

SELF-STUDY
UNITS 1-6

Resettlement Learning Programme

2013 - 2014 Version

Introduction

The **Resettlement Learning Programme** (RLP) is an important component of UNHCR's learning strategy to harmonize and enhance the quality of resettlement activities and ensure the effective delivery of international protection. Designed to enhance the knowledge and skills of resettlement practitioners, it is envisaged that the RLP will become an essential component of the training requirements for UNHCR staff with functional competencies related to resettlement.

The methodology adopted for the six-month RLP assists in enhancing a knowledge base and the development of skills, and reinforces good practices by combining a number of learning techniques including self-study units, a web-based course, practical exercises, a residential workshop and a final project implementation. It also aims at encouraging participants to operationalize resettlement activities or strategies in their respective operations.

Pre-Reading: As the Resettlement Learning Programme is primarily intended for resettlement practitioners, it is expected that all participants will be familiar with both the *UNHCR Resettlement Handbook*, and the *UNHCR Baseline Standard Operating Procedures for Resettlement* before beginning the programme.

Using these Self-study Units

Phase 1 of the RLP involves the completion of self-study Units 1, 2, 3 and 5, as well as the web-based courses, "*Identification of Refugees in Need of Resettlement*" (Unit 4) and "*A well-managed resettlement operation*" (previously Unit 6). The exercises included in each Unit of the Programme are intended to enhance participants' understanding of resettlement principles, and assist in the implementation of standard operational tools and practices. Four months are allocated for the completion of Phase 1.

The self-study materials, readings and assignments are available through the **Learn & Connect platform**. The Learning Programme administrator will also send participants further details and instructions regarding the assignments to be completed for each Unit, and will provide feedback.

The total number of hours required to complete the self-study units is estimated to be **five hours a week, over a four month period**. Each Unit includes a list of required essential readings, as well as proposed supplementary readings, and a list of core references for the subject matter covered in the Unit. The readings are available from UNHCR's Refworld website (by following hyperlinks), or from the Resettlement page of the UNHCR Intranet. Participants are encouraged to consult the Intranet regularly for updates to resettlement policies, tools and key documents.

Phases II and III

All concepts and thematic areas illustrated in the self-study modules will be revisited and further elaborated upon during the workshop. The workshop is strictly limited to participants who have completed all the exercises on time.

The last phase of the Programme includes the implementation of a resettlement-related project, prepared by participants and using the skills developed during the phase II workshop. Each participant is expected to present a report on the implementation of the project in order to complete the RLP.

Unit 1

Resettlement in context: International protection and durable solutions

Learning Objectives

Resettlement is a durable solution, a tool for international protection, and an international responsibility and burden-sharing tool. As the following units show, to effectively use resettlement it is important to understand each of these concepts, and to proactively plan for resettlement as part of operational protection strategies. An assessment of the protection environment in the host country and region, as well as the country of origin, is a key step in identifying appropriate durable solutions, including whether to pursue resettlement for a given case, or for a given group of refugees.

UNHCR has introduced mandatory training tools, including “*UNHCR and International Protection: A Protection Induction Programme*,”¹ to ensure that all staff members have a basic understanding of international protection and durable solutions. This Unit is designed to serve as a review of UNHCR's mandate, international protection and the three durable solutions, and to set the context for understanding resettlement. In addition, this Unit looks at some current challenges to the international protection regime.

At the end of this Unit, you should be able to:

- explain UNHCR's mandate
- review international protection in general terms
- describe the three durable solutions and some general principles applicable to them
- outline some current key challenges to the international protection regime.

The designated Learning Programme administrator will recommend the time allotment for completion of this Unit.

¹ First edition, 2006. One of the mandatory training programmes in UNHCR, the Protection Induction Programme consists of a handbook available at <http://www.unhcr.org/refworld/docid/466e71c32.html>, and an interactive e-learning programme accessible to UNHCR staff from the "Learn & Connect" training platform.

Contents

International Protection	6
The International Legal Framework.....	7
Key Principles.....	10
Persons of Concern to UNHCR	11
Refugees	11
Asylum-seekers.....	13
Returnees	14
Stateless Persons.....	14
Internally Displaced Persons (IDPs)	17
Durable Solutions	21
Self-reliance – an Important Precursor to Solutions	21
Comprehensive Approaches to Durable Solutions	23
Voluntary Repatriation	23
Local Integration.....	27
Resettlement	29
The Evolution of Resettlement	31
Addressing Protection Gaps	34
Current Resettlement Environment and Challenges	38
Shrinking Protection Space, Shrinking Humanitarian Space, Decline in Availability of Durable Solutions	39
Unit 1 - Resources	44

International Protection

Establishment of UNHCR

UNHCR was established on 1 January 1951 by UN General Assembly Resolution 319 (IV) on Refugees and Stateless Persons,² initially for a three-year term. Although established with a global mandate, the initial limited term, was a reflection of the heavy impact of the aftermath of World War II on States. UNHCR's mandate was extended on a temporary basis through successive General Assembly Resolutions until 2003, when its existence was secured until such time as the refugee problem is resolved.

UNHCR's core functions – the provision of international protection to refugees and finding durable solutions for them

UNHCR's work is humanitarian, social and non-political. Its Statute, which was adopted in 1950,³ defines UNHCR's functions as providing international protection to refugees, and assisting Governments in finding durable solutions for them. These two functions, international protection and the identification of durable solutions, can be considered UNHCR's core functions, although its mandate has been expanded through subsequent UN General Assembly Resolutions. Such expansions of mandate have related in particular to whom it considers to be persons of concern.

