

# **Training Materials (TM)**

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# I. How to Use These Training Materials

## Gender Training Materials (TM)

The Training Material Section, found in the loose-leaf pages in the binder of this Kit, is principally intended to assist facilitators during their training sessions. These training materials include handouts for participants, texts to be placed on transparencies for overhead projections (OHT), power point presentations (PPP), case studies, role-plays and a variety of other types of exercises. Although all the training materials are available on the CD-ROM, we have included a hard copy in the binder to allow trainers to quickly review their contents.

Each of the 19 training session modules provided (in Parts II of the Gender Handbook) contains references to the specific training materials (TM nos.) associated with it. Indeed, the 'Session Outline' for each module contains the TM no. which corresponds to each activity during the training, so that trainers are guided each step of the way. At the end of each training module is also a cumulative list, for easy reference, of all the training materials which may be used for that entire session.

### How To Use the Training Materials (TM):

All training materials are numbered (TM no.) on the top left hand corner of the page for easy reference. There, it is also indicated the different ways in which each training material may be used (i.e., as Handout, OHT or PPP). It is left to the discretion of each facilitator to select the format in which they will present the material. These options are presented in the following fashion:

#### TM no. 3

Handout/ OHT/ PPP

The training materials are numbered consecutively from the first to the last training material in the Kit and do not indicate which chapter they correspond to. This is because many of the materials may be used for a variety of purposes and topics. For example, an OHT used for the purposes of elucidating basic gender concepts in chapter 2 may also be used for training sessions on sexual and gender-based violence (chapter 4) or on refugee status determination (chapter 5).

Those training materials indicating PPP are also available in proper electronic form in the Gender CD-ROM as ready-made power point presentations. In some cases, where the text was too long to be suitable for power point, these have been slightly altered (i.e., shortened) from the hard copy version which is contained in this Section.

**Content of the Training Materials:**

Most often the training materials are specifically designed to assist facilitators with particular activities during the session, such as a presentation, a brainstorming exercise, or group work on a case study. The content of the training materials, while diverse, generally includes the following: the objectives for each training session; simple definitions of basic concepts; charts, diagrams, tables, and explanations; statements representing UNHCR's position on different topics such as gender-related persecution (drawn from the recent guidelines on this topic); practical tools and checklists; and even reference documents which are to be used by participants when doing certain exercises. As already mentioned, the training materials also include case studies, simulation and other types of exercises, and role-plays. Some of these contain "Notes for the Facilitator" which are intended to assist trainers in bringing out some of the relevant issues and questions in the particular exercise, and in stimulating group discussion.

**When Training Materials indicate "Facilitator's Version" (FV)**

In this case, these training materials (TMs) should be adapted in some fashion before being provided to participants. Generally, this applies to training materials which contain practical exercises (e.g. case studies, simulation exercise, role-plays) which must be adapted since they contain facilitator's notes, instructions, or other information (e.g., revealing titles for case studies), which are intended only for the facilitator. In other situations, such as for role-plays for example, all of the information is contained in the same sheet; this information must be separated and individualised so that each participant receives only the information on the role-play relating to their part.

These training materials may all be easily adapted by lifting (omitting) the revealing information not intended for participants. This may be done in a variety of ways. For example, you may simply photocopy the training material in such a way that the revealing information is concealed, or you may retype the page omitting the parts not intended for participants. Otherwise, you could simply download the electronic version in the CD-ROM and then alter the page of the training material as required.

In some rare instances, which will be self-evident, materials marked FV are intended solely for the facilitator and do not, therefore, require any alteration.

## II. List of Training Materials Ordered by Number (TM no.)

<b>TM no. 1: Training Session 1: An Introduction to Gender Concepts: Objectives</b>	Handout/OHT/PPP
TM no. 2: Sex & Gender: Basic Definitions	Handout/OHT/PPP
TM no. 3: Key Words: Sex and Gender	Handout/OHT/PPP
TM no. 4: Gender Roles	Handout/OHT/PPP
TM no. 5: How does your gender affect you?	Handout/OHT/PPP
TM no. 6: Exercise: Statements about Men and Women	Handout/OHT
<b>TM no. 7: Training Session 2: Gender Awareness: Objectives</b>	Handout/OHT/PPP
TM no. 8: Gender Gaps: Examples	Handout/OHT
TM no. 9: Cycle of Gender Gaps	Handout/OHT/PPP
TM no. 10: The Women's Empowerment Cycle	Handout/OHT/PPP
TM no. 11: Exercise: Boys and Girls	Handout
<b>TM no. 12: Training Session 3: Understanding and Planning for Gender Mainstreaming: Objectives</b>	Handout/OHT/PPP
TM no. 13: Definition of Gender Mainstreaming	Handout/OHT/PPP
TM no. 14: Women's Projects vs. Gender Mainstreaming	Handout/OHT
TM no. 15: Exercise: Applying a Gender Mainstreaming Strategy	Handout
<b>TM no.16: Training Session 4:Establishing Gender Teams &amp; Gender Mainstreaming Strategy: Objectives</b>	Handout/OHT/PPP
TM no. 17: Definition: Gender Equality	Handout/OHT/PPP
TM no.18 A: Simulation Exercise: Making your case that gender matters	Handout
TM no.18B: Answer Sheet: Making your case that gender matters	Handout
TM no.19: Force Field Analysis	Handout/OHT
TM no.20: Exercise: Formulating TOR for Gender Teams	Handout/OHT
TM no.21: Suggested Responsibilities for Gender Teams	Handout/OHT/PPP
<b>TM no. 22: Training Session 5: Implementing and Monitoring Gender Mainstreaming: Objectives</b>	Handout/OHT/ PPP
TM no. 23: Monitoring Gender Mainstreaming	Handout/OHT
TM no. 24: Exercise: Gender Mainstreaming Checklist	Handout
<b>TM no. 25: Training Session 6: Male Involvement in Gender Equality and Gender Mainstreaming: Objectives</b>	Handout/OHT/PPP
TM no.26: Today's Discussion: Questions	Handout/OHT/PPP
TM no. 27: Masculinity: Nature or Nurture?	Handout/OHT/PPP
TM no. 28: Exercise 1: Men's Lack of Interest in Gender Equality	Handout/OHT/PPP
TM no. 29: Exercise 2: Why Male Involvement Now?	Handout/OHT/PPP
TM no. 30: Exercise 3: Male Violence	Handout/OHT/PPP
TM no. 31: On Masculinities and Violence	Handout/OHT/PPP
TM no. 32: The Triad of Men's Violence	Handout/OHT/PPP
TM no. 33: Masculine Socialisation Entails Expectations	Handout/OHT/PPP
TM no. 34: When Expectations Are Not Met	Handout/OHT/PPP
TM no. 35: Male Involvement: Part of Problem, More of Solution	Handout/OHT/PPP
TM no. 36: What is Being Done: Models for Refugee Settings,	Handout/OHT/PPP
TM No. 37: Male Involvement: Working with Men	Handout/OHT/PPP
TM no. 38: It Takes Two	Handout/OHT/PPP
TM no. 39: Three Ways to do Integral Work with Men	Handout/OHT/PPP
TM no. 40: Entry Points for Working with Men	Handout/OHT/PPP
TM no. 41: Exercise 4: Male Contributions - Brainstorming	Handout/OHT/PPP
TM no. 42: Selected UN Human Rights Conventions	Handout/OHT
<b>TM no. 43: Training Session 7: Women's Human Rights: Session A for Refugee Women: Objectives</b>	Handout/OHT/PPP
TM no. 44: Selected International and Regional Human Rights Instruments	Handout/OHT
TM no. 45: Gender-Based Violence During the Refugee Cycle: Human Rights Awareness for Refugees	Handout/OHT

**TM no. 46: Training Session 8:  
Women's Human Rights: Session B for Refugee Men: Objectives** Handout/OHT/PPP

*Note: Training/Workshop 9 has no TMs associated with it.*

**TM no. 47: Training Session 10: International Human Rights & Refugee Protection: the gender dimension: Objectives** Handout/OHT/PPP

TM no.48: Worksheet-Convention Profile: Where Does My Country Stand? Handout/OHT

TM no. 49: Why were human rights instruments specific to women necessary? Handout/OHT/PPP

TM no. 50: Why were human rights instruments specific to women necessary? (cont'd) Handout/OHT/PPP

TM no. 51: CEDAW Handout/OHT/PPP

TM no. 52: CEDAW (cont'd) Handout/OHT/PPP

TM no. 53: The Optional Protocol to CEDAW Handout/OHT/PPP

TM no. 54: DEVAW Handout/OHT/PPP

TM no. 55: International human rights and refugees Handout/OHT/PPP

TM no. 56: International human rights play role in protection of refugees Handout/OHT/PPP

TM no. 57: Gender-related asylum claims Handout/OHT/PPP

TM no. 58: International human rights instruments make contributions to gender-related asylum claims Handout/OHT/PPP

TM no. 59: Refugee Definition Handout/OHT/PPP

TM no. 60: Women's Human Rights: Your Human Rights and the Laws that Protect Them Handout

**TM no. 61: Training Session 11: Rights and Protection of Refugee Women: Objectives** Handout/OHT/PPP

TM no. 62: A Group Brainstorming Exercise: Refugee Women in the Country of Asylum Handout

TM no. 63: Case Study 1: Rights of Refugee Women in their Country of Asylum Handout (FV)

TM no. 64: Case Study 2: Domestic Violence Handout (FV)

TM no. 65: Case Study 3: Honour Killings Handout (FV)

TM no. 66: Case Study 4: Travel Handout (FV)

TM no. 67: Case Study 5: Marriage/ Divorce/ Obedience Handout (FV)

TM no. 68: Case Study 6: Adultery / State Sanctions Handout (FV)

TM no. 69: Case Study 7: Ordinance on Women's Rights and Duties Handout

TM no. 70: Case Study 8: Gender-Based Persecution: for UNHCR Protection Staff Handout

**TM no. 71: Training Session 12: An introduction to SGBV: Concepts And Approaches: Objectives** Handout/OHT/PPP

TM no. 72: Violence Throughout the Life Cycle Handout/OHT

TM no. 73: Sexual Violence during the Refugee Cycle Handout/OHT

TM no. 74: What is Sexual Violence? Handout/OHT/PPP

TM no. 75: Exercise: Rape, Sexual Violence (Optional) Handout/OHT

TM no. 76: DEVAW Definition of 'Violence Against Women' Handout/OHT/PPP

TM no. 77: DEVAW: Article 2 (types of violence) Handout/OHT/PPP

TM no. 78: 3 General Categories of SGBV Handout/OHT/PPP

TM no. 79: (Tree) Exercise: SGBV-Forms of Violence and Causes Handout/OHT

TM no. 80: Table: Socio-Economic Costs of Violence: a Typology Handout/OHT

TM no. 81: Table: Health Consequences of Violence against Women Handout/OHT

TM no. 82: Table (global stats.): Domestic Violence against Women Handout/OHT

TM no. 83: What are the General Causes and Contributing Factors to SGBV? Handout/OHT/PPP

TM no. 84: In the Refugee Context: What are causes and contributing factors to SGBV? Handout/OHT

TM no. 85: Table –Factors that Perpetuate Domestic Violence Handout/OHT

TM no. 86: In Summary: Understanding SGBV Handout/OHT/PPP

TM no. 87: What groups of refugees are the most vulnerable? Handout/OHT/PPP

TM no. 88: Why is DEVAW an Important Human Rights Instrument for Refugee Women? Handout/OHT/PPP

TM no. 89: ExCom Conclusion no. 73: Refugee Protection and Sexual Violence. Handout/OHT

TM no. 90: A Multi-Sectoral Approach to Prevention and Response to SGBV Handout/OHT/PPP

TM no. 91: Chart - Multi-Sectoral and Functional Approach to

Sexual Violence Prevention and Response.	Handout/OHT/PPP
<b>TM no. 92: Training Session-Workshop 13: Defining and Addressing SGBV in Refugee Settings: Objectives</b>	Handout/OHT/PPP
<b>TM no. 93: Training Session-Workshop 14: Designing and implementing an integrated strategy and action plan for addressing SGBV in refugee situations: Objectives</b>	Handout/OHT/PPP
TM no. 94: Checklist for Sexual Violence Programme	Handout/OHT
TM no. 95: Checklist for Responding to an Incident of Sexual Violence	Handout/OHT
TM no. 96: Practical Guidelines on Responding to Incidents of Sexual Violence	Handout/OHT
TM no. 97: (Chart) Sexual Violence Needs Assessment and Programme Framework	Handout
TM no. 98: Case Study 9: Sexual Violence: Prevention And Response	Handout (FV)
TM no. 99: Case Study 10: Gender-Based Violence and Mental Health Issues	Handout (FV)
TM no. 100: Case Study 11: Gender-Based Violence and Resettlement Issues	Handout (FV)
TM no. 101: Selected Supplementary Cases for SGBV Training Sessions	Handout (FV)
Include:	
Case Study 12	
Case Study 13	
Case Study 14	
Case Study 15	
Case Study 16	
Case Study 17	
<b>TM no. 102: Training Session 15: Linking Women’s Rights and Refugee Protection - An Introduction: Objectives</b>	Handout/OHT/PPP
<b>TM no. 103: Training Session 16: Gender Sensitive Refugee Status Determination and Procedures: Objectives</b>	Handout/OHT/PPP
<b>TM no. 104: Training Session 17: Advanced Training on Gender-Related Asylum Claims: Objectives</b>	Handout/OHT/PPP
TM no. 105: What is Gender-Related Persecution?	Handout/OHT/PPP
TM no. 106: General Principle of Interpretation in Refugee Law	Handout/OHT/PPP
TM no. 107: To understand gender-related persecution essential to define ‘gender’ and ‘sex’.	Handout/OHT/PPP
TM no. 108: Gender-related claims may be brought by either women or men	Handout/OHT/PPP
TM no. 109: Gender-related claims have typically encompassed	Handout/OHT/PPP
TM no. 110: Evolution of the Refugee Definition	Handout/OHT/PPP
TM no. 111: Developments with regard to gender-related asylum claims have run parallel to...	Handout/OHT/PPP
TM no. 112: The refugee definition, properly interpreted, covers gender-related claims.	Handout/OHT/PPP
TM no. 113: Well-founded fear of persecution	Handout/OHT/PPP
TM no. 114: Well-founded fear of persecution: there is no doubt	Handout/OHT/PPP
TM no. 115: Well-founded fear of persecution: a law to be persecutory	Handout/OHT/PPP
TM no. 116 Well-founded fear of persecution: state may have prohibited a persecutory practice but...	Handout/OHT/PPP
TM no. 117: Well-founded fear of persecution: where the penalty or punishment for non-compliance...	Handout/OHT/PPP
TM no. 118: . Discrimination amounting to persecution	Handout/OHT/PPP
TM no. 119: Discrimination amounting to persecution: state failure to extend protection	Handout/OHT/PPP
TM no. 120: Persecution on account of one’s sexual orientation	Handout/OHT/PPP
TM no. 121: Persecution on account of one’s sexual orientation	Handout/OHT/PPP
TM no. 122 Trafficking for the purposes of forced prostitution or sexual exploitation as a form of persecution	Handout/OHT/PPP
TM no. 123: Agents of Persecution	Handout/OHT/PPP
TM no. 124: The causal link: relation to one or more of Convention grounds	Handout/OHT/PPP
TM no. 125: Convention Grounds - Race	Handout/OHT/PPP
TM no. 126: Convention Grounds - Religion	Handout/OHT/PPP
TM no. 127: Convention Grounds - Religion	Handout/OHT/PPP
TM no. 128: Convention Grounds-Overlap of Religion and Political Opinion	Handout/OHT/PPP
TM no. 129: Convention Grounds - Nationality	Handout/OHT/PPP

TM no. 130: Convention Grounds -Membership of a Particular Social Group-Definition	Handout/OHT/PPP
TM no. 131: Convention Grounds - Membership of a Particular Social Group	Handout/OHT/PPP
TM no. 132: Convention Grounds - Political Opinion	Handout/OHT/PPP
TM no. 133: Convention Grounds - Political Opinion	Handout/OHT/PPP
TM no. 134: Convention Grounds - Political Opinion	Handout/OHT/PPP
TM no. 135 Convention Grounds - Political opinion and factors to be taken into account	Handout/OHT
TM no. 136: Procedural Issues	Handout/OHT/PPP
TM no. 137: Procedural Issues	Handout/OHT/PPP
TM no. 138: Procedural Measures to be Taken	Handout/OHT
TM no. 139: Simulation Exercise: A Refugee Status Determination Hearing of a Gender-Related Asylum Claim	Handout
TM no. 140: Case Study 18: Honour Crimes and Family Violence	Handout (FV)
TM no. 141: Case Study 19: Imputed Political Opinion / SGBV/ Membership in a Particular Social Group	Handout (FV)
TM no. 142: Case Study 20: Political Opinion/ Social Group	Handout (FV)
TM no. 143: Case Study 21:Sexual Abuse within the Family	Handout (FV)
TM no. 144: Case Study 22: Homosexuality	Handout (FV)
TM no. 145: Case Study 23: Political Opinion / Discriminatory Laws and Practices	Handout (FV)
TM no. 146: Case Study 24:Forced Prostitution	Handout (FV)
TM no. 147: Case Study 25: Discrimination/ Adultery/ Transgression of Social Mores	Handout (FV)
TM no. 148: Case Study 26: Adultery	Handout (FV)
TM no. 149 Case Study 27:Forced Marriage / Domestic Violence	Handout (FV)
TM no. 150: Case Study 28A:Female genital mutilation	Handout (FV)
TM no. 151: Model Legal Brief to Case Study 28 B - Female genital mutilation	Handout (FV)
TM no. 152: Supplementary Case Studies (include) Case Study 29:Domestic Violence / Discriminatory Laws re: Custody	Handout (FV)
Case Study 30:Transsexuals	
Case Study 31:Forced Marriage	
<b>TM no. 153: Training Session 18: Conducting Gender Sensitive RSD Interviews: Objectives</b>	Handout/OHT/PPP
<b>TM no. 154: Training Session 19: Addressing Gender Needs in the Context of RSD Interviews: Objectives</b>	Handout/OHT/PPP
TM no. 155: The Dynamic during the Interview	Handout/OHT
TM no. 156: Interpreter Rights and Responsibilities	Handout/OHT
TM no. 157: Interviewer Rights and Responsibilities	Handout/OHT
TM no. 158: Interviewer Responsibilities and Protocol (toward applicant)	Handout/OHT
TM no. 159: TIPS for Facilitating Communication When Using an Interpreter	Handout/OHT
TM no. 160: Interviewing Refugee Women: Special Difficulties and Barriers to Communication	Handout/OHT/PPP
TM no. 161: Interviewing and Interpreting for Refugee Women in the RSD Context: barriers and difficulties	Handout/OHT
TM no. 162: Psychological and Cultural Barriers Faced by Women	Handout/OHT
TM no. 163: Reasons why women do not wish to disclose information about their experiences of sexual violence	Handout/OHT
TM no. 164: Procedural Measures to be Taken	Handout/OHT
TM no. 165: Procedural Measures to be Taken (cont'd)	Handout/OHT
TM no. 166: Interviewing Applicants Who Have Suffered Trauma	Handout/OHT
TM no. 167: Trauma Symptoms	Handout/OHT
TM no. 168: Trauma Symptoms (cont'd)	Handout/OHT
TM no. 169: Detecting Traumatised Persons	Handout/OHT
TM no. 170: How do I Respond to a Person Suffering from Trauma?	Handout/OHT
TM no. 171: How do I Respond to a Person Suffering from Trauma?(cont'd)	Handout/OHT
TM no. 172: Role-play 1: A Case Involving a Husband and Wife	Handout (FV)
TM no. 173: Role-play 2: Dealing with Silence and Trauma	Handout (FV)
TM no. 174: Role-play 3 A: Gender Sensitive Interpreting and Interviewing	Handout (FV)
TM no. 175: Role-play 3 B: Gender Sensitive Interpreting and Interviewing	Handout (FV)
TM no. 176: Role-play 4: Gender Sensitive Interpreting and Interviewing	Handout (FV)

TM no. 177: Supplementary Role-plays: Interviewing and Interpreting  
in a Refugee Context (includes) :  
Role-play 5: Domestic Violence  
Role-play 6: Coping with Silence  
Role-play 7: Dealing with the Threat of Suicide  
Role-play 8: Threat of Forced Marriage

Handout (FV)





Training Session 1:  
**An Introduction to Gender Concepts**

→ Objectives

- To explore the differences between sex and gender
- To explore gender relations in participants' own lives
- To gain awareness of gender in a refugee context



# Sex and Gender: Basic Definitions

## **Sex**

Refers to biologically determined differences between men and women that are universal.

## **Gender**

Refers to the social differences between men and women that are learned, changeable over time and have wide variations both within and between cultures. Gender is a socio-economic variable to analyse roles, responsibilities, constraints, opportunities and needs of men and women in any context.



## Key Words: Sex & Gender

### Sex

- Biologically determined
- Innate
- Unchangeable
- Universal

### Gender

- Socially Constructed
- Learnt
- Dynamic and Changeable
- Differs Within and Between Cultures



## Gender Roles

**Are learned behaviours in a given society/community or other social group, that condition which activities, tasks and responsibilities are perceived as male and female.**

Gender roles are affected by:

- age
- class
- race
- ethnicity
- religion
- or other ideologies, and by the geographical, economic and political environment.



# How Does Your Gender Affect You:

## **(1) At Home/ At Work / In Your Community?**

Does it affect:

- your domestic role/ duties
- your employment opportunities & wages
- your treatment at work
- your social freedom
- your sexual freedom
- your legal rights
- your educational opportunities

## **(2) What Are the Advantages and Disadvantages?**

- Of being male
- Of being female



Exercise:  
**Statements about Men and Women**

Please read the following statements quickly and write next to each number:

**S** - to those statements which you think refer to **Sex**

**G** - to those statements which you think refer to **Gender**

1. Women give birth to babies, men don't.
2. Little girls are gentle; boys are tough.
3. In one case, when a child brought up as a girl learned he was actually a boy, his school marks improved dramatically.
4. Amongst Indian agricultural workers, women are paid 40-60% of the male wage.
5. Women can breast feed babies; men can bottle feed babies.
6. Most building site workers in Britain are men.
7. In ancient Egypt men stayed home and did weaving. Women handled family business. Women inherited property and men did not.
8. Men's voices break at puberty, women's don't.
9. In one study of 224 cultures, there were 5 in which men did all the cooking.
10. According to UN statistics, women do 67% of the world's work, yet their earnings for it amount to only 10% of the world's income.

Source: *Class, Gender and Race Equality and the Media in an International Context*. Focus for Change, 1992.



Training Session 2:  
**Gender Awareness**

→ **Objectives**

- To explore the differences between sex and gender
- To explore gender relations in participants' own lives
- To acquire awareness of the cycle of gender gaps
- To gain awareness of the role of gender in the refugee context



## Gender Gaps: Examples

### 1. Health

- More Boys immunised
- More Boys treated in hospitals

### 2. Nutrition

- Girls weaned earlier
- Women/Girls eat after Men/Boys

### 3. Workload

- Women work more than Men
- Less recognition (housework)
- Collection of water and firewood

### 4. Education

- Boys more access than Girls

### 5. Status

- Son preference culture
- Boys/Men higher than Women/Girls

### 6. Value

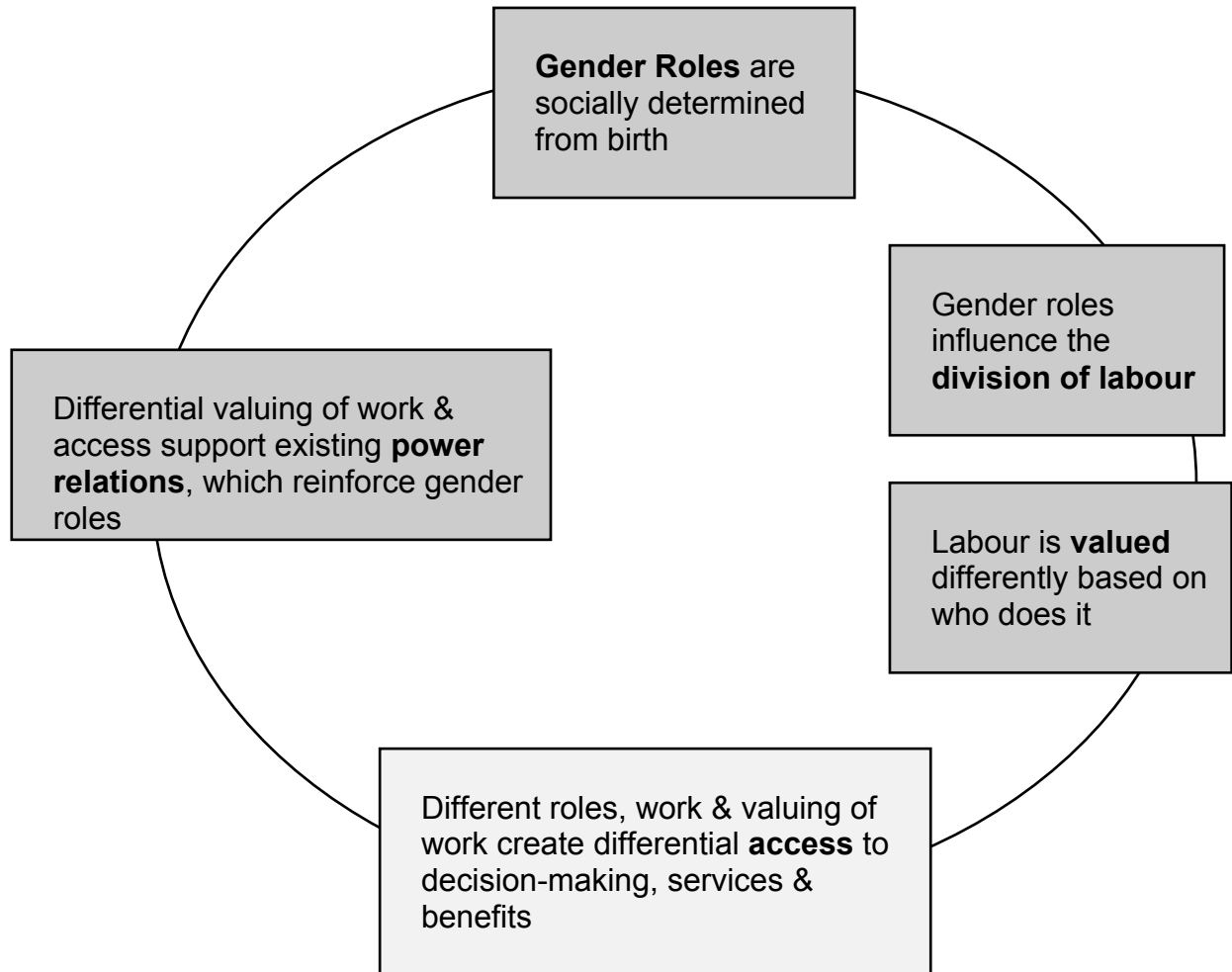
- Higher selective abortion for Girls

### 7. Rights

- Inheritance
- Guardianship of children
- Access to productive resources

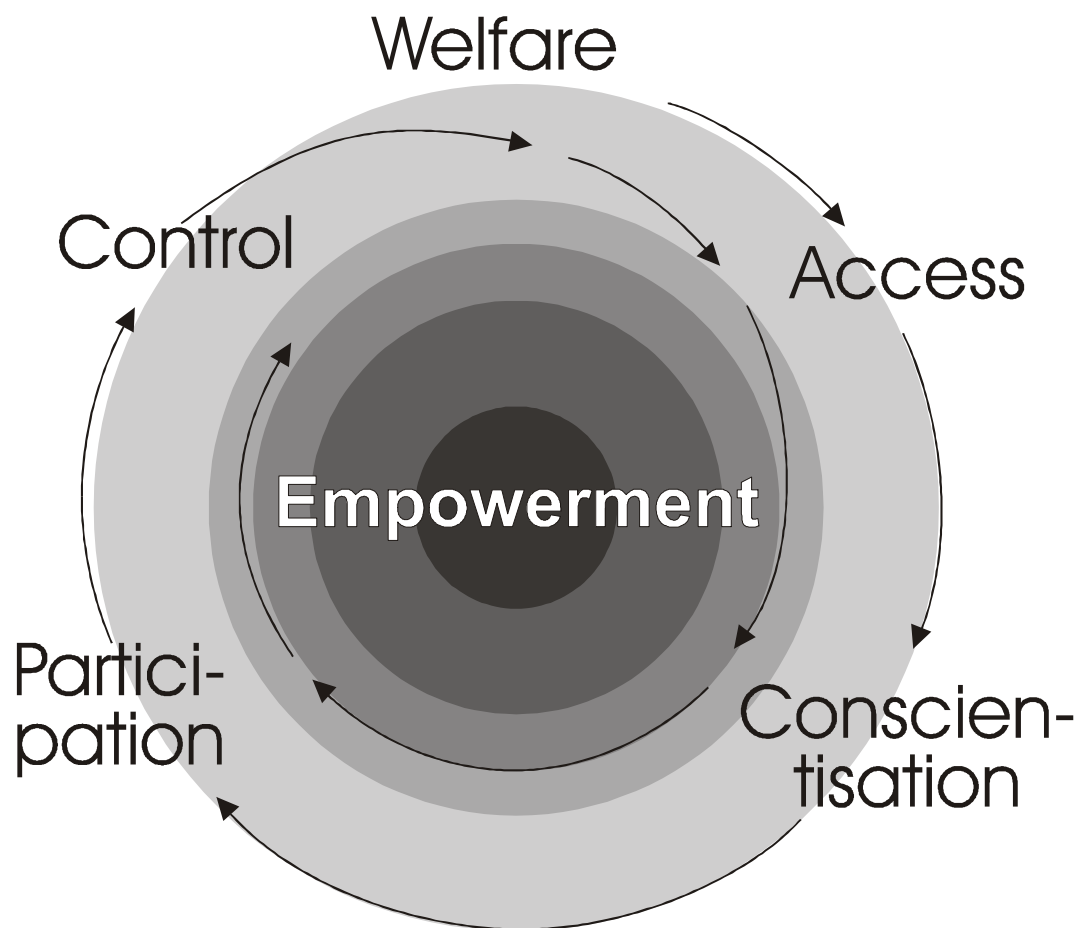


## Cycle of Gender Gaps





# The Women's Empowerment Cycle





## Exercise: Boys and Girls

In working groups of 4-5 persons (25 mins):

### 1. Briefly discuss the following:

- a) What messages were relayed to you when you were growing up that made you aware you were a boy or a girl?
- b) As a child, do you recall a particular experience which reminded you of your gender?

