locations are less than ideal, and delegations are advised to take precautions with respect to personal hygiene and safety, and be aware of the likely challenges for people with specific medical conditions or dietary needs.[41]

[41] UNHCR, *Pre-Mission Questionnaire for Resettlement Interview Missions*, 5 January 2009, http://www.unhcr.org/refworld/docid/49631d782.html

Where selection missions are coordinated through UNHCR Headquarters, the Resettlement Service will:

- liaise with the relevant Field Office and the capital to clarify dates for the mission, which may cover more than one country in the region;
- request the Field Office to identify relevant case files and advise the Field Office of the selection mission's interests in terms of refugee group composition and numbers;
- advise whether copies of the case files or information concerning details of the processing are required;
- send, where required, the case files selected by the Field Office for the selection mission for pre-screening directly to the capital of the country concerned after identifying cases with specific needs;
- advise the Field Office of the cases pre-screened and selected for an interview by the country capital.

Where selection missions are organized directly between authorities of a resettlement country and a field office, the Resettlement Service at UNHCR Headquarters, Regional Resettlement Hubs/Regional Offices and field offices in the region should be kept informed. This will help to better coordinate missions and avoid overlaps or delays of missions to countries in the region.

In all cases, the refugees who will be interviewed during a selection mission must be briefed regarding the upcoming interview. This should include information on who needs to attend the interview, the documents they should bring, transportation arrangements if applicable, and the anticipated schedule for the interview and any other briefings or checks to be conducted that day.

Field offices are encouraged to offer an initial briefing and a final debriefing to selection missions. An **initial briefing** shortly after the arrival of the delegates and prior to their interviews is useful to discuss the mission schedule and logistics, the current conditions in the country of refuge and country of origin, and the profiles of cases submitted for consideration. The briefing may also be an opportunity to present additional cases, even if they do not meet the standard admission criteria of the country concerned. A **debriefing** at the end of the selection mission is a useful opportunity for initial feedback and reviewing the required follow-up. States are also encouraged to complete the post-mission questionnaire to assist with quality control and to provide feedback on the support provided.[42]

Essential reading

- UNHCR, *Pre-Mission Checklist for Resettlement Interview Missions*, 5 January 2009, http://www.unhcr.org/refworld/docid/49631d2e2.html
- UNHCR, *Pre-Mission Questionnaire for Resettlement Interview Missions*, 5 January 2009, http://www.unhcr.org/refworld/docid/49631d782.html
- UNHCR, *Post-Mission Questionnaire for Resettlement Interview Missions*, 5 January 2009, http://www.unhcr.org/refworld/docid/49631dcb2.html

[42] See UNHCR, *Post-Mission Questionnaire for Resettlement Interview Missions*, 5 January 2009, http://www.unhcr.org/refworld/docid/49631dcb2.html

7.7.2 Requests for additional information

Representatives from the resettlement country may ask for additional information contained in the refugee's file during selection missions or dossier considerations.

UNHCR's *Confidentiality Guidelines*[43] stipulate which elements of the refugee's file may be shared with external partners. While reasonable requests for clarification need to be fulfilled, the general rule is that no information other than the RRF and the documents attached need to be shared with resettlement countries. The Accountable Officer or a Senior Protection Officer should handle requests for additional information about the case, in consultation with the Resettlement Service. Internal UNHCR assessments should not be shared without prior approval by the Country Representative or his Deputy. For complex cases, field offices are encouraged to consult relevant Regional Resettlement Hubs/Regional Offices or the Resettlement Service.

The officer accountable for resettlement should also be mindful of the terms of the waiver contained in the text of the RRF Declaration, which authorizes UNHCR to share information or documents pertaining to the refugee with resettlement countries in the context of a resettlement submission.

7.7.3 Follow-up after submission

The officer accountable for resettlement needs to ensure regular follow-up on all submissions either directly with resettlement States, where they are made locally, or through the Regional Resettlement Hub/Regional Office and/or Headquarters as appropriate.

It is particularly critical to monitor emergency, and urgent submissions, and follow up with the resettlement State when the deadlines have passed without decisions. UNHCR should seek a clear explanation for a delayed decision, and a realistic indication as to when a decision is expected. Should an expeditious decision not be possible- consideration may be given to withdraw the case for resubmission to a State able to issue a quick decision. *See Chapter 7.8 for guidance on withdrawals.*

The resettlement country should also be contacted when there are excessive delays (i.e. more than 60 days) in scheduling interviews for locally submitted normal priority cases, or for issuing decisions after interviews.

Change of circumstances

UNHCR retains a responsibility to ensure that any case-related changes that come to UNHCR's attention after the submission are duly and diligently communicated to the resettlement country.

[43] UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal)
http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html

Refugees should be reminded of their obligation to notify UNHCR of any changes in family composition or circumstances that would be of importance for the case. In certain situations family composition changes might fundamentally alter the status of the case, and may warrant a review of the resettlement submission.

UNHCR has a responsibility to ensure family unity, and therefore has a role in verifying the veracity of family relationships. If there has been a change in family composition and/or circumstances staff will:

- promptly bring births, deaths, divorces and other changes in family composition to the attention of the resettlement country;
- discuss a change in family composition with the principal applicant, and interview any "new" adult family member;
- obtain, examine, and copy originals of supporting documentation (birth certificates, marriage certificates, etc.);
- prepare a note for the file describing the situation including an analysis of the legitimacy/credibility of the change in circumstances and changed resettlement submission category, if appropriate; and
- prepare a revised RRF, if required.

If the Office sees a pattern in changes to the family size of cases under consideration for resettlement, the Office should consider the possible underlying motives, and if necessary, take measures to prevent fraud or duress in the refugee community. If a pattern of unanticipated changes in family size emerges, one possibility is to put all cases that are not of a very urgent nature on hold. The Accountable Officer should carefully assess the need for such measures in consultation with the responsible Protection Officer and the Head of Office.

7.7.4 Selection decision

As soon as a UNHCR office receives a decision on a submission, it must inform all offices concerned with the case, and update *proGres*. In the case of submissions through UNHCR Headquarters, the Resettlement Service will notify the Field Office. The Field Office must ensure that the refugees are informed of the decision in a prompt manner, unless this is done directly by a local embassy or an implementing partner. *proGres* should also be updated.

7.7.5 Acceptance

Where the decision is an acceptance, the next step is pre-departure processing. UNHCR should collaborate closely with governments, IOM, and NGO staff involved in the pre-departure preparations. *See Chapter 7.11.1 for more details.*

7.7.6 Rejection

Where the decision is a refusal, UNHCR will review the decision and evaluate the case to determine if resubmission to another resettlement State is appropriate. *This review process is described in more detail at Chapter 7.9.*

Reasons for rejections provided by resettlement countries should be recorded in *proGres* and the refugee's file. Where reasons are not provided with the notice that a submission has been rejected, UNHCR staff should seek a more detailed explanation (preferably in writing) from the resettlement State. This information is a key element in evaluating whether to resubmit a case and the extent of review required for resubmission.

Counselling and provision of information

Refugees should be informed of any significant developments affecting their case, including rejections by States and whether their case may be resubmitted. If reasons have been provided by the declining State, refugees should be provided with these reasons.

If a decision letter is addressed to an individual refugee, the refugee should be given the original, with a copy kept on file with UNHCR noting the date the letter was handed to the refugee. To protect confidentiality, copies of emails, lists, or letters addressed to UNHCR should not be given to refugees. UNHCR continues to advocate for the provision of individual letters.

UNHCR considers a resettlement case to be **rejected** following:

- a State's formal action to reject a case after receiving the submission from UNHCR and fully considering the case according to its policy and/or legal requirements for resettlement admissibility;
- a State's refusal to consider a case submitted by UNHCR;
- a State's return of a submission to UNHCR without having taken any decision; or
- a State's indication that a case that has been submitted by UNHCR is likely to be rejected, or a State's invitation to UNHCR to withdraw a case before the issuance of a decision.

UNHCR encourages States to provide a formal rejection, rather than refuse to consider a case or return a submission to UNHCR without a decision. In the interests of fairness and transparency, UNHCR should not withdraw a resettlement submission before the issuance of a decision unless exceptional circumstances merit otherwise.

A case is **not** considered rejected if a State requests additional information on a case, or if a State suspends its processing of a case pending receipt of additional information from UNHCR or another source.

In view of the complex nature of HIV testing in the context of resettlement, offices in the field which become aware of a refusal based on HIV status may wish to contact the Resettlement Service at UNHCR Headquarters for advice and guidance on general requirements for waivers or exceptions with a view to requesting reconsideration of the case [see below]. *For further details on HIV testing, see Chapter 5.3.7.*

7.7.7 Reconsideration

In exceptional cases, UNHCR may ask the State which has rejected a case to reconsider the case, for example, in the event that the factors that led to the State's decision to reject the case are subsequently addressed or no longer exist. Refugees are entitled by some resettlement States to request a formal reconsideration of the rejection of their case. Cases for which reconsideration has been requested are nevertheless subjected to the same attention and review as a rejected case.

7.7.8 Responses to split decisions of dependent family members

The rejection of a case is a serious development for the refugees concerned, but can have particular consequences where the case, or linked cases, are subject to a so-called "split decision": part of the family is accepted and another part is rejected.

Every effort should be made to keep dependent family members together and to advocate with the resettlement State for a durable solution in the manner *least harmful* to the family, both collectively and individually. However, if the resettlement State has accepted only part of the family and will not reconsider the split decision, UNHCR should advise the family to consider withdrawal and resubmission of all linked cases to another country in order that no individual is left behind.

Thorough counselling to refugees on available options, as well as the limitations, risks, and possible consequences of each option, is imperative to enable refugee families to make these difficult decisions in a fully informed and participatory manner. In practice, few options may be available for cases that have received a split decision from a resettlement State, and each carries significant consequences:

- **Withdrawal and Resubmission:** All of the cases of a family which has received a split decision may be withdrawn and resubmitted to another resettlement State. However, there is no guarantee that the subsequent resettlement State will accept all – or even any – family members. This also adds additional months or years to that family's achievement of a durable solution. Nevertheless, family unity is maintained, and no individual is separated or left behind to face a potentially worsened situation without family support.
- **Decision to separate the family**: Some refugee families may choose to send the accepted family members on resettlement, preferring to send part of the family to the safety and security of resettlement rather than have the entire family wait for a joint decision. Such a choice should not be construed as evidence against the family's interdependency, but rather be viewed as a pragmatic approach to a situation with few available options. Nevertheless, the departure of part of the family may leave one or more family member(s) behind, where they may become particularly vulnerable or face specific protection problems.

- **Await family reunification**: It is imperative to explore all protection options for such family member(s) as remain in the country of asylum. In some cases, it may be appropriate for the family member(s) remaining behind to await family reunification pursued through the resettlement country's national legislation.
- **Submit to another State**: Compelling protection needs of some of the split cases may dictate that they be expeditiously submitted to another resettlement State.

7.8 WITHDRAWAL

UNHCR may choose to withdraw a case before the State in question has rendered a decision. Some of the following circumstances may prompt UNHCR to withdraw a case, and resubmit it to another country:

- new circumstances (family links, quota reallocation, impending selection mission, etc.) may have come to light encouraging resubmission to a State other than the State of original submission;
- where UNHCR may feel that the case requires a more rapid decision than that particular State can give, and elects to withdraw the case with a view to re-submitting it elsewhere (for example where urgent protection problems suddenly arise requiring upgraded priority or swift resolution and departure of a case pending with a resettlement country, or where the State's decision making, including security clearance, is significantly delayed);
- as described above, where a State's "split decision" threatens to separate dependent family members and the decision is made to resubmit the entire family to a new resettlement State.

In these cases, such a decision by UNHCR is considered to be a withdrawal and not a State's rejection. As with rejected cases, withdrawn cases are reviewed and evaluated to determine if resubmission is appropriate. This review is described in more detail below at Chapter 7.9.