UNHCR's Executive Committee (ExCom) serves as an advisory committee; it is supported by a Standing Committee

The High Commissioner is elected every five years by the UN General Assembly. S/he reports annually to the General Assembly and the Economic and Social Committee (ECOSOC) and follows their policy directives. S/he is additionally assisted by an Executive Committee to the High Commissioner's Programme (ExCom), which was created in 1958 and consists of UN Member States with an interest in refugee issues.⁴ The ExCom meets once annually to advise the High Commissioner on policy issues, *inter alia* by adopting Conclusions on International Protection, and to issue decisions on budget matters. It is supported by a Standing Committee which usually meets three times a year.

International protection begins with securing the admission of refugees to a country of asylum and ensuring respect of their rights as set out in international law until a durable solution has been found.

² UN General Assembly, *Refugees and stateless persons*, 3 December 1949, A/RES/319, <http://www.unhcr.org/refworld/docid/3b00f1ed34.html>

³ UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950, A/RES/428(V), <http://www.unhcr.org/refworld/docid/3b00f0715c.html>

⁴ There were 87 States members of ExCom as of 26 April 2012.

International protection can be defined as:

*'all actions aimed at ensuring the equal access and enjoyment of the rights of women, men, girls and boys of concern to UNHCR, in accordance with the relevant bodies of law (including international humanitarian, human rights and refugee law.)'*⁵

International protection includes interventions by States or UNHCR on behalf of asylum-seekers and refugees to ensure that their rights, security, and welfare are recognized and safeguarded in accordance with international standards. Such interventions include: ensuring respect for the principles of *non-refoulement*; admission to safety; access to fair procedures for the determination of refugee status; humane standards of treatment; and the implementation of durable solutions. UNHCR is the only United Nations agency with a mandate for the protection of refugees at the global level.

The International Legal Framework

The 1951 Convention and its 1967 Protocol

The 1951 Convention Relating to the Status of Refugees⁶ (hereafter the 1951 Convention) represents the core instrument of international refugee law. It sets out who is a refugee and the standards for their treatment. The 1951 Convention represented the first time that States agreed on a universal definition of a refugee. Before the 1951 Convention, refugees had primarily been defined by ethnic or national group or origin.

Unlike UNHCR's Statute, the 1951 Convention initially was limited to persons who became refugees as a result of events occurring before 1 January 1951, reflecting the primary focus of States on dealing with the aftermath of World War II. States were also permitted to apply a geographic restriction, limiting its reach to European refugees. New global challenges, particularly the refugee flows resulting from decolonization, led to the adoption of the 1967 Protocol which lifted time and geographic restrictions.⁷

International refugee law

The 1951 Convention as the core instrument of international refugee law together with its 1967 Protocol

⁵ UNHCR, *Self-Study Module 1: An Introduction to International Protection. Protecting Persons of Concern to UNHCR*, 1 August 2005, p.157, <http://www.unhcr.org/refworld/docid/4214cb4f2.html>

⁶ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, <http://www.unhcr.org/refworld/docid/3be01b964.html>

⁷ UN General Assembly, *Protocol Relating to the Status of Refugees*, 30 January 1967, United Nations, Treaty Series, vol. 606, p. 267, <http://www.unhcr.org/refworld/docid/3ae6b3ae4.html>
Note that given its global mandate, UNHCR was nonetheless able to intervene in the years prior to the 1967 Protocol to provide international protection to Hungarian refugees following the uprising in 1956, Chinese refugees in Hong Kong and refugees who fled as a result of the war for Algerian independence.

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

“Soft law” Instruments Supplement the 1951 Convention and its 1967 Protocol

Declarations, resolutions and conclusions

In addition to these “hard law” instruments, there are a number of “soft law” sources of international refugee law. While not binding, they indicate how refugee law is evolving and reflect a certain political commitment to addressing refugee issues. These include *inter alia* the *Declaration on Territorial Asylum* adopted by the UN General Assembly in 1967,⁸ other General Assembly and ECOSOC Resolutions, and the Conclusions on International Protection adopted by the Executive Committee.⁹

Regional Refugee Law Instruments

OAU Convention Cartagena Declaration

Additional regional legal instruments reflect further evolution in refugee law. In certain regions, the Convention refugee definition has been broadened to include victims of indiscriminate violence. The 1969 *OAU Convention Governing the Specific Aspects of Refugee Problems in Africa*¹⁰ (hereinafter the OAU Convention) explicitly applies not only to persons fleeing persecution but also to those fleeing situations of generalized violence. In African countries, refugee status is widely provided, often on a *prima facie* basis, for persons fleeing such situations. In Latin America, the 1984 *Cartagena Declaration on Refugees*¹¹ (hereinafter the Cartagena Declaration) recommended a refugee definition which includes persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violations of human rights or other circumstances which have seriously disturbed public order. The refugee definition included in the Cartagena Declaration has served as the basis for recognition of refugee status in a number of Latin American States.¹²

⁸ UN General Assembly, *Declaration on Territorial Asylum*, 14 December 1967, A/RES/2312(XXII), <http://www.unhcr.org/refworld/docid/3b00f05a2c.html>

⁹ UN High Commissioner for Refugees, *Thematic Compilation of Executive Committee Conclusions*, August 2009, 4th edition, <http://www.unhcr.org/refworld/docid/4a7c4b882.html>

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

¹¹ *Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*, 22 November 1984, <http://www.unhcr.org/refworld/docid/3ae6b36ec.html>

¹² In the same vein, a revised text of the 1966 *Bangkok Principles on the Status and Treatment of Refugees* was adopted by the Asian-African Legal Consultative Organization (formerly Committee) in 2001 and incorporates a refugee definition similar to that in the OAU Convention.