**2. On the page of a flip chart, write up these experiences**, under four columns, each entitled: 1) message, 2) context, 3) who and 4) how you felt. The four columns correspond to the specific questions below:

- What was the message?
- In what context did it take place?
- Who gave you this message?
- How did this make you feel?

Source: This training material was adapted from a draft revision of UNHCR: *A Framework for People-Oriented Planning in Refugee Situations Taking Account of Women, Men and Children*.



Training Session 3:  
**Understanding and Planning for  
Gender Mainstreaming**

→ Objectives

- To develop an understanding of the concept and strategy of gender mainstreaming
- To increase awareness of why gender mainstreaming is important and relevant to work with refugees
- To gain gender analysis skills
- To begin planning for gender mainstreaming within legislation, policy and programming



# ECOSOC

## Definition of Gender Mainstreaming

"Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels.

It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the

- design,
- implementation,
- monitoring and evaluation

of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated.

**The ultimate goal is to achieve gender equality."**



## Women's Projects vs. Gender Mainstreaming

### WID and GAD:

What is the difference between projects with women (WID) and gender mainstreaming (GAD)?

### Women's Projects vs. Gender Mainstreaming

	Women's Projects	Gender Mainstreaming
<b>Focus</b>	Women	Gender Relations
<b>Formulation of Problem</b>	The exclusion of women.	Unequal gender relations that pose barriers to assistance and protection.
<b>Goal</b>	To promote efficiency by integrating women into assistance and camp practices.	<ul style="list-style-type: none"> <li>- Equitable access to assistance &amp; protection</li> <li>- Mainstreaming a gender analysis</li> <li>- Sustainable reshaping of gender relations in order to promote <i>gender equality</i> (i.e., the development of personal abilities and freedom of choice, not limited by gender roles; and equal value attributed to behaviour, aspirations and needs of women and men).</li> </ul>
<b>Solution</b>	Integration of women into existing development processes.	To use gender analysis at every stage of assistance and protection process.
<b>Strategies</b>	<ul style="list-style-type: none"> <li>- Increase women's income and productivity</li> <li>- Improve women's ability to manage households</li> <li>- Integrated projects</li> <li>- Women's participation in projects (all-women or men-women) without explicitly challenging gender relations</li> <li>- Improving health, income or resources without changing unequal gender relations</li> </ul>	<ul style="list-style-type: none"> <li>- Combine activities that address strategic and practical gender needs, and strategic interests</li> <li>- Projects which address men's and women's knowledge of and capacity to negotiate their rights</li> <li>- Increase women's capacity and skills to introduce themselves in non-traditional employment</li> <li>- Increasing women's capacity to control their own body, time and movements</li> <li>- Working with men and women on gender issues and problems.</li> </ul>
<b>Critique</b>	<ul style="list-style-type: none"> <li>- Work often becomes marginalised in women's projects and understood as an 'add on' to existing work</li> <li>- Longer term strategic interests not addressed, so that not sustainable in the longer term</li> <li>- Frequently excludes men and an understanding of gender relations from planning and evaluation</li> <li>- Often under-estimates the elasticity of women's time and labour</li> <li>- Multiple roles of women not considered.</li> </ul>	<ul style="list-style-type: none"> <li>- Requires more skills, and time.</li> <li>- Process / mechanisms for gender mainstreaming must be set up</li> <li>- Therefore, viewed as less easy to implement.</li> </ul>

### What are the benefits of the gender approach?

Source: This table was adapted from: a draft revision of UNHCR publication, A Framework for People-Oriented Planning in Refugee Situations Taking Account of Women, Men and Children, 1992

Exercise

## Applying a Gender Mainstreaming Strategy

1. Participants form into small working groups of 3-5 persons with participants from the same organisation together.
2. Each working group must identify a piece of legislation, policy or programme which has recently been introduced to their organisation and answers the following questions about it:
  - a) How were men's and women's experiences taken into account when the legislation/ policy/ programme was being designed or planned?
  - b) How are men's and women's concerns being taken into account during implementation?
  - c) How will men's and women's experiences be taken into account during monitoring and evaluation?
3. Working groups have 30 minutes to complete this exercise. Please select a group rapporteur to present the results in plenary. Each rapporteur has approximately 10 minutes to make their presentation.

Note: This exercise may also be adapted to consider any other piece of legislation, policy or programme, even if it is not yet finalised or is no longer recent.



Training Session 4:

# Establishing Gender Teams and a Gender Mainstreaming Strategy

## → Objectives

- To review the concept of gender mainstreaming
- To increase advocacy skills with regard to gender equality and mainstreaming
- To increase understanding and begin planning for gender teams and gender mainstreaming within participants' organisations.





## Definition: Gender Equality

By gender equality we mean that all human beings should be free to develop their personal abilities and make choices without the limitations set by strict gender roles; that the different behaviour, aspirations and needs of women and men are considered, valued and favoured equally. /1

This term is also used to refer to the equal rights, responsibilities and opportunities of women and men, girls and boys. It describes the equal sharing of power between women and men in such areas as, their equal access to education, health, political office, and equal pay for work of equal value. It is both a human rights issue and an indicator of sustainable people-oriented development. UNHCR shares the United Nations' goal of achieving gender equality.

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1/ Source: Gender Mainstreaming in Norway, "Guide to Gender Impact Assessment of Government Policy", Ministry of children and family affairs, Norway, May 2000.



## Simulation Exercise

### Making your case that gender matters

1. Participants regroup according to their organisation into working groups of 4-5 persons to do this exercise.
2. Select one of two scenarios provided below, depending on which is most appropriate.

#### **Scenario 1: Making the Case to Managers**

You and your colleagues are increasingly faced with a variety of gender issues and problems in the office which you do not know how to address, and for which there is no mechanism. You have decided as a group to speak to your superior about this, with the knowledge that he/she has little knowledge or interest in gender issues, preferring to “treat everyone the same”.

In working groups of 4-5, one person should simulate the role of the superior/ manager. This person must leave the group so as not to overhear the group discussions. Meanwhile the rest of the group brainstorms on arguments to present to their manager during the upcoming meeting in order to convince him/her that it is a good idea to promote gender equality and establish a gender mainstreaming process within the office. The group has **25 minutes to prepare** this simulation exercise. In plenary, each working group will have **15 minutes to make their case** and address the questions or concerns of their manager.

#### **Scenario 2: Making the Case to Staff Members**

As a senior manager you understand the importance of promoting gender equality and gender mainstreaming within your organisation and office. Moreover, your donors and superiors are increasingly demanding more accountability in this regard. You meet with several of your colleagues/ staff members also knowledgeable about this issue and together plan a general staff awareness training/ meeting on this topic, in order to ensure a proper understanding and the participation by all staff members in this process.

This group is made up of 4-5 persons, of which one is the senior manager and the others are experienced staff members knowledgeable about gender issues and mainstreaming, and who will assist the senior manager in conducting the general staff awareness meeting/training. At this staff meeting, you wish to introduce the topic of gender equality and mainstreaming, and discuss concretely why these issues are important, and should be implemented in the office. The group has **25 minutes to prepare** these arguments, which will be presented as a simulation exercise in plenary. You will have **15 minutes to make your case in plenary** and address the questions or concerns of the other staff members - which will be played by the other participants, who may make interventions or pose questions accordingly.



Answer Sheet:  
**Making your case that gender matters**

We should promote gender equality and gender mainstreaming for reasons of:

**a) Justice and Human Rights:**

Refugee law (as a branch of human rights) draws from and includes the human rights principles of equality and non-discrimination between women and men. Refugee women and men are therefore equally entitled to assistance and protection.

**b) Credibility, Accountability and Organisational Mandate:**

UNHCR's mandate, as well as that of most NGO or government refugee assisting organisations/agencies, is about the protection and promotion of the rights of both refugee women and men. Therefore we can only fulfil our mandates if we are promoting gender equality. Our policies and programmes must reflect the fact that persons of concern include both men and women (and girls and boys), and indeed, the majority of the world's refugees are women and children. In addition to being accountable to our persons of concern, UNHCR is also accountable to the international community, which promotes the equal rights of women and men.

**c) Efficiency, Quality of Life and Chain Reaction:**

The equal inclusion of women and men refugees capitalises on their contributions and increases the efficiency as well as sustainability of programmes. Moreover, increasing attention to gender equality issues has been shown not only to improve the quality of life of individual men and women, but also the general welfare of the entire family. It has the capacity to produce a chain reaction of both short and long term benefits to individuals, families and communities. This is especially important in refugee situations, where resources are often scarce and must be used to maximum efficiency.

**d) Alliances/ Other Political Incentives/ Donor Demands:**

This type of argument is used when progress on gender issues is seen as an important pre-requisite to achieving another goal, such as joining the European Union in the European context, or responding to donor demands or sensitivities.

*In addition, you may also use the following arguments :*

**e) Refugee Communities Hold Different Patterns of Gender Relations:**

Refugee-assisting organisations and agencies must deal with different refugee communities, each characterised by their own pattern of gender relations, which they must understand and factor into their work and operations, including through the use of gender analysis.

**f) Different Access to Protection and Assistance:**

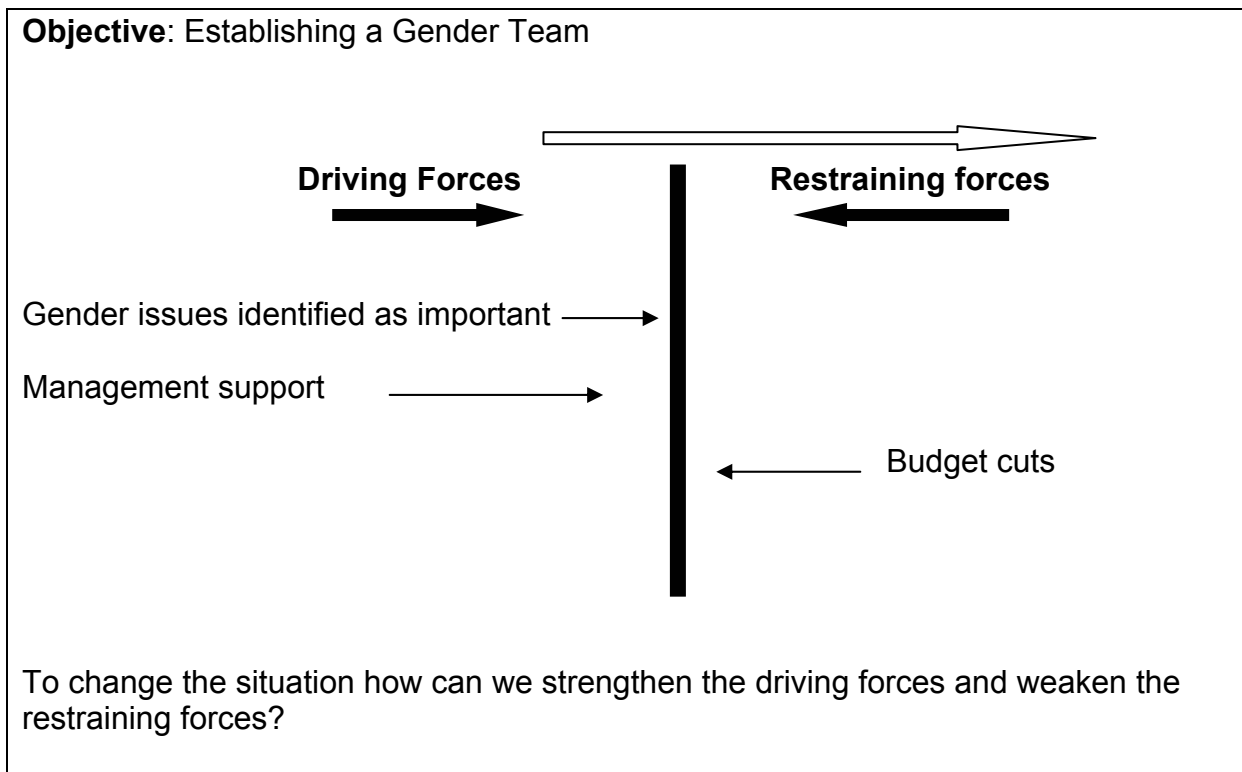
Women and men's different positions in the family and community often affect their control over resources, their access to protection and assistance programmes, as well as the impact of our policies and programmes. In order to ensure that we are indeed promoting /achieving gender equality in our operations and not simply reproducing or widening this gender gap, we must conduct a gender analysis of our operations and adopt a gender mainstreaming strategy.

**g) Affected Differently by Refugee Experience of Being Uprooted:**

Women and men are often affected differently by the experience of becoming a refugee and being uprooted from their normal family and community structures. Refugee women often take on what they previously regarded as the traditional male roles of provider and protector. On the other hand, the refugee experience often makes them more vulnerable to violence, destitution, exploitation and other forms of neglect or abuse. Gender analysis and mainstreaming ensures that the particular roles, needs and vulnerabilities of refugee women are taken into account.



## Force Field Analysis



## Exercise

# Formulating Terms of Reference (TOR) for Gender Teams

1. For working groups of 4-5 persons from same organisation.
2. The following questions may help you formulate terms of reference for a gender team in your organisation:
  - (a) Which departments or units of the organisation would be represented?
  - (b) How many members would be in the team?
  - (c) What would be the three main objectives of the team?
  - (d) What strategies would the team use to reach its objectives?
  - (e) Who would the team report to?
  - (f) What tasks would the team carry out?
  - (g) How would the team ensure gender mainstreaming throughout the overall operations of the office/ organisation?
3. The suggested duration of this group exercise is 40 minutes.



## Suggested Responsibilities for Gender Teams in Your Organisation

- supporting the development of gender sensitive policies and programme strategies
- providing advice and support to staff in the application of a gender perspective
- the development of tools and methodologies for gender mainstreaming
- the collection and dissemination of information and best practices
- and assistance in monitoring and evaluating progress on specific gender issues and gender mainstreaming in general.

Source: ECOSOC Agreed Conclusions (on Gender Mainstreaming within the UN System) E/ 1997/ 1.30, 14 July 1997.



Training Session 5:  
**Implementing and Monitoring  
Gender Mainstreaming**

→ Objectives

- To further develop an understanding of the concept of gender mainstreaming
- To improve participants' ability to conduct a gender analysis
- To improve participants' capacity to implement a gender mainstreaming strategy, including by countering resistance
- To develop skills and mechanisms for monitoring gender mainstreaming



# Monitoring Gender Mainstreaming

## **A. What is monitoring?**

Two main elements:

1. Monitoring progress towards fulfilling substantive objectives (for example, change or lack of it, in a situation or set of situations);
2. Monitoring the implementation process (of any intervention, whether it be an activity, project, office programme, strategy or policy).

## **B. Monitoring mechanisms and plans should address the following:**

- Who is responsible for monitoring tasks;
- How other stakeholders will participate in the monitoring process;
- When monitoring will take place;
- What tools will be used to record observations;
- What mechanisms exist to review progress (periodic appraisal or review sessions).





## Exercise

# Gender Mainstreaming (GM) Checklist<sup>1</sup>

Issue	Y/N	What could be done to improve the situation?	Who will be responsible for doing this?
<p><b>Country Programme Level</b> (management, and most operational units, e.g., programme, protection)</p> <p>1. Has all gender information been identified and collated in such a way as to be included in country programme planning discussions?</p> <p>2. Is all background information disaggregated by age, sex, and if relevant, ethnic origin?</p> <p>3. Have gender specialists and representatives of refugee women at all levels been consulted throughout the process?</p> <p>4. Have all staff /units /field offices, been briefed on gender issues &amp; use of gender analysis in their work ?</p> <p>5. Are there mechanisms in place to help implement and monitor GM (e.g., gender teams, committees)?</p> <p>6. Is there a process in place to facilitate the automatic integration of gender considerations at all levels of the organisation's operations (i.e., a GM process) ?</p>			
Issue	Y/N	What could be done to improve the situation?	Who will be responsible for doing this?
<p><b>Project and Programme Formulation</b> (management, and all units, e.g. protection, programme, project development)</p> <p>7. Have gender issues relevant to project / programme/ protection matters been systematically identified and updated as appropriate?</p> <p>8. Do staff have access to information about the gender dimensions of the issues being dealt with?</p> <p>9. Have people and organisations with knowledge and experience of</p>			

<sup>1</sup> This checklist has been adapted from the UNDP *Guidance Note on Gender Mainstreaming: Senior Management Review Meeting on Gender Mainstreaming. Appendix 1*, which can be found at <http://www.undp.org/gender/policies/guidance.html>

<p>gender mainstreaming participated in the identification, formulation and appraisal of projects relevant to activities of your unit?</p> <p>10. Have women been consulted equally with men during the formulation process, especially women beneficiaries?</p> <p>11. Have staff members in your unit and field offices been briefed on the relevant gender issues specific to your area of activity?</p> <p>12. Have gender-related linkages with other projects and programmes been identified and incorporated in documentation (e.g., protection and programming units)?</p> <p>13. Has all background information been disaggregated by age, sex, ethnicity and country of origin?</p> <p>14. Have relevant gender issues been raised in discussion with partner organisations (host government officials, NGOs etc), so as to ensure equal access and equity in impact of projects and programmes for refugee populations?</p>			
<b>Issue</b>	<b>Y/N</b>	<b>What could be done to improve the situation?</b>	<b>Who will be responsible for doing this?</b>
<p><b>Programme &amp; Protection Implementation</b> (management, and protection and programme units )</p> <p>15. Have all possible steps been taken to ensure a gender balance in project and protection staff?</p> <p>16. Has a gender balance in protection and programme training been ensured?</p> <p>17. Do staff raise relevant gender issues in protection and programme meetings?</p> <p>18. Do programme and protection activities and reports reflect gender issues, and is all information disaggregated by sex?</p> <p>19. Do protection and programme evaluations and reports systematically identify gender gaps and gender-related project or protection successes?</p> <p>20. Do programme staff monitor project disbursements to ensure that inputs are used in such a way as to ensure equality of outcome for both women and men beneficiaries?</p>			

Issue	Y/N	What could be done to improve the situation?	Who will be responsible for doing this?
<p><b>Gender Sensitive Evaluation</b> (management)</p> <p>21. Do TORs for evaluations require relevant gender expertise and experience?</p> <p>22. Are evaluation mission members briefed on relevant gender issues?</p> <p>23. Do staff check draft evaluation reports to ensure gender-related issues are covered?</p> <p>24. Do staff understand and have available to them, gender indicators for their respective activities (e.g., legal/ protection, programming, policy development)?</p>			
Issue	Y/N	What could be done to improve the situation?	Who will be responsible for doing this?
<p><b>Policy Advice and Dialogue</b> (management)</p> <p>25. Do country and branch office documentation reflect the organisation's core messages on gender equality issues?</p> <p>26. Has all policy-related information used in policy dialogue been disaggregated by age, sex, and if relevant, ethnicity and country of origin?</p> <p>27. Do staff raise gender equality related concerns appropriately in policy discussions?</p> <p>28. Has a strong collaborative relationship with local partners (e.g., host government, NGOs) regarding gender equality considerations in the refugee context been established?</p>			
Issue	Y/N	What could be done to improve the situation?	Who will be responsible for doing this?
<p><b>Country Office Meetings, Inter-agency Meetings and Meetings with Local Partners (e.g. government, NGOs)</b> (management)</p> <p>29. Are staff consistently aware of the relevant gender issues when attending meetings?</p> <p>30. Do UNHCR staff members consistently raise relevant gender issues at meetings in a concise, effective and appropriate manner?</p> <p>31. Do staff, especially senior and mid-level managers, seek to ensure a gender balance in all committees and decision-making fora?</p>			

Issue	Y/N	What can be done to improve the situation?	Who will be responsible for doing this?
<p><b>Special Events Convened by Relevant Organisation (e.g. trainings, refugee day etc)</b> (management, and all units/ sectors)</p> <p>32. Have gender equality and gender mainstreaming issues been reflected in the selection of topics and agendas for special events (related to your field/ unit)?</p> <p>33. Are men and women consulted equally during preparations, delivery and follow-up of special events?</p> <p>34. Are all participants made aware of the gender dimensions of the event?</p> <p>35. Is the media routinely informed of the gender dimensions of these special events?</p>			



Training Session 6

# Male Involvement in Gender Equality and Gender Mainstreaming

## → Objectives

- To review key gender concepts and theories of masculinity
- To explore why we have been silent about male involvement in gender equality and why it is an issue now
- To develop an understanding of the possible role of men in GE and GM issues, and what is to be gained by their involvement
- To explore male violence, and how men can help prevent and respond to SGBV



## Today's discussion:

1. Why have we been so silent about men?
2. What makes male involvement an issue now?
3. Gender equality: What's in it for men?
4. Forms of male involvement.
5. Male involvement in SGBV prevention & response in refugee situations.



## Different ways of perceiving masculinity - nature or nurture?

### 1. Biological determinism/essentialism

- Men are born with the characteristics of masculinity, it is a biological reality

### 2. Cultural/social construction &

### 3. Masculinity as a discourse of power

- Both theories view masculinity as constructed in society and via the relations of power, and
- As being different from biological sex



## Exercise 1: Male Involvement Men's Lack of Interest in Gender Equality

- a) When we speak of a gender perspective are we referring to men and/or women?**
  
- b) Why haven't men in society at large (or in your organisation) been so interested in gender equality issues?**





## Exercise 2: Male Involvement Why Male Involvement Now?

- a) Why has male involvement become an issue now?**
- b) What do male refugees and male staff members gain by being involved in gender equality and gender mainstreaming processes?**



## Exercise 3: Male Violence

- a) Are men naturally violent?**
- b) How can we address male violence?**



## On Masculinities and Violence

- Men are gendered too!
- NB: 'Masculinities'
- e.g.: Hegemonic masculinity, gay masculinity, machismo, WASP masculinity etc.
- Are masculinities secure?
- Are men naturally violence-prone?
- And men as victims, survivors of male violence / female violence?



## The Triad of Men's Violence (Kaufman)

### 3. Against Self

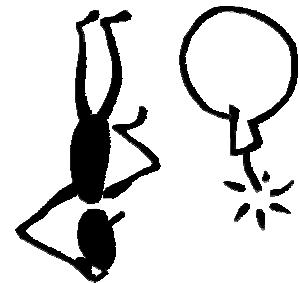
Failure of emotional expression → anger & hostility

### 2. Against other Men

A question of power (other men are my enemy, competition) + fear of attraction toward other men

### 1. Against Women

Insecurity about masculinity, negative self-images + feeling of powerlessness





## Masculine socialization entails expectations of...

### POWER

e.g. patriarchy, women's subordination, male privilege, access & control

### ENTITLEMENT

e.g. 'husband's rights', the 'last word', respect & deference, a job for life

### AUTHORITY

e.g. the boss & secretary syndrome

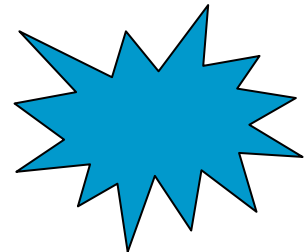
### SERVICING

e.g. hot meals, meat & two vegetables, sex on demand, fresh laundry, good kids



## When these expectations are not met:

- **'Surplus repression' (Marcuse)**
  - Substitution of violence for desire
  - Transmutation of violence into emotionally gratifying activity
  
- **'Surplus aggression'**
  - Institutionalization of violence in social, political and economic life





## Male involvement: part of the problem more of the solution

- How do men see SGBV?
- How do women see SGBV?



- The solution needs a shared understanding of the problem.



## What is being done? Models for refugee settings

- Prevention campaigns - *The White Ribbon Campaign*
- Reflection groups
- Self-help groups (re-education/therapy)
- Preventive work with women & children
- Public policy: health sector, legal, education





TM no. 37  
OHT/PPP

# Male Involvement: Part of the problem - more of the solution

Working with men  
An adaptation



## It takes two

- Building equal relations
- Gender equality information
- Gender equality sensitisation
- Partnerships
- Building capacity for male involvement: TOT & resources
- Meeting women's needs
- Meeting men's needs





## Three ways to do **integral** work with men

Questioning power  
in our relations



Acknowledging  
pain and costs



Acknowledging the advantages of change.



## What are the entry points for working with men?

- Age: start early to re-socialise
- Peers: boys can change boys
- Paternity crisis: planned parenthood
- The workplace, school, social meeting points
- Create safe forums
- NB: Participatory methodologies essential !



## Exercise 4: Male Involvement Male Contributions: Brainstorming

1. What are some concrete ways in which
  - male staff members and
  - male refugeescould be more involved and contribute to gender issues, in the context of your organisation?
2. What would be gained by their involvement?



### Selected: UN HUMAN RIGHTS CONVENTIONS / TREATIES

ACRONYM	NAME OF CONVENTION	DOCUMENT NO	ADOPTED	ENTERED INTO FORCE
ICCPR	International Covenant on Civil and Political Rights	2200A(XXI)	16 December 1966	23 March 1976
OPICCPR	Optional Protocol to the International Covenant on Civil and Political Rights	2200A(XXI)	16 December 1966	23 March 1976
ICESCR	International Covenant on Economic, Social and Cultural Rights	2200A(XXI)	16 December 1966	3 January 1976
CEDAW	Convention on the Elimination of All Forms Discrimination against Women	34/180	18 December 1979	3 September 1981
OPCEDAW	Optional Protocol to CEDAW	A/RES A/54/4	6 October 1999	22 December 2000
DEVAW	Declaration on the Elimination of Violence against Women	A/RES 48/ 104	20 December 1993	
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination	2106A(XX)	21 December 1965	4 January 1969
CRC	Convention on the Rights of the Child	A/RES/44/25	20 November 1989	2 September 1990
CDE	Convention against Discrimination in Education	429 U.N.T.S. 93	14 December 1960	22 May 1962
ERC	Equal Remuneration Convention	C.100	29 June 1951	23 May 1953
MPC	Maternity Protection Convention (Revised)	C.103	4 June 1952	7 September 1955
DC	Discrimination(Employment and Occupation) Convention	C.III	24 June 1958	15 June 1960
WFRC	Workers with Family Responsibilities Convention	C.156	June 1981	11 August 1983
HWC	Home Work Convention	C.177	June 1996	Not Entered into Force
CNMW	Convention on the Nationality of Married Women	1040(XI)	29 January 1957	11 August 1958
CCM	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages	521 U.N.T.S. 231	7 November 1962	9 December 1964
CSR	Convention Relating to the Status of Refugees	189 U.N.T.S. 150	28 July 1951	22 April 1954
CSTPEP	Convention for the Suppression of the Traffic in Person and of the Exploitation of the Prostitution of Others	96 U.N.T.S. 271	2 December 1949	25 July 1951
SCAS	Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery	226 U.N.T.S.3	30 April 1956	30 April 1957
CAT	Convention against Torture and Other Cruel Treatment or Punishment	39/46	10 December 1984	26 June 1987



Training Session 7:

# Women's Human Rights: Session A for Refugee Women

## → Objectives

- By drawing on the experience of women refugees themselves, raise awareness of their rights
- Increase participants' knowledge of the international human rights of women, and their rights in the country of asylum
- Enhance the protection of women refugees through education on their rights
- Raise awareness of traditional customs and practices which may infringe on international human rights standards/or laws in the country of asylum
- Empower refugee women by increasing their skills and involvement in the monitoring of their rights, and in relevant protection and assistance mechanisms.



## Selected International and Regional Human Rights Instruments

Selected Instruments	Year adopted
<b>INTERNATIONAL INSTRUMENTS</b>	
Universal Declaration of Human Rights (UDHR)	1948
International Covenant on Civil and Political Rights (ICCPR)	1966
Optional Protocol to International Covenant on Civil and Political Rights (OPICCPR)	1966
International Covenant on Economic, Social and Cultural Rights (ICESCR)	1966
Declaration on the Elimination of Violence against Women (DEVAW)	1994
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	1979
Optional Protocol to CEDAW (OPCEDAW)	1999
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	1965
Convention on the Rights of the Child (CRC)	1989
UNESCO Convention against Discrimination in Education (CDE)	1960
Equal Remuneration Convention (ERC)	1953
Maternity Protection Convention (MPC)	1955
Discrimination (Employment and Occupation) Convention (DC)	1960
Workers with Family Responsibilities Convention	1983
Convention on the Political Rights of Women (CPRW)	1953
Convention on the Nationality of Married Women (CNMW)	1957
Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (CCM)	1962
Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others (CSTPEP)	1949
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (SCAS)	1956
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	1984
Convention relating to the Status of Refugees and Protocol thereto (CRSR)	1951/ and 1967
Convention relating to the Status of Stateless Persons (CSSP)	1954
Convention on the Reduction of Statelessness (CRS)	1961
<b>REGIONAL INSTRUMENTS</b>	
OAU Convention governing specific aspects of refugee problems in Africa	1969
Cartagena Declaration on Refugees	1984
European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)	1950
American Convention on Human Rights, "Pact of San Jose, Costa Rica" (ACHR)	1969
African Charter on Human and Peoples' Rights (ACHPR)	1981



## Gender-Based Violence During the Refugee Cycle: Human Rights Awareness for Refugees

Phase	Types of Violence
Prior to flight During conflict	<ul style="list-style-type: none"> <li>▪ Violence by family or intimate male partners, i.e., domestic violence (includes physical, psychological, &amp; sexual violence)</li> <li>▪ Abuse by persons in power</li> <li>▪ Sexual violence by “soldiers”</li> <li>▪ Abuse of widows and vulnerable single women, including property grabbing.</li> </ul>
During Flight	<ul style="list-style-type: none"> <li>▪ Attacks by bandits, border guards, pirates (including sexual attacks)</li> <li>▪ Capture for trafficking by smugglers, slave traders</li> </ul>
In the Country of Asylum	<ul style="list-style-type: none"> <li>▪ Attacks (including sexual) and extortion by persons in authority (sex for ‘favours’ or basic services)</li> <li>▪ Sexual abuse of young girls and vulnerable women</li> <li>▪ Domestic violence</li> <li>▪ Attacks and sexual violence during daily activities (e.g., collecting firewood, water)</li> <li>▪ Sex for survival</li> </ul>



Training Session 8:  
**Women's Human Rights: Session B**  
for Refugee Men

→ Objectives

- To raise awareness of how gender roles affect our lives
- To increase participants' knowledge of women's international human rights, and their rights in the country of asylum
- To develop an understanding of the role of men in preventing violations of the rights of women
- To raise awareness of traditional customs and practices which may infringe on international human rights standards and/or laws in the country of asylum



Training Session 10:

# International human rights and refugee protection: the gender dimension.

## → Objectives

- To introduce international and regional human rights instruments, including those specific to women
- To raise awareness of links between human rights, refugee protection and gender-related asylum claims
- To raise awareness of the types and extent of human rights violations against women
- To highlight how gender-related asylum claims should be viewed within the framework provided by international human rights instruments
- To gain practical skills in recognising and articulating human rights violations, especially those experienced by women



Worksheet  
**Convention Profile: Where Does My Country Stand?**  
Country: \_\_\_\_\_

**Selected International and Regional Human Rights Instruments**

Selected Instruments	Year Adopted	Ratification	Reservations
<b>INTERNATIONAL INSTRUMENTS</b>			
Universal Declaration of Human Rights (UDHR)	1948		
International Covenant on Civil and Political Rights (ICCPR)	1966		
Optional Protocol to International Covenant on Civil and Political Rights (OPICCPR)	1966		
International Covenant on Economic, Social and Cultural Rights (ICESCR)	1966		
Declaration on the Elimination of Violence against Women (DEVAW)	1994		
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	1979		
Optional Protocol to CEDAW (OPCEDAW)	1999		
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	1965		
Convention on the Rights of the Child (CRC)	1989		
UNESCO Convention against Discrimination in Education (CDE)	1960		
Equal Remuneration Convention (ERC)	1953		
Maternity Protection Convention (MPC)	1955		
Discrimination (Employment and Occupation) Convention (DC)	1960		
Workers with Family Responsibilities Convention	1983		
Convention on the Political Rights of Women (CPRW)	1953		
Convention on the Nationality of Married Women (CNMW)	1957		
Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (CCM)	1962		
Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others (CSTPEP)	1949		
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (SCAS)	1956		
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	1984		
Convention relating to the Status of Refugees and Protocol thereto (CRSR)	1951/ and 1967		
Convention relating to the Status of Stateless Persons (CSSP)	1954		
Convention on the Reduction of Statelessness (CRS)	1961		
<b>REGIONAL INSTRUMENTS</b>			
OUA Convention governing specific aspects of refugee problems in Africa	1969		
Cartagena Declaration on Refugees	1984		
European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)	1950		
American Convention on Human Rights, "Pact of San Jose, Costa Rica" (ACHR)	1969		
African Charter on Human and Peoples' Rights (ACHPR)	1981		

Worksheet adapted from International Women's Tribune Centre, *Rights of Women: A Guide to the Most Important United Nations Treaties on Women's Human Rights*, New York, 1998.