Other circumstances may prompt UNHCR to withdraw a case, but the case will not warrant resubmission unless the circumstances change:

- new circumstances may have come to light suggesting that submission for resettlement is currently inappropriate, such as when the reasons for submission substantially change or cease to exist (for example, fundamental changes in the country of origin, family circumstances, or protection needs);
- the refugee disappears and can no longer be contacted in the country of refuge;
- the refugee expresses a desire to no longer pursue resettlement for one or another reason; or
- in exceptional circumstances, as a sanction resulting from substantiated allegations of fraud.[44]

[44] See UNHCR, *Policy and Procedural Guidelines: Addressing Resettlement Fraud Perpetrated by Refugees*, March 2008, http://www.unhcr.org/refworld/docid/47d7d7372.html

Cases may only be suspended or withdrawn with the authorization of the officer accountable for resettlement.

7.8.1 Responses to delays in processing:

Delays in the processing of cases by UNHCR and resettlement countries can have serious protection implications for refugees.

As described in Chapter 6.1.1 and Chapter 7.6.2, the specific resettlement needs determine the submission priority, which has expected timeframes for departure after submission:

- **Emergency cases**, which typically involve immediate life-threatening situations, are expected to depart for resettlement within a period not exceeding seven days.
- **Urgent cases** should depart within six weeks.
- **Normal priority cases** should be resettled within 12 months.

UNHCR uses these benchmarks to ensure that the timing of resettlement is appropriate and responsive to the level of need of the refugee. Where a resettlement State does not meet this timeframe, UNHCR should contact the State for an explanation and an indication as to when a decision and a departure is likely. This information should be considered in deciding how to proceed with a case. Several options exist:

- The case may be **withdrawn and resubmitted** to another resettlement country.
- The case may be submitted in **parallel submission** to multiple resettlement countries – see Chapter 7.6.3. A parallel submission should only be undertaken for emergency cases after consultation and agreement of the Resettlement Service at UNHCR Headquarters which will seek the agreement/understanding of the concerned States.
- The case may be **evacuated** to an Emergency Transit Facility (ETF) – see Chapter 7.6.4. This requires prior agreement by the concerned State authorities and an indication from the resettlement State that the case will be approved.[45]
- The **priority of the submission may be up- or downgraded**. Escalation in priority should only be done if the case merits it, to preserve the integrity and credibility of the urgent and emergency classifications. In the event that the priority of the case is upgraded to urgent or emergency, the country of submission should immediately be informed.

7.9 RESUBMISSION

The term "resubmission" refers to the submission of a case for resettlement to a second State after the case has been: (a) rejected by another State or (b) withdrawn from consideration by UNHCR.

[45] UNHCR, *Guidance Note on Emergency Transit Facilities: Timisoara, Romania /Manila, Philippines / Humenné, the Slovak Republic*, May 4, 2011, http://www.unhcr.org/refworld/docid/4dddec3a2.html

In order to ensure global consistency and transparency in UNHCR's decisions with regard to the resubmission of resettlement cases, UNHCR's *Guidelines on the Resubmission of Resettlement Cases*[46] provide detailed guidance on the procedures to be followed. The guidelines:

- outline the various considerations in determining whether a particular case should be resubmitted for resettlement to another State; and
- provide a framework for ensuring that cases are thoroughly reviewed before resubmission, that any concerns raised in previous rejections or withdrawals have been investigated and addressed, and that the needs for resettlement remain compelling.

When UNHCR withdraws a case with the intention to resubmit it to another State, the case is still subject to a review to ensure that the resubmission will be current, accurate, and complete. When a State has rejected the case, staff should first assess the grounds for rejection to determine if an in-depth review is warranted after the initial review.

Assessing the grounds for rejection

All rejections should first be examined to establish if the decision is prejudicial or non-prejudicial. Where reasons are not provided with the notice that a submission has been rejected, UNHCR staff should seek a more detailed explanation (preferably in writing) from the resettlement State. This information is a key element in evaluating whether to resubmit a case and the extent of review required for resubmission.

Non-prejudicial decisions/No reason given

A State's rejection is considered non-prejudicial if:

- no reason or justification is provided;
- the rejection is due to reasons specific to its particular immigration laws, which are not relevant to UNHCR's resettlement considerations. For example, a State may deny resettlement based on restrictive domestic legislation such as "integration potential", HIV status, or family size;
- the State refuses to consider the case or returns the case to UNHCR with no decision taken and indicates that this refusal or return is related to country-specific criteria.

Prejudicial decisions

A State's rejection is considered prejudicial if:

- the reasons for rejection call into question UNHCR's determination of resettlement need and/or eligibility, such as *inter alia* concerns relating to credibility, the RSD assessment or eligibility for refugee status, or the family composition;

[46] UNHCR, *Guidelines on the Resubmission of Resettlement Cases*, June 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/49818ae73a6.html

- the reasons for rejection relate to security concerns by States;
- UNHCR is requested to withdraw a case under similar circumstances, for instance if the State indicates that the case will likely be rejected on prejudicial grounds;
- the State refuses to consider the case or returns the case to UNHCR with no decision taken, with indications that this refusal or return is on prejudicial grounds.

The following steps should be taken prior to resubmission of cases that were rejected or withdrawn:

1. conduct an **initial review** to evaluate the viability and appropriateness of resettlement;
2. where circumstances warrant, conduct an **in-depth review** (including an interview);
3. **select a resettlement country** for resubmission; and
4. **resubmit** the case.

7.9.1 Initial review

All resettlement cases should be reviewed in order to determine:

- that resettlement remains both **appropriate** and **viable**; and
- if in-depth review and re-interview are required.

For many cases, a dossier review is sufficient; however, an interview may be required to reconfirm the circumstances of the case.

Generally, UNHCR resubmits a rejected case only after the following conditions are reconfirmed:

- the applicant is a refugee who remains eligible for resettlement according to UNHCR policy; and
- resettlement remains the most appropriate and viable option for the individual.

Viability means that, while an individual may remain eligible for resettlement according to UNHCR policy, resubmission may no longer be a viable option for a variety of reasons relating to the specific profile, its submission history, and/or the limited availability of places. **Appropriateness** refers to situations where resettlement options may still be available, but the circumstances that led to the original resettlement decision have changed and resettlement is no longer needed or appropriate.

A review may determine that a resettlement is either not viable or not appropriate for the refugee(s) in question. In such cases, this decision should be fully documented in the refugee's file. The refugee should be appropriately counselled as to the status of her/his case and clearly advised that UNHCR will not be resubmitting the case to other resettlement countries.

7.9.2 In-depth review

A case must undergo an in-depth review if:

- the case review indicates that the family composition, circumstances of the case, or need for resettlement have changed;
- if significant time (more than 6 months) has passed since the last submission;
- the case was rejected prejudicially.

The principal applicant and his/her family members and dependants should be re-interviewed to check all aspects of the case, including: family composition; circumstances of the case; eligibility for refugee status; and need for resettlement. For concerns relating to eligibility, refugee status determination, or exclusion, the case should be referred back to the Protection Unit for a thorough review. If the case received a prejudicial rejection, UNHCR must be satisfied that the concerns raised have been addressed. Any additional information, clarification, or documentation provided should be reflected in an amended or corrected RRF.

7.9.3 Select a resettlement country for resubmission

Selection of a resettlement country for resubmission should reflect the following:

- Emergency and urgent cases should receive highest priority for submissions and resubmissions.
- The case should be submitted to the resettlement country most likely to accept it based on that country's policies and priorities.
- Staff should select a country which will process the submission within a time period appropriate to the priority of the case.
- If the previous submission was made under a "group resettlement methodology", preference should be given to a State which accepts submissions using the same methodology, if possible.

Multiple rejections by States

While there is no specific limit on the number of possible resubmissions of a case, UNHCR should be realistic about remaining resettlement prospects and the likelihood of acceptance. Any prejudicial rejection should trigger an in-depth review of the case, and if a case is rejected a second time for prejudicial reasons, this in-depth review should, where possible, be conducted by a UNHCR officer not previously involved in the resettlement submission. It is important to address the refugee's expectations, and to address their needs in light of lowered prospects for resettlement. If no viable options for resubmission remain, potential alternative solutions should be explored including voluntary repatriation and local integration in the country of refuge. In exceptional cases UNHCR may provide advice and/or assist the applicant to apply under a regular migration programme (e.g. skilled migration) or, in consultation with the Resettlement Service at Headquarters, to approach a State that does not have a standing refugee resettlement programme, but which may be prepared to consider a resettlement submission.

7.9.4 Resubmission

Before the case is resubmitted, the following actions should be undertaken:

- the RRF should be amended to reflect all additional information, clarification, or documentation provided;
- the signature page should be updated and re-signed if it is dated more than six months previous;
- the submission priority should be re-evaluated, and an appropriate submission priority (emergency, urgent, normal) chosen to reflect the resettlement needs of the case.

Resubmissions should follow established procedures for approval and submission, *proGres* should be updated, and the refugee should be informed that his or her case has been resubmitted.

7.9.5 Sharing case submission history with States

UNHCR will resubmit the case only when it is satisfied that a case has gone through an appropriate reviewing process, that any concerns raised in previous rejections have been investigated and addressed, and that the needs for resettlement remain compelling. Reasons for rejection provided by resettlement States are key elements to enhance this reviewing process, and for this reason, UNHCR advocates with the resettlement countries to provide reasons for all rejected cases.

In principle, UNHCR does not systematically share case submission history with resettlement States upon resubmission, since providing information about previous rejections may unfairly prejudice consideration of the case on its merits. This is particularly important where resettlement States have not provided UNHCR with full reasons for rejecting a case.

However, where UNHCR believes it is in the interest of the refugee, UNHCR may provide information on previous submissions and rejections for refugees on a case-by-case basis. For example, for cases where close family members reside in a resettlement country that previously rejected the case, it may be prudent – and beneficial to the resubmission – to mention in the RRF what efforts were taken by UNHCR to explore resettlement in the country where family members reside and the reason why the case was rejected.

There may be other exceptional or sensitive circumstances where UNHCR may decide to provide information on submission history. Such circumstances need to be carefully assessed on a case-by-case basis and the Resettlement Service at Headquarters or Regional Office or Hub should be consulted for specific guidance.

7.10 THE IMPORTANCE OF COUNSELLING THROUGHOUT THE PROCESS

As discussed in more detail in Chapter 4.5, counselling is of utmost importance from the beginning of UNHCR's contact with a refugee, and crucial to managing

resettlement expectations. Ideally, there should be an open dialogue between the refugee and UNHCR, in close collaboration with government and NGO staff involved in the process. All family members (with the exception of small children) should receive appropriate counselling, keeping in mind age, gender and diversity considerations.

Counselling refugees in preparation for resettlement

When counselling individual refugees in preparation for resettlement, it is important to explain clearly the process involved in the preparation and submission of the applicant's case file, the state selection processes, and the pre-departure procedures. Throughout the process, it should be made clear that all UNHCR services are free, that resettlement acceptance is not automatic but up to the individual resettlement State, and that the process can be very lengthy. Refugees should also be informed of how and when the outcome of the case will be communicated to them.

Explaining the limitations imposed by the availability of quotas, and resettlement State and eligibility and admission criteria helps refugees understand why they do not have a choice of resettlement country. It is particularly important to explain to refugees that while family links may be given priority by UNHCR for submission, they do not guarantee acceptance by the resettlement country.

In preparation for interviews by resettlement State representatives, the procedure should be explained to the refugees. It is particularly important to advise refugees that they must be prepared to articulate their refugee claim, and that family members might be interviewed individually.

In some instances, refugees may refuse to go to a country despite an offer of resettlement. It is important to explain to them that they cannot choose the resettlement country of their preference. The constraints which accompany the processing of resettlement places should be explained carefully. A deadline for reflection should be given, but it must be made clear that refusal to go will, depending on the particular circumstances, either result in no further processing for resettlement or a deferment of the case. Cases of this nature should usually be re-assessed.

Refugees should have as much information as possible of what awaits them upon arrival in the resettlement country. Their active participation in the integration process will determine their future. *Ideally this information will be delivered in orientation sessions as discussed in* ***Chapter 7.11.3***.