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Relevant Branches of International Law

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

International human rights law is a particularly important complement to international refugee law. The right to seek and to enjoy asylum is recognized as a basic human right in the *Universal Declaration of Human Rights*.¹³ International human rights law outlines and elaborates additional rights which should be enjoyed by refugees along with others, thus supplementing international refugee law and defining additional standards.

International human rights law is an important complement

¹³ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), Art. 14 (1), <http://www.unhcr.org/refworld/docid/3ae6b3712c.html>

Key Principles

Responsibility of States

States retain primary responsibility for providing protection

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

Non-refoulement

Cornerstone of international refugee law

Key to refugee protection is the right not to be returned in any manner whatsoever to a country or territory where one's life or freedom may be threatened on one of the 1951 Convention grounds.¹⁴ This is known as the principle of *non-refoulement* and is the cornerstone of international refugee law. The principle is also part of international human rights law, according to which no person may be returned to a country or territory where they are at risk of torture, or cruel, inhuman or degrading treatment or punishment.¹⁵ Moreover, *non-refoulement* is generally considered a principle of customary international law, and is thus binding on States even if they have not signed or ratified the relevant refugee or human rights conventions.

¹⁴ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, Article 33, <http://www.unhcr.org/refworld/docid/3be01b964.html>

¹⁵ See *inter alia*, the UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: resolution / adopted by the General Assembly*, 10 December 1984, A/RES/39/46, Article 3, <http://www.unhcr.org/refworld/docid/3b00f2224.html>. The Human Rights Committee has also interpreted the 1966 International Covenant on Civil and Political Rights to reflect the principle of non-refoulement, as has the European Court of Human Rights with respect to Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms, also known as the European Convention on Human Rights (ECHR). See UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, <http://www.unhcr.org/refworld/docid/3ae6b3aa0.html>; and Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, 4 November 1950, ETS 5, <http://www.unhcr.org/refworld/docid/3ae6b3b04.html>

Persons of Concern to UNHCR

Under its Statute and subsequent General Assembly and ECOSOC Resolutions, and in conjunction with the 1951 Convention, the High Commissioner's responsibilities relate primarily to several groups of people known collectively as "persons of concern to UNHCR". These generally include refugees and asylum-seekers, returnees, stateless persons and, under certain conditions, internally displaced persons (IDPs). This section reviews who is considered a "person of concern" to UNHCR, and touches briefly on their eligibility for resettlement.

Refugees

The definition of a refugee, according to the 1951 Convention, is as follows:

A **refugee** is any person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it".¹⁶

1951 Convention
definition of a refugee

In line with developments in some of the regional instruments which were adopted subsequently, UNHCR's own mandate definition of a refugee has evolved through General Assembly Resolutions, going beyond the definition provided in its Statute:

In addition to individuals who meet the criteria in the 1951 Convention definition, **UNHCR recognizes as refugees** persons who are: outside their country or origin or habitual residence and unable or unwilling to return there owing to **serious** and **indiscriminate threats** to life, physical integrity or freedom resulting from **generalized violence** or events **seriously disturbing public order**.¹⁷

UNHCR's definition
of a refugee under its
mandate

Important: When we speak of refugees in this learning programme, we will refer to UNHCR's mandate definition unless specified otherwise.

¹⁶ 1951 Convention Relating to the Status of Refugees, Article 1(A)(2), 1967 Protocol Relating to the Status of Refugees (*supra* notes 6 and 7); 1969 OAU Convention, Article 1(1), <http://www.unhcr.org/refworld/docid/3ae6b36018.html>; 1984 Cartagena Declaration, <http://www.unhcr.org/refworld/docid/3ae6b36ec.html>

¹⁷ *Self-Study Module 1: An Introduction to International Protection. Protecting Persons of Concern to UNHCR*, *supra* note 5.

Exclusion from refugee protection

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

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

These criteria are called "exclusion clauses". People who meet these criteria are "excludable" and will not benefit from the rights of refugees, even if they meet the inclusion requirements. The importance of careful application of the exclusion clauses will be covered in Unit 3.

Cessation clauses

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

Complementary forms of protection

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

Temporary protection

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

Thus, persons eligible for Convention refugee status or complementary protection may, in an emergency situation, receive temporary protection instead. However, persons granted temporary protection should still be able to pursue individualized status determination procedures during or subsequent to lifting of temporary protection if they so wish.¹⁹

¹⁸ 1951 Convention, Article 1(F) (a)-(c) (supra note 6). We will be looking in greater detail at both the inclusion and exclusion provisions in Unit 3.

¹⁹ The distinction between complementary and temporary protection was highlighted by states participating in the Global Consultations meeting on complementary protection: see UN High Commissioner for Refugees, *Global Consultations on International Protection: Report of the Third Meeting in the Third Track*, (EC/GC/02/2), 16 April 2003 at para 15, <http://www.unhcr.org/refworld/docid/3d6264e54.html>

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

Procedures to recognize refugees:

- individual refugee status determination (RSD) procedures
- *prima facie* group determination

Prima facie (“in absence of evidence to the contrary”) refers to the process of group determination of refugee status, as opposed to individual determination, which is usually conducted in situations where a need to provide urgent assistance or other practical difficulties preclude individual determination, and where the circumstances of the flight indicate that members of the group could be considered individually as refugees.²⁰

Definition of *prima facie*

Refugee status and resettlement

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

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

Asylum-seekers

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

Asylum-seekers included amongst populations of concern

²⁰ UN High Commissioner for Refugees, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, December 2011, <http://www.refworld.org/docid/4f33c8d92.html>

Returnees

Voluntary repatriation may take place under less than ideal conditions, particularly in a post-conflict situation. Though UNHCR's mandate was traditionally thought to end once refugees crossed the border into their countries of origin, subsequent ExCom Conclusions have confirmed UNHCR's legitimate interest in the consequences of return and in returnee monitoring.²¹ UNHCR's responsibilities include a substantive involvement in securing protection and providing assistance to returnees in the country of origin and in monitoring returnee operations. UNHCR can also have an important capacity-building role through training programmes, development of infrastructure and material support.