## Why were international human rights instruments specific to women necessary?

- In principle, men's and women's rights are protected equally in international human rights instruments.
- The principle of non-discrimination, a fundamental rule underlying human rights law and embodied in the UN Charter, ascribes rights and freedoms to everyone without discrimination, including on the basis of sex.
- The rule of non-discrimination is usually also contained in domestic law and national constitutions.
  
- **However...**



## Why were human rights instruments specific to women necessary? (cont'd)

There was a consensus in the international community that the rights of women were not being adequately addressed by the existing international human rights framework.

For some of the following reasons:

- The existing framework was developed from a masculine worldview
- International human rights bodies have tended to ignore the application of human rights norms to women
- The norm of formal non-discrimination is insufficient to achieve equality
- The failure to address injustices in the private sphere
- The perceived conflict between women's rights and culture
- Women were adversely affected by the focus on "classical human rights", i.e., civil and political rights (as opposed to social, economic and cultural rights).

As a result, the UN General Assembly adopted CEDAW in 1979.



## CEDAW

- Considered the women's international bill of rights
- Elaborates most comprehensively the rule of non-discrimination and the principle of equality
- Includes the two families of rights (civil, political & socio-economic and cultural rights)
- Ratified by 168 Countries\*

\* As of May 2001



## CEDAW (cont'd)

- Provides for the equal responsibility of men and women in family life
- Requires states parties to take measures to eliminate the exploitation of prostitution and trafficking in women
- And to take measures to ensure women do not face discrimination in certain areas of private life
- Calls for the introduction of temporary special measures to redress inequalities between men and women
- Includes women's rights in such fields as:  
political participation, access to opportunities in public life, standards on nationality, equal access to education, training, health, and employment.
- Pays particular attention to rural women and their involvement in the development process
- The Committee on the Elimination of Discrimination against Women monitors implementation of CEDAW by states parties





## The Optional Protocol to CEDAW

- In force as of December 2000
- Allows for
  - ***An individual communications procedure***  
Individual women or groups of women may submit claims of violations of rights protected under CEDAW
  - ***An inquiry procedure***  
Enables the Committee to initiate inquiries into situations of grave or systematic violations of women's rights



## DEVAW

- Contains first set of international standards dealing specifically with violence against women
- Complements CEDAW
- Affirms that violence against women constitutes a violation of their rights and fundamental freedoms
- Notes that **refugee women** are “especially vulnerable to violence”
- Was adopted by General Assembly in 1993



## International human rights and refugees: the links

- Forced displacement of refugees due to the disregard of human rights in country of origin
- Human rights violations also reason why refugees sometimes cannot return or successfully reintegrate
- Human rights are an integral dimension of refugee law
- International human rights instruments play a pivotal role in the protection of refugees



## International human rights instruments play pivotal role in protection of refugees

### They:

- **Reinforce** existing refugee law and protect against *refoulement*
- **Guide** us in the interpretation of the 1951 Convention
- **Provide** general standards for the treatment of refugees and asylum seekers
- **Provide** benefits of quasi-judicial and judicial implementing bodies  
Example: European Court of Human Rights.



## Gender-related asylum claims

As a matter of international law, refugee women are entitled to the same kind of protection as all other refugees.

However, in practice, asylum seeking and refugee women often face a number of disadvantages in obtaining international protection, including [...] an unwillingness to recognise women as a particular social group and unequal access to procedures ...

Excerpts from: UNHCR, *Human Rights and Refugee Protection: Part II*, Training Module RLD 5, 1995, pp. 171-172.



## International human rights instruments specific to **women** make important contributions to gender-related asylum claims

### **They:**

- Provide a **framework** for interpreting the 1951 Convention.
- Confirm the view that many gender-related claims are related to membership in a “**particular social group**” specific to women. CEDAW and DEVAW articulate the extent and pervasiveness of discrimination and gender-based violence.
- Provide **definitions** for important terms such as “discrimination” and “gender-based violence”, and characterise these practices as violations of human rights.
- Reject and deconstruct the **public/private** divide: states now have a positive duty to intervene in the “private sphere”.
- Reject the argument of **cultural relativity** as it has been applied to the human rights of women.
- Spell out the specific **obligations of the state**, making it easier to identify the failures of the state *vis-à-vis* the protection of women’s rights.



## Refugee Definition

A refugee is a 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 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.”

(Source: 1951 Convention relating to the Status of Refugees, art. 1 A (1))



## Women's Human Rights:

### YOUR HUMAN RIGHTS AND THE LAWS THAT PROTECT THEM

(Reproduced from: *Rights of Women: A Guide to the Most Important United Nations Treaties on Women's Rights*, International Women's Tribune Centre, 1998)

#### **RELEVANT CONVENTIONS**

*Universal Declaration of Human Rights (UDHR)*

*International Covenant on Civil and Political Rights (ICCPR)*

*International Covenant on Economic, Social and Cultural Rights (ICESCR)*

*International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)*

*Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)*

*Convention on the Rights of the Child (CRC)*

*Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*

#### **OTHER DOCUMENTS**

*Declaration on the Elimination of Violence Against Women (DEVAW)*

*UN Fourth World Conference on Women, Platform for Action (PFA)*

*Note: Numbers refer to paragraphs in the conventions.*

### YOUR POLITICAL AND CIVIL RIGHTS

#### ... freedom, equality and physical integrity

- You have the same human rights and freedoms as everyone else in the world. These rights are inherent in being a human being. They cannot be taken away from you. Everybody, no matter who we are or where we live, should be treated with equal dignity.  
**UDHR 1**
- You should not be treated differently, or have your rights denied, because of your race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.  
**UDHR 2 • ICCPR 2:1 • ICESCR 2:2 • CRC 2 • PFA 232**
- You have the right to live without discrimination of any kind based on sex.  
**ICCPR 3 • ICESCR 3 • CEDAW 1, 2, 3 • PFA 214, 232 • DEVAW 3e**
- You have the right to live without discrimination of any kind based on race.  
**ICERD1, 2, 3 • DEVAW 3e**
- All peoples have the right to self-determination. That means colonised or dominated peoples are free to choose their political status and to pursue their own economic, social and cultural development.  
**ICCPR 1 • ICESCR 1 • PFA 145a**
- Everyone has the right to life, liberty and security of person.

**UDHR 2 • ICCPR 2:1 • ICESCR 2: 2 • CRC 2 • DEVAW 3a, c**

- No one has the right to enslave anyone else. Slavery is a crime.  
**UDHR 4 • ICCPR 8**
- Women and children have the right to protection from all forms of traffic for the purposes of prostitution or any other forms of exploitation.  
**CEDAW 6 • CRC 35, 36 • PFA 230n • DEVAW 2b**
- You have the right to live without suffering, torture or any form of cruel, inhuman or degrading treatment or punishment.  
**UDHR 5 • ICCPR 7 • CRC 37 • CAT 12 • DEVAW 3h**

#### ... legal equality

- You have the right to be recognised as a person before the law.  
**UDHR 6 • ICCPR 16 • CEDAW 15: 2,3**
- You have the right to be treated by the law in the same way as everyone else, and to be protected by the law without discrimination.  
**UDHR 7 • ICCPR 14:1,26 • CEDAW 2c, 15:1 • ICERD 5a • PFA 232 • DEVAW 3d**
- If your rights under the law are violated, you have the right to an effective remedy.  
**UDHR 8**
- You may not be arrested or held without good reason. You have the right to challenge your detention in a court of law.  
**UDHR 9 • ICCPR 9 • CRC 37d**



- If you suffer from any kind of racial discrimination, you have the right to seek justice.  
**ICERD 6**
  - If charged with a crime, you have the right to be presumed innocent until proven guilty.  
**UDHR11:1 • ICCPR14:2 • CRC 40: 2b**
  - If charged with a crime, you have the right to a fair and public hearing by an independent and impartial tribunal.  
**UDHR 10 • ICCPR 14:1 • CRC 40: 2b**
  - You cannot be found guilty of a crime that was not a crime when the act was committed.  
**UDHR 11:2 • ICCPR 15 • CRC 40:2a**
  - If you are detained, you have the right to be treated with dignity.  
**ICCPR 10. CRC 37c**
  - In countries that have not abolished the death penalty, it can only be used for the most serious crimes, and those sentenced to death have the right to seek a pardon. Children under 18 and pregnant women shall not receive the death penalty.  
**ICCPR 6:2, 6: 4, 6: 5 • CRC 37a**  
See *further*, Second Optional Protocol to the ICCPR Aiming at the Abolition of the Death Penalty, 1989.
  - No one shall imprison you for failing to fulfil a contract.  
**ICCPR 11**
  - A foreigner unlawfully present in another country shall not be expelled from that country without a fair process, except where compelling reasons of national security exist.  
**ICCPR 13**
- ... nationality, freedom of movement and other civil and political rights**
- You have the right to a name and a nationality at birth. You have the right to change your nationality, and marriage shall not affect your nationality.  
**UDHR15:1 • ICCPR 24 • CEDAW 9 • ICERD 5d, iii CRC 7**
  - No one has the right to intrude in your private or family life without good reason, or to attack your good name.  
**UDHR 12 • ICCPR 17 • CRC16**
  - You have the right to move freely within the borders of your country. You can also leave and return to any country, including your own.  
**UDHR 13 • ICCPR 12 • ICERD 5d, i, ii**
  - You have the right to seek asylum from persecution in other countries.  
**UDHR 14 • CAT 3 • ICCPR 13 • PFA 147,148**
  - You have the right to be treated as a citizen of your country. No one can take away your citizenship or prevent you from changing your country without good reason. Marriage shall not affect your nationality.  
**UDHR 15 • CEDAW 9 • ICERD 5d, iii**
  - You have the right to freedom of thought, conscience and religion.  
**UDHR18 • ICCPR18 • ICERD 5d, vii • CRC14**
  - You have the right to freely express your opinion without fear of punishment, both within your country and to people in other countries.  
**UDHR 19 • ICCPR 19 • ICERD 5d, viii • CRC 12,13,17**
  - War propaganda shall be against the law. Any advocacy of national, racial or religious hatred that promotes discrimination, hostility or violence shall be prohibited by the law.  
**CCPR 20**
  - You have the right to gather peacefully and associate with others in public or private. No one may force you to join any group if you do not wish to.  
**UDHR 20 • ICCPR 21, 22 • ICERD 5d, ix • CRC 15 •PFA 190c**
  - You have the right to take part in the government of your country, to vote and to have equal access to public services.  
**UDHR 21 • ICCPR 25 • CEDAW 7 • ICERD 5c • PFA 190,191,192,195**
  - You have the right to represent your government and participate in international organisations.  
**CEDAW 8 • PFA 190,191,193,19S**
  - Human beings have the right to live in the kind of world where their rights and freedoms are respected.  
**UDHR 28 • PFA 210-216, 221-223, 279c**
  - You have the right to be free from all forms of apartheid, racism, colonialism, violence and foreign occupation that prevent you from enjoying your full rights.  
**ICERD 3 • CEDAW preamble • PFA 214, 216, 224-226, 232**
  - Our human rights can be limited only by law and then only to protect other people's rights, meet society's sense of right and wrong, maintain order and look after the welfare of democratic society as a whole. We all have a responsibility to the people around us and we can only develop fully as individuals by taking care of each other.  
**UDHR 29**

## YOUR ECONOMIC, SOCIAL AND CULTURAL RIGHTS

- Everyone is entitled to economic, social and cultural rights that allow them dignity and freedom to develop as individuals.  
**UDHR 22 • CEDAW11: 1e • ICERD 5e • CRC 27 • PFA 220**
- You have the right to an adequate standard of living for yourself and your family, including food, clothing, housing and medical care.  
**ICESCR11 • CEDAW 14h • ICERD 5e, iii • CRC 27:1 • PFA 58**
- Parents have the primary responsibility to ensure that their child has an adequate standard of living and states have a duty to assist those responsible to implement this right.  
**CRC 27: 2, 3**
- Everyone has the right to social security.  
**UDHR 22 • ICESCR 9 • CEDAW 11: 1e, 14c, 13a ICERD 5e, iv . CRC 26 • PFA 580**
- Everyone has the right to social services and security in the event of sickness, old age or other circumstances, including child-care for working parents.  
**UDHR 25 • CEDAW11: 2c • ICERD 5e, iv • CRC18:2, 3 • PFA 58o**
- Rural women have the same rights as other women and men.  
**CEDAW 14 • PFA 58n, 62a**

### ... employment rights

- You have the right to work and to freely choose your job.  
**UDHR 23:1 • ICESCR 6 • CEDAW 11a • ICERD 5e, i**
- You have the right to work in fair and safe conditions and to be paid enough for an adequate standard of living, supplemented by social protections if necessary. Women have the right to the same working conditions as men, especially equal pay for equal work or work of equal value.  
**UDHR 23: 2, 3 • ICESCR 7a, b • CEDAW 11,14:2e ICERD 5e: i • PFA 165a, b • DEVAW 3g**
- You have the right to form or join trade unions.  
**UDHR 23: 4 • ICCPR 22 • ICESCR 8 • ICERD 5e, ii**  
PFA 165r, 178h, i, 190c
- You have the right to rest and leisure. You do not have to work unreasonable hours and you have the right to holidays with pay.  
**UDHR 24 • ICESCR 7d • CRC 31 • PFA 180a**
- You cannot be dismissed from your employment because of pregnancy, while on maternity leave or because of your marital status.

**CEDAW 11:2a • PFA 165c**

- You have the right to maternity leave with pay or to adequate social security benefits without loss of former employment, seniority or social allowances.  
**ICESCR 10: 2 • CEDAW 11: 2b • PFA 165a**
- You are entitled to special protection at work if you are pregnant.  
**CEDAW11: 2d**
- Children have the right to special protections from economic exploitation including a minimum age for employment.  
**ICESCR10: 3 • CRC 32 • PFA 1661,178m, n**

### ... housing

- You have the right to adequate housing.  
**UDHR 25:1 • ICESCR 11:1 • CEDAW 14:2h**

### ... property and credit

- You have the right to own goods, land and other property.  
**UDHR 17 • CEDAW 16:1h • ICERD 5d, v**
- You have the right to bank loans, mortgages and other forms of financial credit.  
**CEDAW 13b • PFA 62,165e, j, 166a, d**
- As a rural woman, you have the right to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform.  
**CEDAW 14:2g . PFA 61b, 62,166c**

### ... health

- You have the right to the highest attainable level of physical and mental health and the right to equal access to health services, including family planning.  
**ICESCR 12 • CEDAW 12 • CRC 24**  
PFA 89,106b • DEVAW 3f
- You have the right to special health services with respect to pregnancy, childbirth and the postnatal period.  
**ICESCR 12: 2a . CEDAW 12:2 . CRC 24: 1d, f**  
PFA 106e

### ... education

- You have the right to an education. Elementary education shall be free and compulsory, secondary education shall be accessible to all, higher education shall be equally accessible to all on the basis of merit.  
**UDHR 26 • ICESCR13 and 14 • CEDAW10 • ICERD 5e, v • CRC 28 • PFA 80, 81, 279a**
- Women and girls have the same rights to all forms of education as men and boys.

**CEDAW 10. CRC 28** • PFA 80, 81, 82, **87a, b**

- You have a continuing right to education and training throughout your life.  
**CEDAW 10e, f** • PFA 82, 88
- The content of education must include development of respect for human rights and must promote understanding, tolerance and friendship among all groups and individuals.  
**UDHR 26:2** • **ICESCR 13:1** • **CRC 29** • PFA 233g, 279c
- Any stereotyped concept of the roles of women and men must be eliminated through education.  
**CEDAW 10c** • PFA 83a, b, c, 236, 243 a, d, e

**... culture**

- You have the right to participate freely in the cultural life of the community and to enjoy the arts and all the benefits of scientific progress.  
**UDHR 27** • **ICESCR 15** • **CEDAW 13c** • **ICERD 5e, vi** • **CRC 31** • PFA 75, 85b, 231a, 239g, d
- Ethnic, religious, linguistic or indigenous minorities have the right to enjoy their own culture, to practice their own religion and to use their own language.  
**ICCPR 27** • **CRC 30** • PFA 232a, o, 242d
- You have the right to go into any place and use any service that is used by the general public, including hotels, restaurants, cafes, theatres and parks, without distinction as to race, colour, or national or ethnic origin.  
**ICERD 5e, f**

**YOUR RIGHTS CONCERNING MARRIAGE AND FAMILY**

- You have the right to marry, and both partners have equal rights in their marriage, in their family responsibilities, and at the dissolution of marriage. Both women and men must give their free and full agreement to marriage. The family is entitled to protection by the state.  
**UDHR16** • **ICCPR 23** • **ICESCR10:1** • **CEDAW16: 1a, b, c** **ICERD 5d, iv** • PFA 274e, 277a
- You have the same right as your spouse to family planning services.  
**CEDAW 12:1,14:2b, 16: 1e** • PFA 94, 95,106e
- You have the same rights as your spouse in all matters relating to your children.  
**CEDAW 16: 1d, e, f** • **CRC18**.
- You have the same rights as your spouse to choose a family name, a profession and an occupation.  
**CEDAW 16: 1g**

- You can acquire, change or retain your nationality and your children's nationality regardless of your husband's nationality. You have the same rights as a man with respect to the nationality of your children.  
**CEDAW 9:1 and 9: 2**

**... additional protections for children**

- Every child has the right to special protections without discrimination, including discrimination because of what her/his parents or guardians do or believe.  
**ICCPR 24** • **CRC 2:2** • PFA 259, 274f, 276b, d
- In any situation, the best interests of a child shall be a primary consideration. At the same time, parents' rights and responsibilities must also be taken into account.  
**CRC 3** • **PFA 267**
- Children have the right to live with their parent(s) unless separation is in the best interests of the child. In the case of separation from one or both parents, children have the right to maintain personal relations and direct contact with their parents.  
**CRC 9**
- Children and their parents have the right to apply to enter or leave any country for the purpose of reunification. If children reside in a different state than their parent(s), they have the right to maintain personal relationships.  
**CRC 10**
- Countries must prevent and remedy kidnapping or the keeping of children abroad.  
**CRC 11**
- Countries must ensure that children have access to information from a variety of sources and that the mass media distributes information that is socially and culturally beneficial.  
**CRC 17** • PFA 239g, 242d
- Children are entitled to special protections when they do not have parents or are separated from their family, taking into account each child's cultural background.  
**CRC 20**
- Refugee children are entitled to special protections.  
**CRC 22** • PFA 147b
- If adoption is permitted in a country, it must be carried out with the best interest of the child as the primary consideration.  
**CRC 21**
- Children with disabilities have rights to special care, education and training to help them enjoy a full and decent life.  
**CRC 23** • PFA 280c

- Children have the right to protection from the illicit use of narcotic drugs and from participation in the production of such drugs.  
**CRC 33 • PFA 282a**
- Children have the right to be protected from sexual exploitation and abuse, including unlawful sexual activity, prostitution and pornography.  
**CRC 34 .• PFA 230m, 283b, d**
- Children under 15 have the right not to be recruited into armed forces or to have any direct part in armed conflict.

**CRC 38:1,2, 3**

- Child victims of armed conflict, torture or maltreatment have the right to treatment that promotes physical and psychological recovery and social reintegration.

**CRC 39 • CAT 12**

- Children in conflict with the law have the right to treatment that promotes each child's sense of dignity. Children have the right to basic guarantees as well as legal assistance for their defence.

**CRC 40**



Training Session 11:

# Rights and protection of refugee women

## → Objectives

- To raise awareness of women's human rights and related international instruments
- To raise awareness of SGBV as a human rights issue
- To increase knowledge of links between human rights, refugee law and gender-related asylum claims
- More specifically, to highlight how gender-related asylum claims should be viewed within framework provided by international human rights instruments, including those specific to women
- To highlight types of rights violations and gender-related problems experienced by refugee women in country of asylum, and possible approaches to addressing these
- To increase knowledge about guidelines and good practices for gender sensitive legal services to refugees



## **A Group Brainstorming Exercise: Refugee Women<sup>1</sup> in the Country of Asylum: Their Rights and Gender-Related Issues**

### **Instructions:**

The following exercise should be done in working groups of 4-5 persons, and takes approximately 30 minutes. Please complete the questions below.

1. Please identify 3 important gender-related issues of particular concern to refugee women in your country:
  - (i)
  - (ii)
  - (iii)
  
2. In your opinion, can these types of issues be addressed through legal means, i.e., by enacting proper legislation or legal enforcement by the courts?  
Circle:    yes /    no /    in part.
  
3. Are these issues addressed in international human rights instruments, and in particular, those relating to women's rights?
  - (a) Please refer to international human rights instruments or other documents distributed to you, and indicate which provisions are relevant to the three issues you identified in question one.
  
  - (b) Has your country ratified these international human rights instruments?
  
4. Does appropriate domestic legislation exist to address these issues? And is it applied to refugee women?
  
5. In your country, what remains to be done with regard to these three issues of concern?
  - a) at the legislative level:
  
  - b) at the implementation level:
  
  - c) other necessary measures:

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<sup>1</sup>The term 'refugee women' in this exercise refers broadly to women considered persons of concern to UNHCR (e.g., asylum seekers, recognised refugees, persons under temporary protection etc.)



## Case Study 1: Rights of Refugee Women in their Country of Asylum

A group of women fled from a large city in Letosia. They are from an elite family background and have received higher education in Western Europe. They believe strongly in gender equality and are also active members of the Bahai community. Because of their political opinion and their religious beliefs they faced persecution in Letosia and fled to Dragonia possessing valid documents and entry visas (which are still valid at present). As Dragonia is not a party to the 1951 Convention (though it is currently being negotiated), they applied for refugee status with the UNHCR office and were recognised as refugees under its mandate. The decision on their resettlement has been made but has not been carried out as of yet (4 months is the duration for processing resettlement cases).

The group of women continued to practice their religion in Dragonia, despite the well-known intolerance of the authorities in the country. As they have no male relatives in Dragonia, they live alone. This is considered unacceptable and immoral behaviour by the local community. Consequently, they have been subjected to harassment by the local male population as well as the local police. On several occasions, they suffered intimidation by men in the neighbourhood and two women were physically assaulted (shoved, slapped, and touched on the hair and face) by men, in front of on-looking police officers who offered no protection and laughed during the incidents.

Dragonia has ratified CEDAW, the two 1966 Covenants and other major human rights instruments.

### Exercise:

You are asked to do the following (for NGOs and UNHCR staff):

1. By drawing on international human rights instruments, identify which rights (if any) were violated, and highlight those rights which are specific to women.
2. Prepare arguments for government counterparts and local officials on why this situation should be remedied (i.e., why it is in the interest of the government to do so), and propose some possible solutions to the case at hand, which will amongst other things, ensure the security of the group of women.

Notes for Facilitator: (to be deleted before you provide this case study to participants)

Note of interest: See Article 4 of the 1951 Convention, refugees' right to practice religion in the host country can be more expansive than the corresponding right for nationals.



## Case Study 2: Domestic Violence

International Human Rights Instruments:  
Relevance to Gender-Related Asylum Claims

The claimant, an 18 year-old woman from Guva and currently 4 months pregnant, has been repeatedly beaten by her husband since she married him when she was 15 years of age. Although she has tried to seek protection from her family, they always tell her she must return to her conjugal home and obey her husband. Her aunt, a female human rights activist advises her that because of the long standing attitude of the authorities and the laws in place, she will never succeed in getting help from the government or police. With the assistance of the aunt, the claimant was able to leave and request asylum in your country.

### The Penal Code of Northern Guva:

Section 55. Correction of Child, Pupil, Servant or Wife

(1) **Nothing is an offence** which does **not** amount to the infliction of **grievous hurt** upon any persons which is done:

(a) by a **parent** or guardian for the purpose of **correcting his child** or ward: such child or ward being under sixteen years of age; or

(b) by a **schoolmaster** for the purpose of **correcting a child** under sixteen years of age entrusted to his charge; or

(c) by a **master** for the purpose of **correcting his servant** or apprentice, such servant or apprentice being under sixteen years of age; or

(d) by a **husband** for the purpose of **correcting his wife**, such husband and wife being subject to any native law or custom in which such correction is recognised as lawful. [emphasis added]

*No correction is justifiable which is unreasonable in kind or degree, regard being had to the age and physical and mental condition of the person on whom it is inflicted; and no correction is justifiable in the case of a person who, by reason of tender years or otherwise, is incapable of understanding the purpose for which it is inflicted.*

### Exercise:

By drawing on international human rights instruments, including those specific to women:  
Please answer the following questions:

1. What, if any, specific human rights provisions in relevant international instruments were violated?
2. In your opinion, do the human rights violations in this case amount to persecution in the sense of the 1951 Convention? Was her not seeking state protection reasonable?
3. How would you respond to the argument that the claimant was simply being treated according to the law of that country, and was not the target of persecution?





## Case Study 3: Honour Killings

International Human Rights Instruments:  
Relevance to Gender-Related Asylum Claims

Country of Origin: [Levanthia]

The Penal Code:  
Article 548.

- 1. He who catches his wife or one of his ascendants, descendants or sister committing adultery (flagrante delicto) or illegitimate sexual acts with another and he killed or injured one or both, of them benefits from an exemption of penalty.**
2. He who catches his wife or one of his ascendants, descendants or sister in a "suspicious" state with another (attitude equivoque) benefits from a reduction of penalty. [emphasis added]

NOTE: Article 45 of the Constitution of [Levanthia]: "**The state guarantees women all opportunities** enabling them to fully and effectively participate in the political, social, cultural and economic life. The state removes the restrictions that prevent women's development and participation in building the socialist [...] society."

### Exercise:

By drawing on international human rights instruments, including those specific to women, please answer the following questions:

1. What (if any) specific provisions in relevant international human rights instruments are violated by this domestic law?
2. In your opinion, can the application of this domestic law amount to persecution in the sense of the 1951 Convention? If yes, please specify what ground in the Convention might be applicable.
3. Assuming the law applied on behalf of a woman catching her husband committing adultery, would it be persecutory towards the man and, if so, on what ground?



## Case Study 4: Travel

International Human Rights Instruments:  
Relevance to Gender-Related Asylum Claims

Country of Origin: FAZIA

Fatwa on Women's Driving of Automobiles, 1990:

*...the issue of **women's driving of automobiles**. It is known that this is a source of undeniable vices, inter alia, the legally prohibited 'Khilwa' [meeting in private between a man and a woman] and abandonment of "hijab" [women's veil]. This also entails women meeting with men without taking the necessary precautions. It could also lead to committing "haraam" [taboo] acts hence this was forbidden. Pure "Sharia" also prohibits the means that lead to committing taboo acts and considers these acts "haraam" in themselves ... Thus, the pure "Sharia" **prohibited** all the ways leading to vice... Women's driving is one of the means leading to that and this is self-evident.*

**NOTE:** In [Fazia], a fatwa has the force of law. In May 1999, Agence France Presse (AFP) reported that the [Fazia] Interior minister [...] reiterated the government's position that women would not be allowed to drive in [Fazia].

### Exercise:

By drawing on international human rights instruments, including those specific to women, please answer the following questions:

1. What, if any, specific provisions in relevant international human rights instruments are violated by this domestic law?
2. In your opinion, can the application of this domestic law ever amount to persecution in the sense of the 1951 Convention? If so, under what conditions, for example? Please specify what ground in the Convention might be applicable.
3. If you answered yes to the above, would your answer change if male relatives were by custom obliged to honour reasonable requests by female relatives for a ride?



## Case Study 5: Marriage / Divorce / Obedience

International Human Rights Instruments:  
Relevance to Gender-Related Asylum Claims

### [...] Personal Law Act of [Chevia], 1991:

Section 25(c). *The validity of a marriage contract is conditioned on the existence of a guardian who would conclude the contract [for the woman].*

Section 33. **A guardian of a Chevian woman shall be male, sane, mature and Chevian.**

Section 34. (1) **The marriage of a pubescent woman shall be concluded by her guardian with her permission and consent to the husband and the dowry. Her word regarding her attainment of pubescence shall be conclusive unless it contradicts the obvious.**

(2) *A virgin pubescent woman's express or implied affirmation is necessary if her guardian concluded her marriage contract and informed her later.*

Section 40(3). *The guardian of a minor girl can conclude her marriage contract. The guardian has to prove that the marriage will benefit the minor girl, that the husband is suitable and the husband pays the dowry usually paid to women of her status.*

Section 51. *The wife's rights in relation to the husband shall be:*

(a) *to be provided with living expenses;*

(b) *to be allowed to visit her parents and those relatives whom she is prohibited by religious law from marrying and to receive the aforesaid in her home;*

(c) *"the husband must not (i) interfere with her private property, and (ii) harm her financially or emotionally; and*

(d) **to be treated equally and justly with her co-wife or co-wives.**

Section 52. *The husband's rights in relation to his wife shall be:*

(a) **to be taken care of and amicably obeyed; and**

(b) *to have the wife **preserve herself** and his property.*

Section 91. *Except in situations involving a violation of religious law, a wife shall always obey her husband if he:*

(a) *has paid her dowry in full,*

(b) *could be entrusted with her, and*

(c) *provides her with a home that complies with the religious requirement among good neighbours.*

Section 92. *If the wife refuses to obey her husband, her right to be provided with a living ceases to be valid during such refusal.*

NOTE: Article 21 of the Constitution of [Chevia]: *"All people are equal before the courts of law. [Chevians] are equal in right and duties as regards to functions of public life; and there shall be no discrimination only by reason of race, sex or religious creed."*

### Exercise:

By drawing on international human rights instruments, including those specific to women, please answer the following:

1. What, if any, specific provisions in relevant international human rights instruments are violated by this domestic law?