The individual Country Chapters of this Handbook (available at **http://www.unhcr.org/resettlementhandbook)** provide details of resettlement countries' counselling programmes or materials. Additional information is available in the UNHCR Handbook - *Refugee Resettlement: An International Handbook on Reception and Integration*.[47]

[47] UNHCR, *Refugee Resettlement. An International Handbook to Guide Reception and Integration*, September 2002, **http://www.unhcr.org/refworld/docid/4051892284.html**

Counselling refugees whose application for resettlement has been rejected

A refugee, whose case has been rejected, sometimes on several occasions, is often depressed or angry. It is important to inform a refugee promptly and if possible directly once a case is rejected. If available, the reasons for the rejection should be explained. Whatever the behaviour, the refugee is probably feeling very dejected and should be informed of any further action proposed. As per Chapter 7.9.3, cases which have continually been rejected should always be reassessed to see if resettlement is the most appropriate solution.

Refugees may undergo a range of feelings and behaviours depending on their experiences. Anger, aggression, denial, depression and loss of interest are common behavioural traits. Social counselling can assist refugees come to terms with their situation and to address their future.

7.11 PRE-DEPARTURE ARRANGEMENTS AND MONITORING

After a refugee is accepted for resettlement, a number of formalities usually have to be undertaken prior to departure. These may involve the following activities:

- cultural and pre-departure counselling and orientation;
- medical screening and follow-up;
- exit visa and travel arrangements;
- escort and transit arrangements (particularly for medical cases).

Each resettlement State sets their own specific pre-departure requirements, and is responsible for covering their costs. Each State also determines which pre-departure orientation services they will offer refugees and whether they will contract a partner organization, or deliver these services directly.

The length of time taken between acceptance and departure may vary considerably according to where the refugee is located, the pre-departure requirements of the resettlement State, as well as any domestic preparations required by the individual State.

Expedited Travel

UNHCR offices and partners must take exceptional measure to expedite the departure arrangements for **emergency** and **urgent** cases.

UNHCR should also monitor the protection situation of vulnerable individuals, including women and girls at risk,[48] within "normal" priority cases, and ensure their speedy processing.

[48] UNHCR, *Conclusion on Women and Girls at Risk*, 6 October 2006, No. 105 (LVII) - 2006, paragraph p ii. calls for "*establishing measures to enable the speedier departure of refugee women at risk and their dependants*". http://www.unhcr.org/refworld/docid/45339d922.html

7.11.1 The importance of UNHCR oversight

Regardless of the particular field contexts, refugees remain under the mandate of UNHCR until they benefit from the effective protection of the resettlement State. In real terms, this means that UNHCR must ensure that any protection-related concerns are taken into account during pre-departure preparations.

UNHCR's specific responsibilities with respect to pre-departure processing may vary considerably depending on:

- the presence of other resettlement partners in a given country, especially an International Organization for Migration (IOM) office;
- the resettlement State's presence and arrangements with IOM and/or other resettlement partners;
- UNHCR's partnership with IOM and/or other resettlement partners.

UNHCR plays an important coordinating role between the local IOM office/or other contracted partner, the authorities in the country of asylum, and the resettlement country. To ensure that this oversight function is carried out effectively, field offices should identify a focal point to assume the responsibility of monitoring the processing and departure arrangements.

This focal point would be specifically responsible for ensuring that post-acceptance and pre-departure identity checks are conducted, that pre-departure formalities are conducted as expeditiously as possible, and that refugees benefit from UNHCR's protection until they travel under the protection of the resettlement country. Focal points should in particular watch for any delays in the departure of emergency and urgent cases, as well as any important protection-related concerns. The Accountable Officer is responsible for ensuring follow-up with the resettlement States that have accepted the refugees and the Regional Resettlement Hub/Office or Headquarters as appropriate regarding the impact of delayed departures.

Each field office's Resettlement SOPs should specify the local arrangements and procedures developed with IOM (or other partner) concerning out-processing, and the responsibilities for monitoring the departure process to ensure coordination and compliance.

7.11.2 Medical screening

Each resettlement country sets its own requirements for medical screening. This may include mandatory screening before acceptance, testing post-treatment, and immediate pre-departure screening. In many countries, IOM is responsible for medical screening, processing and treatment of refugees prior to resettlement. The specific protocols for these activities are defined by the individual resettlement country.

Some resettlement countries require mandatory medical screening of refugees considered for resettlement. UNHCR stresses that the need for asylum overrides concerns about potential costs associated with the treatment and care of *any* medical condition. However, resettlement countries may use medical screening

to exclude refugees, for fear that their health problems will pose a financial burden, create excessive demands on existing national health services, or to prevent the introduction of communicable diseases and protect public health.

All resettlement countries that require HIV testing as a precondition to resettlement are encouraged to have guidelines on testing and counselling in place that conform to international standards. As addressed in Chapter 5.3.7, UNHCR and IOM's guidelines call for pre- and post-test counselling which provides refugees with information on prevention and treatment, as well as personal and family concerns.[49]

Throughout its experience in medical screening worldwide, IOM has developed technical expertise in a number of areas, including diagnosis and management of tuberculosis and leprosy, psychiatric services and the implementation of effective immunization programmes. Field offices may therefore need to liaise with local IOM offices if such health issues become relevant to the resettlement processing.

Medical preparations and escorts

Pre-departure medical screening has been introduced just prior to scheduled travel to ensure that the applicants are **fit to fly** and to identify any further medical issues that will require treatment once resettled.

In order to secure safe travel for refugees with medical conditions and to ensure that airline requirements are met, IOM can perform pre-embarkation checks and, when needed, provide medical escorts. The necessity for medical escorts and the medical judgment as to refugees' fitness to fly is based on the International Air Transport Association (IATA) regulations.

7.11.3 Cultural orientation

Many refugees accepted for resettlement in third countries have little or no knowledge of the culture and socio-economic practices of their new societies. Lack of accurate and relevant information may lead to the refugees having unrealistic expectations of life in their new country. If not addressed, these expectations will not only cause stress to the newcomers upon arrival, but may also cause undue pressure on the social service providers in the host communities, and may weaken prospects of integration and public support for resettlement of refugees in general.

All resettlement countries are encouraged to provide refugees they have accepted with an orientation prior to departure. At a minimum, written material or videos will assist refugees to form realistic impressions of the challenges they will face after resettlement. Proven to be more effective are multiple-day orientation courses, which provide an in-depth opportunity to introduce a more realistic picture of the country of destination, and the expectations that will be placed on them.

[49] See, *UNHCR, UNAIDS, IOM – Joint Statement on HIV Testing in the context of resettlement*, 2006, http://www.unhcr.org/refworld/docid/46822d001c.html and UNHCR, *UNHCR/WHO/UNAIDS Policy Statement on HIV Testing and Counselling in Health Facilities for Refugees, Internally Displaced Persons and other Persons of Concern to UNHCR*, 2009, http://www.unhcr.org/refworld/docid/4b13ba212.html

IOM and other organizations have developed expertise in developing and delivering Cultural Orientation courses tailored to the specific refugee population and to the resettlement country. Refugees receive information on topics such as the resettlement process (including the flight), climate history, geography, housing, education, the country's introduction or settlement programmes, employment, and other public and social services. Special attention is also given to traditional customs of the accepted refugees that could be misunderstood or pose challenges in a resettlement country. These include cultural norms regarding the rights of women and children, gender relations, health issues and other cultural practices which may be at odds with the receiving community.

7.11.4 Travel documents

As refugees are not able to use passports issued by their country of origin, some other form of travel documentation is necessary. In rare cases, depending on the itinerary, the mode of travel and the administrative requirements of the countries involved, a letter in lieu of visa from the authorities of the destination country may suffice. Usually, however, a more formal travel document is needed, and **resettlement States are encouraged to issue documents** to facilitate travel.

In States party to the 1951 Convention and/or its Protocol, a Convention Travel Document may be a possibility for persons who have been granted refugee status. When no other travel document is available, an ICRC Travel Document may be obtained from the International Committee of the Red Cross upon completion/receipt of an application form and photographs, signed by the applicant.

7.11.5 Visas

Entry visa

Some receiving countries will inform the Field Office directly or through UNHCR Headquarters of the consular post to which the visa authorization will be forwarded. If there is no local consular representation, UNHCR Headquarters will request the receiving country to send visa instructions either to a suitable consular post nearby or alternatively to their United Nations Mission at Geneva to be forwarded to UNHCR Headquarters for onward transmission to the Field Office.

Transit visa

Transit visas, if required, should be obtained from the appropriate local embassy. IOM has special agreements with a number of Governments and airlines to waive transit requirements.

Exit visa

In some countries, residents including recognized refugees are required to make a formal application to the competent authorities for an exit visa. In such cases, UNHCR intervention with the authorities of that country may be necessary.

7.11.6 Travel expenses

The organization and financing of the travel is the responsibility of the resettlement State. Travel costs for most resettlement cases are met by the receiving country either in total or under a government loan scheme. Other sources of funding include NGOs, loan schemes administered by IOM, and in certain contexts, IOM's Rapid Response Transportation Fund (RRTF).

In exceptional circumstances, UNHCR may provide funding and either authorize IOM to make the necessary arrangements by charging costs to a UNHCR project or arrange alternatives where IOM is not operating. In such cases, prior authorization must be obtained from UNHCR Headquarters.

Travel arrangements should be made only after the necessary exit and entry visas have been obtained.

7.11.7 Transportation

In many countries, IOM makes transportation arrangements on behalf of UNHCR or the resettlement country concerned. If there is a local IOM office, the UNHCR Field Office should arrange travel directly through them, once the refugee is ready for travel and final destination and suitable date of reception are confirmed by the resettlement country.

The cooperation between UNHCR and IOM in the transportation sector is formalized through a guidance note which lists IOM's responsibilities:

- IOM will, at the request of UNHCR, assume responsibility for the timely arrangement of air, sea and land transportation of refugees, returnees and other persons of concern to UNHCR, including secondary transportation as necessary.
- For air and sea transportation, IOM will also assume responsibility for immigration formalities and customs clearance.
- IOM will raise funds for the transportation services cited above, and UNHCR will endeavour to ensure donor recognition of this requirement.
- Upon the request of UNHCR, IOM will provide duty travel arrangements on commercial carriers for accompanying UNHCR and/or implementing partner staff at IOM rates, subject to agreement on administrative costs of this service.[50]

The special IOM fares benefit all categories of persons assisted under the auspices of the Organization and allow for considerable reductions in air fares and provide also an increased free baggage allowance. Transport is normally provided on scheduled airline services on an individual basis or on group flights. If so required, and in particular for massive population movements, transportation may be arranged on charter flights. In case of need, IOM may also provide transport by bus, truck, rail or ship.

[50] UNHCR, *Guidance Note on Co-operation Between IOM and UNHCR in the Transportation Sector*, May 2000, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4a54bc020.html

Note should be taken that during peek periods, usually holiday seasons, the booking of air tickets at special IOM tariffs may not be possible or at least not without considerable advance notice. For special cases, in particular when medical needs of refugees have to be accommodated during air travel, an advance notice of at least two to three weeks is required.

If there are "no shows", i.e. persons booked who do not show up for departure, IOM will immediately inform the concerned UNHCR Office and effect re-bookings or cancellations.

Where IOM is not present or where agreements with IOM are limited to certain functions, the UNHCR Field Office may have to cover the following tasks:

- Field offices may be required to arrange the movement of refugees from camps or other areas to points of departure. If this necessitates transfer to another country, the field offices involved should liaise to obtain entry permission from the Governments concerned and if required with UNHCR Headquarters so that travel may be arranged for minimum stopover period.
- Field offices should advise the Resettlement Service at UNHCR Headquarters when the individuals are in possession of the necessary travel documents and visas and are ready to travel, so that IOM Geneva may book appropriate flights. IOM will then confirm flight details to the Field Office, the receiving country and UNHCR Headquarters.
- Field offices should confirm a refugee's departure to IOM, the receiving country and UNHCR Headquarters.
- If for some reason a person is unable to travel as scheduled, the Field Office should immediately inform IOM, the resettlement country and the Regional Resettlement Hub/Regional Office/Resettlement Service as applicable. Depending on the circumstances, IOM may then be requested to re-book the travel and keep the resettlement country informed in order to arrange reception.