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

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

Stateless Persons

Definition of stateless

As set out in the definition of stateless persons found in the 1954 *Convention Relating to the Status of Stateless Persons* (hereafter the 1954 Convention) and customary international law, a stateless person is someone who is *not considered as a national or citizen of any State under the application of its law*²² (sometimes referred to as *de jure* statelessness). Accordingly, whether or not a person is stateless can be determined based on an assessment of relevant nationality laws and how these laws are implemented by the State.

²¹ See ExCom Conclusions 18 (XXXI) 1980, 40 (XXXVI) 1985, 74 (XLV) 1994, 85 (XLIX) 1998, and 101 (LV) 2004 (These can be found in the: UN High Commissioner for Refugees, *Thematic Compilation of Executive Committee Conclusions*, August 2009, 4th edition, <http://www.unhcr.org/refworld/docid/4a7c4b882.html>).

²² Article 1.1 UN General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, <http://www.unhcr.org/refworld/docid/3ae6b3840.html>

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

Stateless persons are denied access to some rights

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

de facto statelessness

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

How people become stateless

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

Stateless persons may be, but are not necessarily, refugees

Stateless persons may be refugees, and thus the standards of treatment set out in the 1951 Convention would extend to them. Not all stateless persons are refugees, however. The 1954 *Convention Relating to the Status of Stateless Persons*²³ and the 1961 *Convention on the Reduction of Statelessness* (hereafter the 1961 Convention)²⁴ aim to reduce the occurrence of statelessness, and set standards of treatment for stateless persons. A relatively small number of States have ratified these conventions to date, although they still provide valuable guidance in terms of standards to be applied, and in UNHCR's work with stateless people.²⁵

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

UNHCR's mandate and types of activities UNHCR engages in

As of 2011, there are an estimated 12 million stateless people worldwide, compared to a global refugee population of around 15.2 million. To fulfill its global mandate for the identification, prevention and reduction of statelessness and for the international protection of stateless persons, UNHCR engages in the following types of activities:

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

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

²³ UN General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, <http://www.unhcr.org/refworld/docid/3ae6b3840.html>

²⁴ UN General Assembly, *Convention on the Reduction of Statelessness*, 30 August 1961, United Nations, Treaty Series, vol. 989, p. 175, <http://www.unhcr.org/refworld/docid/3ae6b39620.html>

²⁵ Promoting further accessions to the Statelessness Conventions and identifying more effective ways to respond to the statelessness problem were among the key goals of the 60th Anniversary Commemorations in 2011. Eight States acceded to one or both of the Conventions in 2011 and 33 States pledged to accede to one or both in the near future.

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

Resettlement of non-refugee stateless persons is challenging, however, due to the criteria of resettlement States. ExCom Conclusion No. 95 (2003) encourages States “to cooperate with UNHCR on methods to resolve cases of statelessness and to consider the possibility of providing resettlement places where a stateless person’s situation cannot be resolved in the present host country or other country of former habitual residence, and remains precarious.”²⁷

Internally Displaced Persons (IDPs)

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

Definition of IDPs

Thus, in many cases the causes for internal displacement do not differ from those of refugee flight, the only difference between the two is that internally displaced persons have not crossed an international boundary, and remain within their own State.

IDPs are *not* eligible for third country resettlement under UNHCR’s auspices, although some States do have humanitarian migration programmes for persons at risk within their own country, which may include internally displaced persons.

IDPs are not eligible for third country resettlement

UNHCR has been involved with different populations of internally displaced persons since the early 1970s. Whereas the number of refugees has remained fairly stable since the late 1990s, fluctuating between 13 million and 16 million, the global number of IDPs has steadily increased from a total of around 17 million in 1997. At the end of 2010, the number of people internally displaced across the world by armed conflict, generalized violence and human rights violations reached 27.5 million.²⁸ In 2011 the Office protected and assisted more than 17 million internally displaced persons in 25 countries.

The number of internally displaced persons exceeds by far that of refugees

²⁷ UNHCR, *General Conclusion on International Protection*, 10 October 2003, No. 95 (LIV) – 2003, para (v), <http://www.unhcr.org/refworld/docid/3f93aede7.html>

²⁸ Internal Displacement Monitoring Centre (IDMC), *Internal Displacement: Global Overview of Trend and Developments in 2010*, 23 March 2011, <http://www.unhcr.org/refworld/docid/4d8afef82.html>

International legal
framework for IDPs:
Guiding Principles
on Internal
Displacement

States have the primary responsibility to protect, respect and fulfill the rights of internally displaced persons, just as for any other citizens. However, in reality internally displaced persons are often without adequate protection and assistance, and their situation is a legitimate concern of the international community. The *Guiding Principles on Internal Displacement*,²⁹ developed under the direction of the first Representative of the UN Secretary-General on Internally Displaced Persons, provides important guidance to all actors involved with internally displaced persons. It draws on relevant principles of international human rights, humanitarian and, by analogy, refugee law to set out standards of treatment for the internally displaced.

Special Rapporteur on
the Human Rights of
Internally Displaced
Persons

The Special Rapporteur on the Human Rights of Internally Displaced Persons raises awareness of IDP rights issues, promotes and disseminates the Guiding Principles at national, regional and international levels, undertakes country missions, provides support for capacity building of non-governmental organizations and other relevant institutions, and conducts policy-oriented research.