2. In your opinion, can the application of this domestic law ever amount to persecution in the sense of the 1951 Convention? If so, under what conditions, for example? Please specify what ground in the Convention might be applicable.



TM no. 68 (FV)  
Handout (Facilitator's Version)  
To be adapted for use by participants

## Case Study 6: Adultery / State Sanctions

International Human Rights Instruments:  
Relevance to Gender-Related Asylum Claims

**Country of Origin: Nevorra**

### **The Penal Code:**

Article 74. **Adultery**, whether punishable by **flogging or stoning**, may be proven by the testimony of four just men or that of **three just men and two just women**.

Article 75. If adultery is punishable **only** by flogging it can be proven by the testimony of **two just men and four just women**.

Article 76. The testimony of women alone or in conjunction with the testimony of only one just man shall not prove adultery but it shall constitute false accusation which is a punishable act.

Article 100. **The flogging of an adulterer** shall be carried out while he is standing upright and his body bared except for his genitals. The lashes shall strike all parts of his body - except his face, head and genitals - with full force. The adulteress shall be flogged while she is sealed and her clothing tightly bound to her body.

Article 102. The stoning of an adulterer or adulteress shall be carried out while each is placed in a hole and covered with soil, he up to his waist and she up to a line above her breasts. [Under Islamic law, a person is either stoned to death or manages to escape, in which case he or she will be allowed to go free.]

Article 300. The blood money for the first- or second-degree murder of a Muslim woman is half that of a murdered Muslim man.

### **Book 5 of the Law on Islamic Punishments, Offences Against Public Decency and Morals:**

Article 635. Women who appear in public without prescribed Islamic dress (*hejab-eshar'i*), shall be sentenced to either imprisonment of between 10 days and 2 months, or a fine of between 50,000 and 500,000 rials

**NOTE:** Article 20 of the Constitution of [Nevorra]: "All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social and cultural rights, in conformity with Islamic criteria."

### **Exercise:**

By drawing on international human rights instruments, including those specific to women, please answer the following questions:

1. What, if any, specific provisions in relevant international human rights instruments are violated by this domestic law?
2. In your opinion, can the application of this domestic law ever amount to persecution in the sense of the 1951 Convention? If so, under what conditions, for example? Please specify what ground in the Convention might be applicable.
3. Would you offer protection if both parties were to be flogged? If they had committed adultery but had married their spouses of their own choice (and as adults)? And, if divorce had been possible?





## Case Study 7: Ordinance on Women's Rights and Duties

International Human Rights Instruments:  
Relevance to Gender-Related Asylum Claims

### Ordinance Concerning Women's Rights and Duties

**Country:** [Sevira]

**Date of entry into force:** not specified

**(NOTE:** This is an unofficial translation. The Ordinance is a verdict passed by the High Court of "[...]", in accordance with the [...] Regime. [Any spelling and grammatical errors are part of the original text])

A denial of veil is an infidel and an unveiled woman is a lewd.

#### **CONDITIONS OF WEARING VEIL**

The veil must cover the whole body.

Women clothes must not be thin.

Women clothes must not be decorated and colourful.

Women clothes must not be narrow and tight so that the seditious limbs are not noticed. The veil must not be thin.

Women must not perfume themselves. If a perfumed woman passes by a crowd of men she is counted upon as an adulteress.

Women's clothes must not resemble men's clothes.

#### **About out-door activities of women, the High Court of [Sevira] proclaims:**

...Women, in current age, are forbidden to go out of their houses, or to be looked at, not because they are women, but for fear from sedition.

...It is incumbent on Muslim men and women to learn religious sciences which include theology, Koran, Sunna and religious jurisprudence so that they distinguish between "lawful and unlawful" but the manners of teaching and learning them differ greatly for men and women. Women must learn their religious duties from those (men) with whom their marriage is allowed as much as required, provided that they are helpless and on a condition that a person with whom their marriage is prohibited shall be present.

...Muslim women are not allowed to pray in mosques. Muslim women certainly forbidden in this age to enter the places where sermons are delivered or knowledge is taught.

In brief, it is obscene and unlawful for women to go to schools under the pretext of learning.

Muslim women are forbidden to go to schools, even if their teachers are Muslims and the conditions of wearing veil are observed. It is forbidden to open schools for women. Experience has proved that such deeds have had evil effects on women... and have resulted to corrupted morality.

...Children, especially girls, are forbidden to learn modern sciences and literacy prior to learning general sciences of religion.

Women are forbidden to learn writing, for writing is a tool for sedition and *corruption*. Literate women write about their unlawful wishes and desires to strangers...

Although literacy is somehow useful for women, yet it is rather much seditious than being useful.

Men are responsible to fulfil women's vital need. *Therefore*, women are not obliged to go out for acquisition and profession...

**It is unlawful for women to go out of their houses if they are not obliged by religious law; if they do go out, they must fulfil the 15 conditions:**

1. They must not perfume themselves.
2. They must not wear adorning clothes.
3. They must not wear thin clothes.
4. They must not wear narrow and tight clothes.
5. They must cover their entire bodies.
6. Their clothes must not resemble men's clothes.
7. Muslim women's clothes must not resemble non-Muslim women's clothes.
8. Their foot-ornaments must not produce sound.
9. They must not wear sound-producing garments.
10. They must not walk on the middle of streets.
11. They must not go out of their houses without their husband's permission.
12. They must not talk to strange men.
13. If it is necessary to talk, they must talk in low voice and without laughter.
14. They must not look at strangers.
15. They must not mix with strangers.

Getting together with men in offices and cities, teaching and learning in modern schools are contrary to law and are going by the West and following irreligious systems, and are strictly prohibited by law. The state and government authorities are emphatically and seriously requested that they expel women from offices and women schools which are, in fact, centres for adultery and fornication.

### **Exercise:**

By drawing on international human rights instruments, including those specific to women, please answer the following questions:

1. What (if any) are some of the specific provisions in relevant international human rights instruments which are violated by this domestic law?
2. In your opinion, which specific provisions in this law might amount to persecution?
3. Can this domestic law (in its entirety) amount to persecution in the sense of the 1951 Convention?





## **Case Study 8: Gender-Based Persecution: for UNHCR Protection Staff**

International Human Rights Instruments:  
Relevance to Gender-Related Asylum Claims

### **Case Study**

In a country, very few of the women seeking asylum have been recognised on the basis of gender-based persecution.

The decisions of the authorities often reveal inconsistencies that seem to indicate a lack of understanding of the issues involved in determining whether or not a fear of persecution existed or could exist on grounds related to gender.

Although the issue has been the subject of several decisions in the courts, no consensus has emerged on what constitutes gender-based persecution and whether this ground falls within the 1951 Convention criteria for refugee status.

Violence against women is an issue of intense controversy in the country.

As protection officer, what would you do in order to promote [a better understanding] of gender-based persecution for the protection of refugee women?

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Source: UNHCR Training Module on  
Human Rights and Refugee Protection, RLD 5, 1996



Training Session 12:

# An Introduction to SGBV: Concepts and Approaches

## → Objectives

- To increase understanding of the concept of gender and the role it plays in our lives
- To raise awareness of gender-based violence during the life cycle and refugee cycle
- To increase knowledge of SGBV: its different forms/ types, causes, consequences, and as a human rights issue
- To develop an understanding of the multi-sectoral framework : necessary for both conceptualising and addressing this issue
- To gain practical skills, through case studies, for addressing this issue in a refugee context

## Violence Throughout the Life Cycle

Phase	Type of Violence
<b>Pre-birth</b>	<ul style="list-style-type: none"> <li>▪ Sex-selective abortion; battery during pregnancy</li> <li>▪ Coerced pregnancy</li> </ul>
<b>Infancy</b>	<ul style="list-style-type: none"> <li>▪ Female infanticide</li> <li>▪ emotional and physical abuse</li> <li>▪ Differential access to food and medical care</li> </ul>
<b>Girlhood</b>	<ul style="list-style-type: none"> <li>▪ Child marriage</li> <li>▪ Genital mutilation</li> <li>▪ Sexual abuse by family members and strangers</li> <li>▪ Differential access to food, medical care and education</li> </ul>
<b>Reproductive age</b>	<ul style="list-style-type: none"> <li>▪ Physical, psychological and sexual abuse of women by intimate male partners and relatives</li> <li>▪ Forced pregnancies by partner</li> <li>▪ Sexual abuse in the workplace</li> <li>▪ Sexual harassment; rape</li> <li>▪ Abuse of widows, including property grabbing and sexual cleansing practices.</li> </ul>
<b>Elderly</b>	<ul style="list-style-type: none"> <li>▪ Abuse of widows, including property grabbing and accusations of witchcraft</li> <li>▪ Physical, psychological violence by younger family members</li> <li>▪ Differential access to food and medical care.</li> </ul>

Even though most documentation refers to the different forms of violence affecting women and girls this does not mean men and boys are not affected: nor does it fail to recognise that the violence they suffer is no less of a crime.



## Sexual Violence during the Refugee Cycle

<b>Phase</b>	<b>Type of Violence</b>
<b>During conflict, Prior to flight</b>	<ul style="list-style-type: none"><li>▪ Abuse by persons in power</li><li>▪ Sexual battery of women</li><li>▪ Sexual violence by “soldiers”</li></ul>
<b>During flight</b>	<ul style="list-style-type: none"><li>▪ Sexual attack by bandits, border guards, pirates</li><li>▪ Capture for trafficking by smugglers, slave-traders</li></ul>
<b>In the country of asylum</b>	<ul style="list-style-type: none"><li>▪ Sexual attack, extortion by person in authority</li><li>▪ Sexual abuse of fostered girls</li><li>▪ Domestic violence</li><li>▪ Sexual attack when collecting wood water, etc.</li><li>▪ Sex for survival</li></ul>
<b>During repatriation</b>	<ul style="list-style-type: none"><li>▪ Sexual abuse of women and girls who have been separated from family</li><li>▪ Sexual abuse by persons in power</li><li>▪ Sexual attack by bandits, border guards</li></ul>
<b>During reintegrating</b>	<ul style="list-style-type: none"><li>▪ Returnees may suffer sexual abuse as retribution</li><li>▪ Sexual extortion in order to obtain legal status</li></ul>



## What is Sexual Violence?

"Sexual violence is a gross violation of fundamental human rights and, when committed in the context of armed conflict, a grave breach of humanitarian law."

UNHCR Sexual Violence  
Guidelines, 1995



## Exercise Rape, Sexual Violence <sup>1/</sup>

Question: Do you agree with the statement? Why / Why not?

1. Rape is a violent and forceful act. It is commonly committed against refugee women and girls.
2. Rape is not “having sex”, or “lovemaking”, or whichever word we use to describe mutual sexual relations.
3. Rape and sexual assault are violent crimes. Men who rape do so to gain control and to show power.
4. Rape and other forms of sexual violence are violations of the human rights of women and girls.
5. Any woman, of any age, may be raped. She may be over 60 years of age or younger than 9 years.
6. Refugee women and girls may be raped in their own countries, in the country of asylum, or when they repatriate or resettle.
7. Men who are supposed to protect refugee women and girls are sometimes those who rape them.
8. The rape of refugee women and girls is often planned in advance.
9. Marital rape is a crime in many countries.
10. Men and boys can be raped.
11. A person who has been raped will suffer physical injury and medical problems, in addition to emotional and psychological trauma.
12. There is a very high incidence of STDs and AIDS transmission through rape.
13. Unwanted pregnancy is a common outcome of rape.
14. Most cultures blame the victim for the rape - somehow.
15. A person who has been raped feels ashamed and embarrassed. The community tendency to blame the victim reinforces these feelings.
16. Most people who have been raped never speak about it.

Rape and sexual violence will change a person's life. They may never recover. They have been severely traumatised and will not receive the same community support and sympathy as a victim of other types of violent crimes (for example, torture, attempted murder).



## Definition of Violence Against Women

### Declaration on the Elimination of Violence Against Women (DEVAW)

#### **Article 1**

For the purposes of this Declaration, the term 'violence against women' means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.



## DEVAW

### Article 2:

#### **Violence against women includes (but is not limited to) the following:**

- Physical, sexual and psychological violence
- occurring in the **family**
- including battery, 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
  
- It also includes physical, sexual and psychological violence occurring within
- the general **community**, as well as that
- perpetrated or condoned by the **state**, wherever it occurs.





### 3 General Categories of SGBV

- Sexual violence
- Physical violence
- Emotional/Psychological/Social Abuse or violence



## Exercise

# Sexual and Gender-Based Violence

## Forms of Violence and Causes

### Instructions:

- On the large top branches, write main categories of SGBV
- On small branches, write different examples of SGBV
- On roots, write the different causes of SGBV

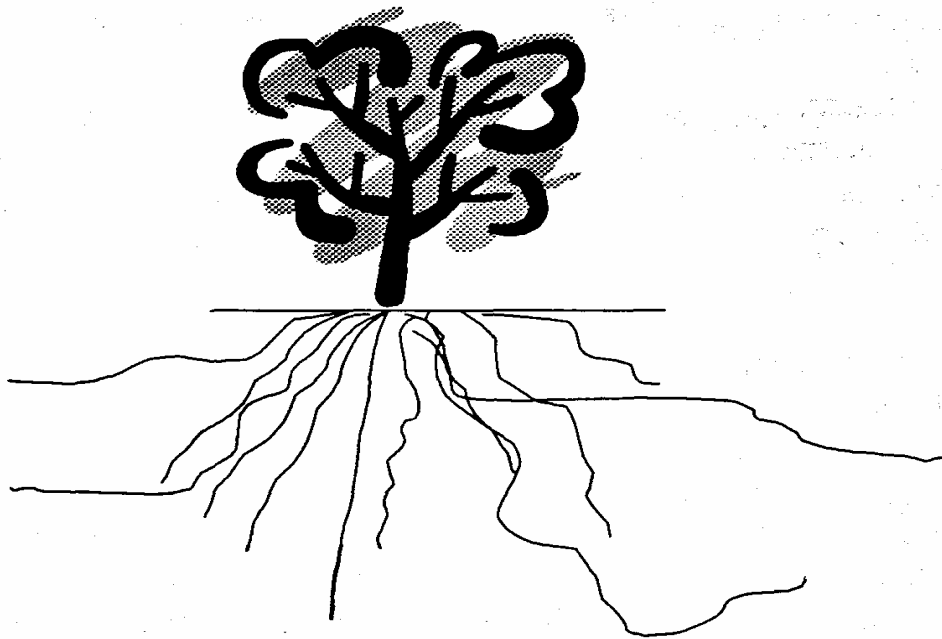


Table: The Socio-Economic Costs of Violence:  
A Typology

<p><b>Direct costs:</b> value of goods and services used in treating or preventing violence</p>	<ul style="list-style-type: none"> <li>▪ Medical</li> <li>▪ Police</li> <li>▪ Criminal justice system</li> <li>▪ Housing</li> <li>▪ Social services</li> </ul>
<p><b>Non-monetary costs:</b> pain and suffering</p>	<ul style="list-style-type: none"> <li>▪ Increased morbidity</li> <li>▪ Increased mortality via homicide and suicide</li> <li>▪ Abuse of alcohol and drugs</li> <li>▪ Depressive disorders</li> </ul>
<p><b>Economic multiplier effects:</b> macro-economic, labour market, inter-generational productivity impacts</p>	<ul style="list-style-type: none"> <li>▪ Decreased labour market participation</li> <li>▪ Reduced productivity on the job</li> <li>▪ Lower earnings</li> <li>▪ Increased absenteeism</li> <li>▪ Intergenerational productivity impacts via grade repetition and lower education attainment of children</li> <li>▪ Decreased investment and saving</li> <li>▪ Capital flight</li> </ul>
<p><b>Social multiplier effects:</b> impact on interpersonal relations and quality of life</p>	<ul style="list-style-type: none"> <li>▪ Intergenerational transmission of violence</li> <li>▪ Reduced quality of life</li> <li>▪ Erosion of social capital</li> <li>▪ Reduced participation in democratic process</li> </ul>

(Source: Buvinic et al, 1999)  
Reproduced from: UNICEF, Innocenti Digest 2000,  
Innocenti Research Centre, (corresponds to table 5)



**Table:**  
**Health Consequences of Violence Against Women**

<b>Nonfatal outcomes</b>	<b>Fatal outcomes</b>
<p><u>Physical health outcomes:</u></p> <ul style="list-style-type: none"><li>▪ Injury (from lacerations to fractures and internal organs injury)</li><li>▪ Unwanted pregnancy</li><li>▪ Gynaecological problems</li><li>▪ STDs including HIV</li><li>▪ Miscarriage</li><li>▪ Pelvic inflammatory disease</li><li>▪ Chronic pelvic pain</li><li>▪ Headaches</li><li>▪ Permanent disabilities</li><li>▪ Asthma</li><li>▪ Irritable bowel syndrome</li><li>▪ Self-injurious behaviours (smoking, unprotected sex)</li></ul> <p><u>Mental health outcomes:</u></p> <ul style="list-style-type: none"><li>▪ Depression</li><li>▪ Fear</li><li>▪ Anxiety</li><li>▪ Low self-esteem</li><li>▪ Sexual dysfunction</li><li>▪ Eating problems</li><li>▪ Obsessive-compulsive disorder</li><li>▪ Post traumatic stress disorder</li></ul>	<ul style="list-style-type: none"><li>▪ Suicide</li><li>▪ Homicide</li><li>▪ Maternal mortality</li><li>▪ HIV/AIDS</li></ul>

Source: "Violence against Women", WHO Consultation, 1996  
Reproduced from: UNICEF, Innocenti Digest 2000,  
Innocenti Research Centre, (corresponds to table 4).

## Table: Domestic Violence Against Women

### **Industrialised Countries**

#### Canada

- 29% of women (a nationally representative sample of 12,300 women) reported being physically assaulted by a current or former partner since the age of 16.

#### Japan

- 59% of 796 women surveyed in 1993 reported being physically abused by their partner.

#### New Zealand

- 20% of 314 women surveyed reported being hit or physically abused by a male partner.

#### Switzerland

- 20% of 1,500 women reported being physically assaulted according to a 1997 survey.

#### United Kingdom

- 25% of women (a random sample of women from one district) had been punched or slapped by a partner or ex-partner in their lifetime.

#### United States

- 28% of women (a nationally representative sample of women) reported at least one episode of physical violence from their partner.

### **Asia and the Pacific**

#### Cambodia

- 16% of women (a nationally representative sample of women) reported being physically abused by a spouse; 8% report being injured.

#### India

- Up to 45% of married men acknowledged physically abusing their wives, according to a 1996 survey of 6,902 men in the state of Uttar Pradesh.

#### Korea

- 38% of wives reported being physically abused by their spouse, based on a survey of a random sample of women.

#### Thailand

- 20% of husbands (a representative sample of 619 husbands) acknowledged physically abusing their wives at least once in their marriage.

### **Middle East**

#### Egypt

- 35% of women (a nationally representative sample of women) reported being beaten by their husband at some point in their marriage.

#### Israel

- 32% of women reported at least one episode of physical abuse by their partner and 30% report sexual coercion by their husbands in the previous year, according to a 1997 survey of 1,826 Arab women.

(continued)

## **Africa**

### Kenya

- 42% of 612 women surveyed in one district reported ever being beaten by a partner; of those 58% reported that they were beaten often or sometimes.

### Uganda

- 41% of women reported being beaten or physically harmed by a partner; 41% of men reported beating their partner (representative sample of women and their partners in two districts).

### Zimbabwe

- 32% of 966 women in one province reported physical abuse by a family or household member since the age of 16, according to a 1996 survey.

## **Latin America and the Caribbean**

### Chile

- 26% of women (representative sample of women from Santiago) reported at least one episode of violence by a partner, 11% reported at least one episode of severe violence and 15% of women reported at least one episode of less severe violence.

### Colombia

- 19% of 6,097 women surveyed have been physically assaulted by their partner in their lifetime.

### Mexico

- 30% of 650 women surveyed in Guadalajara reported at least one episode of physical violence by a partner; 13% reported physical violence within the previous year, according to a 1997 report.

### Nicaragua

- 52% of women (representative sample of women in León, reported being physically abused by a partner at least once; 27% reported physical abuse in the previous year, according to a 1996 report.

## **Central and Eastern Europe/CIS/Baltic States**

### Estonia

- 29% of women aged 18-24 fear domestic violence, and the share rises with age, affecting 52% of women 65 or older, according to a 1994 survey of 2,315 women.

### Poland

- 60% of divorced women surveyed in 1993 by the Centre for the Examination of Public Opinion reported having been hit at least once by their ex-husbands; an additional 25% reported repeated violence.

### Russia (St. Petersburg)

- 25% of girls (and 11% of boys) reported unwanted sexual contact, according to a survey of 174 boys and 172 girls in grade 10 (aged 14-17).

### Tajikistan

- 23% of 550 women aged 18-40 reported physical abuse, according to a survey.

Reproduced from: UNICEF, Innocenti Digest 2000, Innocenti Research Centre, and originally adapted from "Violence Against Women," WHO, FRH/WHO/97.8, "Women in Transition," Regional Monitoring Report, UNICEF 1999, and a study by Domestic Violence Research Centre, Japan.



## What are the General Causes and Contributing Factors to SGBV?

- Desire for power, control, political motive, weapon of war
- Collapse of traditional society and family supports
- Culture and traditional practices, religious beliefs, poverty
- Alcohol / drug abuse
- Legal justice system/ laws silently condone/ lack of laws against forms of SGBV

### **Key causes related to gender issues:**

- Male and/or societal attitudes of disrespect or disregard towards women
  - Lack of equality of human rights for all
    - Cultural/social norms of gender inequality
      - Lack of value of women and/or women's work



## In the Refugee Context: What are the causes and contributing factors to SGBV?

- Sexual violence during **flight** or in the country of asylum (e.g., need for "safe" passage)
- Females on their **own**
- **Camp** design, geographic location, and social structure
- Design of **services** and **facilities**
- Camp **leadership** predominantly male
- Women's security issues **not considered** in decisions.
- Availability of food, fuel wood etc., at **distance** from camp and populated areas
- Where foster care placement of **children** occurs without proper screening of families or monitoring of the child's welfare
- Incarceration in closed **detention** facilities
- Refugee women without proper individual **documentation** of their own
- Male responsibility for **distribution** of goods
- Lack of **police protection**; lack of UNHCR presence in camp; general lawlessness
- Lack of awareness or belief in **human rights for all**.





## Table: Factors That Perpetuate Domestic Violence

<b>Cultural</b>	<ul style="list-style-type: none"><li>▪ Gender-specific <b>socialisation</b></li><li>▪ Cultural definitions of appropriate sex roles</li><li>▪ <b>Expectations</b> of roles within relationships</li><li>▪ Belief in the inherent superiority of males</li><li>▪ <b>Values</b> that give men proprietary rights over women and girls</li><li>▪ Notion of the family as the private sphere and under male control</li><li>▪ <b>Customs</b> of marriage (bride price/dowry)</li><li>▪ Acceptability of violence as a means to resolve conflict</li></ul>
<b>Economic</b>	<ul style="list-style-type: none"><li>▪ Women's economic <b>dependence</b> on men</li><li>▪ Limited access to cash and credit</li><li>▪ Discriminatory <b>laws</b> regarding inheritance, property rights, use of communal lands, and maintenance after divorce or widowhood</li><li>▪ Limited access to <b>employment</b> in formal and informal sectors</li><li>▪ Limited access to <b>education</b> and training for women</li></ul>
<b>Legal</b>	<ul style="list-style-type: none"><li>▪ Lesser legal <b>status</b> of women either by written law and/or by practice</li><li>▪ Laws regarding <b>divorce</b>, child custody, maintenance and inheritance</li><li>▪ Legal <b>definitions</b> of rape and domestic abuse</li><li>▪ Low levels of legal <b>literacy</b> among women</li><li>▪ Insensitive treatment of women and girls by police and <b>judiciary</b></li></ul>
<b>Political</b>	<ul style="list-style-type: none"><li>▪ <b>Under-representation</b> of women in power, politics, the media and in the legal and medical professions</li><li>▪ Domestic <b>violence</b> not taken seriously</li><li>▪ Notions of family being <b>private</b> and beyond control of the state</li><li>▪ Risk of challenge to <b>status quo</b>/religious laws</li><li>▪ Limited <b>organisation</b> of women as a political force</li><li>▪ Limited <b>participation</b> of women in organised political system</li></ul>



## In Summary: Understanding SGBV

- Different consequences and outcomes for different types of SGBV
- Response to different types will vary to address those differences
- Different contributing factors for different types of SGBV
- Prevention activities addressing different types will vary

Reproduced from UNHCR  
SGBV Prevention and Response: Situation  
Planning Workshop (draft, Dec. 2000)



## What groups of refugees are the most vulnerable?

### **Refugees most at risk of being subjected to sexual violence**

- Unaccompanied women
- Lone female heads of household
- Unaccompanied children
- Children in foster care arrangements
- Those in detention or detention-like situations.



## Why is DEVAW an Important Human Rights Instrument For Refugee Women?

- **Government commitments** under DEVAW include: taking action to eliminate and punish violence against women in both the **public and private** sphere, no matter who is the perpetrator.
- UNHCR is **bound** by the standards in DEVAW
- DEVAW states that violence against women "constitutes a **violation of the rights** and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms".
- It identifies **refugee women** as being "especially vulnerable to violence".
- It explicitly declares that states "should not invoke any **custom, tradition** or religious consideration to avoid their obligations with respect to [the elimination of violence against women, but should pursue, without delay, a policy of eliminating it]."

## ExCom Conclusion No. 73 Refugee Protection and Sexual Violence

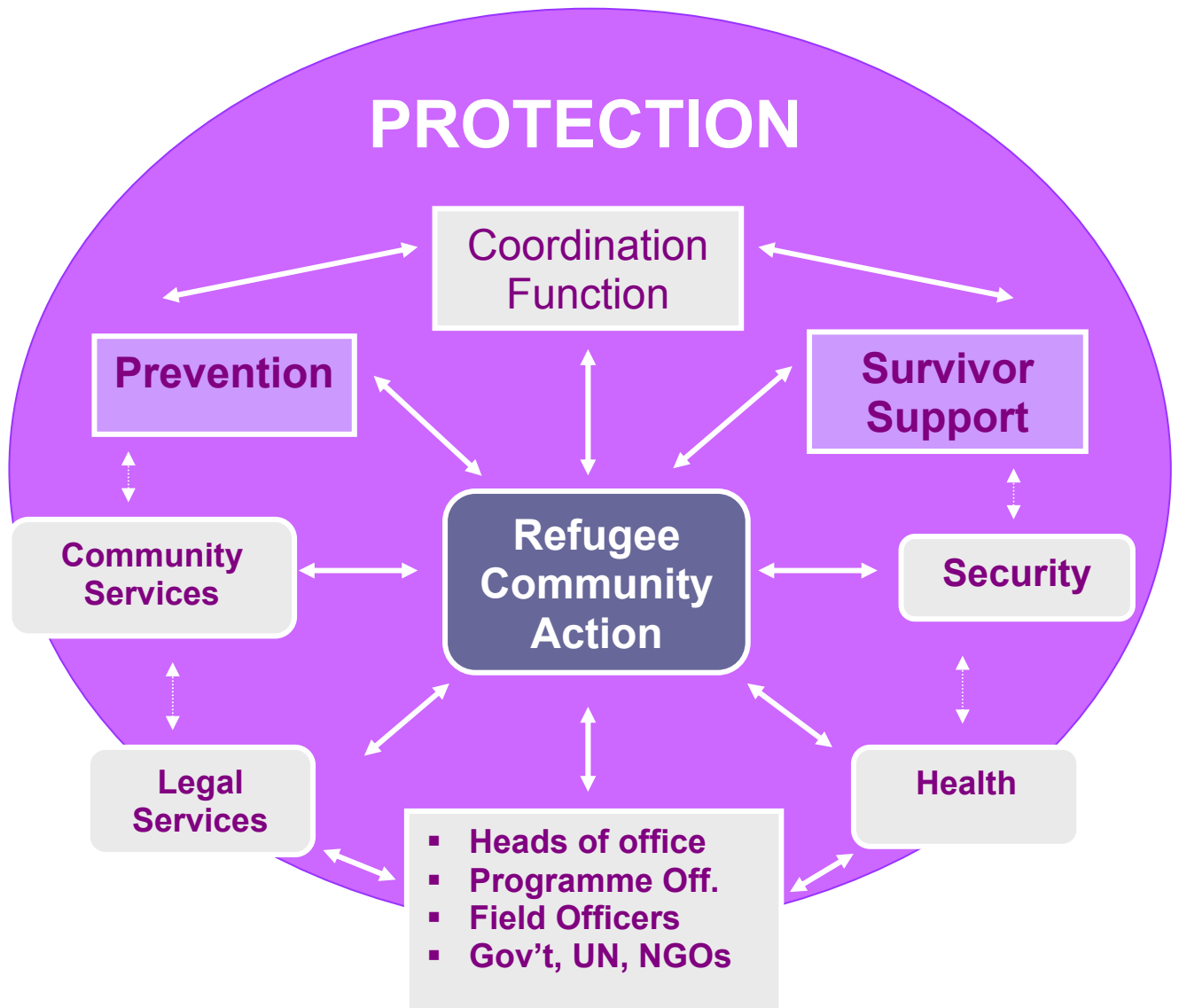
- *Stresses* the importance of international instruments, for the **protection** of refugees against sexual violence
- *Highlights* that DEVAW was adopted by various United Nations bodies, in order to **prevent, investigate and punish** sexual violence
- *Strongly* condemns persecution through sexual violence, which constitutes a gross violation of **human rights**
- *Supports* the recognition as refugees of persons whose claim to **refugee status** is based upon a well-founded fear of persecution, through sexual violence, for one of the five reasons in the 1951 Convention
- *Notes* that women refugees often experience **persecution differently** from refugee men
- *Recommends* that refugee victims of sexual violence and their families be provided with **adequate** medial and psycho-social **care**.



## A Multi-Sectoral Approach to prevention and response to SGBV

- The protection of refugees involves **all actors** (e.g., UN, Government, NGOs, and refugees themselves).
  