Essential reading

- UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html
- UNHCR, *Guidelines on the Resubmission of Resettlement Cases*, June 2011, (Internal) http://swigea56.hcrnet.ch/refworld/docid/49818ae73a6.html
- UNHCR, *Guidance Note on Co-operation between IOM and UNHCR in the Transportation Sector*, IOM/76/2002-FOM/72/2002, (Internal) http://swigea57.hcrnet.ch/refworld/docid/4a54bc020.html

CHAPTER EIGHT

CHAPTER EIGHT
PARTNERSHIP, LIAISON AND MEDIA RELATIONS

Introduction

The resettlement of refugees relies on cooperation and evolving partnerships between UNHCR, States, NGOs, international organizations, civil society, community-based organizations and other partners.

Refugee resettlement is *by definition* a partnership activity, and strengthening these partnerships enhances resettlement. While UNHCR identifies refugees in need and submits their cases, resettlement is dependent on States to provide refugees admission and support to integrate, and relies on NGOs and international organizations to play crucial roles throughout the resettlement continuum.

Working with the news media can be an effective way to mobilize support and increase public awareness of the plight of refugees. A well-informed, welcoming and receptive community is invaluable to the integration process for the remaining partner in the process – the refugee.

Purpose

The purpose of this chapter is to:

- provide an overview of UNHCR's cooperation with governments, NGOs, international organizations, and other partners in the field of resettlement;
- highlight some specific elements of this collaboration along the resettlement continuum and describe the role of some of the key partners; and
- provide guidance on working with the media.

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8.1 RESETTLEMENT PARTNERSHIPS

Resettlement is by definition a partnership activity, and the effective collaboration between resettlement partners is essential to being able to offer refugees the opportunity to rebuild their lives in a third country. In the climate of finite resources and increasing resettlement needs it is vital to optimize cooperation to better address these needs.

Collaboration between resettlement partners extends across the resettlement continuum, from identification and referral in the field, to processing, acceptance and travel, and to reception and integration in a third country.

UNHCR continues to improve access to resettlement for refugees by diversifying resettlement activities across operational contexts, enhancing operational standards and improving the coordination of activities. Strengthening partnerships is not only a policy priority for UNHCR; it is also a protection imperative in order to achieve these goals and to facilitate equitable access of refugees to durable solutions.

It is important for resettlement partners to be fully aware of the range of constraints involved in the resettlement process, including the competing demands for scarce quota places, and the need for particular attention on emergency and urgent priority cases. It must be borne in mind that while Governments and/or NGOs may intervene to promote resettlement of certain groups of specific interest to them, UNHCR must consider resettlement on the merits of the circumstances in relation to refugee protection and durable solutions for refugees.

As described in Chapter 2.1.3, the Working Group on Resettlement (WGR) and the Annual Tripartite Consultations on Resettlement (ATCR) process provides a unique and dynamic forum for collaborative efforts between UNHCR, Governments, NGOs, and international organizations to enhance the use of resettlement, identify and address challenges, and shape joint strategies and directions for the future.

The host country

The host country plays an invaluable role in supporting the provision of protection and assistance to refugees on their territory and facilitating UNHCR's work in its search for durable solutions for refugees.

Host countries are encouraged to **collaborate in developing and implementing comprehensive solutions strategies**, which includes facilitating access of refugees to possibilities for voluntary return or, most importantly, self-reliance and local integration, as well as **facilitating access to resettlement processing** of those refugees who are not able to return or integrate. In certain circumstances, and with due respect to the safeguards set out in Chapter 5.4, the host country may be involved in drawing UNHCR's attention to refugees potentially in need of resettlement, due to heightened risk or need for specialized services.

In all circumstances, the cooperation of the host country is essential to **authorize the entry of interviewing and selection missions**, and to facilitate refugee departures including the **issuance of exit visas**.

8.2 PARTNERS

8.2.1 Resettlement States

Governments have the essential role of establishing and maintaining effective resettlement programmes, including services and supports to assist resettled refugees to integrate into their new communities.

Resettlement States have established regular refugee resettlement programmes, and agree to consider a certain number of submissions by UNHCR each year. Other countries may not have a yearly programme, but also resettle refugees on an *ad hoc* basis and some maintain special resettlement programmes benefiting refugees with specific needs. Resettlement States are full members of the WGR/ATCR process, whereas countries resettling on an *ad hoc* basis are considered observer States.

UNHCR promotes the establishment of resettlement programmes which are:

- **predictable** in terms of admissions levels including multi-year commitments, budgets, and eligibility criteria;
- **diverse** in terms of the refugee beneficiaries, to include protection cases as well as refugees with specific needs;
- **responsive** to urgent needs, emerging needs and appeals for responsibility sharing;
- **non-discriminatory** in selecting refugees for resettlement on the basis of their needs, regardless of nationality, ethnicity, religion, family size or other factors;
- **proactive** in addressing domestic considerations linked especially to budget constraints and problems related to integration: there is a unique challenge for Governments and NGOs to take active steps to lead, inform all domestic resettlement partners and assist them to make resettlement function properly at all levels;
- **holistic** and comprehensive in approach, in using resettlement to ensure protection, a durable solution, and effective sharing of burdens and responsibilities within the broader protection strategy; and
- open to the **strategic use of resettlement**, e.g. through group resettlement as a means of providing a durable solution in protracted refugee situations where prospects for voluntary repatriation to the country of origin or local integration in the country of asylum are remote.

Municipalities

In a number of resettlement countries, the municipalities play a **direct role in receiving resettled refugees**, and taking responsibility for **coordinating services** aimed at their integration. Receiving municipalities find accommodation for the new arrivals, organize the provision of essential services, and coordinate the delivery of integration programmes including language classes and employment preparation.

Municipal **capacity and preparedness**, including access to appropriate housing, specialized services, and labour market opportunities has a strong impact on the implementation of resettlement programmes in some countries. The engagement of municipalities constitutes a cornerstone of these countries' integration policies and practices. Building, and maintaining, support in municipalities to engage in resettlement is therefore key to the successful integration of resettled refugees.

8.2.2 Non-governmental organizations (NGOs)

UNHCR's NGO partners

Non-governmental organizations (NGOs) are the single largest group of UNHCR's partners. They play an essential role in meeting the basic needs of persons of concern to UNHCR.

Implementing partnerships are those in which UNHCR provides financial support to an NGO that performs specific services to help refugees under a formal project agreement subject to UNHCR financial rules and regulations. Seventy-five per cent of these organizations are local or national organizations.

Operational partnerships involve the voluntary close coordination between UNHCR and NGOs, but not financial support by UNHCR.

NGOs play a significant role in providing resettlement support, both in countries of asylum, and in countries of resettlement. NGO partners are involved in a wide range of operational, outreach and advocacy activities including:

- joint planning and information-sharing;
- providing legal assistance and counselling;
- disseminating information to refugees and the wider community;
- identifying refugees in need of protection interventions, including resettlement;
- preparing and referring resettlement cases;
- conducting assessments including Best Interests Determinations;
- delivering specialized services;
- processing and transferring refugees to a resettlement country;
- providing cultural orientation sessions to departing refugees;
- implementing reception and integration programmes post-arrival; and
- conducting training and capacity building of local authorities and communities where refugees will be received.

UNHCR continues to strengthen partnerships with NGOs across the continuum of resettlement activities, including through sub-agreements and the deployment of NGO personnel to UNHCR operations.

The specific role and function of NGOs within a country's resettlement programme varies from country to country. In many cases, NGOs provide a liaison function to the refugee, UNHCR and the receiving Government and community. Some resettlement countries involve NGOs intimately in case preparation, and pre-departure processing, as well as reception and integration. Others involve their NGOs in programme planning, selection missions, or dossier screening.

It is often through the work of NGOs and their community volunteers that the public first gets to know about refugees and the work of UNHCR. This aspect of NGO work has a positive impact on fundraising, advocacy for various refugee groups, and fulfilling public information functions.

UNHCR and NGOs are encouraged to explore creative partnerships, and develop specific activities, projects or programmes to enhance the protection and assistance to refugees. To support and encourage strengthened cooperation, UNHCR and NGOs have developed the *UNHCR-NGO Toolkit for Practical Cooperation on Resettlement*.[1] This Toolkit also assists in developing consistency and predictability in the way UNHCR offices engage NGO partners in the field of resettlement.

UNHCR-NGO Toolkit for Practical Cooperation on Resettlement

A repository for exchanging ideas and sharing good practices on resettlement partnerships

What is the toolkit?

The toolkit is a resource to help UNHCR and non-governmental organizations (NGOs) strengthen their partnership and cooperation on resettlement. It is a collection of tools that provides practical guidance for the UN refugee agency and NGOs to cooperate in various areas: operational activities; community outreach; information sharing, planning and advocacy; and reception and integration. It is also an assemblage of examples of such partnerships in action, both historical and current, to elicit best practices and build on earlier efforts. It should be noted that the toolkit is not a "how to" manual and does not attempt to provide step-by-step guidance, but rather aims to simply collect and share useful tools.

Why have the toolkit?

The purpose of the toolkit is to raise awareness about the potential for collaboration and the good practices in place as well as to provide the tools for supporting enhanced partnerships on resettlement. UNHCR and NGOs recognize the importance of strengthening partnerships to identify refugees in need of solutions, including resettlement, and they acknowledge the need for balanced protection delivery among regions and within countries, including urban, camp and other operational contexts. Such partnerships are necessary to bridge protection gaps, including capacity and resource challenges.

[1] The Toolkit was developed jointly by UNHCR, Hebrew Immigrant Aid Society (HIAS), and Mapendo International with input from other NGOs.

Who should use the toolkit?

UNHCR field offices, interested NGOs and governments are encouraged to use and contribute to the resources in this toolkit. We encourage joint exploration and development of activities, projects or programmes to enhance the protection and assistance to refugees and other persons in need of protection and to seek durable solutions for them.

How to use the toolkit?

This toolkit is a living repository for exchanging ideas on resettlement partnerships, available online at http://www.unhcr.org/ngotoolkit. NGOs and UNHCR staff are encouraged to submit relevant additional materials (templates, tools, field examples and commentaries on any of the tools) to make the toolkit useful to various resettlement operational contexts.

8.2.3 Inter-agency cooperation: the International Organization for Migration

An important part of the International Organization for Migration's mandate is to provide humanitarian assistance to migrants in need, including refugees and internally displaced people. That makes the IOM a natural partner for UNHCR.

The UNHCR–IOM partnership is long-standing, and together the organizations promote integrated policies and comprehensive approaches to displacement, and have forged models of cooperation in many areas.[2]

Founded in 1951 in Brussels, IOM was set up to ensure the orderly movement of persons in need of international migration assistance, and to promote the cooperation of Governments and international organizations in the field of migration. Services IOM can provide include pre-screening, counselling, documentation, medical processing, training, transport, reception and integration.

According to its Constitution, IOM is committed to the principle that humane and orderly migration benefits migrants and society. It acts to assist in meeting the operational challenges of migration, to advance understanding of migration issues, to encourage social and economic development through migration and to work towards effective respect for human dignity and the well-being of migrants.

IOM and UNHCR's Memorandum of Understanding[3] is aimed at facilitating systematic, cooperative action between the two organizations. With this agreement, the two organizations seek to build on each other's recognized expertise and to establish operational cooperation.

[2] One example is the development of a Joint IOM and UNHCR internal reference tool: *Developing Standard Operating Procedures to Facilitate the Protection of Trafficked Persons*, December 2009, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4b5876442.html

[3] UNHCR/IOM/39/97-FOM/44/97 of 27 May 1997 on cooperation between UNHCR and IOM. This document governs the relations between the two institutions and provides the broad framework for achieving complementarity of the activities of UNHCR and IOM worldwide. UNHCR, *Memorandum of Understanding between the United Nations High Commissioner for Refugees and the International Organization for Migration*, 15 May 1997, http://www.unhcr.org/refworld/docid/3ae6b31a70.html

IOM has always worked closely with UNHCR to assist resettlement, principally with respect to travel, and also in the context of the provision of language training and cultural orientation which can help lay the basis for successful integration. It also plays a significant role in the facilitation of the reunification of refugee families.

8.3 DEPLOYMENT PROGRAMMES

UNHCR continues to be dependent for its resettlement activities on additional staff provided as an "affiliate workforce". Seconding NGO staff to UNHCR operations strengthens UNHCR's capacity for protection delivery and resettlement. Staff deployed or seconded to UNHCR field offices assist in identifying the most vulnerable refugees, assessing their resettlement needs, and preparing resettlement cases. Many deployees also possess specific expertise in refugee status determination, child protection (e.g. conducting Best Interests Determinations), working with women and girls, or with survivors of violence.