Finding Solutions for IDPs

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

Inter-Agency Standing
Committee Framework
for Durable Solutions
for Internally Displaced
Persons

The Guiding Principles state that IDPs should have access to a durable solution. The 2010 *Inter-Agency Standing Committee Framework for Durable Solutions for Internally Displaced Persons*³⁰ develops the understanding of the principles and criteria that govern efforts to achieve durable solutions for IDPs.

A durable solution to internal displacement can be achieved through:

- sustainable reintegration at the place of origin (return)
- sustainable local integration in the area where IDPs have taken refuge or
- sustainable settlement elsewhere in the country³¹

²⁹ United Nations, Guiding Principles on Internal Displacement, 22 July 1998, E/CN.4/1998/53/Add.2, <http://www.unhcr.org/refworld/docid/3c3da07f.html>

³⁰ Brookings-Bern Project on Internal Displacement, IASC Framework on Durable Solutions for IDPs, April 2010, <http://www.unhcr.org/refworld/docid/4c5149312.html>

³¹ Note that the *Guiding Principles on Internal Displacement* refer to two solutions: “return” and “resettlement” in another part of the country. The latter option refers to settlement elsewhere in the country other than in one’s place of origin. It encompasses the option for IDPs to settle permanently in the locality where they first arrived while displaced, as well as the possibility to move to another part of the country altogether. Given the specific meaning of “resettlement” in the refugee context as relocation to a third country, UNHCR refers to, and would generally recommend, that in contexts of internal displacement, the *IASC Framework for Durable Solutions for IDPs* terms “local settlement” and “settlement elsewhere” be used instead.

Durable solutions for IDPs

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

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

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

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

International efforts at assistance and protection do not aim to replace national protection, but rather to reinforce it. Thus, no organization has been given a global mandate to protect internally displaced persons. In September 2005, the Inter-Agency Standing Committee (IASC) agreed to the establishment of the “Cluster approach”, which aims to ensure greater predictability, accountability and partnership in response to humanitarian crises. In line with its expertise and experience, UNHCR agreed to assume the lead role in three of the eleven areas of response: protection, emergency shelter, and camp coordination and management (the latter two only for conflict-induced emergencies).

Cluster approach

UNHCR, as the Cluster Lead Agency for protection, provides vision and leadership in setting the protection agenda, establishing strategic priorities and coordinating support activities of the Global Protection Cluster (GPC) to field operations. The GPC is now the main forum at the global level for coordinating all protection activities in humanitarian action applying the cluster approach. The GPC also has five Areas of Responsibility (AORs) coordinated by focal point agencies with mandate expertise for the activities within them.³² The AORs encompass child protection; housing, land and property rights; prevention of, and response to gender based violence; rule of law and justice and mine action. The GPC includes United Nations humanitarian, human rights and development agencies as well as non-governmental and other international organizations active in protection.

UNHCR has the lead role within cluster system for protection, emergency shelter, and camp coordination and management

³² The Areas of Responsibility are as follows: rule of law and justice (OHCHR and UNDP); prevention of and response to GBV (UNFPA and UNICEF); protection of children (UNICEF); Land, Housing and Property Rights (UN-HABITAT) and Mine Action (UNMAS).



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UNHCR's responsibilities at the Global Cluster level

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

Handbook for the Protection of Internally Displaced Persons

As a concrete example, UNHCR coordinated the inter-agency collaborative process of producing the *Handbook for the Protection of Internally Displaced Persons*³³ under the auspices of the GPC. The Handbook provides operational guidance and tools to support effective protection responses in situations of internal displacement.

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

Clusters are not applicable in refugee situations, as UNHCR has the overall mandate for the protection, assistance and coordination response.

³³ Inter-Agency Standing Committee, *Handbook for the Protection of Internally Displaced Persons*, June 2010, <http://www.unhcr.org/refworld/docid/4790cbc02.html>

Durable Solutions³⁴

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

The three durable solutions are:

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

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

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

Self-reliance – an Important Precursor to Solutions

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

The three durable solutions are:

- voluntary repatriation
- local integration
- resettlement

Solutions can be applied together

Self-reliance is an important precursor to all three durable solutions

³⁴ For a more detailed introduction to international protection and durable solutions, you may also wish to look more closely at the *Self-study module 1, An Introduction to International Protection: Protecting Persons of Concern to UNHCR*, supra note 5.

Defining self-reliance

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

As a programme approach, self-reliance refers to developing and strengthening livelihoods of persons of concern in an effort to reduce their vulnerability and long-term reliance on humanitarian and external assistance.³⁵

Self-reliance among refugees thus:

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

Framework Agreements

UNHCR supports international responsibility sharing

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

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

UNHCR Framework for Durable Solutions

The *UNHCR Framework for Durable Solutions*³⁶ introduced in 2003, provides overarching frameworks for international institutional collaboration in the promotion of durable solutions through three programme concepts, namely:

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

Complementarities of the Three Durable Solutions

There is no formal hierarchy among the durable solutions. While in the early years of UNHCR’s existence, resettlement and local integration appeared to be the most viable durable solutions for many refugees, over time most refugees have sought and attained voluntary repatriation.

³⁵ See also UNHCR, *Handbook for Self-Reliance*, 2005, <http://www.unhcr.org/refworld/docid/4a54bbf40.html>

³⁶ UNHCR, *Framework for Durable Solutions for Refugees and Persons of Concern*, 16 September 2003, EC/53/SC/INF.3, <http://www.unhcr.org/refworld/docid/4ae9ac93d.html>

The three solutions are complementary in nature and, when applied together, can form a viable and comprehensive strategy for resolving a refugee situation. Even if voluntary repatriation becomes generally feasible, it may not be appropriate for the entire refugee population, and local integration or resettlement may still be more appropriate durable solutions for certain refugees. Particularly in post-conflict situations, it may take quite some time before peace and order are fully re-established, and administrative and judicial institutions are functioning effectively. In such situations, refugees – especially those who have serious trauma that could worsen upon return to their countries of origin, or who might face particular protection problems in their countries of origin - may be better served by local integration or resettlement. Whichever solution is identified, its success will depend on the various parties concerned working in partnership.