- **All sectors** must be engaged, including:
  - The refugee community
  - Community services
  - Health
  - Protection
  - Security
  
- **Other** necessary elements of a SGBV programme include:
  - Co-ordination amongst all actors
  - Monitoring and evaluation
  - Prevention (e.g. through male involvement, code of conduct access to resources)
  - Response

**MULTI-SECTORAL AND FUNCTIONAL APPROACH TO SEXUAL VIOLENCE PREVENTION AND RESPONSE**





Training Session-Workshop 13

# Defining and Addressing SGBV in refugee settings

## → Objectives

- To increase awareness of gender concepts and different aspects of SGBV
- To develop an understanding of the multi-sectoral approach to SGBV
- To develop a preliminary situation analysis of SGBV in the refugee setting
- To define the problem(s) related to SGBV in the refugee setting





Training Session - Workshop 14

# Designing and implementing an integrated strategy and action plan for addressing SGBV in refugee situations

## → Objectives

- To define and address the needs in the current situation with regard to
  - the co-ordination,
  - monitoring, and
  - evaluation of SGBV mechanisms
- To establish multi-sectoral objectives and action plans
- To clarify among all pertinent actors, the next steps, as well as timelines and designated focal points or responsible persons/ organisations.



## Checklist for Sexual Violence Programme

### Key Interventions-Preventing Sexual Violence

- ✓ Ensure proper documentation for women.
- ✓ Increase availability of female protection officers and interpreters and ensure that all officers have knowledge of UNHCR Protection Guidelines and UN Security Guidelines for Women.
- ✓ Facilitate the use of existing women's groups or promote the formation of women's groups to discuss and respond to issues of sexual violence.
- ✓ Improve camp design for increased security for women.
- ✓ Include women in camp decision-making processes, especially in the areas of health, sanitation, reproductive health, food distribution, camp design/location.
- ✓ Distribute essential items such as food, water and fuel directly to women.
- ✓ Train people at all levels (NGO, government, refugee, etc.), to prevent, identify and respond to acts of sexual violence.

### Key Interventions-Responding to Sexual Violence

- ✓ Develop/adapt protocols and guidelines that would limit further traumas to survivors of sexual violence.
- ✓ Engage socially and culturally appropriate support personnel as a first contact with people who have been subjected to sexual violence.
- ✓ Provide prompt and culturally appropriate psychosocial support for survivors and their families.
- ✓ Provide medical follow-up immediately after an attack that also addresses STDs, HIV infection and unwanted pregnancy.
- ✓ Establish closer links among protection officers, women's groups, TBAs and community leaders to discuss issues related to the attacks.
- ✓ Document cases while respecting survivors' wishes and confidentiality.

## Checklist for Responding to an Incident of Sexual Violence

Each incident of sexual violence must be examined and assessed for the required action in each of the following areas:

1. **Protection**    2. **Medical**    3. **Psychosocial**

### Immediate action

- Assess whether immediate medical attention is required and if so ensure victim is escorted to the appropriate venue for medical attention.
- Determine whether immediate notification of authorities is required according to the wishes of victim.
- Assess the security of victim and take any necessary action.

### Interview

- Caseworker conducts a confidential interview with victim.
- Refer to Conducting an Interview on page 38. "Sexual Violence Information Form"(Annex 2).
- Caseworker liaises with other relevant UNHCR officers, social and community workers and medical officers.
- Caseworker counsels victim.

### Medical

- Explain medical procedures to victim to minimise possibility of further traumatisation.
- A local, rather than an international, doctor should perform the examination and make any medical reports.
- Medical (forensic) examination must be done according to local government requirements.
- Post-coital contraception is discussed with victim, if available.
- Medical follow-up is scheduled and patient informed of urine pregnancy test option if next menses are missed.
- Victim with subsequent positive pregnancy test -see pages 35 and 44.
- Information about HIV and AIDS should be given and the HIV test offered. If the HIV test is positive, appropriate counselling, follow-up and referrals should be given with full respect for confidentiality.
- Information about sexually transmitted diseases should be given and tests offered. If tests are positive, appropriate counselling, follow-up and referrals should be given with full respect for confidentiality.

### Legal

- Legal follow-up is scheduled. (Implications of legal action and problems/difficulties which may be experienced should be explained).

### Follow up

Follow-up counselling for victim is scheduled to include:

- support for post-traumatic effects;
- support for dealing with family and community reactions;
- support during legal procedures.



## Practical Guidelines on Responding to Incidents of Sexual Violence

Each incident of sexual violence must be examined and assessed for the required action in each of the following areas:

1. **Protection**
2. **Medical**
3. **Psychosocial**

### Key points to remember:

- **Ensure the physical safety of the victim.**
- **Prevent any further suffering by the victim.**
- **Be guided by the best interests of the victim.**
- **Respect the victim's wishes in all instances**
- **Guarantee confidentiality.**

**Strict confidentiality is essential.**

Wherever possible a victim's anonymity should be maintained.

Written information on the victim must be kept locked and secure from others.

**If confidentiality is breached** it could bring grave consequences for the victim, particularly if adequate protection is not in place. It may discourage others from coming forward.

- **Be sensitive, discreet, friendly and compassionate when dealing with the victim.**
- **Ensure same-gender interviewer/interpreter/doctor.**

## Sexual Violence Needs Assessment and Programme Framework

	<b>Key Needs Assessment Questions</b>
<p><b>General Demographics</b></p> <p><b>Community Profile</b></p> <p><b>Status of Women</b></p>	<ul style="list-style-type: none"> <li>• What forms of sexual violence are occurring? In what circumstances do they occur?</li> <li>• Who are the victims of sexual violence? Sex? Age? Married, single, female head of Household? Children? Religious/ethnic background? How many?</li> <li>• Who are the perpetrators? Fellow refugees? Members of staff? Members of security? Family members? Same clan village/ religious/ethnic affiliation? Host country military? Other persons? How many? What factors in the refugee environment exacerbate sexual violence?</li> <li>• Is Female Genital Mutilation (FGM) a practice common among the refugees in their country of origin? Is it carried out in the camp?</li> <li>• What is the status of women and girls (criteria to be determined) in the place of origin and in the host country?</li> <li>• What is the social perception of sexual violence among the refugee population? Are the victims perceived as responsible? What stigmas are attached which may cause attacks to go unreported? What other reasons may cause unreporting of incidents?</li> <li>• How do women and girls themselves define the sexual violence they experience (rape, domestic violence and other forms)?</li> <li>• Are women involved in decisions related to health, sanitation, maternal/child needs, reproductive health and vulnerable groups e.g. unaccompanied minors? Which women? How many? Are they representative?</li> <li>• Do formal or informal women's groups or supportive networks exist? How many and what types? What is the purpose of these groups?</li> </ul>
<p><b>Security and Prevention</b></p>	<ul style="list-style-type: none"> <li>• What effect do the physical design and the location of the camp have on the incidence of sexual violence? What security measures are in place? How far away are water, fuel needs and latrines located? Are they isolated? How is food aid distributed? Do women have access to the channels of distribution? Is food distributed through male or female leaders? Do distribution points use the women as distributors?</li> <li>• How many women have proper Identification and documents? How many are reliant on male family members and thus vulnerable to sexual abuse?</li> <li>• How many female protection officers are available in your camp? What is the ratio of female to male officers? Are UNHCR officers, NGOs and host government officers familiar with UNHCR protection guidelines and sexual violence guidelines?</li> <li>• Has the safety of vulnerable populations (female heads of household, children, unaccompanied minors, other) been assessed? What are specific plans for the safety of each vulnerable group?</li> </ul>
<p><b>Reporting and Referral</b></p>	<ul style="list-style-type: none"> <li>• How many incidents of sexual violence were reported and documented this past month? Who was responsible for the documentation -medical staff (specify - doctors, nurses, other), protection officers, local leaders (specify), others? Does the documentation include the medical, legal and social actions taken? Was confidentiality respected?</li> <li>• Are legal, medical and social referral channels in place for follow-up? Describe the follow-up services. What proportion of cases are referred? How many referrals/others use the channels?</li> </ul>
<p><b>Service Delivery Structure</b></p>	<ul style="list-style-type: none"> <li>• Are medical staff trained and equipped to provide help? Which medical staff? How many female medical staff (specify - doctors, nurses, other) are available for examinations and counselling?</li> <li>• Do community health workers provide outreach to the refugee community?</li> <li>• How many victims have been counselled and treated for AIDS and other STDs in the last month? Are post-coital contraceptives available?</li> <li>• Is pregnancy testing available? What is the legal status of abortion? Is on-site abortion or referral available? How many tests/referrals in the last month?</li> <li>• Are there ongoing facilities for individual and family psychological counselling? How many counselling staff are appropriately trained? How many individual and family sessions were held last month?</li> </ul>

	<b>Key Interventions and Examples of Indicators</b>
	PREVENTION
<b>Policy Level</b>	<ul style="list-style-type: none"> <li>• Monitor eligibility officers and enact swift legal action in cases of sexual extortion in exchange for conferring refugee status <ul style="list-style-type: none"> <li>- monitoring system in place</li> </ul> </li> <li>• Ensure proper documentation for women <ul style="list-style-type: none"> <li>- # and percent of women with own papers</li> </ul> </li> <li>• in detention facility situations, ensure that vulnerable groups (female heads of household, children, unaccompanied minors, other) are placed appropriately <ul style="list-style-type: none"> <li>- system established to determine placement</li> <li>- # of inappropriate placements</li> </ul> </li> <li>• Increase availability of female protection officers and interpreters and ensure that all officers have knowledge of UNHCR protection guidelines <ul style="list-style-type: none"> <li>- # and percent of female protection officers</li> <li>- comprehensive training provided to all protection officers and other key personnel and refugees in interviewing skills regarding the problem of sexual violence</li> </ul> </li> <li>• Mobilise States to adopt firm and highly visible policies condemning all forms of sexual violence <ul style="list-style-type: none"> <li>- # of offenders prosecuted</li> <li>- # and type of legal measures implemented for protection of the victims, e.g. restraining orders</li> </ul> </li> </ul>
<b>Refugee Settings</b>	<ul style="list-style-type: none"> <li>• Facilitate the use of existing women's groups or promote the formation of women's groups to discuss and respond to issues of sexual violence, raise awareness, encourage networking <ul style="list-style-type: none"> <li>- # groups formed that meet regularly</li> </ul> </li> <li>• Improve camp design for increased security for women <ul style="list-style-type: none"> <li>- # of security criteria (to be determined by women in camp) met by camp or each sub-divisions of camp</li> <li>- # of incidents reported through informal or formal channels</li> </ul> </li> <li>• Include women in camp decision making processes, especially in the areas of health, sanitation, maternal child care, reproductive health, food distribution, camp design location and protect them from repercussions <ul style="list-style-type: none"> <li>- # and percent of camp decision making bodies with key women representatives (percent of women in each group)</li> </ul> </li> <li>• Direct distribution of essential items such as food, water, and fuel to women <ul style="list-style-type: none"> <li>- # and percent of women responsible for distribution</li> <li>- # and percent of distribution points serving only women</li> </ul> </li> <li>• Promote productive and educational activities <ul style="list-style-type: none"> <li>- # of programmes initiated and percent deemed successful based on predetermined criteria</li> </ul> </li> <li>• Promote increased awareness of the causes and consequences of sexual violence <ul style="list-style-type: none"> <li>- types and quality of IEC materials distributed</li> <li>- percent change in attitudes about sexual violence</li> </ul> </li> <li>• Train persons at all levels - NGO, government, refugees etc. to prevent, identify and respond to acts of sexual violence <ul style="list-style-type: none"> <li>- # of persons trained at each level</li> </ul> </li> </ul>
	<b>Key Interventions and Examples of Indicators</b>
	RESPONSE
<b>Policy Level</b>	<ul style="list-style-type: none"> <li>• Develop protocols and guidelines that would limit further traumatising of victims <ul style="list-style-type: none"> <li>- guidelines and protocols developed and used</li> </ul> </li> </ul>
<b>Refugee Settings</b>	<ul style="list-style-type: none"> <li>• Engagement of socially and culturally appropriate support personnel as a first contact with people who have been subjected to sexual violence <ul style="list-style-type: none"> <li>- # of support personnel identified and percentage used successfully as first contact</li> </ul> </li> <li>• Provide medical follow-up immediately following and attack and for STDs, HIV infection, FGM, pregnancy (prenatal care or abortion) <ul style="list-style-type: none"> <li>- types of medical support services available</li> <li>- # of trained female health providers per service point (specify - doctors, nurses, other)</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- # of individuals treated in last month</li> <li>• Provide prompt and culturally appropriate access to psychosocial support for victims and their families</li> <li>- # and types of psychosocial support services available</li> <li>- # of individuals and/or families using each type of service</li> <li>• Establish closer links between protection officers, women's groups, TBAs and religious structures to discuss issues related to level of attacks</li> <li>- # of linkages established</li> <li>• Document cases while respecting confidentiality (to be defined by victims of sexual violence)</li> <li>- # of cases documented appropriately</li> </ul>
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*\*The framework does not address who should be held accountable for the implementation of each intervention nor how each intervention should be implemented. Specific guidelines are needed to address these issues.*

*\*\*This framework is based on that developed by the Working Group on Sexual and Gender Violence in preparation for the UNHCR/UNFPA Symposium on Reproductive Health in Refugee Situations (Geneva, 28-30 June 1995).*

Source: UNHCR Sexual Violence Guidelines, 1995, pp. 89-92



## Case Study 9

# Sexual Violence: Prevention and Response

### Sexual and Gender-Based Violence

Magda, the new community services officer, was extremely worried. Although she suspected that there were still high levels of sexual violence against women of all ages in the overcrowded camp, situated in a remote rural area, she had noticed that the numbers of officially reported cases had been dropping gradually over the last few years. Her office was very pleased because they had set up a special programme to deal with sexual violence, and this appeared to be the successful outcome.

The project provided legal assistance to all the women who reported cases, their confidentiality was respected, and they alone decided whether they wanted to take the matter to court. Concrete legal results were difficult, as the local judicial system was ineffective in such cases. However, medical support was immediately provided, together with translators, and psychological/counselling services. In one case, the community leaders themselves were the ones to bring a case of incest/rape to UNHCR's attention. UNHCR had encouraged the affected refugee women and their families to come forward with these kinds of problems assuring them that they would be helped. In addition, many women had participated in a women's rights awareness session which also contributed to a number of cases being brought to UNHCR's attention.

#### Questions:

1. Assuming that Magda is right, what problems might there be which are deterring women from officially reporting incidents of sexual violence against them?
2. What other measures would you recommend that Magda put in place to improve the sexual violence programme?

#### Notes for the Facilitators:

1. Two charts contained in this section, will help prepare this case in advance. You may also use them to provide guidance to participants during the discussions, and to analyse their results. In this way, they may be both used as a type of checklist.
  - TM no. 91 "Multi-sectoral and functional approach to sexual violence prevention and response" and
  - TM no. 94 "Checklist for Sexual Violence Programme".
2. Some of the issues or questions you may wish to highlight include:
  - (i) **Refugee Community Involvement:** While it is not detailed in the case study, it would seem that there is no involvement by the refugee community or the refugee women themselves in the programme (with the exception of human rights awareness courses, which are theoretical rather than involving direct participation, and which were only provided to women). Refugee community involvement must be at the centre of any SGBV programme targeting them.
  - (ii) Knowledge about the way in which the refugee community **perceives SGBV**, and its victims and perpetrators is critical, for both prevention and response to this problem, which is another reason why their involvement is fundamental to a SGBV programme.
  - (iii) **Some factors which may be deterring victims from reporting attacks may include:**
    - **Social stigmatisation**, shame, or loss of virginity. Given cultural values, reporting the incident may further victimise the survivor, so that she may believe it better to keep it to herself. One needs to identify and address the factors that lead women not to report attacks (including to UNHCR and NGOs) or to prosecute.
    - Some women may feel at **increased risk** if they report the crime but see no consequences for the accused - this is the result of the ineffectiveness of the legal system to respond.



- (iv) **Survivor Support:** Although psychological counselling is provided, it is not clear that care has been taken to ensure that there are enough counsellors, that the counselling is culturally appropriate (for example, are counsellors themselves from that culture?), or whether there are other forms of support to survivors (e.g., support groups) which may also be provided. The family may also need counselling and support, if they are aware of the incident.
- (v) **Security/Protection:** What measures are taken to ensure that the victim and her family are protected after an incident has been reported? and also that the entire refugee community is protected? Is the perpetrator removed from the camp? Is the victim? If the latter, is there alternative safe housing or shelter for her and her family? Does this move pose undue hardship on the victim and her family/ or does it mean that the family is separated? Given remote location of camp, removing the perpetrator or the victim and her family from the camp may pose a problem, as alternative locations for accommodation may not exist close by. A system for providing effective protection to victims and also the community must be put in place urgently, particularly as judicial mechanisms do not appear to be effective.
- (vi) **Focus on Response Alone will not Decrease Incidents:** If the aim is to decrease the number of incidents, then only focusing on the response will not yield the desired result and Magda is probably correct, that in fact their programme is not the reason for the low numbers of reported incidents. Prevention programmes are not mentioned. These must be put in place. They must involve all actors, including refugee women and men in that community, and also the host country authorities.
- (vii) In addition, if the suspicion of high incidents of sexual violence has any basis, it is necessary to try to **determine both the extent and the causes of the problem**. In particular, the design and situation in the camp, including: its overcrowded state; the leadership and decision-making structures; distribution of services and the facilities (for example, are essentials such as water, firewood or distribution points for these essentials, at a distance from populated areas of the camp?) –these should all be looked into.
- (viii) **Target of the Project is only Women: What about Men:** Men appear to be entirely left out of this programme. And the reasons why men attack women are not addressed. Men should also be participating in human rights and sexual violence awareness activities, in prevention programmes, as well as broader educational and vocational training programmes to avoid the boredom and powerlessness that often afflicts populations in refugee situations.
- (ix) In addition to providing legal support to the victim, the **ineffective judicial remedies should also be addressed**, possibly by supporting the local legal structure with training and other resources, making links with national NGOs or bar associations, or advocating for legislative changes. In the immediate however, protection officer and counsellors needs to be well aware of the national law *and practice* in order to identify gaps, provide *appropriate counselling* (e.g., including realities such as chances of success, time and other resources required etc), and negotiate within the system. If the refugee community has other ‘traditional means’ of responding to such incidents, you must ensure that these ‘remedies’ or procedures are fair, just, and in accordance with international human rights standards. Do they take into account the interests, wishes, and protection needs of the victim? and the protection of the rest of the camp residents?
- (x) **A new programme should be put in place** which adopts a multi-sectoral approach to the issue. It should involve all actors (including refugee community), all sectors, and include a prevention and response strategy, as well as co-ordination, and monitoring and evaluation mechanisms. (See TM no. 91)



## Case Study 10

# Gender-Based Violence and Mental Health Issues

### Sexual and Gender-Based Violence

There are approximately 100 refugees, from a variety of countries, under the care of UNHCR and a local NGO. They live in flats and in a collective centre on the edge of town.

It first came to the attention of the NGO and then UNHCR officers, that a woman living in the collective centre suffers from some form of psychological disorder for which she has not received any assistance or treatment. There are persistent rumours that her husband is locking her in their room and beating her quite regularly. They have two small children, and due to their situation, the husband is not caring for the children adequately. Neighbouring families are complaining about the children being left unattended.

#### Consider:

1. How will you verify that the information you are receiving is accurate?
2. What are the different issues that need to be addressed? How will you address them?
3. What measures or systems would you implement to prevent or respond to similar situations developing in the centre in the future? Answers should indicate which actions are taken:
  - (a) Within your organisation
  - (b) In collaboration with other organisations, specifying NGOs, UNHCR and or government.

#### Notes for the facilitator:

1. TM no. 91 "Multi-sectoral and functional approach to sexual violence prevention and response" can assist you in preparing your own "answers " to this case, and also in providing guidance to participants during discussions.
2. Some points/ issues you may wish to highlight include:
  - (i) The need to verify the information and assess the immediate situation.
    - Consult with managers, social workers or other staff in charge of services and the administrative of the collective centre, to find out about the background history of the family, the incidents reported, and any actions taken to date;
    - Carefully interview the woman and her husband, separately and in complete privacy; If still necessary, neighbours of family may perhaps be approached discreetly in order to determine what is really happening;
    - Prompt evaluation of children in terms of emotional and physical health, nutritional status, and if relevant, school attendance;
    - The woman's physical, emotional and mental health needs should be evaluated promptly also. In particular, together with her and her doctor, or another specialist, the following must be addressed: determining the nature of the disorder she suffers from; its impact on her life and her ability to take care of herself and her children; the question of the treatment and other assistance she may require; and her decision regarding the situation with her husband (does she wish them to live separately or together?). It may be that the best interests of the children and the welfare of the woman will mean that the husband has to be removed from the family (at least temporarily) despite her wishes –this will depend on the assessment of the situation and the violence used.
  - (ii) Caseworker should be assigned to the family and follow the case closely. Continuity of case worker/ or social services staff is essential to ensure a relationship of trust and support –which the family needs.
  - (iii) Depending on the evaluations and results of interviews mentioned above, **immediate actions** will be necessary to ensure the safety (from violence) and well-being of the woman and her

children (physical and emotional). External support from willing neighbours and friends, teachers etc. may be necessary for children and woman - especially given illness and fact that they were victims of violence (including children who witnessed it). The husband must also be dealt with: depending on the evaluation of the situation, different approaches and solutions may be taken (e.g., making it clear that violent behaviour will not be tolerated, he is subject to criminal prosecution, providing him with help to control his anger and violence; possibly removing him from the collective centre etc). In any event, if he remains in the centre, he and the family must be closely monitored, and perhaps he may be helped in finding something productive to do during the day and so on.

- (iv) To identify, prevent and respond to similar cases in the future, proper structures, programmes and channels of communication (and co-ordination) need to be put in place. Those in place at the moment, if any, do not appear to be adequate or effective, since despite the seriousness of the allegations, it took persistent rumours for the case to receive the proper attention. Much damage may have occurred during that lapse of time. This case should be taken as an example to illustrate the problems and possible inadequacies of the current systems. For example, consider whether in addition to psycho-social assistance, there are also alternative accommodation (shelters), and legal services available to victims.
- (v) Both within their individual organisations, and also together as a team, all relevant actors (including refugees) and all sectors should promptly meet to discuss the weakness of the current system, and what measures and actions should be taken. Measures discussed should include those necessary within their own organisations, but also those necessary to be taken collectively or requiring co-ordination between organisations/ sectors. A multi-sectoral approach should be taken to both evaluate the current situation and also to design new structures (programmes or mechanisms) to deal with SGBV in that refugee setting.



## Case Study 11

# Gender-Based Violence and Resettlement Issues

## Sexual and Gender-Based Violence

There are 150 refugees from Iran and Afghanistan living in a collective centre in the outskirts of town.

UNHCR and a local social assistance NGO learn that a man living in the centre has seriously beaten a woman across the head with an iron bar. She sustained serious head injuries and is emotionally distressed. Once she recovered from her injuries she was reluctant to continue living in the same centre as the attacker.

She is married and has two sons (ages 8 and 12). Her husband witnessed the attack. There is a shelter for women about 20 km from the area which is willing to accommodate the woman. However, the shelter refuses to accept her husband and the older son.

The perpetrator, also a refugee, lives in the same reception centre with his wife and 3 children. He has a very strong refugee claim and his case has been submitted for resettlement. His wife belongs to a minority group, which adds strength to the family's claim. A selection team from a resettlement country is to visit the centre in a few weeks to interview prospective cases. The country has a policy of not accepting refugees with criminal convictions, especially for violent crimes. The perpetrator has many influential friends in the centre.

### Questions to Consider:

1. What action, if any, will you undertake with regard to the perpetrator?
2. What possible reactions might there be by others living in the centre?
3. What immediate and longer-term assistance will you provide for the victim and her family?
4. Will you tell the resettlement country about the attack? If so, what consequences might there be for the perpetrator and his family? If you decide against telling the resettlement country what reasons do you have? (You might need to consult the UNHCR Resettlement Handbook Section 7.6 Criminal Records).

### Notes for the Facilitator:

Some points you may wish to bring up

1. If charged with the offence, the perpetrator should be afforded a fair trial and humane treatment. His family should be protected from reprisals from other camp residents.
2. If no charges are brought and the perpetrator is allowed to continue living in the centre, there will be the following negative repercussions:
  - a. other residents will live in fear of further assaults;
  - b. camp residents, as well as the perpetrator, will receive the message that acts of violence against women and others at the centre can be committed with impunity and that it is victims who suffer further injustice by being the ones to be moved rather than the perpetrator;
3. In dealing with the victim and her family ensure the following:
  - a. their physical safety, including with regard to the friends of the accused;
  - b. that you are guided by their best interests, including with regard to where they should live;
  - c. respect the family's wishes, providing legal and social support;
  - d. guarantee confidentiality;
  - e. ensure the victim has a female interviewer, interpreter and doctor;
  - f. if relevant, accelerate refugee status determination or resettlement for the family;
4. Refugees with convictions for serious crimes will not be accepted for resettlement by many countries. In the event of conviction, you may need to contact the Special Cases Section of the Resettlement Unit in Headquarters. Even absent conviction, the resettlement country may need to be made aware of the allegation. If you fail to do so, and they learn about the incident from another source, UNHCR's credibility and the chances for resettlement of others from the collective centre may be jeopardised. Additionally, similar to point 2 above, other refugees will understand that there are no consequences for committing violent acts and that refugee assistance organisations will assist in concealing such incidents.



## Selected Supplementary Cases for SGBV Training Sessions<sup>1/</sup>

### Case 12

Latitia, 17 years old, visited the Field Officer in the camp one week ago, accompanied by the chairman of the community who expressed that he was worried for her situation. The Field Officer referred the case to the Protection Officer.

Latitia arrived in the camp six months ago and has been living with a friend. She has no family in the camp. She claims she is being chased by relatives of a man claiming she is his wife. Latitia was abducted from her family at the age of 12 and forced into marriage with this man. It took some months for her family to find her. When they found her, her family did not approve of the marriage, as they did not receive any dowry, but as she had already been living in marriage (having sex) with this man, the family did not assist Latitia. She managed to escape after three years and has been on the run since, constantly fearing that she may be being followed. She cannot leave the house at any time of the day. She cannot attend school, though she wants to. Her husband is allegedly a commander in the rebel army.

Yesterday, community leaders again reported to the Field Officer that some people came to the community last night and demanded to take the girl away. The identity of these people is not known, but they are suspected to be distant relatives of the "husband" who live in another section of the camp. The community leaders are afraid they may return and become violent.

#### Questions:

1. Is this a case of sexual or gender-based violence? What international human rights are at issue here?
2. How would you investigate this situation? Who would you try to interview? Should you move the asylum seeker to another location?
3. What is the role of Community Services in this situation (including school)? What assistance could the Field or Protection Officers/Assistants provide?

### Case 13

Wife, age 30. Husband, age 35. Child, age 10.

This family has been living in this camp for one year. The husband's extended family also lives in this camp, while the wife's extended family lives in a different camp over 100 km away. The wife visited the Field Officer and asked that she, husband and child be relocated to the camp 100 km away, to be near her family. The husband did not attend this appointment, and the wife admitted he does not support the move. The wife also reported that her child is mentally ill, and periodically has loud and semi-violent outbursts (breaking things, trying to kick or punch anyone nearby). When this happens, the husband beats the wife severely as punishment for not controlling the child.

The wife believes the traditional healer available in her family's camp can help the child, stop the outbursts, and therefore, stop her husband from beating her. She also wants to be near her family for assistance and support.

**Questions:**

1. Should UNHCR relocate this family?
2. What other solutions and forms of assistance could be considered?

**Case 14**

A 16 year old girl runs away from home to "marry" (live with and have sex with) a 20 year old 'boy'. The girl's father complains to the UNHCR Protection Officer and to the police. The police arrest the boy. Meanwhile, the father takes the case to a refugee elders' tribunal in the camp. The boy is sentenced by them to pay restitution and marry the girl. The father agrees with this sentence, and now wants to withdraw police charges and the UNHCR Protection Officer to forget the case.

**Questions:**

1. How will you respond to the father's request to drop the case?
2. What else should be done in this situation?
3. Is there sexual and gender-based violence in this situation? Specify.

**Case 15**

In this area, refugees have been coming in and repatriating from three surrounding countries for more than 15 years. There is a consistent problem with "recyclers", so procedures and practices have been established to minimise recycling. One such effort is to permit very few single household registrations. Registration staff at way stations try to put single people together to form "families", whenever possible. They have been instructed not to put single females with single males.

A single woman living in the camp reports to the Field Assistant that she needs her own ration card and a housing plot. This is her story: she arrived at the way station with her brother. Registration clerks put the two of them on a ration card with a single man, someone they met while fleeing. Almost immediately, the man started sexually harassing her and has raped her on many occasions. She has tried telling her brother, but he doesn't believe her. You interview the brother and he tells you the woman is lying, has a 'mental' problem and has always imagined things happening to her. Brother states she wants her own ration card because she wants to marry a man in the camp - someone the brother does not approve of, and the brother will not allow the marriage as long as the woman is under his care.

**Question:**

1. How should you resolve this problem?

**Case 16**

The international NGO implementing partner in community services submits to you (Protection Officer) a report with the following information from one camp in your region:

1. Within the past three months, there have been 6 cases of rape or attempted rape of victims under the age of 10
2. Names and ages of victims, and names of parents/guardians
3. None of the families consented to police reports
4. All incidents occurred inside the camp
5. Different perpetrator descriptions, appear to be 6 separate individuals
6. Victims identified the perpetrators; all of the perpetrators are under the age of 16

The report from the NGO is a polite request to improve protection for children in the camp.

**Questions:**

1. How would you respond to this?
2. What other information do you need?
3. Who else/which other sectors should be involved?

## **Case 17**

A mother reports to the Field Officer a problem with her neighbour. The mother has a 15-year-old child who is mentally retarded. The neighbour is a 19 year old boy who often sits outside his house calling to the child, sometimes making fun of her behaviour, sometimes harassing her. However, the mother is most concerned about the neighbour's statements such as, "You are so fine", "I want to sex you", and "I wish I didn't have to wait until it is dark when we can love together."

The mother reports that the child does not understand the meaning of these statements, but is frightened of the neighbour nonetheless. The mother has tried talking to the neighbour, but he denies any ill intent, promises to stop, but doesn't stop.

The mother tried reporting the matter to the police, but was told there are no laws against what the neighbour is doing, and that he doesn't seem to be dangerous.

### **Question:**

1. How would you respond to this situation?
2. Who else should be involved in this situation?

1./ The cases in this TM have been reproduced from: UNHCR, *Sexual and Gender-Based Violence Prevention and Response: Situation Planning Workshop* (draft, dated Dec. 2000). Supported by the UNF/Turner Grant.