The most prominent among these arrangements is the UNHCR-ICMC Resettlement Deployment Scheme. Resettlement operations also benefit from deployments from the protection roster administered by the International Rescue Committee (IRC), and from deployment agreements UNHCR concludes with other organizations such as Mapendo International (to be renamed RefugePoint).

NGOs interested in working with UNHCR to explore resettlement deployment arrangements are encouraged to contact the Resettlement Service at UNHCR Headquarters. Individuals interested in participating in deployment arrangements should contact the relevant agency.

8.3.1 UNHCR-ICMC Resettlement Deployment Scheme

Since 1998, ICMC has been working in partnership with UNHCR globally to provide protection and durable solutions to refugees through resettlement to a third country. The UNHCR-ICMC Deployment Scheme, which heads an active roster of more than 300 skilled professionals,[4] stands as one of UNHCR's largest affiliated workforce partners, playing a vital role in supporting resettlement activities in UNHCR field offices throughout Africa, Asia, Europe, Latin America and the Middle East, and thereby tangibly increasing the number of refugees who are identified and submitted for resettlement to third countries.

In 2010, ICMC deployees interviewed and assessed more than 80,000 refugees. Of these, more than 55,000 persons were subsequently submitted for resettlement. In conjunction with boosting UNHCR's resettlement submission capacity, the Deployment Scheme allows for an increased exchange of expertise and capacity building between NGOs and UNHCR. The temporary placement of professionals from diverse backgrounds within UNHCR field offices gives

[4] The total roster numbers more than 500 individuals.

them an increased understanding of how the UNHCR resettlement programme functions. In turn, UNHCR benefits from the experience of people grounded in community work in refugee-receiving or refugee-hosting countries, as well as from the prior experience of people who have worked in government ministries in their home countries.

8.3.2 Surge Protection Capacity Project

The International Rescue Committee (IRC) administers the Surge Protection Capacity Project as a joint initiative with UNHCR. With an active roster of more than 300 qualified protection professionals, IRC enhances UNHCR's staffing capacity in the areas of general protection, statelessness, local integration, durable solutions, prevention and response to gender-based violence. The deployees possess the protection skills and knowledge to be immediately active in the field, which enables the project to address temporary and sudden increases in staffing needs.

8.3.3 Other deployment and secondment programmes

Other partnership agreements may be signed to support UNHCR's resettlement staffing needs.

For example, under a partnership agreement to enhance resettlement out of Africa, staff from Mapendo International (to be renamed RefugePoint) are assigned to UNHCR field offices for various lengths of time. The "Experts-on-Loan" carry out targeted projects aimed at accessing specific populations in need of resettlement, or generally increasing resettlement capacity in sites where it has been limited.

8.4 PARTNERSHIPS ALONG THE RESETTLEMENT CONTINUUM

Partnership assists in bridging protection gaps, including capacity and resource challenges which can be mitigated by fostering coherent and complementary approaches to addressing the needs of refugees. This recognition of partnership between UNHCR and NGOs along the resettlement continuum reaffirms the particular expertise that exists within UNHCR and among NGOs, and the shared concerns for integrity, objectivity and professionalism in the search for durable solutions for refugees.

Resettlement cooperation may be incorporated into existing implementing agreements, or may constitute the basis for memoranda of understanding between UNHCR and operational or implementing partners.

Creative partnerships encouraged through the UNHCR-NGO Toolkit

Practical cooperation in the following areas of UNHCR – NGO engagement are among the creative partnerships being encouraged through the UNHCR-NGO Toolkit, as they have proven effective and mutually reinforcing in delivering protection and resettlement outcomes for refugees.

- operational and implementing **partnerships involving both UNHCR and NGOs in the identification and referral of refugees** at heightened risk or in need of specific protection interventions;
- **partnerships supporting resettlement processing**, e.g. by conducting psychosocial assessments and assisting in determining the best interests of the child;
- **participation of NGOs in referral of refugees to UNHCR** for resettlement consideration.

See Chapter 8.2.2 for details on the UNHCR-NGO Toolkit on Practical Cooperation on Resettlement.

8.4.1 Identification and referral

UNHCR and NGOs recognize the importance of strengthening partnerships to identify vulnerable refugees in need of protection solutions, including resettlement. *Chapter 5* of this *Handbook addresses identification tools and methodologies, including the involvement of external referral partners.*

In some contexts, NGOs collaborate with UNHCR as operational partners to conduct participatory assessments, or work as UNHCR's implementing partners to help screen cases needing resettlement. Partnerships may involve: joint training and involvement in participatory assessments or assessments using the *Heightened Risk Identification Tool*; development of integrated referral mechanisms and procedures to strengthen the reach and integrity of protection, including resettlement; or, building linkages between such identification methodologies and individual case management.

NGOs also provide counselling services to refugees needing assistance. In many cases this extends UNHCR's reach into smaller and more diverse urban refugee populations.

In other circumstances, specific refugee groups within a camp population are identified as in need of resettlement, based on considerations such as their ethnic background, social composition, or religious affiliation. NGOs may help field office staff in the early assessment and identification of potential resettlement cases, as well as in the processing of documents needed to constitute a resettlement dossier. NGOs may also assist in resettlement processing under the group methodology.

Direct NGO referral

Resettlement countries usually give first priority to cases submitted by UNHCR. Some countries also process and admit other groups for resettlement in parallel

to UNHCR submissions. These groups or individuals may be referred directly by NGOs. In these circumstances, UNHCR, the relevant resettlement State and NGO are encouraged to establish procedures to ensure effective information-sharing, compliance with protection and solutions strategies and operational integrity and efficiencies in referral and processing.

Eligibility criteria and admission requirements are determined by countries of resettlement, and the NGO working to assist in the processing and pre-screening for such cases is bound by laws and regulations in this regard. *For details on an individual resettlement State's programmes, see their Country Chapter available at http://www.unhcr.org/resettlementhandbook.*

8.4.2 Counselling and processing of refugees

UNHCR field offices will often have well-established relationships with NGOs to help facilitate counselling and assistance to refugees who may be eligible for resettlement. Some resettlement countries, notably the United States of America, utilize NGOs in the pre-screening and processing of cases before the immigration officials determine eligibility of cases for resettlement. This role of NGOs can help facilitate the work of UNHCR field offices where applicable, as in many circumstances close cooperation on specific cases and groups can be arranged between the UNHCR Field Office and the NGO (in the context of resettlement to the USA, usually the Resettlement Support Center – previously known as Overseas Processing Entity).

It is important for UNHCR field offices to work closely with NGOs and diplomatic representations (missions, etc.) of Governments to understand the specific and unique features of each country's resettlement programme, and to advocate for refugee populations identified as in need of resettlement by UNHCR. NGOs entrusted by their respective Governments with pre-screening and processing can, in this role, often help to advocate for specific groups or individuals.

8.4.3 Medical screening

Specific medical examination and documentation requirements exist in most countries that accept refugees for resettlement. Based on agreements with these countries, IOM often performs such examinations or screens the documentation prepared by other medical authorities, and arranges medical escorts as required.

8.4.4 Cultural orientation

Resettlement States frequently partner with IOM and NGOs to deliver cultural orientation classes prior to departure. The length of classes, and information and training provided varies by context and by resettlement State. *See Chapter 7.11.3 for more details. For information about the programmes offered by individual resettlement States, see the Country Chapters of this Handbook available at* http://www.unhcr.org/resettlementhandbook.

8.4.5 Transportation

Responsibility for the transfer of refugees lies primarily with IOM, which has negotiated special tariff agreements with the airline industry on a worldwide basis. These special IOM fares benefit all categories of persons assisted under the auspices of the Organization, allow for considerable concessions on the air tariffs and also provide an increased free baggage allowance.

When travel is not arranged within the framework of an ongoing resettlement operation, individuals should be advised of the possibility to procure air tickets at reduced fares under subsidized migration schemes maintained by IOM. Under these schemes, IOM helps refugees and other persons in need of assistance, in particular through the handling of pre-departure and transport arrangements.

Transport is normally provided on scheduled airline services on an individual basis or on group flights, although charter flights may also be arranged. IOM may also provide transport by bus, truck, rail or ship when required.[5]

8.4.6 Reception and integration

NGOs can also be actively involved in promoting UNHCR resettlement policy and increasing understanding of UNHCR resettlement goals, policies, and practices. A good example of this is the "Joint IOM, UNHCR and ICMC project – Promotion of resettlement in the European Union through practical cooperation by EU Member States and other stakeholders", funded by the European Refugee Fund (ERF). This joint project promotes cooperation between civil society and municipality partners in ten EU member states to enhance their capacity around the reception and integration of resettled refugees and to improve stakeholder cooperation with the aim of improving links between the pre- and post-arrival phases.

NGO services to refugees in resettlement countries

In many resettlement countries, NGOs are the primary providers of services to arriving refugees. These services are usually funded by the host Government and/or local resources raised independently by the NGO. Depending on the system of social welfare services in each country, NGO services to refugees may encompass comprehensively addressing the needs of the resettled refugee, including services relating to housing, language training and the search for employment. NGOs usually provide a counselling role for refugees, often working with specific communities and contracting staff from these communities to provide same-language and culturally sensitive assistance.

NGOs often coordinate the contributions of volunteers and direct private donations to refugees who have been resettled. These contributions are an added value to the services to which refugees are eligible in each country of resettlement. The level of support provided by these mentors, buddies, hosts, cultural interpreters or sponsors varies between resettlement countries and communities.

[5] UNHCR, *Guidance Note on Co-operation Between IOM and UNHCR in the Transportation Sector*, May 2000, (Internal) http://swigea56.hcrnet.ch/refworld/docid/4a54bc020.html

Most importantly, NGOs not only contribute in cash and with inkind donations to the resettlement of refugees, but help the refugee and family make new friends and contacts necessary for their successful integration. Such arrangements utilize local resources of religious groups, community organizations or business associations to help meet the needs of refugees and their families.

Additionally, NGOs are often at the forefront of culturally sensitive mental health and specialized adjustment services. Working in close cooperation with professional associations, universities, hospitals and health centres, NGOs seek to assure that specific needs of refugees (e.g. trauma due to torture or rape, etc.) are addressed. In some cases such services are provided free of charge, on a sliding fee basis, or funded by governmental and nongovernmental sources. UNHCR Field offices should always consult with Headquarters when questions arise on specialized mental health and medical needs for specific refugees.

In some resettlement countries, NGOs are also the primary provider of training services related to employment. Many innovative services have been designed to include direct partnerships with large and small employers, who look upon newly resettled refugees as an important resource in the labour market. In some resettlement countries, there are incentives for refugees to quickly enter into the labour market. UNHCR field offices should inform refugees that there will be high expectations on them to enter the job market at any available level, including early employment into positions which may be below their professional training and qualifications.

NGOs also work with governments to help resettled refugees reunite with their families still abroad. The practice of NGOs in this field varies significantly among countries, and NGOs will be bound in their family reunification work by the laws and regulations of each resettlement country. In particular, when special cases arise that are outside normal immigration or refugee resettlement procedures, NGOs may still be able to facilitate family reunification under temporary protection schemes, specialized "leave to remain" programmes, and other forms of humanitarian admissions. UNHCR offices in resettlement countries should be contacted when such cases arise to activate NGO networks.

8.5 ADVOCACY AND LIAISON

Advocacy for refugees

In many resettlement countries, NGOs are at the forefront of advocating for refugee protection and assistance with their Governments, the public and other organizations. This is evident in the advocacy which NGOs at times undertake for specific refugee groups of concern to their constituencies and communities. This may take the form of public education campaigns on behalf of specific refugee groups that have close ties to the community or are of interest because of historical connections to the countries of origin. In other cases, NGOs work more broadly with officials and politicians to promote positive admission decisions and expedited movement of cases.

Many NGOs engage in lobbying activities on behalf of refugees, including specific groups needing protection. Such lobbying activities vary with the

political systems of each country, but in many cases involve extensive grassroots networks of dedicated activists who respond to calls for action on refugee needs.

Advocacy also takes the form of individual casework for specific refugees, using the tools of public education and contacts with Government officials to expedite the resettlement of specific individuals or families.