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

Comprehensive Approaches to Durable Solutions

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

Comprehensive approach to durable solutions

Voluntary Repatriation

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

Definition of voluntary repatriation

UNHCR's facilitation or promotion of voluntary repatriation

UNHCR's responsibilities to facilitate or promote voluntary repatriation derive from its Statute. Though the 1951 Convention does not speak directly to voluntary repatriation, its provisions on cessation are relevant.³⁷ The UN General Assembly (GA) has repeatedly affirmed UNHCR's function of promoting/facilitating the voluntary repatriation of refugees and, in recognition of the importance of sustainable return, has widened its mandate to include providing assistance for their rehabilitation and dealing with the consequences of their return. Where peace and reconciliation are durable, UNHCR promotes voluntary repatriation. Under less ideal conditions (e.g. when the sustainability of the peace process is not assured, but refugees are returning on their own), UNHCR may facilitate the return process.

UNHCR has developed a *Handbook on Voluntary Repatriation: International Protection*³⁸ that sets out basic principles, and a *Handbook for Repatriation and Reintegration Activities*³⁹ to guide operations. During a particular voluntary repatriation operation, UNHCR often signs specific agreements with the States concerned that set out the principles and standards of treatment in that operation.

Weighing the Possibilities

Determining when voluntary repatriation is an option

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

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

- verify the voluntary character of refugee repatriation
- promote the creation of conditions that are conducive to voluntary return in safety and with dignity
- **facilitate** the voluntary return of refugees when it is taking place spontaneously, even if conditions are not conducive to return
- disseminate information about the conditions in the country of origin

³⁷ See in particular Articles 1C (4), 1C (5) and 1C (6) of the 1951 Convention. The 1969 OAU Convention does refer explicitly to voluntary repatriation.

³⁸ UNHCR, *Handbook - Voluntary Repatriation: International Protection*, January 1996, Section 2.4, <http://www.unhcr.org/refworld/docid/3ae6b3510.html> issued in 1996 and in the process of being updated.

³⁹ UNHCR, *Handbook for Repatriation and Reintegration Activities*, May 2004, <http://www.unhcr.org/refworld/docid/416bd1194.html>

- create an enabling environment to allow return in physical, legal and material safety and with dignity
- **promote** the voluntary repatriation of refugees once conditions are conducive to return
- organize, in cooperation with NGOs and other agencies, the documentation, transportation and reception of returnees, provided that such arrangements are necessary to protect their interests and well-being
- **monitor** the status of returnees in their country of origin and intervene on their behalf if necessary
- raise funds from the donor community in order to assist governments by providing material and financial support to repatriation and reintegration programmes
- act as a catalyst for medium and long-term rehabilitation assistance provided by NGOs, specialized agencies and bilateral donors, and
- undertake activities in support of national legal and judicial capacity-building to help States address causes of refugee movements.

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

Voluntary

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

Return must be voluntary

Return in Safety and With Dignity

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

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

Definition of the terms "return in safety" and "return with dignity"

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

Physical safety

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

Legal safety

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

Material safety

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

Reintegration

UNHCR generally works toward ensuring sustainable reintegration through short-term emergency or humanitarian relief. The connection between humanitarian assistance and longer-term development work is an important one. UNHCR has therefore sought to coordinate its work with other UN agencies and State development actors to create a smoother transition between relief efforts and development, in part through the “4Rs” approach: repatriation, reintegration, rehabilitation and reconstruction. While UNHCR takes the lead on repatriation-related activities, other UN agencies and the World Bank are closely involved with the initial stages of return. This helps ensure that early efforts are integrated into development agendas, and the needs of returnees are reflected in longer-term plans.⁴⁰

⁴⁰ For more details see UNHCR, *Handbook for Repatriation and Reintegration Activities*, May 2004, <http://www.unhcr.org/refworld/docid/416bd1194.html>

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

UNHCR assistance
for individual
voluntary
repatriation

Local Integration

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

Definition of local
integration

The 1951 Convention envisages a framework for refugee protection that is conducive to local integration in countries of asylum. The logic of the Convention framework is that, with the passage of time, refugees should be able to enjoy a wider range of rights, as their ties with the hosting State grow stronger. In this sense, the 1951 Convention gives refugees a solid basis on which they can progressively reclaim their social and economic independence in order to proceed with their lives. These include the right to freedom of movement, access to the labour market, education, health care and other social services. Furthermore, the 1951 Convention provides for facilitated naturalization procedures in the country of asylum.

The Process of Local Integration

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

- **legal:** refugees are granted a progressively wider range of rights (similar to those enjoyed by citizens) leading eventually to permanent residency and, in some situations, to naturalization
- **economic:** refugees gradually become less dependent on aid from the country of asylum or on humanitarian assistance and become increasingly self-reliant to support themselves and contribute to the local economy
- **social and cultural:** the interaction between refugees and the local community allows refugees to participate in the social life of their new country without fear of discrimination or hostility, while not obliged to abandon their own culture.

Refugees for whom Local Integration may be Particularly Appropriate

Local integration may be particularly appropriate for refugees who have experienced particular trauma in their country of origin, or who have close ties to their country of asylum

Local integration is an important facet of comprehensive strategies to develop solutions to refugee situations, particularly those of a protracted nature. While many refugees may voluntarily repatriate, and some may benefit from resettlement, local integration may be the preferred durable solution for others. Refugees who are unwilling to voluntarily repatriate might include those who have experienced acute trauma in the country of origin, or who have attained a considerable degree of socio-economic integration by establishing, for example, close family, social, cultural and economic links in their country of asylum. Local integration may, for example, be appropriate for refugees who are born in countries of asylum, who have no ties with their parents' country of origin and who for this reason may be, or risk becoming, stateless. This concern has been recognized in ExCom Conclusions.⁴¹ Overall, ethnic, cultural, or linguistic links with the local community can increase the chances of successful local integration.