Training Session 15

# Linking women's rights and refugee protection: an introduction

## → Objectives:

- To introduce international and regional human rights instruments, especially those specific to women
- To raise awareness of links between refugee protection and women's human rights
- To highlight how gender-related asylum claims should be viewed within the international human rights framework
- To gain an understanding of the different types of gender-related asylum claims
- To raise awareness of gender-related procedural problems and issues in the context of RSD
- To gain practical skills at applying knowledge of women's human rights, and analysing gender-related asylum claims





Training Session 16

# Gender Sensitive Refugee Status Determination and Procedures

→ Objectives:

- To review international human rights conventions, especially those relating to women
- To raise awareness of the link between women's international human rights and refugee protection
- To increase knowledge and applied analytical skills in relation to gender-based asylum claims
- To increase knowledge of standards for gender sensitive refugee status determination procedures, and shared good practices



Training Session 17

# Advanced training on gender-related asylum claims

## → Objectives:

- To review some of the major issues and selected guidelines on gender-related persecution
- To raise awareness of the more complex legal and procedural issues arising in certain gender-related asylum claims
- To increase knowledge of international case law relating to gender-based persecution
- To increase applied analytical skills, including the writing of legal opinions/decisions on gender-based asylum claims
- To increase awareness of areas in need of further clarification and guidance, and to address these gaps



## What is Gender-Related Persecution?

“ ‘Gender-related persecution’ is a term that has no legal meaning *per se*.

Rather,

it is used to encompass the range of different claims in which gender is a relevant consideration in the determination of refugee status.”

Quote: UNHCR Guidelines on Gender-Related Persecution, dated May 2002.



## General Principle of Interpretation In Refugee Law

“It is an established principle that the refugee definition as a whole should be interpreted with an awareness of possible gender dimensions

in order to  
determine accurately claims to refugee status.”

Quote: UNHCR Guidelines on Gender-Related Persecution, dated May 2002.



In order to understand the nature of gender-related persecution, it is essential to define and distinguish between the terms 'gender' and 'sex'.

- **Gender**  
Refers to the relationship between women and men based on socially or culturally constructed and defined identities, status, roles and responsibilities that are assigned to one sex or another. Gender is not static or innate but acquires socially and culturally constructed meaning over time.
  
- **Sex**  
Is a biological determination.



“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.”



## Gender-related claims have typically encompassed: (but are not limited to)

- acts of sexual violence
- family/domestic violence
- coerced family planning
- female genital mutilation
- punishment for transgression of social mores
- and discrimination against homosexuals.



## Evolution of the Refugee Definition

**Historically,** the refugee definition has been interpreted through a framework of male experiences.

**However,** in the past decade, the analysis and understanding of sex and gender in the refugee context have advanced substantially in:

- case law
- state practice generally
- and in academic writing.





## Developments with regard to gender-related asylum claims have run parallel to, and been assisted by:

- developments in international human rights law and standards
  - and related areas of international law (e.g., jurisprudence of the International Criminal Tribunals for the former Yugoslavia and Rwanda)
- *For instance*, harmful practices in breach of international human rights law and standards cannot be justified on the basis of historical, traditional, religious or cultural grounds. (CEDAW)



"The refugee definition, properly interpreted,  
covers gender-related claims."

UNHCR Guidelines on Gender-Related  
Persecution, dated May 2002



## Well-founded fear of persecution

- International human rights law and international criminal law clearly identify certain acts as violations of these laws, such as sexual violence,
  - And support their characterisation as serious abuses, amounting to persecution.
- In this sense, international law can assist decision-makers to determine the persecutory nature of a particular act.



## Well-founded fear of persecution

“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 the State or private actors.”



## Well-founded fear of persecution

“Assessing a law to be persecutory in and of itself has proven to be material to determining some gender-related claims.”

These “laws may emanate from traditional or cultural norms and practices not necessarily in conformity with international human rights standards.”

UNHCR Guidelines on Gender-Related  
Persecution, dated May 2002



## Well-founded fear of persecution

"Even though a particular State may have prohibited a persecutory practice (e.g. female genital mutilation),

the State may nevertheless continue to condone or tolerate the practice, or may not be able to stop the practice effectively.

In such cases, the practice would still amount to persecution."



## Well-founded fear of persecution

"Where the penalty or punishment for non-compliance with, or breach of, a policy or law is

- disproportionately severe
- and has a gender dimension,
- it would amount to persecution."

...

"Severe punishment for women who, by breaching a law, transgress social mores in a society could, therefore, amount to persecution."



## Discrimination amounting to persecution

- "While [...] 'mere' discrimination may not, in the normal course, amount to persecution in and of itself,
- A pattern of discrimination or less favourable treatment could, on cumulative grounds, amount to persecution and warrant international protection."
- For instance, if the discriminatory measures lead to consequences of a substantially prejudicial nature for the person concerned,
  - e.g. serious restrictions on the right to earn one's livelihood
  - or access to available educational facilities.





## Discrimination amounting to persecution:

### State Failure to Extend Protection

"Significant to gender-related claims [are also] forms of discrimination by the State in failing to extend protection to individuals against certain types of harm.

- If the State, as a matter of policy or practice, does not accord certain rights or protection from serious abuse,
- then the discrimination in extending protection, which results in serious harm inflicted with impunity, could amount to persecution."



## Persecution on account of one's sexual orientation

"Refugee claims based on differing sexual orientation contain a gender element.

...In many such cases,  
the claimant has refused to adhere to socially or culturally defined roles or expectations of behaviour attributed to his or her sex."



## Persecution on account of one's sexual orientation

"... the imposition of severe criminal penalties for homosexual conduct could amount to persecution..."

Even where homosexual practices are not criminalised, a claimant could still establish a valid claim where the State condones or tolerates discriminatory practices or harm perpetrated against him or her, or where the State is unable to protect effectively the claimant against such harm."



## Trafficking for the purposes of forced prostitution or sexual exploitation as a form of persecution

- "The forcible or deceptive recruitment of women or minors for the purposes of forced prostitution or sexual exploitation is a form of **gender-related violence** [...]
- Can be considered a form of **torture** and cruel, inhuman treatment. [...]
- **In individual cases**, being trafficked for the purposes of forced prostitution or sexual exploitation could therefore be the basis for a refugee claim where the State has been unable or unwilling to provide protection against such harm or threats of harm."



## Agents of Persecution

"There is scope within the refugee definition to recognise both State and non-State actors of persecution."

- "[S]erious discriminatory or other offensive acts committed by the local populace,
- or by individuals,
- can also be considered persecution

→ If such acts are knowingly tolerated by the authorities, or if the authorities refuse, or are unable, to offer effective protection."



## The causal link

The well-founded fear of being persecuted must be related to one or more of the Convention grounds.

“... where there is a risk of being persecuted at the hands of a non-State actor (e.g. husband, partner or other non-State actor) for reasons which are **related** to one of the Convention grounds, the causal link is established.”

*Alternatively*, where “the risk of being persecuted at the hands of a non-State actor is **unrelated** to a Convention ground, but the inability or **unwillingness of the State to offer protection is for reasons of a Convention ground**, the causal link is also established.”



## Convention Grounds - Race

- “Race for the purposes of the refugee definition has been defined to include all kinds of ethnic groups that are referred to as ‘races’ in common usage.
  - Persecution for reasons of race may be expressed in different ways against men and women.”
- For example, women may be viewed as propagating the ethnic or racial identity and [be] persecuted in a different way, such as through sexual violence or control of reproduction.



## Convention Grounds - Religion

- “In certain States, the religion assigns particular roles or behavioural codes to women and men respectively.
- Where a woman does not fulfil her assigned role, and is punished as a consequence, she may have a well-founded fear of being persecuted for reasons of religion.
- Failure to abide by such codes may be perceived as evidence that a woman holds unacceptable religious opinions regardless of what she actually believes.”





## Convention Grounds - Religion

- “A woman may face harm for her particular **religious beliefs** or practices
- Or those attributed to her
- Including
  - Her refusal to hold particular beliefs;
  - To practise a prescribed religion;
  - Or to conform her behaviour in accordance with the teachings of a prescribed religion.”



## Convention Grounds Overlap of Religion and Political Opinion

- "There is some overlap between the grounds of religion and political opinion in gender-related claims,
- especially in the realm of imputed political opinion.
- While religious tenets require certain kinds of behaviour from a woman, contrary behaviour may be perceived as evidence of an unacceptable political opinion."



## Convention Grounds - Nationality

- Nationality refers to 'citizenship', but also to membership of an ethnic or linguistic group, and may occasionally overlap with the term 'race'.
- In many instances the nature of the persecution [on this ground] takes a gender-specific form, most commonly that of sexual violence directed against women and girls.

UNHCR Guidelines on Gender-Related  
Persecution, dated May 2002



## Convention Grounds Membership of a Particular Social Group

### **Definition**

"A particular social group is a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one's human rights."



## Convention Grounds Membership of a Particular Social Group

- Gender-related claims have often been analysed within the parameters of this ground.
- 'Sex' can properly be within the ambit of the social group category (with 'women' as a subset).
- Their characteristics also identify them as a group in society, subjecting them to different treatment and standards in some countries.
- Equally, this definition would encompass homosexuals, transsexuals, or transvestites.



## Convention Grounds - Political Opinion

“Under this ground, a claimant must show that

- he or she has a well-founded fear of being persecuted for holding certain political opinions [...]
- or because the holding of such opinions has been attributed to him or her.”

UNHCR Guidelines on Gender-Related  
Persecution, dated May 2002



## Convention Grounds - Political Opinion

Political opinion should be understood in the broad sense, to incorporate any opinion on any matter in which the machinery of State, government, society, or policy may be engaged.

- This may include an opinion as to gender roles.
- As well as non-conformist behaviour which leads the persecutor to impute a political opinion to him or her.



## Convention Grounds - Political Opinion

"It is not always necessary to have expressed such an opinion, or to have already suffered any form of discrimination or persecution.

In such cases the test of well-founded fear would be based on

- an assessment of the consequences that a claimant having certain dispositions would face if he or she returned."





## Convention Grounds

### Political Opinion

#### And factors to be taken into account in gender-related claims

- **The image** of a political refugee as someone who is fleeing persecution for his or her direct involvement in political activity does not always correspond to the reality of the experiences of women...
- Women are less likely to engage in **high profile** political activity and more likely to be involved in 'low level' political activities that reflect dominant gender roles.
- Women are also frequently **attributed** with political opinions of their family or male relatives, and subjected to persecution because of their activities.
- This may be analysed in the context of an **imputed political opinion**, but also as persecution for reasons of membership in a particular social group, i.e., her '**family**'.



## Procedural Issues

"Persons raising gender-related refugee claims, and survivors of torture or trauma in particular, require a supportive environment where they can be reassured of the confidentiality of their claim."

UNHCR Guidelines on Gender-Related  
Persecution, dated May 2002



## Procedural Issues

- Some claimants, because of the shame they feel, or due to trauma, may be reluctant to identify the true extent of the persecution suffered or feared
- They may continue to fear persons in authority
- Or they may fear rejection and/or reprisals from their family and/or community.



# Procedural Measures to be Taken

## Procedural Issues

**In order to ensure that gender-related claims are properly considered in the RSD process, the following measures should be borne in mind:**

- Women asylum-seekers should be **interviewed separately**, without the presence of male family members.
- It should be **explained** to them that they may have a valid claim in their own right.
- They should be given **information** about the RSD process, as well as legal advice, in a manner and language they understand.
- They should be informed of the choice to have interviewers and interpreters of the **same sex** as themselves, and they should be provided automatically for women claimants.
- Interviewers and interpreters should be aware of and responsive to **any cultural or religious sensitivities** or personal factors such as age and level of education.
- An **open and reassuring environment** is often crucial to establishing trust between the interviewer and the claimant, and should help the full disclosure of sometimes sensitive and personal information. The interview room should be arranged in such a way as to encourage discussion, promote confidentiality and lessen any possibility of perceived power imbalances.
- The interviewer should take the time to **introduce** him/herself and the interpreter to the claimant, explain clearly the roles of each person, and the exact **purpose** of the interview. The claimant should be assured that his/her claim will be treated in the strictest **confidence**, and information provided by the claimant will not be provided to members of his/her family. Importantly, the interviewer should explain that he/she is not a trauma counsellor.
- The interviewer should remain **neutral, compassionate and objective** during the interview, and should avoid body language or gestures that may be perceived as intimidating or culturally insensitive or inappropriate. The interviewer should allow the claimant to present his/her claim with minimal interruption.
- Both '**open-ended**' and **specific questions** which may help to reveal gender issues relevant to a refugee claim should be incorporated into all asylum interviews. Women who have been involved in indirect political activity or to whom political opinion has been attributed, for example, often do not provide relevant information in interviews due to the male-oriented nature of the questioning. Female claimants may also fail to relate questions that are about 'torture' to the types of harm which they fear (such as rape, sexual abuse, female genital mutilation, 'honour killings', forced marriage, etc.).
- Particularly for victims of sexual violence or other forms of **trauma**, second and subsequent interviews may be needed in order to establish trust and to obtain all necessary information. In this regard, interviewers should be responsive to the trauma and emotion of claimants and should stop an interview where the claimant is becoming emotionally distressed.

- Where it is envisaged that a particular case may give rise to a gender-related claim, adequate **preparation** is needed, which will also allow a relationship of confidence and trust with the claimant to be developed, as well as allowing the interviewer to ask the right questions and deal with any problems that may arise during an interview.
- **Country of origin information** should be collected that has relevance in women's claims, such as the position of women before the law, the political rights of women, the social and economic rights of women, the cultural and social mores of the country and consequences for non-adherence, the prevalence of such harmful traditional practices, the incidence and forms of reported violence against women, the protection available to them, any penalties imposed on those who perpetrate the violence, and the risks that a woman might face on her return to her country of origin after making a claim for refugee status.
- The type and level of **emotion displayed** during the recounting of her experiences should not affect a woman's credibility. Interviewers and decision-makers should understand that cultural differences and trauma play an important and complex role in determining behaviour. For some cases, it may be appropriate to seek objective psychological or medical evidence. It is unnecessary to establish the **precise details** of the act of rape or sexual assault itself, but events leading up to, and after, the act, the surrounding circumstances and details (such as, use of guns, any words or phrases spoken by the perpetrators, type of assault, where it occurred and how, details of the perpetrators (e.g. soldiers, civilians) etc.) as well as the motivation of the perpetrator may be required. In some circumstances it should be noted that a woman may not be aware of the reasons for her abuse.
- Mechanisms for **referral to psycho-social counselling** and other support services should be made available where necessary. Best practice recommends that trained psycho-social counsellors be available to assist the claimant before and after the interview.



## Simulation Exercise: A Refugee Status Determination Hearing of a Gender-Related Asylum Claim

Facilitator selects an appropriate case study of a gender-related asylum claim. You may choose one from those available in this kit or develop your own.

- 1. Divide participants into 5 working groups as follows:**
  - **Group 1:** includes 4 persons total. Two persons will play role of lawyers arguing claimant's case and two will support them in preparing their case.
  - **Group 2:** includes 4 persons total. Two persons will play role of decision-makers, and two will support them in preparing the case by thinking of relevant questions, considerations, and arguments both for and against the claim. They may ask questions to the lawyers and to the claimant during the hearing.
  - **Group 3:** includes 2 persons total. One person will play role of claimant and other will assist her in deciding on behaviour, personality traits, demeanour and dress, mood, special problems (e.g. headache, depression, PTSD, does not make eye contact with decision-maker, crying, level of articulateness, etc.) as appropriate to case study selected.
  - **Group 4:** includes 3 persons total. Two persons will play the role of the children and one person will assist them in deciding on character, behaviour of children, and special problems etc.)
  - Note: for the purposes of this exercise, the behaviour of claimant and children should not be such as to completely impede the progression and conclusion of the hearing.
  - **Group 5:** includes 2 persons total. One person will play role of clerk and other person will assist the clerk in deciding on the set up of the hearing room, how the clerk will welcome the claimant and seat her in the hearing room etc.
- 2.** This totals 15 participants. If there are participants remaining who do not have a group, then simply have them join Group 1 and 2, to assist the lawyers and decision-makers with the preparation of their case.
- 3.** Instruct groups 1 and 3 that they should briefly meet for 5-10 minutes during this preparation, so that lawyers know their client and *vice versa*, and in the event they have questions or some co-ordination is required.
- 4.** Groups prepare their cases and roles (30-40 mins)
- 5.** Simulation exercise is acted out. Lawyers may speak for a total of 15 minutes to make their case, decision-makers for total of 15 minutes (to ask questions, make interventions/interruptions, etc) and claimant and children will act their parts and answer any questions as required. (35 mins)
- 6.** If possible have a coffee/ tea break immediately following the first part of the simulation exercise (i.e., after the roles are acted out, as instructed above). During this coffee break, all of group 4 convenes separately to prepare their decision on the case. (20 mins)
- 7.** Simulation exercise continues: all actors resume their places in hearing room and decision-makers render and explain their decision. (15 mins.)
- 8.** Once the simulation and role-play is ended, it is followed by a discussion in plenary of all aspects of the simulation exercise (e.g., arguments and analysis advanced by lawyers, seating arrangements, how participants dealt with claimant and children, questions, analysis and decision by decision-makers). (15 mins)



## Case Study 18 Honour Crimes and Family Violence

### Gender Sensitive RSD Procedures

The applicant is a single woman and an activist from the northern part of Country X. She was a teacher in a small town and conducted women's human rights activities, such as, campaigning against female genital mutilation, domestic violence and the suppression of women in public life. Her father had allowed her activities but has recently passed away.

Upon seeing an editorial by the applicant in the newspaper concerning the importance of educating girls, the applicant's uncle, a man known for his violent temper and a fundamentalist religious party member, visited her and threatened to kill her, accusing her of ruining the family's honour through her activities. He said he was confident nothing would happen to him as a consequence, since she was an immoral woman.

While this religious party has in the past been violent against perceived opponents, in recent years the government has kept strict control on security issues in the region and punished those who commit vigilante crimes. However, the authorities have been hesitant to become involved in family disputes, leaving such issues to the tribal law and practices traditional to the region. Without the protection of her father, the applicant tells you that she was feeling increasingly vulnerable and was constantly harassed by young men in her community, who were emboldened by the uncle's public denunciations of her as an immoral woman not deserving of respect. She used her father's small inheritance to flee.

The applicant's original application for asylum was denied. The applicant has appealed the initial, negative, decision.

#### **Please answer the following questions:**

- A. If you are using this case for a training on Human Rights:
1. By drawing on international human rights instruments, including those specific to women: please specify what, if any, provisions are at issue or were violated in this case?
- B. If you are using this case for a training on RSD
1. List some of the issues in this case: both analytical ones and also those you will want to bring up at the refugee status determination hearing that will help you decide on the case?
  2. What, if any, further information on the country of origin do you need?
  3. Should the applicant be granted refugee status? If so, on what grounds?



Case Study 19  
**Imputed Political Opinion /  
Sexual and Gender-Based Violence/  
Membership in a Particular Social Group**

Gender Sensitive RSD Procedures

Seva, a 20-year-old female applicant from Country X approaches your office. Her country has been in the throws of political unrest for the last three years. She used to live with her mother, sisters and older brother. Her brother was an active member of one of the main political opposition groups in the country. Seva herself has no political affiliation. Several months before she fled the country, her brother had been arrested several times and had gone into hiding. During two weeks, a group of three armed soldiers had regularly patrolled her neighbourhood and watched her house. One night, they knocked on her door at one in the morning and when she refused to answer, they broke the door open and asked for the whereabouts of her brother. After searching through the house, they asked her if she lived alone. Shaken, she told them that her family had gone to visit a relative who was ill, but that they would be back soon (although in reality, her family would only be back in several days as they were in a town several hours away).

The soldiers told her that her brother should report to the police station when he came back home. The next day, they again patrolled her neighbourhood, and while she was too scared to leave the house, she noticed them laughing in the general direction of her house. That night, they again knocked on her door, and burst in when she opened it a little to speak to them. This time, they mocked her that she was alone again, and raped her. When they left, they told her "that's what happens when your brother is not home to protect you". Unable to receive help from her neighbours, who were also afraid to be targeted by the soldiers, she left the house the next morning and took a bus to the next town where her family was helping their sick relative. Once there, her mother sold her gold jewellery and an uncle helped smuggle her out of the country with her younger sister. Since arriving in country Y, she has heard that her brother was arrested again after having complained about the treatment of his sister.

**Please answer the following questions:**

- A. If you are using this case for a training on Human Rights:
1. By drawing on international human rights instruments, including those specific to women: please specify what, if any, provisions are at issue or were violated in this case?
- B. If you are using this case for a training on RSD:
1. What key issues are raised by this case?
  2. What questions would you bring up during the RSD interview with Seva and her sister?
  3. Do they have a well-founded fear of persecution?
  4. If so, on what grounds?
  5. Does Seva's sister have a well-founded fear of future persecution?
  6. As a legal officer, what other concrete steps should you take with regard to the claimants (besides rendering a decision on the case).





## Case Study 20 **Political Opinion/ Social Group**

### Gender Sensitive RSD Procedures

Shakira comes from Riverland, a country rich in culture and traditions. When she was a child, she loved all of these traditions, particularly those involving music and colourful dances. Shakira attended school; she even started secondary school and growing up began to question some of these traditions. Why did her best friend Salima's father have to sell most of his cows to pay a huge dowry to the husband's family? Salima's family never recovered from this effort and sank into deep misery. Why did her family have to arrange a marriage for her, without her involvement and consent? Why did she, Shakira, have to leave school after only the second year of high school? Her father could not afford to have two children studying and preferred his son to continue, although she was brighter and had better marks. And, she thought, she was already privileged somehow, as most of her girlfriends never attended high school at all.

She started discussing this subject with her girlfriends. Some of them thought it was normal, natural even, as it had always been like that. But others agreed with her that they should try to do something.

One day her friend Maya, who was only 15, had to meet her promised husband, a businessman named Rajiv, in his forties. Maya, after having discussed this situation so many times with Shakira and her friends, decided to refuse. She was first threatened by her father and then severely beaten, until she had to accept her sad destiny.

Once Shakira was 16 she decided to contact a German group, an " NGO " they called it, which was operating in the area. They welcomed her enthusiasm and offered her a job in their project for sensitisation of women against discriminatory traditions. Initially her father was happy to hear that she was going to bring some money home, but when he realised what she was doing, he forbid her to continue and beat her. But she did not leave her work. Somehow the local population and authorities tolerated the work of the NGO as the volunteers were foreigners and the project offered many material benefits to the local people. In any case, they thought nobody was going to listen to them. However, when Shakira started to be very active, meeting with many young girls who listened to her, things began to change.

Shakira was first threatened several times by the parents of some of these girls and by traditionalists. One day a group of young men met her at the water source, beat her up and tried to rape her. She succeeded in escaping and informed the local police. Their reaction astonished her. They told her that as she was so modern, she shouldn't mind it and threatened to rape her themselves.

The NGO was informed, and after consultation with their headquarters, decided to help Shakira leave the country. They had initially thought of sending Shakira to work in other similar projects they had in other parts of the country, including in the capital. However, they thought the risk would be the same as intolerance had affected other local staff in similar situations. They provided her with documents and a ticket to Europe.

First Instance:

1) Shakira's claim has been rejected at the first instance and she has appealed to your court.

The motivations of the negative decision were the following:

- a) "... the 1951 Convention does not foresee this kind of case."
- b) "... the Riverland's constitution and laws forbid the kind of practices she claims she was fighting against ..."

- c) "...there are almost no other refugees from Riverland in Europe: this implies that the country is safe..."
- d) "... it is not credible that the national police has threatened to rape her ... "
- e) "... she has produced no evidence, except for a letter from an NGO (unknown to this Board), which might be fake ..."
- f) "... she has added new elements to her case after the first interview, such as the fact that other local women working for foreign NGOs in her country had faced such problems. She should have said it immediately, therefore she is not credible ..."
- g) "... also she had not initially said that the gang of men by the water source had tried to rape her, limiting the story to the beating. This adds to her lack of credibility ..."
- h) "... the first annual report by our recently established Embassy in Riverland states that Human Rights (HR) are respected there, as Riverland has signed all the Human Rights Conventions ..."

(Source: UNHCR Stockholm, 26/07/2000)

**Please answer the following questions:**

- A. If you are using this case for a training on Human Rights:
  - 1. By drawing on international human rights instruments, including those specific to women: please specify what, if any, provisions are at issue or were violated in this case?
- B. If you are using this case for a training on RSD:
  - 1. Do you agree with these motivations and with the conclusion of the first instance? Why or why not? Go through the conclusions one at a time.
  - 2. How could you get more evidence on the case, if any is needed in your opinion?
  - 3. Is the fact that, according to Riverland's laws, the discriminatory and violent practices against women are forbidden, a decisive piece of evidence?
  - 4. From the above elements, how do you evaluate her credibility? And how would you proceed if you had doubts about it?
  - 5. If one assumes that Shakira has a well-founded fear of persecution, what Convention ground applies, in your opinion?



## Case Study 21 **Sexual Abuse within the Family**

### Gender Sensitive RSD Procedures

In country Y, it is accepted that the state does not intervene in family or household relations. While laws exist allowing the police or other state bodies (e.g. social welfare) to interfere in severe cases of domestic violence (from beatings through to incest), these are rarely implemented. Due to religious and traditional practices, the father or husband is considered the chief of the family unit and it is accepted by society that what happens behind closed doors is a private matter. A 16-year-old girl from country Y approaches you seeking assistance. She tells you that her father has abused her both physically and sexually since she was 10 years old.

Her mother, who lived in the same house, refused to acknowledge what was happening to her daughter or to stop it. The young woman claims that she tried to get away from her father many times. At the end of her schooling, her father took her to your country saying she would be able to attend university. Instead, he forced her to take a job to support the family and the abuse continued.

She became pregnant (by the father) and sought the assistance of local health workers in your country. She told the health workers that her father has threatened to kill her should she tell anyone who the father of the child is or if she refuses to continue sleeping with him. The case is referred to your office. The young woman decides to seek asylum.

#### **Please answer the following questions:**

- A. If you are using this case for a training on Human Rights:
1. By drawing on international human rights instruments, including those specific to women: please specify what, if any, provisions are at issue or were violated in this case?
- B. If you are using this case for a training on RSD:
1. What key issues or questions would you raise during the interview, and what, if any, immediate actions might you take?
  2. What is the type or method of persecution?
  3. Does she have a well-founded fear of persecution? If so, on which grounds?



## Case Study 22 Homosexuality

### Gender Sensitive RSD Procedures

Paul understood he was a homosexual when he was 16 and did not share his friends' interest in girls. Due to the social stigma and legal prohibitions against homosexuals in his country, Paul never revealed his preferences. Kept underground, gays met at particular parks or cafes at night.

When he was 19, he was caught in bed with Joseph, his 17-year-old partner, by Joseph's mother and sister, who came home early one day. Paul fled, and Joseph, embarrassed, claimed he was being raped by Paul.

Paul went directly home, and disoriented, told his mother what happened. While his mother believed him regarding the rape, she warned him to leave the house immediately before his father returned.

Paul crossed the border the next day and sought asylum. While he believed the rape charge could not be proven, he would need to admit he was gay in court. In addition to the humiliation, he feared the penalty for homosexual acts in his country, 50 lashes. While the lashes were his immediate concern, he was more afraid of his father. A respected member of the community, he was afraid his father, a conservative and proud man, might kill or severely harm him for dishonouring the family. Such acts happened in Paul's country, although they were subject to punishment.

#### **Please answer the following questions:**

- A. If you are using this case for a training on Human Rights:
1. By drawing on international human rights instruments: please specify what, if any, provisions are at issue or were violated in this case?
- B. If you are using this case for a training on RSD:
1. Does it matter that Paul would be punished for homosexual acts rather than the status of being a homosexual?
  2. Are the lashings severe enough to amount to persecution?
  3. Does state protection appear to be available with regard to his father?
  4. Is it relevant that the partner (Joseph) is a minor?
  5. Would you grant Paul refugee status? If so, on what grounds?

## Case Study 23

### Political Opinion / Discriminatory Laws and Practices

#### Gender Sensitive RSD Procedures

**Applicant profile:** Fatin, 26-year-old woman, single, university educated.

Fatin claims a well-founded fear of persecution. Over the last five years her country has grown increasingly intolerant of religious dissent and become very conservative, especially with regard to women's role in society. Two years ago, women were outlawed from driving and from undertaking many professions, their right to vote was taken away, and they were forced by law to wear the chador or veil while in public. For the last two years, she had been teaching two sociology courses at university, but when these changes began she lost her job since universities became segregated and she could no longer drive by herself to the new 'Women's University' campus, which was one hour away from town. Fatin is widowed and can no longer properly meet the material needs of herself and her five year old daughter, without a job.

She has also stopped writing academic articles as she used to before, for fear that her feminist views will get her arrested and she will lose her daughter while in prison. Thus, her fear of being arrested and her responsibility towards her daughter have kept her from engaging in strong feminist opposition activities, like many of her friends. She asserts however, that her country's new discriminatory treatment of women is in direct conflict with her belief in freedom of expression and the equality of the sexes. She also claims that she considers the loss of her job to be persecution and does not want her daughter to grow up in that type of society.

#### **Please answer the following questions:**

- A. If you are using this case for a training on Human Rights:
1. By drawing on international human rights instruments, including those specific to women: please specify what, if any, provisions are at issue or were violated in this case?
- B. If you are using this case for a training on RSD
1. Does the claimant have a well-founded fear of persecution?
  2. If so, based on what grounds? Please justify.



TM no. 146 (FV)  
Handout (Facilitator's Version)  
To be adapted for use by participants.

## Case Study 24 **Forced Prostitution**

Gender Sensitive RSD Procedures

### **Applicant Profile:**

Yurdur, 25 years of age, Female, Country C

### **Claim:**

Yurdur, claims to have been sold by her boy friend to a pimp at the age of 17 and forced to work in several brothels in the capital city. Whenever she was brought to the police station to get the local residency papers she needed, she told the police officers that she was held against her will and asked for protection. The police did not take her seriously and refused to do anything. Yurdur's parents are from a poor and very conservative village, and will not offer her any assistance. Moreover, they are afraid of the criminal group to which their daughter's pimp belongs. After a year Yurdur was able to escape and lived in hiding until she was able to leave the country.

### **Please answer the following questions:**

- A. If you are using this case for a training on Human Rights:
1. By drawing on international human rights instruments, including those specific to women: please specify what, if any, provisions are at issue or were violated in this case?
- B. If you are using this case for a training on RSD:
1. Country of origin information: what questions would you have in this regard?
  2. Is there a well-founded fear or is state protection available?
  3. What specific human rights are at issue?
  4. Which, if any, 1951 Convention grounds are applicable?
  5. Would you grant her refugee status? Please justify.