NGOs, legislative representatives, family members of refugees, legal representatives and members of the public in resettlement countries are all encouraged to communicate with UNHCR operations **through the UNHCR office covering their country**. Contact details for UNHCR offices are available from http://www.unhcr.org.

Advocacy in many resettlement countries is also evident in NGO efforts to assure that Governments dedicate sufficient funding for refugee assistance and resettlement activities. This includes support for overall UNHCR identified budgetary needs, as well as support for the national social service budgets with special attention to refugee services.

In some cases, advocacy activities by NGOs also include lobbying for or against specific legislation, thereby seeking to promote the principles of refugee protection and provision of asylum. Such legislation may be national in character, or may have regional and international implications as Governments seek to harmonize their laws and practices.

NGOs also often have an important role in policy formulation regarding admission criteria, priorities and quotas. Many Governments maintain a close working relationship with NGOs in the formulation of policy and consult with NGO experts to design and implement new programmes and resettlement strategies. In the same manner, NGOs are at the forefront not only of providing settlement (integration and adjustment) services, but also of designing integration and adjustment programmes at the community level that will assist refugees to start a new life and become productive members of their new societies.

UNHCR frequently works with NGOs to promote specific resettlement needs and to meet public education and information needs.

Care should be exercised by field office staff to coordinate such needs for advocacy with UNHCR Headquarters and the appropriate UNHCR Office in the resettlement country.[6] In the same manner, requests by NGOs lobbying with field offices should be coordinated with UNHCR Headquarters and other pertinent offices, so that communication is effective and appropriate to the situation.

[6] The following UNHCR offices cover resettlement States: Regional Office Canberra (Australia and New Zealand), Branch Office Brasília (Brazil), Regional Office Buenos Aires (Argentina, Chile, Paraguay, Uruguay), Regional Office Washington (United States of America), Branch Office Ottawa (Canada), Regional Office Stockholm (Denmark, Finland, Iceland, Norway, and Sweden), Branch Office London (United Kingdom), Liaison Office Dublin (Ireland), Liaison Office The Hague (The Netherlands), Branch Office Paris (France), Branch Office Madrid (Spain), Regional Office Rome (Portugal), Regional Office Budapest (Bulgaria, Czech Republic, Hungary, Romania) and Branch Office Tokyo (Japan).

In the spirit of Partnership in Action (PARinAC), UNHCR and NGOs can effectively help promote the addressing of international refugee protection needs, regional solutions for refugee crises, and a durable solution for specific refugee groups who are in need of resettlement.[7]

In many countries, resettlement and other NGOs work hand in hand through umbrella organizations or networks to help coordinate their activities and public voice. UNHCR often consults with these umbrella organizations and individual members in each of the resettlement countries.

8.6 MEDIA RELATIONS

8.6.1 Responding to the media

News media can provide an effective way to mobilize support and increase public awareness of the plight of refugees. UNHCR uses the most popular online tools to talk with its supporters and promote its cause. Discussion on UNHCR's work can be easily found on Twitter, Facebook, YouTube or Flickr.

Used effectively, cooperation with the media can have a positive impact on public and Government support to refugees, and can help promote understanding of UNHCR, its protection concerns, and its mandate. In turn, this can spark essential funding for refugee programmes. However, care must also be taken to sensitize the media to the risk of endangering individual refugees and their families through public attention. Managing the messaging is an important component of refugee resettlement.

8.6.2 Guidance on interacting with the media

Although Public Information Officers generally handle media queries, UNHCR's public information policy permits and encourages staff members to speak to the press on their areas of responsibility. Media interest in resettlement operations needs to be handled in close consultation with the Head of Office and the Accountable Officer. In some situations, it will not be appropriate to air specific concerns in public, particularly when individuals may be at risk. Consult the Public Information Section based at Headquarters regarding any concerns about potential implications.

The *UNHCR Manual* Chapter 10**,** Section 7 - General Media Guidelines for Field Staff (available on the UNHCR Intranet) provides useful general guidance and tips on interacting with the media. Some of these tips include:

[7] Recommendation 32 of the PARinAC Oslo Declaration and Plan of Action called on UNHCR to collaborate with resettlement NGOs and NGOs in the field, specifically to increase resettlement quotas established by governments. *Partnership in Action (PARinAC), Oslo Declaration and Plan of Action*, 9 June 1994, http://www.unhcr.org/refworld/docid/3ae68f3d8.html

- **Be yourself**, relaxed and friendly; remain professional and patient.
- **Be open** about problems and difficulties, which are inevitable in the nature of UNHCR's work, and be willing to admit mistakes.
- **Be factual**: give facts and figures about the operation and humanitarian needs in your area as you would brief traditional partners, and be frank about problems encountered and efforts to overcome them.
- **Be accurate**: if you do not know the answer to the question, say so, offer to follow up, and get back to the journalist with a reply.
- **Be flexible**: while you may wish or need to lay down ground rules for some interviews, interviews should in general be on the record. Interviews not for attribution/on background/on deep background should be used rarely and with great caution.
- **Be interesting**: being factual does not mean you have to be boring, and colorful human interest stories can bring to life dry facts and statistics.
- **Be positive**, and do not criticize colleagues or other UN organizations and NGOs.
- **Be smart** and use common sense, leave sensitive topics and policy issues of a general nature to responsible senior officers, leave areas of specialty or outside of your direct responsibility to the appropriate colleague, and do not pass political judgment.
- **Be protection-minded**: beware of using refugees' names and personal details, and use particular sensitivity for survivors of torture, sexual violence, etc., and children (particularly unaccompanied). Be mindful of risks for family members remaining in the country of origin or asylum.
- **Be conversational**, and avoid jargon or internal language; be personal and personable, look directly at the interviewer and use their name once or twice.
- **Be concise**, and mindful that your comments (will need to) be reduced to a shorter statement, quote or sound bite.
- **Be aware**: do not get sidetracked, do not argue with or attack the media, and do not let the interviewer put words in your mouth.
- **Be photogenic**, mindful of what you are wearing and what will be in the background.

Positive relationships with journalists are crucial for successful public information. Journalists should be briefed on protection concerns and on the possible risks to refugees being interviewed. There should be basic ground rules for camp visits, but beware of trying to block access or issuing rules. This can seem like UNHCR is hiding something and can spark even greater (negative) media interest.

8.6.3 The refugee story

It is the nature of the news media to be at least as interested in the details of a personal story as they are in facts and figures. Focusing on a refugee's personal story can be beneficial to that person, to UNHCR and to the work of the Resettlement Service. This media interest can bring with it enormous advantages; but it can also warrant sensitive protection considerations.

Resettlement work is about moving the individual refugee from the overcrowded refugee camp, difficult urban situation or detention centre, directly to a safe third country removed from the dangers, misery and suffering of the first asylum country. In many countries, particularly developed countries which are distant from major crisis areas and which directly receive few asylum-seekers, contacts with resettlement workers and resettled refugees represent virtually their only direct exposure with refugee issues and UNHCR. In the words of one Government representative, resettlement represents "a window to UNHCR". Interest along these lines should be encouraged. Every effort should be made to provide an accurate and positive view through that "window".

8.6.4 Sensitizing the media without losing the story

In order to minimize the risks associated with publicizing individual refugee problems, every opportunity should be taken to encourage journalists to respect the confidentiality of certain information. Journalists must also be cautioned to avoid releasing the individual's identity, or details which could permit identification, such as specific references to the refugee's political involvement in the country of origin and dates and places where political activity took place. While the publication of photographs may complement a story, this should not occur without the agreement – on an informed basis – of the refugee.

8.6.5 Being protection-minded

Resettlement involves the processing of individual refugee cases, and it is therefore important to be protection-minded when dealing with this information and the media. The first priority of UNHCR is the protection of the individual refugee. The particulars of personal experience which individual refugees have provided to UNHCR are privileged information and should not be shared with persons who are not authorized by UNHCR unless the refugees have specifically agreed to that information being released on the basis of an informed and free choice.

It is important to be aware that the publication of detailed personal information from the refugee's story, such as the names, age, sex, family situation, villages/cities of origin, or the political activities of refugees might increase the vulnerability of the persons concerned or of members of the family still in the country of origin. It may increase the risk of retaliatory measures by national authorities, either in the asylum country or in the event the refugee decides to repatriate. Working closely with the Protection Officer will help raise awareness of the potential risks for certain individuals.

If the media requests an interview which will highlight a refugee's story, ensure that the refugee is:

- fully counselled as to the purpose and the possible impact of the interview;
- advised that he or she has the right to refuse the interview;
- advised that he or she has the right to use an assumed name, or to have their identity masked (e.g. for high-profile cases, survivors of sexual violence, and others concerned about family members still in the country of origin);

- advised that they have the right to refuse to answer questions, or discontinue the interview if they do not feel comfortable.

Careful consideration must also be given to the emotional and psychological well-being of the refugee and his or her family before they are encouraged to relate and repeat stories of violence, rape, torture or other atrocities. Remember that the first concern must be for the safety and best interests of the individual sharing the story. A UNHCR officer should offer to be present during media interviews, if the refugee so wishes. The media should be discouraged from interviewing refugee children, particularly when they have undergone trauma.

If the outcome of the story is unfavourable or inaccurate or if the journalist failed to respect clearly stated ground rules, do not immediately complain to the journalist concerned or the editor. Instead, inform the Representative or the Public Information Section at UNHCR Headquarters as soon as possible.

8.6.6 Photos

Images are one of the most powerful ways to tell the refugee story. However, refugee subjects need special consideration. They may be traumatized, may not feel safe having their photo taken, or may simply not wish to have their photos taken.

Refugees must be approached with sensitivity, and always asked for permission to take their photos. Let them know they can say no. Be sensitive to their body language and do not take the photo if they seem very uncomfortable, even if they have given permission.

Photo techniques for sensitivity and confidentiality

- no flash;
- take shots from a distance, rather than in close-up;
- limit number of shots;
- shoot from behind, not face on;
- avoid humiliating, exploitative shots;
- consider focusing on UNHCR staff member, leaving refugees unfocused;
- use lighting (backlighting, shadows or silhouettes can mask a face);
- use creative shots showing just part of a subject – this can convey emotion without showing the face;
- focus on hands, feet, body posture, etc.

These approaches require finesse for a good image. Consider using well-briefed professional photographers, and contact the UNHCR Photo Editor for assistance.

8.6.7 Social Media

Through **Twitter**, UNHCR discusses the latest news, participates in conversations about refugees and gives followers an insight into life at UNHCR. Follow UNHCR and join in the rapid debates about UNHCR's work. www.twitter.com/refugees

UNHCR's **Facebook** page is the hub of UNHCR's online community. Become a fan to receive regular updates to UNHCR's newsfeed. www.facebook.com/unhcr

Flickr is a photo-sharing website which allows anyone to upload and share images. UNHCR has one of the most popular Flickr accounts of any non-profit organization. Visit the Flickr account to see UNHCR's work around the world. www.flickr.com/unhcr

YouTube is a video-sharing website. UNHCR uploads the latest refugee videos on to YouTube for supporters to watch, share with their friends and leave their thoughts. Visit UNHCR's YouTube Channel to watch the latest videos. www.youtube.com/unhcr

ACRONYMS

ACRONYMS

AGD	Age, Gender and Diversity
AOR	Areas of Responsibility
ASR	Annual Statistical Report
ATCR	Annual Tripartite Consultations on Resettlement
BIA	Best Interests Assessment
BID	Best Interests Determination
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
COI	Country of Origin Information
CORTS	Consolidated Online Resettlement Tracking System
CPA	Comprehensive Plan of Action
CRC	Convention on the Rights of the Child
DIP	Division of International Protection, UNHCR
ECOSOC	Economic and Social Committee
ERF	European Refugee Fund
ETC	Emergency Transit Centre
ETF	Emergency Transit Facility
ETM	Emergency Transit Mechanism
EU	European Union
ExCom	Executive Committee of the High Commissioner's Program
FGM	Female Genital Mutilation
FICS	Field Information and Coordination Section, UNHCR
GA	General Assembly, United Nations
GIP	Guidelines on International Protection
GLC	Global Learning Centre, UNHCR
GPC	Global Protection Cluster
GPPD	Group Profile and Proposal Document
HR	Household Representative
HIV/AIDS	Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome
HQ	Headquarters
HRIT	Heightened Risk Identification Tool
IASC	Inter-Agency Standing Committee
IATA	International Air Transport Association
IC	Individual Case
ICCPR	International Covenants on Civil and Political Rights
ICESCR	International Covenants on Economic, Social and Cultural Rights
ICMC	International Catholic Migration Commission