States with Developed Asylum Systems

Limited and more temporary forms of asylum can delay or undermine the achievement of local integration

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

Constraints and Benefits

There are many constraints which prevent States from ensuring local integration opportunities

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

Benefits to the host country from locally integrated refugees

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

⁴¹ See in particular UNHCR, *Conclusion on Local Integration*, 7 October 2005, No. 104 (LVI) 2005, <http://www.unhcr.org/refworld/docid/4357a91b2.html>



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Resettlement

Resettlement is the transfer of refugees from the country in which they have sought asylum to another State that has agreed to admit them as refugees and to grant them permanent settlement and the opportunity for eventual citizenship.

Defintion of resettlement

Resettlement is one of the three durable solutions UNHCR is mandated to implement, in cooperation with States, as derived from its Statute and set out in subsequent UN General Assembly Resolutions. Resettlement is not a right, and there is no obligation on States to accept refugees through resettlement. Even if their case is submitted to a resettlement State by UNHCR, whether individual refugees will ultimately be resettled depends on the admission criteria of the resettlement State.

Resettlement is not a right

Functions of Resettlement

Resettlement serves three equally important functions:

- **First**, it is a tool to provide international protection and meet the specific needs of individual refugees whose life, liberty, safety, health or other fundamental rights are at risk in the country where they have sought refuge.
- **Second**, it is a durable solution for larger numbers or groups of refugees, alongside the other durable solutions of voluntary repatriation and local integration.
- **Third**, it can be a tangible expression of international solidarity and a responsibility sharing mechanism, allowing States to help share responsibility for refugee protection, and reduce problems impacting the country of asylum.

The functions of resettlement

Resettlement is an important protection tool

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

Resettlement as a durable solution

Resettlement also provides a durable solution for those who may not have immediate protection needs, but who require an end to their refugee situation. These refugees are unable to return home in the foreseeable future, and have no opportunity to establish themselves in their country of refuge. Absence of durable solutions for refugees, particularly in protracted situations, will eventually become a protection concern. Resettling refugees to provide them with a durable solution can be an important component of comprehensive solutions.

Resettlement as a responsibility sharing mechanism and an expression of international solidarity

Resettlement is also an international responsibility sharing mechanism, allowing States to offer protection to refugees outside their territories, and reduce problems impacting the country of first asylum. States are not obliged to accept refugees for resettlement, but rather voluntarily offer resettlement places as a tangible expression of international solidarity.

Strategic use of resettlement

The strategic use of resettlement seeks to maximize the potential benefits of resettlement

States recognize that resettlement – as a burden and responsibility sharing tool – can be used strategically to help open possibilities for self-reliance and local integration. Even where this is not possible, more extended use of resettlement in a particular situation could serve to improve the protection situation generally in the first country of asylum. When considering the role of resettlement in the provision of durable solutions, UNHCR assesses how to maximize the potential benefits from the application of this scarce resource. With the active involvement of States, refugees and civil society, resettlement can open avenues for international responsibility sharing and, in combination with other measures, can open possibilities for self-reliance and local integration. When used strategically, resettlement can bring about positive results that go well beyond those that are usually viewed as a direct resettlement outcome.

Definition of the strategic use of resettlement

The strategic use of resettlement is defined as “the planned use of resettlement in a manner that maximizes the benefits, directly or indirectly, other than those received by the refugee being resettled. Those benefits may accrue to other refugees, the hosting state, other states or the international protection regime in general”.⁴²

The functions and strategic use of resettlement are examined further in Unit 2.

⁴² UNHCR, *The Strategic Use of Resettlement*, 3 June 2003, <http://www.unhcr.org/refworld/docid/41597a824.html>

The Evolution of Resettlement

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

Between the two World Wars, resettlement was used as the principal or partial solution for a number of refugee situations, and when the United Nations replaced the League of Nations in 1945, it established a new body, the International Refugee Organization (IRO) in 1946. By the time the IRO was replaced by the Office of the United Nations High Commissioner for Refugees (UNHCR), international protection was firmly enshrined as the new organization's principal *raison d'être*, and resettlement was a key tool.

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

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

The largest and most dramatic example of resettlement occurred in the aftermath of the Indo-Chinese conflict, when the mass exodus of “boat people” caused a major protection crisis in the region. Confronted with this political and humanitarian crisis, the international community agreed that Vietnamese boat people arriving in first asylum countries in Southeast Asia would be allowed to land, but would then be resettled to other countries. The adoption of this “blanket” resettlement policy safeguarded the concept of first asylum, thereby averting the immediate threat of massive loss of life. However, the situation changed in 1986, when it became clear that the exodus, while retaining a refugee dimension, was increasingly driven by economic factors. The adoption of a *Comprehensive Plan of Action* (CPA) in 1989 addressed the issue in a global and systematic way. In retrospect, the decision in 1979 to adopt blanket resettlement was seen as a major “pull-factor” causing very large numbers of people to leave Viet Nam primarily for economic and social reasons, rather than to seek protection. Meanwhile, elsewhere in the world, refugees in desperate need of resettlement suffered from lack of available places. This led to a widespread sense of disenchantment with resettlement as a solution for large numbers of refugees.