## Case Study 25

### Discrimination/ Adultery/ Transgression of Social Mores

#### Gender Sensitive RSD Procedures

Carol was a 25-year-old housewife, married to a businessman who was also a second cousin. Their relationship was good in the beginning, but when business was bad her husband took to drinking and would slap Carol if she spent more than he thought necessary. Although the national law allowed for divorce in the case of domestic abuse, she never sought separation. She neither wanted to risk losing custody of her child nor would she have the support of her family. Moreover, she was unskilled and would have trouble finding work enabling her to support herself and her 6-year-old daughter.

She preferred when her husband was away on business, as she had begun an affair with her child's teacher, who was able to visit in the afternoons. Alerted by neighbours to the frequent visits, her husband came back home early one day and caught the couple on the couch, still clothed.

Carol fled while the men argued, taking only her child and passport with her. She states she would lose custody of her child, if her husband were to divorce her. Moreover, she fears his anger might lead him to kill her. While the regime takes threats to security seriously, it does not, in practice, intervene in what it views as 'family disputes'. Men who kill their wives in her state are not punished severely if they are seen as being driven by "passion". She states she did not try to move elsewhere in the country, since having to register her child in school and not being able to rely on family support, made discrete relocation impossible.

#### **Please answer the following questions:**

- A. If you are using this case for a training on Human Rights:
1. By drawing on international human rights instruments, including those specific to women: please specify what, if any, provisions are at issue or were violated in this case?
- B. If you are using this case for a training on RSD:
1. Are the following elements relevant?:
    - claimant never sought divorce;
    - inability to relocate internally was based, in part, on economic reasons;
    - adultery would lead to loss of custody of her child;
    - as they were still clothed (and the evidence is perhaps not conclusive), the couple could not be charged criminally for adultery;
    - is the threat from the husband a matter of "passion" or "honour"? Is this relevant?
  2. Is the claim based on one of the grounds in the 1951 Convention? And if so, which one(s)? If membership in a particular social group is used, how should the group be defined?



## Case study 26 **Adultery**

### Gender Sensitive RSD Procedures

Sonia, a 21-year-old female, was married to Cain at age 18. While on a family vacation, she had an affair with her husband's brother, Abel. As they returned from the grocery store, Cain, who was walking back from town, saw them as they kissed while waiting at a red light. Enraged, he beat on the car windows until Abel drove off.

Abel has told Sonia that the affair is over, and has returned to the city in which he lives. He left a note to his brother that he was seduced, and hopes that in time and with distance his brother will forgive him. Cain has always idolised him, he is the older brother and controls the family business. Thus, he is wary but not terrified of his brother's retaliation.

Sonia, however, is terrified. During the incident, the curses and threats were directed towards her in particular. Hurt and humiliated, Cain has continued to threaten to kill her according to relatives whose homes Cain visited while looking for Sonia and their 4-year-old son, Hercules. Her father is embarrassed and disappointed in her conduct, and, even if he were to forgive her, is too afraid of Cain to offer shelter and protection.

She is so afraid of Cain's rage, that Sonia reported the threats to the police. As in all cases of verbal threats, not just in the context of domestic disputes, the police have taken a report and called Cain to warn him that violence will be prosecuted. They also suggested that she speak to the local prosecutor to obtain a restraining order. Finally, they referred her to an NGO running a women's shelter where she can stay with her child.

Sonia believes Cain will harm her despite the police warning, as he indicated in his latest threat delivered to her mother. Also, the women's shelter does not solve how she will go to work and resume a normal life. Moreover, she will need to register Hercules in school and fears Cain will find her due to that. Finally, she is afraid of Cain seeking custody of Hercules. While the state laws on custody are gender neutral, she is afraid Cain will receive primary responsibility and physical custody given her role in the break-up as well as his better financial position. She sincerely believes she is much closer emotionally to Hercules than Cain is, and cannot bear the thought of not living with her child. Even if custody is shared, she fears Cain will move cities to create obstacles towards her seeing her son.

Guessing that she fled the country, the husband, through a local prosecutor has notified the host state's Ministry of Interior that his son has been kidnapped and sought assistance in the return.

#### **Please answer the following questions:**

1. Does Sonia have a well-founded fear of persecution? In particular,
  - a) Did the state offer effective protection? Does the presence of an NGO shelter have any influence on your answer?
  - b) Did she show persecution has a reasonable chance of happening?
  - c) Do the verbal threats indicate a future fear of persecution?
  - d) If the threats cease, would loss of custody (or shared custody) amount to persecution?
2. What, if any, Convention grounds are applicable?
3. In the event of either rejection or recognition, is the national refugee authority or UNHCR obliged to contact the country of origin authorities regarding the whereabouts of the child?





## Case study 27 Forced Marriage / Domestic Violence

### Gender Sensitive RSD Procedures

**Applicant Profile:** Farda, born 1965, Female, 2 children, Married, Country A

Farda, her husband and two children left Country A to the country of asylum. During their refugee status determination procedure, Farda suffered injuries due to domestic violence and reported it to UNHCR in an attempt to seek help.

A week later, the family was advised that their refugee claim had been rejected, as they were considered to have left their country of origin primarily for economic reasons. Once again, Farda went to the authorities for protection from her husband and explained that she did not wish to return to country A with her husband and wished to divorce him.

Farda has only three years of primary schooling and comes from a very traditional rural village. She was forced by her parents to marry her husband at the age of fifteen, after which he raped her repeatedly and has abused her throughout their marriage. She explained that she could not divorce her husband in her village due to strong social pressure. Should she leave her husband and be forced to return to her country of origin she would be ostracised and not receive any assistance or protection from her family or local organisations. She would also not be able to support herself and her children as she has no education or skills and there are no job opportunities for her. The region's traditions make no allowances for women leaving their husbands, nor does it offer any protection from brutal mistreatment and rape. Farda wishes to file a new refugee claim.

#### **Please answer the following questions:**

- A. If you are using this case for a training on Human Rights:
1. By drawing on international human rights instruments, including those specific to women: please specify what, if any, provisions are at issue or were violated in this case?
- B. If you are using this case for a training on RSD:
1. Country of origin information: what questions do you have in this respect?
  2. Did she suffer past persecution linked to one of the 1951 Convention grounds?
  3. Does she have a well-founded fear of future persecution? If so, based on what grounds?
  4. If so, would this fear continue if she were to divorce in the asylum state?
  5. Procedurally, does she have a right to her own claim and a new procedure? Would you consider her claim in a first instance hearing or as an appeal?
  6. If she is granted, and later reconciles and reunites with her husband, is her status affected?
  7. If the husband is granted on appeal, does she share the benefit of his status? Would he be subject to exclusion based on his physical assault and rape of Farda?



## Case Study 28A Female genital mutilation

Gender Sensitive RSD Procedures

**Applicant Profile:** Mrs. X and her twin daughters, nine years of age, Country B.

**Claim:**

Mrs. X has applied for refugee status based on the threat of female genital mutilation faced by her nine year old twin daughters in Country B. Mrs. X and the two girls object to this practice but claim that, should they be returned to their country, they will have no choice but to perform it, and should they refuse, it is likely to be forcibly performed by a family member in secret.

**Background information:**

FGM was outlawed in Country B in 1974. However, it is estimated that 98% of the women in that country continue to undergo FGM. The type of FGM performed in Country B is of the most extreme form, infibulation, which involves the cutting off of the clitoris, labia minora and the adjacent parts of labia majora and the stitching together of the two sides of the vulva, leaving a small hole for the flow of urine and menstrual blood. In addition to the excruciating pain at the time of the procedure, this type of FGM often leads to serious short and long term side effects, including haemorrhage, acute infections, bleeding of adjacent organs, obstetric complications at child birth, psychological trauma and increased risk of contracting STDs and HIV.

Performing FGM is an essential requirement for social acceptance in Country B as a girl who has not undergone this procedure, may be forced to leave her community and will not be considered fit for marriage. They are therefore likely to be forced into a life of prostitution. In the context of the civil war and inter-clan violence in Country B and given the lack of a functioning government, FGM becomes even more essential to ensure the girls physical survival as she depends even more on the protection of her clan and family.

**Please answer the following questions:**

A. If you are using this case for a training on Human Rights:

1. By drawing on international human rights instruments, including those specific to women: please specify what, if any, provisions are at issue or were violated in this case?

B. If you are using this case for a training on RSD:

1. Would you grant them refugee status? Write a legal brief/short decision justify your decision on this case, as instructed by the trainer (facilitators must also refer to TM no. 151). **OR**

2. If this case is not being used for a legal writing exercise: answer the following questions:

- What key questions and issues would you raise during the RSD hearing?
- Do the twins fear persecution? If so, on what grounds?



Model Legal Brief / Opinion  
to Case Study 28 B (TM no. 150)

**Female genital mutilation**  
Gender Sensitive RSD Procedures

Note regarding the asylum application of the Daob family, based on the threat of female genital mutilation (FGM) faced by the nine year-old twins. An analysis of country conditions indicates the following: 1) the children would be subject to FGM, in its most severe form, or ostracised from society and denied physical protection; 2) FGM amounts to persecution; 3) the twins are members of a particular social group.

**I. The twins would be subject to female genital mutilation**

**a. Prevalence in Somalia**

Despite being outlawed in 1947, it is estimated that 98% of Somali women have undergone FGM, having along with neighbouring Djibouti the highest rates in the world.<sup>1</sup> The type of FGM performed in Somalia is the most extreme form, infibulation.<sup>2</sup> Infibulation involves the cutting off of the whole clitoris, labia minora, and the adjacent parts of the labia majora, and the stitching together of the two sides of the vulva, leaving a small hole for the flow of urine and menstrual blood.<sup>3</sup> As reported by the Canadian Immigration and Refugee Board, "Despite the war and resulting disruption in daily routines, women reportedly are still having their daughters undergo FGM in an attempt to protect them from rape. Infibulated women, however, suffer more pain when raped than do 'open' women, as they are often cut open by their attackers with knives or bayonets."<sup>4</sup>

**b. Social integration**

In addition to, or perhaps more accurately, related to, its prevalence in Somalia, FGM would be performed on the children as an essential requirement for social acceptance. Mothers in Somalia are left with little choice but to subject their female children to such a procedure, as a girl who has not undergone mutilation may be ridiculed and forced to leave her community, even if she is still a virgin.<sup>5</sup> The forced isolation from the community is so severe, such women are often forced into a life of prostitution.<sup>6</sup> The procedure is instrumental in setting the value of women in Somali society, as the woman's worth in marriage is sometimes determined by the size of the infibulated opening, which can be inspected by the prospective husband's family.<sup>7</sup>

**c. Physical survival.**

While FGM is in normal times a requirement of social acceptance in Somalia, the lack of a functioning government, inter-clan violence, and the absence of the rule of law make such acceptance, and therefore subjecting girls to mutilation, necessary for physical protection. Since the Barre dictatorship was overthrown in 1991, Somalia has been in a civil war, factions split on ethnic lines, with civilians, especially women and children suffering the most.

Since the civil war began, women have been targeted with rape, abduction, and forced marriages. Sexual abuse of enemy women has been a common element of the warfare, practised by all the warring factions.<sup>8</sup> Those women who are not protected by a powerful clan structure are particularly at risk, as protection from and remedies for abuses "depend almost exclusively on clan affiliation."<sup>9</sup> As described above, women who avoid genital mutilation, and thus are forced out of the traditional clan structure, are given the lowest social status, and therefore are denied any measure of protection, compensation and justice.<sup>10</sup> As genital mutilation is normally performed with the consent and participation of female family members, in the context of the Daob family, the mother and elder sisters would be viewed as "conspirators" in the refusal to submit to genital mutilation and suffer the same fate concerning lack of acceptance and protection as the twins. The family's vulnerability to the violence of Somalia is particularly severe given the lack of male protection for the family, (no husband/father, uncle, older brothers) a fact considered by some courts to itself warrant international protection.<sup>11</sup>

## **II. Female Genital Mutilation amounts to Persecution**

### **a. FGM is a serious violation of basic human rights**

The form of genital mutilation performed in Somalia, infibulation, is FGM at its most severe, and in addition to its excruciating pain at the time of the procedure, frequently leads to short term and long term side effects. These effects, further elaborated upon in the attachments, include hemorrhaging, acute infections, bleeding of adjacent organs, obstetric complications, psychological trauma, and increased risk of contracting STDs and HIV.<sup>12</sup>

As described by an epidemiologist from Johns Hopkins University in the United States, for a woman who has been infibulated "the tiny hole left is frequently not wide enough for the passage of menstrual blood. The blood of many periods accumulates inside the girl and creates a bulge in her stomach. It can have tragic consequences: The girl's family will kill her because they think she is pregnant." Also, when the clitoris is cut, a stump, rich in nerve tissue, is left behind. "During intercourse, these extremely sensitive nerve stumps are pressed, causing "agonizing pain-like touching a live electrical wire." During childbirth, the woman is cut open even further. As the vagina is often still too small for the baby's head, the surrounding tissue being inelastic scar tissue cannot dilate and thus may rip in every direction. "The rips sometimes run all the way down to her anus, and the woman is no longer able to control her defecation, which will come out of her vagina."<sup>13</sup> (Also described in the Canadian Immigration and Refugee Board paper, "Human Rights Brief: Women in Somalia", which notes that a ruptured uterus is the most common childbirth complication in Somalia.)<sup>14</sup> The procedure is often carried out in unhygienic conditions, and the "pain, fear and stress of screaming may cause a child to faint or enter a state of shock which may occasionally lead to death."<sup>13</sup>

Under international law, there is ample support to consider this procedure as a severe human rights abuse and persecution in the context of the 1951 Geneva Convention. FGM has been denounced as an act of violence against women in the Declaration on the Elimination of Violence against Women (DEVAW). Further, The Convention on the Rights of the Child contains many provisions which can be interpreted to oblige States to prevent such practice. Article 19 provides that States take measures to protect children from "all forms of physical or mental violence, injury, or abuse..." Article 24 recognises the right of the child to the enjoyment of the highest attainable standard of health and that States "shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children." Finally, Article 37 mandates that States ensure that "no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment." (See also similar provision in The UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment, Article 16; and The Universal Declaration of Human Rights, providing for the right to "security of the person", Article 3, and prohibiting "cruel, inhuman or degrading treatment," Article 5).

### **b. The claimants are members of "a particular social group" in the context of the 1951 Convention.**

"Membership in a particular social group" is often defined as having a particular characteristic which is either immutable (can not be changed) or is so fundamental to individual identity that it ought not to be forcibly changed.<sup>16</sup> In this case, the claimants successfully meet either test. Their status as young women can certainly not be changed. Moreover, their desire not to be physically altered through FGM is so integral to their human dignity that their wishes merit effective protection.<sup>17</sup> Refugee claims based on FGM are extremely rare since the procedure is done with the agreement of family members, and the victims are children, too young and without resources to avoid the procedure and reach a State offering protection. In the few cases heard to date, State practice has established that minor females wishing to avoid FGM warrant international protection, either qualifying as a particular social group facing a well founded fear of persecution or as persons at risk of torture or inhuman and degrading treatment.

Canada: In the Case *Khadra Hasssan Farah, Mahad Dahir Buraleh, Hodan Dahir Buraleh*, the Canadian Immigration and Refugee Board recognised the claim of a 10 year old Somali girl who feared return and being subjected to FGM. The procedure was determined to be a gross infringement of her basic human rights. Minors and women were viewed as a particular social group, and the lack of State protection was acknowledged. Canadian Immigration and Refugee Board, Refugee Division (Toronto Ontario), 10 May 1994.

United States: The Board of Immigration Appeals granted refugee status to a woman who left Togo at age 17 and feared FGM in connection with a forced marriage. As a young woman opposed to the practice in a country where it is widespread and where the government does yet offer effective protection, she was found to have a well founded fear of persecution. *Kasinga*, BIA, 13 June 1996.

Sweden: On 20 March 1997, the Aliens Appeals Board granted protection to three girls from Togo, ages 3, 6, and 9, as FGM was considered torture or inhuman and degrading treatment.

France: The Refugee Appeal Commission accepted that FGM may amount to persecution and that women wishing to avoid FGM can be considered as members of a "particular social group". Aminata Diop [(CRR) 164078 18 August 1991] (The case was rejected for failure to properly document the claim.)

In conclusion, the female minor children of the claimant have a well-founded fear of persecution, the infliction of female genital mutilation, were they to return to Somalia. If they were to refuse this procedure, they, and their family, would be refused acceptance into Somali society and would suffer the total absence of protection, currently only provided by traditional clan structures. FGM is akin to torture and as such constitutes persecution. As minor girls who have not had the procedure and are opposed to it, they are considered members of a particular social group. The lack of a functioning national authority and the mores of Somali society offer no protection to such children or the adult family members who respect their wishes. They therefore meet the criteria of the definition of a refugee found in the 1951 Convention as well as that found in the [ABC] Republic Refugee Act, No. 498/90 as amended.

#### Endnotes

1. Human Rights Brief: Women in Somalia. Research Directorate, Documentation, Information and Research Branch, Immigration and Refugee Board, Ottawa, Canada April 1994, citing the University of Toronto Law Review. 1993, 280; US Department of State. Country Reports on Human Rights Practices for 1996, 253.
2. Human Rights Brief: Women in Somalia, Research Directorate, Documentation, Information and Research Branch, Immigration and Refugee Board, Ottawa, Canada April 1994; The Tragedy of Female Circumcision, Marie Claire Magazine, New York, p. 70.
3. Violence Against Women Seen as a Traditional Practice. Inter-African Committee, 3/6/77, Geneva, Switzerland.
4. Human Rights Brief: Women in Somalia. Research Directorate, Documentation, Information and Research Branch, Immigration and Refugee Board, Ottawa, Canada April 1994.
5. Ibid.
6. New Scientist. Feb. 1991, p.44; and Minority Rights Group, 1985, 7; and Human Rights Quarterly, 1988, 440, 479; as cited in Human Rights Brief: Women in Somalia. Canada, DIRB.
7. Human Rights Quarterly, 1988, 440, 446 as cited in Human Rights Brief: Women in Somalia, Canada, DIRB.
8. The Human Rights Watch Global Report on Women's Human Rights. Rape in Somalia, August 1995.
9. Ibid.
10. New Scientist Feb. 1991, p.44, as cited in Human Rights Brief: Women in Somalia. Canada, DIRB.
11. Canadian Immigration and Refugee Board, 24 December 1991, REFCAS Catalogue Signature CAS/CAN/021, (Somali woman without male protection is unequally at risk in civil war, merits refugee status.)
12. "United States: Political Asylum for Fear of FGM-The Kasinga Case," Equality Now, Update-June 1996; "The Tragedy of Female Circumcision," Marie Claire Magazine. New York, p.70.
13. Marie Claire Magazine. New York, p. 70, quoting Dr. Mohamed Badawi, M.D., M.Sc.; Human Rights Brief: Women in Somalia. Research Directorate, Documentation, Information and Research Branch, Immigration and Refugee Board, Ottawa, Canada April 1994.
14. Ibid.
15. Ibid.
16. The Law of Refugee Status J. Hathaway, Butterworths, Canada, 1991, 160-161; Matter of Acosta, Int. Dec. 2986 at 31 (U.S. BIA 1985).
17. UNHCR Memorandum, "Female Genital Mutilation", dated 10 May 1994.



## Supplementary Case Studies

### Gender Sensitive RSD Procedures

#### Case Study 29

##### Domestic violence / discriminatory laws regarding custody

The applicant is a 30-year-old woman from country X, and has come with her 4-year-old son. She has endured many years of domestic violence. During her marriage her husband tried to kill her by beating her constantly, strangling her, beating her head on the wall (which resulted in her needing an operation for loss of vision), and rolling her in a carpet and threatening to burn her. She was often beaten in front of her son who was forced to watch by her husband. The husband also beat the child. On one occasion he swung his son against the wall while holding his legs. In another incident he tried to suffocate the boy with a pillow. Further, the husband often locked the applicant inside the house.

The applicant stayed with her husband because he threatened to kill her and her son, should she try to leave him, and also because she knew that by law, men are normally granted custody of children upon divorce. Moreover, she had no income of her own, and saw no prospect of employment given the fact that she has no education and the unemployment rates in her country are significant. Her parents have made it clear that her duty is to stay with her husband and that they would not support her should she leave him.

After one particularly brutal beating, the applicant ran to the police station, after her husband had left the house to go to work. However she was unable to receive protection from them. The police told her that even if she were able to follow all the necessary procedures and take her husband to court he would only be detained for one night and then released. Upon getting back home she finally broke down and called her old childhood girlfriend to come and help her. Her friend brought her to the hospital. Once she left the hospital, she and her son stayed in her friend's flat for a week. During that time, her husband discovered where she was and threatened to kill all of them. No longer able to shelter her, her friend put the claimant in touch with a smuggler, which she paid for by selling her jewellery.

#### Please answer the following questions:

A. If you are using this case for a training on Human Rights:

1. By drawing on international human rights instruments, including those specific to women: please specify what, if any, provisions are at issue or were violated in this case? Does it amount to persecution?

B. If you are using this case for a training on RSD:

1. What key issues and questions would you raise during the RSD hearing?

2. What country of origin information might you need?

3. Does the claimant have a well-founded fear of persecution?

4. If so, on what grounds?

#### Case Study 30

##### Transsexuals

*The following is a summary transcript of an interview for asylum with a female (transsexual) aged 29. The applicant received a passport from the authorities after a wait of six months. She has never belonged to any political religious, military or social organisations. In addition to the material in the transcript, the applicant has several documents supporting her case.*

While I was a child, my father became addicted to drugs so my mother took us to live in the northern part of the country. When I was growing up I found that I was not interested in women at all, I dreamed about men, of getting married to them and having children with them. I was a man but I felt like a woman inside. I decided to go to another city near the front line and serve my military service. By doing a man's job I hoped I could change, but soon realised I couldn't. Because I couldn't get a job and due to the traditional social culture in my country, I was under daily pressure. I attempted to commit suicide in 1990.

I was sent to the Red Cross and saw a psychiatrist. I spent 13 days in hospital where I had psychiatric tests. After I was discharged I attended the clinic twice a week for four months where I received treatment; they tried to teach me how to behave like a man. I was under constant pressure. After four months however, they decided I should be a woman. The doctors sent a letter to the authorities about my situation. Eventually a psychiatric committee decided I could have an operation. I had an operation in April 1991. The Red Cross paid the expenses, but as it was very expensive the full operation was not completed until early 1993. The doctors told me to have regular sexual intercourse to keep my new vagina open. This was not possible in my country without marriage.

In 1992, I was arrested for four days. I was crying in a graveyard. A man passed by and said something to me which I didn't hear. Afterwards the police officers approached me and asked what the man said. I said I didn't know. They searched my purse, and when they found out about my orientation they arrested me and held me for four days because it was the weekend. A Red Cross worker helped get me released.

In 1993, I applied to change my birth certificate. This took two years. It was a very painful period during which I had to go through many committees and court procedures again. I had to change my apartment 30 times, as I was harassed. In the end I could not stand the pressure and attempted suicide again.

I have also been arrested a number of times. I have to put on a head cover and wear make-up otherwise people think I am a man. When I wore make-up the authorities harassed me and I was insulted and beaten in the street many times. I was also detained for a few hours and insulted verbally and physically.

In autumn 1995 the local police took me. Once they realised my orientation they tried to take off my clothes and made jokes about me. They tried to rape me and beat me about the head. Then they said they would follow me and put me in jail for good. Later the officers told the judge I was soliciting (which I wasn't) and I was held for 48 hours.

In 1998, six or seven days after I got my passport, I was in a taxi. I chatted with another passenger. At a checkpoint the car was stopped and I was arrested, and interrogated for 2 days because of my orientation and sexually harassed. I tried to avoid this, but an officer threatened that I would have many problems if I did not let him take sexual advantage of me.

In the winter of 1998 I was arrested and detained for 4 days. I went shopping with four women, friends of a friend. They didn't know my orientation. A policeman guarding the shopping centre noticed my orientation. They told the women they were with a man who was a faggot. I was upset and tried to hit him. Again the authorities touched my body and sexually harassed me, but I didn't let them have sex with me. They thought that because I was a transsexual I would have sex with anyone.

Transsexuals can work as prostitutes and earn a lot of money. But I don't want to do this. I want to have one partner. In fact, now I have a partner. In May 1997 we were walking in the street and were arrested together. My partner was detained for one day but I was detained for 6 days. They let me go when I explained that because of cultural constraints I could not have sexual relations with men, only friendships.

As well as harassment and pressure from the authorities I was harassed continuously by society. I had difficulties finding a job. I got several jobs in various cities but was always harassed and had to leave once they found out my orientation. I was always treated like a prostitute. As a result I couldn't stand it any longer and decided to leave the country. On entering this country I was held and interrogated for seven hours at the border.

**Please answer the following questions:**

A. If you are using this case for a training on Human Rights:

1. By drawing on international human rights instruments, including those specific to women: please specify what, if any, provisions are at issue or were violated in this case?

B. If you are using this case for a training on RSD:

- 1) Does the societal discrimination suffered amount to persecution?
- 2) Is the treatment by the authorities persecutory?
- 3) Which, if any, of the 1951 Convention grounds are applicable?
- 4) Should the applicant be granted refugee status?

**Case Study 31  
Forced Marriage**

Laila is a 16 year-old girl from the capital city of a country where child marriage is a widespread custom and tolerated by the authorities. Laila lived with her mother and uncle, the family's only male guardian. Last year Laila's uncle starting making arrangements to have her married to a middle-aged businessman. Laila overheard discussion of this between her mother and uncle one evening. Her uncle stated that if Laila refused the marriage, it would proceed by force. Fearing an unwanted marriage, kidnapping, sexual assault and even death, Laila fled to a neighbouring country with her older sister. Her sister sent her to the country of asylum unaccompanied.

(Reproduced from: The International Association of Refugee Law Judges, *Seminar for New Refugee Law Judges*, Facilitator's Manuel, June 1999)

**Please answer the following questions:**

A. If you are using this case for a training on Human Rights:

1. By drawing on international human rights instruments, including those specific to women: please specify what, if any, provisions are at issue or were violated in this case? Would this amount to persecution?

B. If you are using this case for a training on RSD:

1. Should Laila be accepted as a Convention Refugee? If you need more information in order to make your determination, note your questions. Try, however, to prepare an opinion concerning the case and identify the applicable 1951 Convention grounds.

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Training Session No. 18

# Conducting gender sensitive RSD interviews

## → Objectives

- To raise awareness of the special problems and issues that refugees who experienced trauma, including women, may face in making their case to the authorities.
- To increase awareness of the possible barriers to communication experienced by women during the interview, as well as the procedures and methods to address these.
- To increase understanding about the roles, rights and responsibilities of all actors during the interview process.
- To gain insight into the interview process from the perspective of the different actors involved.
- To improve interviewing /interpreting skills through role-play and exchange with colleagues.



Training Session No. 19

## **Addressing Gender Needs in the Context of RSD Interviews**

### → Objectives

- To raise awareness of special needs of refugee women and gender-related cases in the interviewing process, and methods for addressing these.
- To allow participants to practice and learn practical lessons about interviewing through role-playing.
- To gain insight into the difficulties and issues related to interviewing/interpreting from the perspective of different actors (interpreters, social counsellors, legal counsellors and RSD interview officers).
- To improve interviewing and interpreting techniques through the sharing of 'good practices' with different actors involved in the interviewing process.
- To identify issues in current interviewing procedures and practices in need of attention, and prepare preliminary recommendations for addressing these.



## The Dynamic during the Interview

- **The interview is a dynamic relationship between three persons**
  - When an interpreter is present, the interview becomes a dynamic relationship which involves three persons, with the interpreter relaying the information.
  
- **Cultural factors also influence the Interview**
  - Interpreters and applicants are usually from a culture different from that of the interviewer so that the exchange of information is not only from one language to another but also from one culture to another.
  - If, in addition, the applicant and interpreter are each from different cultural backgrounds this adds yet another cultural layer through which the information must be passed.
  
- **The interviewer and interpreter need to work closely together**
  - This is necessary in order to create a non-confrontational and relaxed atmosphere conducive to an open and effective interview.



## Interpreter Rights and Responsibilities

<b>Rights</b>	<b>Responsibilities</b>
<ul style="list-style-type: none"><li>▪ Receive adequate briefing</li><li>▪ Have your role defined</li><li>▪ Be treated as a professional</li><li>▪ Receive support to put things right, if miscommunication occurs</li></ul>	<ul style="list-style-type: none"><li>▪ Maintain a high level of performance</li><li>▪ Remain neutral</li><li>▪ Maintain confidentiality</li><li>▪ Refrain from abusing power</li><li>▪ Be aware &amp; responsive to cultural, religious, age or other factors &amp; sensitivities</li><li>▪ Participate in creating an open and reassuring environment</li><li>▪ Inform interviewer of any difficulties</li></ul>



## Interviewer Rights and Responsibilities

Towards the interpreter

<b>Interviewer</b>	
<b>Rights</b>	<b>Responsibilities</b>
<p>Be able to count on</p> <ul style="list-style-type: none"><li>▪ a competent</li><li>▪ professional</li><li>▪ and trustworthy interpreter</li></ul>	<ul style="list-style-type: none"><li>▪ Provide a briefing</li><li>▪ Introduce and explain interpreter's role to the applicant</li><li>▪ Ensure the applicant and the interpreter understand each other before proceeding</li><li>▪ Treat the interpreter as a professional and an equal</li><li>▪ Lend support to the interpreter in the event that things go wrong</li><li>▪ Try to use techniques, language and speech patterns which facilitate the interpretation process</li></ul>



## Interviewer Responsibilities and Protocol

<b>Responsibilities of Interviewer Towards the Applicant:</b>
<ul style="list-style-type: none"><li>▪ Review and prepare the file beforehand, as required</li><li>▪ Introduce yourself and interpreter, and explain your roles and the process</li><li>▪ Create a non-confrontational, cordial environment of openness and trust</li><li>▪ Explain his/her rights and provide reassurance of confidentiality</li><li>▪ Remind applicant of obligation to tell the truth</li><li>▪ Review with applicant basic data in the registration form to ensure it is accurate and complete</li><li>▪ Be prepared and knowledgeable about the roles and status of women in the country of origin of the applicant</li><li>▪ Identify inconsistencies or discrepancies and provide opportunity for applicant to answer to explain</li></ul> <p><b>Attitude and Demeanour</b></p> <ul style="list-style-type: none"><li>▪ Be neutral</li><li>▪ Be aware of and responsive to cultural, religious or other sensitivities and factors</li><li>▪ Refrain from passing moral judgements</li><li>▪ Maintain a professional - not personal relationship</li><li>▪ Control your body language - do not show you disagree by shaking your head, raising eyes to ceiling etc.</li><li>▪ Remain calm at all times</li></ul>



## TIPS For Facilitating Communication When Using an Interpreter

- **Address applicant directly**, including by facing and directing questions or comments to the applicant.
  - **Do not** tell the interpreter to ask the applicant a question,
  - or refer to the applicant in **the third person**.
- **Avoid conversations with the interpreter** which are not translated to the applicant.
- **Avoid speech patterns** which impede good interpretation (e.g. speaking quickly, too softly, changing thoughts in mid-sentence).
- **Choose words carefully** and avoid idioms: choose words which have clear meanings, are easily understood, and in cases involving sexual violence be aware of cultural connotations of certain words.
- Be conscious of **certain pronouns** and avoid them if possible: when posing questions such as: “what did he do?” use “what did the policeman do” instead. This avoids confusion.
- **Speak clearly**, and when necessary, slowly: particularly at the beginning of an interview.
- Ask **straightforward questions** and avoid making statements which sound like questions: (e.g., “so you were never at the demonstration”).
- Keep questions clear and simple and **ask specific questions** one at a time, not several questions at once.
- Break down what is to be said into **reasonable amounts of information**.
- **Ask the applicant** to break his/her statements into short segments so that they can be interpreted accurately.
- **Repeat the question** slowly or rephrase it if the interpreter or applicant does not appear to understand.
- **Check with interpreter and applicant that they understand each other.**



## Interviewing Refugee Women Special Difficulties and Barriers to Communication

Women face particular difficulties in making their case to the authorities, especially when they have had experiences which are difficult and painful to describe.