ICRC	International Committee of the Red Cross
ID	Identification
IDP	Internally Displaced Person
IGO	Inspector General's Office, UNHCR
IOM	International Organization for Migration
IP	Implementing Partner
IRC	International Rescue Committee
IRO	International Refugee Organization
JPO	Junior Professional Officer
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
MAF	Medical Assessment Form
MENA	Middle East and North Africa, UNHCR Bureau
MOSS	Minimum Operational Safety Standards
MPA	Mexico Plan of Action
NGO	Non-Governmental Organization
OAU	Organization of African Unity
OIOS	Office of Internal Oversight Services, United Nations
PLP	Protection Learning Programme
PA	Principal Applicant
PRA	Principal Applicant (on a resettlement case)
PTSD	Post-Traumatic Stress Disorder
RLP	Resettlement Learning Programme
RRF	Resettlement Registration Form
RSC	Resettlement Support Center (USA resettlement program)
RSD	Refugee Status Determination
RSR	Resettlement Statistical Report
RST	Resettlement
SGBV	Sexual and Gender-Based violence
SOPs	Standard Operating Procedures
UASC	Unaccompanied and Separated Children
UNDP	United Nations Development Programme
UDHR	Universal Declaration of Human Rights
UNHCR	United Nations High Commissioner for Refugees
VCT	Voluntary Counselling and Testing
WGR	Working Group on Resettlement
WHO	World Health Organization
WRAPS	Worldwide Refugee Admissions Processing System (USA processing)

GLOSSARY

GLOSSARY

Age, Gender and Diversity [1]

Age, Gender and Diversity (AGD) is UNHCR's human-rights and community-based approach. Through the systematic application of an AGD approach in its operations worldwide, UNHCR seeks to ensure that all persons of concern enjoy their rights on an equal footing and are able to participate fully in the decisions that affect their lives and the lives of their family members and communities. Mainstreaming AGD means to plan, programme, implement, monitor and evaluate keeping in mind equality and full participation as guiding principles.

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 to UNHCR. This may include food items, medical supplies, clothing, shelter, seeds and tools, as well as the provision of infrastructure, such as schools and roads. In UNHCR's practice, assistance supports and complements the achievement of protection objectives.

Asylum

The grant, by a State, of protection on its territory to persons outside their country of nationality or habitual residence, who are fleeing persecution or serious harm or for other reasons. Asylum encompasses a variety of elements, including *non-refoulement*, permission to remain on the territory of the asylum country, humane standards of treatment and eventually a durable solution. [See also Asylum-Seeker]

Asylum-seeker

An asylum-seeker is an individual who is seeking international protection. In countries with individualized procedures, an asylum-seeker is someone whose claim has not yet been finally decided on by the country in which he or she has submitted it. Not every asylum-seeker will ultimately be recognized as a refugee, but every refugee in such countries is initially an asylum-seeker. [See also Asylum]

Best Interests Assessment (BIA) and Best Interests Determination (BID)

A **BIA** is an assessment made by staff taking action with regard to individual children, except when a BID procedure is required, designed to ensure that such action gives a primary consideration to the child's best interests. The assessment can be done alone or in consultation with others by staff with the required expertise and requires the participation of the child. A **BID** is the formal process with strict procedural safeguards designed to determine the child's best interests for particularly important decisions affecting the child. It should facilitate adequate child participation without discrimination, involve decision makers with relevant areas of expertise, and balance all relevant factors in order to assess the best option.

[1] The definitions in this glossary are drawn from a variety of sources and focus on terminology that is particularly relevant to resettlement. Further definitions can be found in: UNHCR, *UNHCR Master Glossary of Terms*, June 2006, Rev.1, http://www.unhcr.org/refworld/docid/42ce7d444.html; UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, Glossary, January 2008, http://www.unhcr.org/refworld/docid/47cfc2962.html; and UNHCR, *Refugee Protection and Mixed Migration: The 10-Point Plan in action*, Glossary, February 2011, http://www.unhcr.org/refworld/docid/4d9430ea2.html

Best interests principle

As employed by the Convention on the Rights of the Child, the term "best interests" broadly describes the well-being of a child. Such well-being is determined by a variety of individual circumstances, such as the age, the level of maturity of the child, the presence or absence of parents, the child's environment and experiences.

Cancellation

A decision to invalidate a refugee status recognition which should not have been granted in the first place. Cancellation affects determinations that have become final, that is, they are no longer subject to appeal or review. In principle, cancellation has the effect of rendering refugee status null and void from the date of the initial determination.

Cartagena Declaration on Refugees

A declaration adopted by the Colloquium on the International Protection of Refugees in Central America in November 1984. The Cartagena Declaration broadens the definition of refugee enshrined in the Convention relating to the Status of Refugees to include "*persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order*". Although not legally binding, the provisions of the Cartagena Declaration have been incorporated in the legislation of numerous Latin America countries.

Cessation clauses

Legal provisions setting out the conditions in which refugee status comes to an end because it is no longer needed or justified. Cessation clauses are found in Article 1(C) of the Convention relating to the Status of Refugees and in Article 1 (4) of the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa.

Child

According to the Convention on the Rights of the Child (CRC), a child is any human being below the age of 18 years, unless under the law applicable to the child, majority is attained earlier. 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.

Child marriage

The union of two persons at least one of whom is under 18 years of age.

Citizen [See National]

Code of Conduct

A common set of principles or standards that a group of agencies or organizations have agreed to abide by while providing assistance in response to complex emergencies or natural disasters. All UNHCR staff are required to sign the UNHCR Code of Conduct, committing them to uphold its ethical standards.

Complementary protection

Various mechanisms used by States to regularize the stay of persons falling outside the scope of the 1951 Convention relating to the Status of Refugees or its 1967 Protocol, but who are nevertheless in need of international protection.

Confidentiality

The obligation that information pertaining to a person disclosed in a relationship of trust will not be disclosed or otherwise made available to unauthorized persons or entities in ways that are inconsistent with the understanding of the original disclosure or without prior permission.

Consent

Making an informed choice to agree freely and voluntarily to do something. Consent is not given if agreement is obtained through abuse of power, force or threat of force, and other forms of coercion, abduction, fraud, deception or misrepresentation.

Convention grounds

The refugee definition in the Convention relating to the Status of Refugees requires that the fear of persecution be linked to one or more of the following five grounds: race, religion, nationality, membership of a particular social group, or political opinion.

Convention Relating to the Status of Refugees (1951 Convention)

A treaty that establishes the most widely applicable framework for the protection of refugees. The Convention was adopted in July 1951 and entered into force in April 1954. Article 1 of the Convention limits its scope to "events occurring before 1 January 1951". This restriction was removed by the 1967 Protocol relating to the Status of Refugees.

Convention refugee

A person who is outside his or her former country of origin owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, who is unable or unwilling to avail himself or herself of the protection of that country, or to return to it for reasons of fear of persecution, and who is not otherwise excluded from the refugee definition. [See also Refugee and Mandate Refugee]

Country of asylum / Country of refuge

The country in which an asylum-seeker or refugee seeks protection. [See also Host country]

Customary international law

International legal norms that derive their authority from the constant and consistent practice of States, rather than from formal expression in a treaty or legal text. In order for State practice to contribute to the formation of customary international law, that practice should be conducted with a sense of legal obligation (*opinio juris*). Customary international law is binding on all States regardless of whether they have ratified any relevant treaty, save for States which are "persistent objectors". [See also Treaty]

Derivative refugee status [See Family unity]

Detention

Restriction on freedom of movement, usually through enforced confinement. Article 31 of the Convention relating to the Status of Refugees provides certain safeguards in relation to the restriction of freedom of movement for refugees who enter or reside in the country illegally. ExCom Conclusion No.44 sets out standards applicable in such situations.

Diversity

Diversity refers to different values, attitudes, cultural perspectives, beliefs, ethnic background, nationality, sexual orientation, gender identity, ability, health, social status, skill and other specific personal characteristics.

Domestic violence

Violence that occurs within the private sphere, generally between individuals who are related through blood, intimacy or law. Domestic violence is nearly always a gender-specific crime, perpetrated by men against women, and can take various forms, including physical, psychological and sexual violence. It can include economic deprivation and isolation which may cause imminent harm to the safety, health or well-being of the victim.

Durable solutions

The means by which the situation of persons of concern to UNHCR can be satisfactorily and permanently resolved to enable them to live normal lives. In the refugee context, this generally involves voluntary repatriation to the country of origin, local integration (including through naturalization) in the country of asylum, or resettlement to another country. [See also Local Integration, Resettlement and Voluntary Repatriation]

Exclusion clauses

Legal provisions which deny the benefits of international protection to persons who would otherwise satisfy the criteria for refugee status. In the Convention relating to the Status of Refugees, the exclusion clauses are found in Articles 1D, 1E and 1F. These clauses apply to the following categories: persons who are receiving protection or assistance from United Nations agencies other than UNHCR; persons who are recognized by the competent authorities of the country of residence as having the rights and obligations attached to the possession of nationality of that country; and persons in respect of whom there are serious reasons for considering that they have committed a crime against peace, a war crime, a crime against humanity, a serious non-political crime, or acts contrary to the purposes and principles of the United Nations.

Executive Committee of the High Commissioner's Programme (ExCom)

A committee charged with advising the High Commissioner for Refugees on the exercise of his/her functions. As of April 2011, ExCom was composed of representatives of 85 States with a demonstrated interest in refugee issues. A number of international, inter-governmental, and non-governmental organizations also have observer status on the Executive Committee.

Executive Committee Conclusions on International Protection

The consensus on international protection issues reached by UNHCR's Executive Committee in the course of its discussions is expressed in the form of Conclusions on International Protection (ExCom Conclusions). Although not formally binding, they are relevant to the interpretation of the international protection regime. ExCom Conclusions constitute expressions of opinion which are broadly representative of the view of the international community. The specialist knowledge of ExCom and the fact that its Conclusions are taken by consensus add further weight.

Expulsion

Removal of a lawful resident from the territory of a State by government authorities. Pursuant to Article 32 of the Convention relating to the Status of Refugees, national security and public order are the only permissible grounds for the expulsion of a refugee. The procedures by which a decision for expulsion is reached should be fair and just, and the refugee should be allowed a reasonable time to seek legal admission into another country.

Family reunification

The process of bringing together families, particularly children and older dependants, with their family or previous care-provider for the purpose of establishing or re-establishing long-term care. [See also Family unity]

Family unity

The right to family unity and family life is inherent in the universal recognition of the family as the fundamental group unit of society. Respect for the right to family unity requires not only that States refrain from action which would result in family separations, but also that they take measures to maintain the unity of the family and reunite family members who have been separated. In order to uphold family unity in the refugee context, respecting family unity may include granting refugee status to the spouse and dependants of a person who is a refugee so that they are able to enjoy their right to family unity. When spouses and dependants acquire refugee status on this basis, they are said to enjoy "derivative refugee status". [See also Family reunification]

Female Genital Mutilation (FGM)

A practice involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons. FGM is classified into four types: (i) partial or total removal of the clitoris and/or the prepuce (clitoridectomy); (ii) partial or total removal of the clitoris and the *labia minora*, with or without excision of the *labia majora* (excision); (iii) narrowing of the vaginal orifice with creation of a covering seal by cutting and appositioning the *labia minora* and/or the *labia majora*, with or without excision of the clitoris (infibulation); and (iv) all other harmful procedures to the female genitalia for non-medical purposes, for example: pricking, piercing, incising, scraping and cauterization. The term is sometimes also called "female genital cutting" and "female genital mutilation/cutting".

Gender

Refers to the socially constructed roles for women and men, which are often central to the way in which people define themselves and are defined by others. (Sex refers, in basic terms, to the biological differences between females and males.) Gender roles are learned, changeable over time, and variable within and between cultures. Gender often defines the duties, responsibilities, constraints, opportunities and privileges of women and men in any context.

Gender equality

The equal enjoyment of rights, responsibilities and opportunities by women, men, girls and boys. Gender equality implies that the interests, needs and priorities of each gender are respected.

Gender identity

Gender identity refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth.

Gender-related persecution

A non-legal term encompassing the range of different claims in which gender is a relevant consideration in the determination of refugee status. Gender-related claims may be brought by either women or men, although due to particular types of persecution, they are more commonly brought by women. Typically, gender-related persecution encompasses, but is not limited to, acts of sexual violence, family/domestic violence, coerced family planning, female genital mutilation and other harmful traditional practices, punishment for transgression of social mores, and discrimination against homosexuals.

Host country

The country in which a non-national legally or irregularly stays or resides. [See also Country of asylum]

Human rights

Agreed international standards that recognize and protect the inherent dignity and the equal and inalienable rights of every individual, without any distinction as to race, colour, sex, language, religion, political or other opinion, national or social origins, property, birth or other status. They may form part of customary international law and/or may be set out in various national, regional and international legal instruments.

Internally displaced persons (IDPs)

Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of, or in order to, avoid the effects of armed conflicts, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

International protection

All actions aimed at ensuring the equal access and enjoyment of the rights of women, men, girls and boys of concern to UNHCR, in accordance with the relevant bodies of law (including international humanitarian, human rights and refugee law). It includes interventions by States or UNHCR on behalf of asylum-seekers and refugees to ensure that their rights, security, and welfare are recognized and safeguarded in accordance with international standards. Such interventions include: ensuring respect for the principle of *non-refoulement*; admission to safety; access to fair procedures for the determination of refugee status; humane standards of treatment; and the implementation of durable solutions. UNHCR is the only United Nations agency with a mandate for the protection of refugees at the global level.

International refugee law

The body of customary international law and international instruments establishing standards for refugee protection. The cornerstone of refugee law is the Convention and its 1967 Protocol relating to the Status of Refugees.

Livelihoods

A combination of the resources used and the activities undertaken in order to live. The resources might consist of individual skills and abilities (human capital), land, savings and equipment (natural, financial and physical capital, respectively), and formal support groups or informal networks that assist in the activities being undertaken (social capital).

Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI)

An umbrella term used to describe a diverse group or community of people who do not conform to traditional notions of male and female gender roles existing in most societies. A lesbian is a woman whose enduring physical, romantic and/or emotional attraction is to other women. Gay is often used to describe a man whose enduring physical, romantic and/or emotional attraction is to other men, although the term gay can be used to describe both gay men and lesbians. Bisexual describes an individual who is physically, romantically and/or emotionally attracted to both men and women. Transgender is an umbrella term for people whose gender identity and/or gender expression differs from the sex they were assigned at birth. Intersex is an umbrella term covering bodily variations in regard to culturally established standards of maleness and femaleness, including variations

at the level of chromosomes, gonads and genitals, and variations produced by medical interventions aimed to normalize intersex bodies. Homosexual refers to women or men who are attracted primarily to people of the same sex. The term is considered by many to be derogatory.

Local integration

A durable solution for refugees that involves their permanent settlement in a country of asylum. Local integration is a complex and gradual process, comprising three distinct but interrelated dimensions: legal, economic, and socio-cultural. The process is often concluded with the naturalization of the refugee.

Mandate refugee

A person who is determined to be a refugee by UNHCR acting under the authority of its Statute and relevant resolutions of the United Nations General Assembly and the Economic and Social Council (ECOSOC). Mandate refugee status is especially significant in States that are not parties to the Convention or its 1967 Protocol. [See also Convention refugee and Refugee]

Migrant

There is no universally accepted definition of the term "migrant". It is usually understood to cover all cases where the decision to migrate is taken freely by the individual concerned for reasons of "personal convenience" and without intervention of any coercive external factors.

Minority

A minority is broadly understood to be a group of people with a common identity, based on culture/ethnicity, language or religion, which is different from that of a majority group around them. The term *minority* as used in the United Nations human rights system usually refers to national or ethnic, religious and linguistic minorities, pursuant to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

National

A person enjoying the nationality of a given State.

Nationality

The legal bond between a person and a State. Generally, nationality can be established at birth by a person's place of birth (*jus soli*) and/or bloodline (*jus sanguinis*) or can be acquired through naturalization. The concept is referred to as "citizenship" in some national jurisdictions.

Non-governmental organization (NGO)

An organization that is functionally independent of, and does not represent, a government or State. Use of the term derives from Article 71 of the UN Charter permitting ECOSOC to grant consultative status to international, regional, subregional and national NGOs, provided they have recognized standing within their particular field of competence, an established headquarters, a democratically adopted constitution, authority to speak for their members, a representative structure, appropriate mechanisms of accountability to their members, who must exercise effective control over policies and actions, and resources derived primarily from independent contributions.

Non-refoulement

A core principle of international human rights and refugee law that prohibits States from returning individuals in any manner whatsoever to territories where they may be at risk of persecution, torture, or other forms of serious or irreparable harm. *Refoulement* can result, for instance, following interception operations, rejection at the frontier, or return to third countries ("indirect *refoulement*"). The most prominent expression of the principle of *non-refoulement* in international refugee law is Article 33(1) of the 1951 Convention. The principle also is part of customary international law and is, therefore, binding on all States whether or not they are parties to the 1951 Convention or other relevant international refugee law or human rights instruments.

OAU (Organization of African Unity) Convention Governing the Specific Aspects of Refugee Problems in Africa

The regional instrument adopted in 1969 which complements the Convention relating to the Status of Refugees. The OAU Convention provides for a broader refugee definition than the 1951 Convention which also encompasses "those fleeing from external aggression, occupation, foreign domination or events seriously disturbing public order in either part or whole of the country of origin". The OAU is now called the African Union.

Participatory approach

An approach to development and/or government in which key stakeholders (and especially the proposed beneficiaries) of a policy or intervention are closely involved in the process of identifying problems and priorities and have considerable control over the analysis and the planning, implementation and monitoring of solutions.

Participatory assessment

A process of building partnerships with women and men of concern of all ages and backgrounds by promoting meaningful participation through structured dialogue.

Perpetrator

Any person, group, or institution that directly inflicts, supports or condones violence or other abuse against a person or a group of persons. Perpetrators are often in a position of real or perceived power, decision-making and/or authority and can thus exert control over the victims/survivors. [See also Survivor]

Persecution

The core concept of persecution was deliberately not defined in the Convention relating to the Status of Refugees, suggesting that the drafters intended it to be interpreted in a sufficiently flexible manner so as to encompass ever-changing forms of persecution. It is understood to comprise human rights abuses or other serious harm, often, but not always, with a systematic or repetitive element.

Person with specific (special) needs

Any person who requires specific assistance in order to enjoy the full range of his/her human rights. Children (especially unaccompanied/separated children), trafficked persons, women at risk, elderly and disabled persons are among the groups that often have specific needs.

Persons of concern to UNHCR

A general term used to describe all persons for whom UNHCR is mandated to provide protection and assistance. They include refugees, asylum-seekers, returnees, stateless persons, and, in many situations, internally displaced persons (IDPs). UNHCR's authority

to act on behalf of persons of concern other than refugees is based on various United Nations General Assembly and Economic and Social Council resolutions.

Persons with disabilities

The United Nations Convention on the Rights of Persons with Disabilities defines persons with disabilities as: "those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others".

Prima facie refugee

A person recognized as a refugee, by a State or UNHCR, on the basis of objective criteria related to the circumstances in his or her country of origin and his or her flight, which justify a presumption that he or she meets the criteria of the applicable refugee definition. A person recognized as a *prima facie* refugee enjoys the same status as a person who has been granted refugee status individually.

Protection

A concept that encompasses all activities aiming to achieve full respect for the rights of the individual in accordance with the letter and spirit of human rights, refugee and international humanitarian law. Protection involves creating an environment conducive to preventing and/or alleviating the immediate effects of a specific pattern of abuse, and restoring human dignity through reparation, restitution and rehabilitation.

Refoulement [See *non-refoulement*]

Refugee

A person who meets the eligibility criteria in the refugee definition provided by relevant international or regional refugee instruments, UNHCR's mandate, and/or national legislation. According to many of these instruments, a refugee is a person who cannot return to his/her country of origin owing to a well-founded fear of persecution or serious and indiscriminate threats to life, physical integrity or freedom.

Refugee law [See International refugee law]

Refugee status determination (RSD)

The legal and/or administrative process undertaken by States and/or UNHCR to determine whether a person is a refugee in accordance with national, regional and international law.

Regional refugee instruments

International legal documents relating to refugees that are adopted by States or intergovernmental organizations within a geographical region or sub-region. Such instruments normally complement the Convention relating to the Status of Refugees and reflect the peculiar character of refugee issues within the particular geographical area. Notable examples of regional instruments are the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and the Cartagena Declaration on Refugees.

Registration

The process of recording, verifying and updating information about persons of concern to UNHCR with the aims of protecting them, documenting them, and implementing durable solutions.

Reintegration

In the context of return, the process by which a migrant or a refugee re-establishes him/herself in the society of his/her country of origin or habitual residence. Reintegration has physical, social, legal and material security components.

Repatriation [See voluntary repatriation]

Resettlement

The selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed to admit them – as refugees – with permanent residence status. The status provided ensures protection against *refoulement* and provides a resettled refugee and his/her family or dependants with access to rights similar to those enjoyed by nationals. Resettlement also carries with it the opportunity to eventually become a naturalized citizen of the resettlement country.

Resettlement country or resettlement State

A country that offers opportunities for the transfer and 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. [See also Resettlement]

Self-reliance

The social and economic ability of an individual, a household or a community to meet their own essential needs (including food, water, shelter, personal safety, health and education) in a sustainable manner and with dignity.

Separated child

A child separated from both parents, or from his or her previous legal or customary primary care-giver, but not necessarily from other relatives. This may, therefore, include a child accompanied by other adult family members.

Sexual and gender-based violence (SGBV)

Any act of violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to persons on the basis of their sex or gender, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. It encompasses, but it is not limited to: (i) physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; (ii) physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution; (iii) physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Sexual orientation

Each person's capacity for emotional, affectional and sexual attraction to, and intimate relations with, individuals of a different or the same gender or more than one gender.

Smuggling (of persons)

The procurement in order to obtain, directly or indirectly, a financial or other material benefit of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident (Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organized Crime, Article 3(a)).

Stateless person

A person who is not considered a national by any State, either because s/he never had a nationality or because s/he lost it without acquiring a new one.

Statute of the Office of the United Nations High Commissioner for Refugees (UNHCR Statute)

The document, adopted by the General Assembly in 1950, that established UNHCR's mandate and structure, and provided the criteria under which persons would come within the competence of UNHCR. UNHCR's mandate was subsequently extended by the Convention relating to the Status of Refugees, and General Assembly and ECOSOC resolutions.

Survivor

Any person who has suffered acts of violence, including sexual and gender based violence and who self-identifies with having lived through this violence. This term is used to highlight the strength and resilience of victims of violence and to acknowledge that the term victim may imply powerlessness and stigmatization.

Torture

Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person or, for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Trafficking in persons

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the treat 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.

Tracing

In the displacement 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 reunification, 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.

Treaty

A binding international agreement concluded between States or international organizations with treaty-making power and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation. Accordingly, conventions, agreements, protocols, and exchange of letters or notes may all constitute treaties. The fact that such agreement is not in written form does not affect its legal force.

Unaccompanied child

A child who has been separated from both parents and other relatives and is not being cared for by an adult who, by law or custom, is responsible for doing so.

Violence

An act that intentionally threatens, attempts, or actually inflicts harm on another person or group of others. It is a means of control and oppression including emotional, social or economic force, coercion or pressure, as well as physical harm. It can be overt, in the form of a physical assault or threatening someone with a weapon; it can also be covert, in the form of intimidation, threats, persecution, deception or other forms of psychological or social pressure. [See also Sexual and gender-based violence]

Voluntary repatriation

The free and informed return of refugees to their country of origin in safety and dignity. Voluntary repatriation may be organized (i.e. when it takes place under the auspices of the concerned States and/or UNHCR) or spontaneous (i.e. when refugees repatriate by their own means with little or no direct involvement from government authorities or UNHCR).

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