Interviewing and interpreting for  
refugee women in the RSD context

## Some barriers and special difficulties may include:

- Interview room and surrounding environment not conducive to open discussion.
- Insufficient time for interview.
- Disturbances during interview.
- Women's childcare responsibilities, schedules, and distances to be travelled are not taken into account.
- Indication that her claim may not be treated as confidential.
- Presence of the following persons at the interview:
  - family members
  - members of their community
  - male (or even female) interviewer and/or interpreter
  - or one who is a member of her community (especially if experiences relate to sexual or family issues).
- Women may not know details of the reasons for their ill treatment, (e.g. cases of imputed opinions attributed to them due to activities of family members which they were not aware of or know details about).
- Questions asked do not encompass the problems often faced by women.
- Women may not realise that it is essential to disclose certain information.
- Failure to appreciate cross-cultural differences may mean information revealed by women may not be fully understood (e.g., the terms 'rape', 'assault', 'detain', 'charge', 'arrest', 'court' and 'hearing' may have different meanings in different countries).

(Adapted from: IAA Gender Guidelines –UK, 2000)



## Certain Psychological and Cultural Barriers Faced by Women

Interviewing and interpreting for refugee women in the RSD context

- Emotional trauma and depression.
- Female victims of violence, discrimination and abuse often do not volunteer information.

*Women in particular may have good reasons not to be immediately forthcoming with full information about their experiences.*

*Special care must be taken in relation to evidence pertaining to sexual violence; care must be taken before drawing any adverse inferences where an appellant, or other witness, has earlier described a rape as an attempted rape or as touching, beating or other ill-treatment or even as pain or illness.*

- Fear and distrust of authorities.
- Body language by interpreter or interviewer which may be perceived as intimidating or insensitive.
- Demeanour - misinterpreted across cultures (eye contact, posture, hesitation in speaking).
- Demeanour - preconceptions about what it should be in certain situations (e.g., by survivors of torture or rape).

(Adapted from: IAA Gender Guidelines –UK, 2000)



## There may be good reasons why women do not wish to disclose information

### About their experiences of sexual violence

These can range from the fact that

- it is very hard to do.
- to fear that her experiences may become known to others and lead to her being ostracised from her family and / or community.
- to fact that some women cannot bear to believe the fact of their rape and deny it not only to outsiders but even to themselves.

(Adapted from: IAA Gender Guidelines –UK, 2000)



## Procedural Measures to be Taken In gender-related asylum claims

In order to ensure that gender-related claims are properly considered in the RSD process, the following measures should be borne in mind:

- **Separate Interviews** -without the presence of family members.
- **Explain** they may have a valid claim in their own right.
- Provide them with **information** about the RSD process and legal advice in a manner and language they understand.
- Inform them of choice to have interviewers and interpreters of the **same sex** as themselves.
- And provide these automatically for women claimants.
- Interviewers and interpreters should be aware and responsive to **cultural or religious sensitivities** or other personal factors (age, education).
- An open and reassuring **environment** is provided.
- **Interview room** is arranged to encourage discussion, promote confidentiality and lessen possibility of perceived power imbalances.
- Interviewer **introduces** him/herself and the interpreter, and explains roles of each person as well as **purpose** of interview.
- Reassurance of **confidentiality** (including with regard to members of own family).
- Interviewer explains that he/she **is not a trauma counsellor**.

*Continued next page (TM no. 165)*



## Procedural Measures to be Taken In gender-related asylum claims

*(Continued from TM no. 164)*

- Remain **neutral, compassionate and objective** during the interview.
- Avoid **body language** or gestures that may be perceived as intimidating or culturally insensitive or inappropriate.
- Ensure minimal **interruption** while applicant presents her claim.
- Both '**open-ended**' and **specific questions** should be used as appropriate.
- Interviewers should be **responsive to the trauma and emotion of claimants** and stop an interview where claimant is becoming emotionally distressed.
- Second and **subsequent interviews** may be needed in order to establish trust and to obtain all necessary information.
- Where it is envisaged that a case may give rise to a gender-related claim, adequate **preparation** is needed.
- **Country of origin information** relevant to women's claims should be collected.
- Type and level of **emotion displayed** during the recounting of her experiences should not affect a woman's credibility: cultural differences and trauma play an important and complex role in determining behaviour.
- For some cases, it may be appropriate to seek objective psychological or medical **evidence**.
- It is unnecessary to establish the **precise details** of the act of rape or sexual assault itself; focus could be placed on surrounding circumstances and events.
- Mechanisms for **referral to psychosocial counselling** and other support services should be made available where necessary.
- Availability of trained **psychosocial counsellors** before and after interview recommended.

Adapted from: UNHCR Guidelines on Gender-Related Persecution, dated May 2002



## Interviewing applicants who have suffered trauma

- Experiences of torture and sexual abuse are not readily reported.
- The intense feelings of powerlessness, shame and guilt and the acute disruption of life, in which the beliefs of a person about the meaning of life are lost, compel people to hide them.
- The coping process is characterised by an alternating pattern of re-experience and denial of the traumatic events, with all associated psychological responses.

Source: UNHCR Guidelines on Evaluation  
and Care of Victims of Trauma and Violence, 1998



## Interviewing applicants who have suffered trauma

### **Symptoms**

In many cases, ex-detainees, victims of torture and victims of gender-based violence are usually very reluctant to speak about their experiences. It is of great importance to recognise that the empathetic way of conducting an interview will to a great extent determine the quality of the disclosure of violent acts.

Source: UNHCR Guidelines on Evaluation and Care of Victims of Trauma and Violence, 1998.



# Interviewing applicants who have suffered trauma

## Trauma Symptoms

In general the consequences of the trauma of extreme violence can be very diverse. They can be looked at as being part of several categories:

- Recurrent Memory Phenomena:
  - flashbacks (sensory reliving of the trauma, smell, taste, sight, sound);
  - nightmares; intrusive thoughts.
  
- Hyper-arousal:
  - sleeping problems; irritability;
  - aggressiveness; concentration problems.
  
- Somatic Symptoms:
  - fatigue; gastrointestinal complaints;
  - cardiac symptoms; headaches;
  - diffuse aches and pains; muscular and joint problems;
  - sexual dysfunction.
  
- Anxiety reactions:
  - panic attacks;
  - generalised anxiety (affecting physical, sexual, mental and social functioning).
  
- Sadness/Grief:
  - depressed mood;
  - loss of interest in previously pleasurable activities;
  - loss of appetite; suicidal thoughts.
  
- Avoidance of situations which remind the victim of traumatic experiences (including talking about it):
  - phobias;
  - emotional numbness (disconnected from family, friends & loved ones, self-medication, etc.);
  - body numbness (frigidity, not feeling one's own body, feeling body changes, feeling like outside one's own body, feeling "possessed").





## Detecting Traumatized Persons

Be especially attentive for signs of possible trauma in the following categories of persons:

- individuals who present the physical stigma of torture. The presence of such stigma is indicative of the nature and extent of torture;
- people who are known to be at high risk for deprivation, torture or rape:
  - soldiers and ex-soldiers;
  - known POWs or detainees;
  - inhabitants of town or village subjected to organized violence;
  - members of a specifically persecuted group (ethnic, religious, political, etc.).

Source: UNHCR Guidelines on Evaluation and Care of Victims of Trauma and Violence, 1998.



## How do I Respond to a Person Suffering from Trauma?

*“Simply acknowledging and inquiring about  
the realities of a refugee's experience has therapeutic value.”*

- Be prepared.
- Brief the interpreter, if you know in advance about particularly sensitive information.
- Explain your function and that of the interpreter so that they know what to expect from you and during the interview.
- Remain calm and neutral, but be an empathetic listener and show sensitivity – remain professional and in control at all times.

### *Also*

- Acknowledge how difficult it may be to speak about certain events.
- Acknowledge the pain, wounds or other suffering they may share with you- DO NOT SIMPLY IGNORE these revelations.
- Reassure them, tell them to take their time.
- Offer them a break, a glass of water, a tissue.

*Continued in next page, TM no. 171*

Inspired from: UNHCR Guidelines on Evaluation and Care of Victims of Trauma and Violence, UNHCR Guidelines on Gender-Related Persecution (2002), and UK Gender Guidelines (2000).



## How do I Respond to a Person Suffering from Trauma?

*“You may be the first person to show caring  
and interest in their situation without being horrified.”*

*Continued from TM no. 170*

- To extent possible, **do not interrupt them** when they are telling their story; it may have taken a lot of courage to get to this point, and they may not be able to regain it and resume their account.
- If they show **signs of distress**, ask them how they feel, if they would like to take a break or even proceed again the next day.
- It is unnecessary to establish the **precise details** of the act of rape or sexual assault itself (focus could be placed on surrounding circumstances and events).
- **Let them know** you are not a psychologist.
- **Refer them** to someone who can provide them with psychosocial, and medical assistance, and other support services. If possible give them the specific name of a person that they can ask for (it is less impersonal).
- For some cases, it may be appropriate to seek objective psychological or medical **evidence**.
- **Be familiar** with practical protection measures for preventing and responding to sexual violence (including recognising symptoms of PTSD and other signs). In particular, be familiar with the UNHCR Guidelines on *Sexual Violence Against Refugees*.
- If these services are available, have the applicant see a trained **psychosocial counsellor** before and after the interview.
- **Seek immediate assistance** for the person if you believe they may pose a danger to themselves or to others.



## Role-Play 1

# A case involving a husband and wife

### Gender Sensitive Interpreting and Interviewing

#### **Notes for male asylum seeker: Husband**

You are the principal asylum seeker and take the lead in responding to the interviewer's questions, on behalf of yourself and your wife. You speak the language of the interviewer but not well and you have particular difficulty with his accent. But you feel that it would be better to speak to him directly than through an interpreter. You try therefore, to avoid using the male interpreter who is present.

#### *Your situation*

You left your country because you and your wife could not find any work (she is a journalist and part-time university professor), and because you disagree with the political regime. You see no future for yourself or your family in the country of origin. While you disagree strongly with the current political regime, you have not been active in political affairs and have never been threatened in any way. You use to work at a university as a medical scientist (the same university where your wife taught part-time) but were dismissed over a year ago because the project you were working lacked funds.

#### **Notes for the female asylum seeker: Wife**

You do not speak the language of the interviewer and are the dependant claimant in this file. You should not speak to the interviewer unless you are directly addressed. In your culture, it is common practice for the man to speak for the whole family, and you are naturally a quiet person. Your husband will present your family's case. If, however, the interviewer would like to ask you some questions directly, you can answer. While there is an interpreter present, you feel more comfortable having your husband interpret for you. If the interviewer suggests to interview you alone, you should agree.

#### *Your situation*

You are educated and were working as a journalist and part-time university teacher in your country of origin. You wrote several articles on the infringement of women's rights in your home country before you left. Due to the articles you wrote, you were dismissed from work. Since then, you have not been able to find another job, and have also faced threatening letters and phone calls from persons opposed to your articles. You suspect, given the tip from a friend, that your husband (who worked as a medical scientist in the same university as you) may have lost his job due to your articles also (although the official reason was lack of funding for his project). But, you have never discussed this with him. Given that he lost his job before your troubles began (even though you had already published the articles), he does not suspect there is any connection between these events. You are afraid that if he knows, it will only create more problems and it may even come to violence with the university authorities.

#### **Notes for the Interviewer** (preferably female, but depends on objective of role-play):

The husband and wife asylum seekers have arrived from a neighbouring country. In the file, the legal clerk has noted "This appears to be a case of economic migrants but requires further questioning."

#### **Notes for the male Interpreter:**

You try to be helpful during the interview, but both claimants seem to prefer not to use you.

#### **Notes for the Facilitator:**

**Preliminary and procedural (gender) issues:** You may wish to draw out participants' reactions to the following:

- Seating and interview room arrangements;
- Did the interviewer introduce himself/herself, the interpreter (including his function) and explain the purpose and any ground rules for the interview?
- Who did the interviewer address and look at when asking his questions?
- Did the interviewer allow the husband to answer for his wife? How did he deal with the husband?
- Did the interviewer deal effectively with the language and interpreter issue?
- Did the interviewer ask to interview the woman alone and explain that this was a required procedure?
- What type of questions were asked by the interviewer? Were they appropriate in this case?
- Did the interviewer seem to know at least basic information regarding the political situation of the country of origin? And particularly the situation of women, and women activists?



## Role-Play 2

# Dealing with Silence and Trauma

### Gender Sensitive Interpreting and Interviewing

#### **Notes for Women Asylum-Seeker**

Note: Below are essential facts you should remember. Answers to other questions by the interviewer can be made up but should be in line with the information below.

Facts: You are a young woman alone. You belong to an ethnic minority. You fled your country with other villagers from your hometown due to ethnic-based violence. There is currently civil unrest and war in your country of origin. Members of the military of the majority ethnic group, who have taken control of your area, killed your husband. You witnessed the killing of your husband. Three months after this event you fled.

Behaviour: During the interview, there are times when you feel incapable of answering at all, or can only provide "yes" and "no" answers. You are nervous and look at the floor a lot, you cannot make easy eye contact. You are leaning forward and have your arms and legs crossed very tightly, at times rocking yourself as you mumble something. You have a blank look - as if you were somewhere else. Other times, you can speak normally and are helpful in the interview.

\*After the death of your husband, you were detained by the military and repeatedly beaten and raped by different soldiers. **Important:** You never speak about this, and do not provide this information during the interview either, unless the interviewer makes you feel sufficiently comfortable and capable of addressing this event.

#### **Notes for Interviewer: (preferably female)**

You are told that the applicant fled violence during the continuing civil war in your neighbouring country. She arrived with other asylum seekers. You do not know any other information. You wish to determine whether she has a valid claim for refugee status, and if so, on what grounds.

#### **Notes given to Interpreter: (preferably female)**

You do not know anything about the case, unless the interviewer briefs you before the interview.

#### **Facilitator's Notes:**

Note: Due to time considerations, we have suggested the use of a female interpreter and interviewer for this role-play, but if you wish, you may elect to have male participants play one or both of these roles, and have this be one of the issues to be brought out by this case. Note that it is not necessarily inappropriate to do this, as there is no suggestion at first of any particularly sensitive issue or suggestion of sexual violence.

You may wish to draw out participants' reactions to the following:

#### *Preliminary Issues:*

- What about: seating arrangements, briefing provided to the interpreter, introductions and explanations of interview given to the applicant; demeanour of interviewer and interpreter etc.?

#### *Interviewing Techniques and Interpretation:*

- Were the type of questions asked appropriate? How did the interviewer deal with silence? Did she give the applicant a break, reassure her of confidentiality, try the interview again, encourage her by telling her she understood this might be difficult or painful, or reschedule the interview for another time (if so did the same interviewer and interpreter continue on the case) ?
- How did the interviewer deal with the possibility of trauma: did she identify it as such; did she demonstrate sensitivity and awareness; did she refer the applicant to a counsellor or other specialist ?
- Did the interviewer note the time gap in her story as an indication that some part of her story was missing, and consider that the unwillingness to disclose the whole story may be due to her trauma ?
- Were there any issues with regard to the interpretation? How were these dealt with by the interpreter and the interviewer?



## Role-Play 3: Part A

### Gender Sensitive Interpreting and Interviewing

#### **Instructions:**

- Ideally, the interpreter and applicant should speak a different language than the one used by the interviewer;
- Participants in the role-play should only be given the general facts and information relevant to their role;
- If possible, have participants take on a role different than their ordinary jobs;
- The interview should last about 10-15 minutes.

#### **Part A**

##### **General Facts:**

A husband and wife arrive for an interview. The husband is the principal claimant. They have 2 children, one child is 8 months old and the other is 4 years old. The children are outside in the waiting room and the infant is crying.

The applicants are from a country that has been in civil war for several years. Their ethnic group has been particularly affected.

The husband came home one day to find his home burnt down, and his wife beaten. He has never had any political involvement, but has received some general threats, as most of his neighbours from the same ethnic group.

##### **Notes given to Husband:**

You arrive for an interview with your wife. You are the principal claimant.

During the interview, you entrusted your children to an elderly asylum seeker woman who is also waiting for her interview in the waiting room.

You came home one day to find your home burnt down, and your wife beaten. You brought her to her mother's house, where a female doctor who is also a relative, treated her. She refused to see you or the children for 2 weeks afterwards. You have never had any political involvement, but have received some general threats, as most of your neighbours from the same ethnic group.

You take the lead in responding to the interviewer's questions, even when they are directed at your wife. You are a bit protective and used to answering on her behalf. In your culture, it is very common that the husband answers for his wife. You are also very nervous and the infant's cries are clearly disturbing your concentration.

If you are told by the interviewer that your wife must answer for herself, you tell the interviewer that your wife is "not the same anymore, and has been affected by sounds of the gunfire" and "cannot even take care of the children", and so "perhaps you can make it easier for her and do the interview alone instead."

##### **Notes given to Wife:**

You go with your husband for an RSD interview. Your husband is the principal claimant. You vaguely hear an infant crying, but you feel numb and unable to respond, barely recognising that it is your child. You have felt unable to take care of your children for some time now.

*(Continuation from TM no. 174)*

You have only vague and sporadic recollection of why you fled your country and how you ended up here. You know that your house was burnt down by a group of men, and you suffered serious injuries that day. You were treated by your mother and a doctor who is a female relative shortly after the incident, and refused to see your husband and children for 2 weeks after the event. You had terrible bleeding and pain and did not want them to see you this way, or answer any questions they might have. Your husband found you, but brought you to your mother's house immediately and you did not speak to him about what happened except to say that "some men burnt down the house and beat me". The children, thankfully, were with your sister at the time.

It is common in your culture, that the husband answers on behalf of his wife, and you are accustomed to this.

During the interview, you are very quiet, distracted and appear depressed, barely able to answer questions coherently at times. You want to co-operate however, and understand that this is an important interview. You cannot face going back to your country.

You feel uncomfortable during the first stage of the interview, as there is a male interpreter, and you feel that his chair is too close to you. You want to ignore him and move away. You do your best to do this discreetly, but are too shy to say anything. You try not to make eye contact with him. You are acutely aware of his smell.

**Notes given to Interviewer:**

- You are a female interviewer.
- You had a minute to briefly review their written application and seem to recall that perhaps their house was burnt down, but the applicant did not have any previous political activities.
- You have been scheduled to work with a male interpreter today.

**Notes given to Interpreter No. 1:**

- You are a male interpreter.
- By mistake you place your chair too close to the female applicant, and forget to move it away.

**Notes for the Facilitator:**

During discussions after the role-play, you may wish to ask participants how they feel the following issues were dealt with?

*Preliminary aspects of the interview:*

- the preparation of the file,
- seating arrangements,
- briefing for the interpreter,
- introductions,
- explanation of purpose of interview etc.

*Procedural and substantive aspects of interview:*

- did the interviewer address the woman directly when asking her questions?
- seem to notice the woman's discomfort at having the male interpreter so close to her, and also her general state of mind?
- how did she deal with the background noise of the child's cries?
- did she notice the male applicant was also distracted by the cries?
- did she ask relevant and appropriate questions to both applicants?
- did she deal appropriately with the man with respect to answering on behalf of his wife?
- did she ask the woman if she could have a separate interview with her, and explain that this is standard procedure?
- did she ask the woman if she would prefer a woman interpreter (was this done privately, and did she explain this would not prejudice their claim) ?



## Role-Play 3: Part B Gender Sensitive Interpreting and Interviewing

### **Instructions:**

- If at all possible, the interpreter and applicant should speak a different language than the one used by the interviewer;
- Participants in the role-play should only be given the general facts and information relevant to their role;
- Participants should take on a role different than their ordinary jobs;
- The interview should last about 15 minutes.

### **New Scenario:**

This part of the role-play includes the same interviewer and female applicant, but also a new female interpreter. They are alone, the husband is no longer present. The cries from the baby in the background have stopped.

### **Notes for the female applicant:**

Keep to the notes provided to you for Part A of this role-play, and enact your role in this part of the interview in a manner consistent with those notes. You continue having trouble recollecting dates, numbers, and specific events after the incident. You break down at one point when asked details about the group of men that beat you that day, and are trying desperately not to “see” what happened again. You beg the interviewer not to ask you about that. You sometimes hold yourself tight and rock back and forth slightly, during the interview. You remark at one point, that the men smelled bad, very bad. You want the interview to be over but also understand its importance, you do not know if you will be able to go on...

### **Notes for the interviewer:**

You will now be interviewing the woman alone, and you have identified a competent female interpreter (who will arrive in a few seconds, just before the start of the interview) and you will try to proceed with the interview with the female applicant.

### **Notes for interpreter No. 2:**

- You are a female interpreter;
- You believe in being “very professional” and in holding yourself and others to high standards;
- You do not know anything about the case, except that a female interpreter was required.

### **Notes for the Facilitator:**

During discussions after the role-play, you may wish to ask participants how they feel the following issues were dealt with?

#### *Preliminary aspects of the interview:*

- seating arrangements;
- briefing for the new interpreter;
- introducing the new interpreter to the applicant;
- asking her again, if she understands the purpose of interview etc.
- reassuring her that the interview is strictly confidential and will not be shared with anyone, including her husband (if she so wishes);
- were there tissues and water available close by (on the table);
- did the interviewer (and interpreter) take any steps or adopt a demeanour suitable to build a rapport with the applicant.



(Continued to TM no. 175)

*Procedural and substantive aspects of interview:*

- were the interviewer's opening questions appropriate (e.g. open or closed question)?
- did the interviewer address the woman directly when asking her questions?
  
- did the interviewer show sensitivity and sustain her rapport with the applicant through her demeanour, types and formulation of questions, encouraging her etc.?
- did she maintain an appearance of objectivity and neutrality, but also demonstrate empathetic listening skills?
- what was the rapport between the interviewer and interpreter?
- were there any difficulties between them, and if so how were these resolved?
- did the interpreter recall all the facts, take notes, interpret faithfully and completely; what was her rapport with the applicant?

*Also*

- during the difficult parts of the interview, how well did the interviewer respond? Did she suggest to take a break, offer her some tea, or water and tissues; did she resume the interview (and was it appropriate to do so); did she encourage her "take your time", "I understand this is difficult, but we are here to help you" ?
- did the interviewer recognise the signs of trauma, or depression? Did she recognise the hints suggesting the possibility of sexual violence? If so, did she then ask questions appropriately; does she understand that the husband may not know exactly what happened to his wife, and that this information is to be kept confidential (as well as all the other aspects of the interview)?
- did the interviewer end the interview unnecessarily when the applicant got upset, or was it appropriate to end it in order to give the applicant a break and resume it another day?
- did the interviewer arrange for some follow up care for the applicant or provide her with material on rape and how / where to seek assistance? Would it be appropriate to give her written materials on the topic if she has no where to hide them and her husband is likely to see it (if she is not yet ready to tell him about this)?
- did she inquire about whether she feels able to take care of her small children? If her husband is able to and who, if anyone is helping them with this? Given her psychological state, it may be dangerous for her to take care of her children alone (did the interviewer notice the woman's lack of response and awareness that it was her child crying before?).
- if the children were indeed in danger of neglect due to the mother's condition, did the interviewer arrange for a social worker to see the family?
- how were the interviewer's questions on the substance of the claim; did she focus on the woman's story or keep to her husband's claim; did she ask the right questions, was she able to establish definitively or with a reasonable degree of certitude that the applicant had been sexually assault? Did she ask for too many unnecessary details about the actual assault and sexual violence? Did she seem to have experience or training in dealing with such cases of trauma and sexual violence?
- were there any credibility issues that were brought up? Should there have been? How were they dealt with?
- Were any cross-cultural issues apparent during the interview? Did they affect credibility or the rapport, or effectiveness and accuracy of the interview? Did the interviewer and interpreter deal with them appropriately?



## Role-Play 4

# Gender Sensitive Interpreting and Interviewing

Present: interviewer, applicant, interpreter.

### **Notes for Female Applicant:**

You are a young shy woman, and obviously nervous and uncomfortable about having to go through the interview. You fled your country for fear of being beaten or killed by your family members for having dishonoured them by getting pregnant by your boyfriend, whom they did not approve of. Your father was a very strict and religious man of high standing in the community and believed in strongly 'disciplining' his daughters. He had often beaten and locked you in the house for having started a relationship with a boy he did not approve of. He often remarked in public that he would prefer to kill a daughter who got pregnant out of wedlock than be dishonoured.

After fleeing your house, you had no where to go. You were ashamed and afraid your family would find you, and so could not ask any friends or other family members for help. So you asked for help at a police station. You were detained in prison for 3 days by policemen who told you it was the only way they could 'protect' you. They "hurt" you while you were in prison and called you terrible names. You finally bribed a policeman (by giving him your gold ring) to let you leave, and with the help of your boyfriend's mother, you left the country. Your boyfriend's family also did not approve of your relationship and so they decided to help you leave the country alone.

During the interview, you are disoriented, distraught, nervous and reluctant to be open, particularly about certain parts of the story. You feel ashamed, sick and 'dirty', and often have suicidal thoughts. You also feel nauseous.

### **Notes for the Interpreter:**

You are an older woman (about the age of the applicant's mother) from the same part of the country and city as the applicant. The applicant reminds you of your own daughter, and you would like to help her. You believe that the situation cannot be so bad and she should return home to her parents. In order to make the interview more efficient, you sometimes "summarise" what the applicant says, and you help the interviewer by giving her your own impressions and comments on cultural and other aspects of the case, including your opinion on what the applicant should do.

In your experience, young people do not always understand what is in their best interest and do not appreciate that, young girls especially, should be protected and therefore disciplined for their own good. You think the applicant is exaggerating and translate the 'violence' the applicant recounted having suffered at the hands of her family and the police, as 'discipline' and 'harassment'.

### **Notes for the interviewer:**

You know, from having briefly read the applicant's file that she fled her country of origin alone about 2 months ago due to a dispute with her family. You requested a female interpreter to do the interview with you.

**Notes for the facilitator:** You may wish to illicit participants' impressions with regard to the following:

- was the interviewer sufficiently prepared?
- did he/she brief the interpreter on the case and do all the introductions at the beginning of the interview, as well as explain the purpose and process of the interview?
- was the applicant referred to reproductive health / pre-natal care and counselling services?
- how did the interview deal with the interpreter?
- did s/he allow the interpreter take over parts of the interview?

*(Continuation from TM no. 176)*

- allow the interpreter take on a “mothering” function during the interview, by allowing them to have conversations without interpretation?
- and by not stopping the interpreter’s comments and summaries of the applicant’s account?
- did the interviewer catch the interpreter’s use of terms such as “parents were very ‘strict’ and ‘disciplined’ her“, and ‘harassed’ when referring to the police. Such terms should have prompted the interviewer to further explore the real meaning behind these words instead of assuming they referred to small or inconsequential acts, considered immaterial to the case.



## Supplementary Role-Plays

### Interviewing and Interpreting in a Refugee Context

#### Role-Play 5: Domestic Violence

##### Asylum seeker:

You are a woman alone and have arrived in a neighbouring country with two children. You left your country of origin because you disagreed with the laws and customs. You are reluctant to speak about your relationship with your husband but do disclose information if prompted.

Since your marriage, your husband has repeatedly beaten you. The violence got so bad that you sought protection from the local police station. The police refused to take a statement. When you insisted, the police became verbally abusive and told you to go back to your husband and to stop disobeying him.

##### Interviewer:

You are told that the woman asylum seeker has two children and the file note suggests that there might be a problem with her husband.

In terms of country of origin information: The Criminal Code in the country of origin of the asylum seeker recognises violence in marriage (domestic violence) as a punishable offence and in theory, women have access to courts and police protection. This however is not always the case.

#### Role-Play 6: Coping with Silence

Roles: Refugee woman, government officer as the interviewer and an interpreter. (Ensure the roles participants play are different from their usual function):

Scenario: The applicant does not explain her situation but only gives yes and no answers to questions. She appears traumatised by her past experience.

Have you ever been arrested?

Yes

When?

*(Whispered response which is not audible to the interpreter)*

Can you give me any dates?

...

Why were you arrested?

....

*The applicant begins to cry.*

#### Role- Play 7: Dealing with the Threat of Suicide

Roles: Refugee woman, interviewer and interpreter (ensure the roles participants play are different from their usual function):

**Scenario 2:** The applicant is nervous and frightened. She cannot concentrate on your questions but keeps telling you that she wants to die.

When did you see him again?

*I will kill myself. I have no life.*

Would you tell me more about the incident?

*I have no future. This thing happen to me...*  
Could you tell me what happen?

### **Role- Play 8: Threat of Forced Marriage**

**Asylum seeker:**

You are a 16-year-old girl and you fled your country into the neighbouring country without your family. You are shy and nervous. You are bright and completed secondary school. You would like to continue with your education as you want to be a doctor.

You fled because of disputes with your family and especially a disagreement with your father. You have not been beaten or subject to any kind of violence.

However, your parents arranged a marriage for you to a 40-year-old man whom you have never met. You fear that you will not be able to continue with school and you do not want to marry this man.

**Interviewer:**

You know that a vulnerable young female (unaccompanied minor) has arrived. An implementing partner, worried about her safety and security, referred her to you.

## **IV. Additional Materials**

Facilitators may add any new training materials they have developed or adapted to their specific context to this section.

## **V. New Policies and Reference Documents**

To update this Gender Kit :  
Insert all new policy or other reference documents  
in this section.