The International Refugee Organization and the origins of UNHCR

UNHCR and resettlement post-WWII

Resettlement during the Cold War

The “boat people” and the Comprehensive Plan of Action

Resettlement in the 1980s and 1990s

Changing attitudes to resettlement, particularly in light of the Vietnamese experience, led to a decline in resettlement places available during the 1980s and 1990s, and a shift in the language used to refer to resettlement. Voluntary repatriation became the preferred durable solution, and resettlement was increasingly focused on individual protection cases. Resettlement numbers dropped significantly. Whereas one in every twenty of UNHCR's global refugee population was resettled in 1979, the ratio fell to less than one in every 400 by 1994. The drop in numbers also reflected the fact that major resettlement countries were focusing their efforts on other refugee groups, or populations in refugee-like situations, and not resettlement cases identified by UNHCR.

Push and pull factors

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

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

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

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

Global Consultations

Global Consultations on International Protection

UNHCR initiated the Global Consultations on International Protection in 2000 to launch broad-ranging discussions on reinvigorating the existing international protection regime while ensuring its flexibility to address the new problems of the 21st century. The Consultations took a broadbased approach that focused not only on the 1951 Convention and its interpretation, but also on issues relevant to asylum and the protection of refugees as a whole. States adopted the Declaration by States Parties to the *1951 Convention and/or its 1967 Protocol*⁴³ at a Ministerial Meeting held in 2001. The Declaration recognized the enduring importance of the

1951 Convention as the primary refugee protection instrument that, as amended by the 1967 Protocol, sets out rights and minimum standards of treatment that apply to persons falling within its scope.

Agenda for Protection

The Global Consultations also led to the adoption of an *Agenda for Protection*, which was subsequently endorsed by ExCom and the General Assembly.⁴⁴ The Agenda for Protection represents the first comprehensive framework for global refugee policy since UNHCR was created, refocusing attention on the search for solutions, as well as the provision of international protection. The Agenda sets out clear goals for strengthening international protection, and practical strategies to supporting solutions that can enable refugees to start a new life with dignity, and bring about an end to their need for international protection.

Agenda for Protection

The Agenda's six main goals are:

1. Strengthening implementation of the 1951 Convention and 1967 Protocol.
2. Protecting refugees within broader migration movements.
3. Sharing burdens and responsibilities more equitably and strengthening capacities to receive and protect refugees.
4. Addressing security-related concerns more effectively.
5. Redoubling the search for durable solutions.
6. Meeting the protection needs of refugee women and children.

Main goals of the Agenda for Protection

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

The Framework for Durable Solutions and Convention Plus

The Global Consultations also had a particular focus on the tools of protection: those presently available to the international community, and those in need of development for better global management of refugee problems. The intention was to make the international response more reliable and effective, as well as to ensure greater equity in the sharing of responsibilities and burdens, notably in the context of mass influxes and mixed migratory flows, and for durable solutions.

Developing tools of protection

The High Commissioner's *Convention Plus* initiative carried this forward with the goal of providing a framework for the adoption of multilateral "special agreements" to complement the 1951 Convention, which are intended to set in place joint arrangements in areas where multilateral commitments are called for, and where they are negotiable.

Convention Plus

⁴³ UNHCR, *Declaration of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, 16 January 2002, HCR/MMSP/2001/09, <http://www.unhcr.org/refworld/docid/3d60f5557.html>

⁴⁴ UNHCR, *Agenda for Protection*, October 2003, Third edition, <http://www.unhcr.org/refworld/docid/4714a1bf2.html>. For an overview of the implementation of the Agenda for Protection, see also UNHCR, *Agenda for Protection: Review and Way Forward*, 48th Standing Committee, EC/61/SC/INF.1, May 2010, <http://www.unhcr.org/4c0527999.html>

Framework for Durable Solutions for Refugees and Persons of Concern

The UNHCR *Framework for Durable Solutions for Refugees and Persons of Concern*⁴⁵ incorporates the idea of close collaboration between the different actors concerned with refugees, including governments, local communities, refugees, UN agencies, national and international NGOs, development agencies and the donor community. It also provides for more international responsibility and burden-sharing by directing broader funding and resources, particularly development funding, to regions where voluntary repatriation or local integration is occurring.

Multilateral Framework of Understandings on Resettlement

Under the Convention Plus initiative UNHCR pursued generic multilateral agreements to tackle three further priority challenges: the strategic use of resettlement; the response to irregular secondary movements; and the targeting of development assistance for durable solutions to forced displacement. Building on the previous efforts of the Working Group on Resettlement as well as the experience of resettlement partners, the *Multilateral Framework of Understandings on Resettlement*⁴⁶ was developed to provide guidance, to be tailored to specific situations, in order to facilitate the strategic use of resettlement.

Addressing Protection Gaps

New trends in displacement

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

Unemployment, social unrest, violence and crime fuel not only local problems, but may well drive more internal and external displacement. These factors are becoming ever more interlinked. In particular, conflict, extreme deprivation and climate change tend to act more and more in combination, a trend that is likely to intensify in the future.

The legal implications of displacement driven by forces other than persecution, human rights violations and war, and the appropriate protection responses to such displacement, are areas of exploration and dialogue for UNHCR.

⁴⁵ UNHCR, *Framework for Durable Solutions for Refugees and Persons of Concern*, 16 September 2003, EC/53/SC/INF.3, <http://www.unhcr.org/refworld/docid/4ae9ac93d.html>

⁴⁶ UNHCR, *Multilateral Framework of Understandings on Resettlement*, 16 September 2004, FORUM/2004/6, <http://www.unhcr.org/refworld/docid/41597d0a4.html>



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10-Point Plan of Action

UNHCR has developed *Refugee Protection and Mixed Migration: A 10- Point Plan of Action*⁴⁷ to assist States in ensuring that refugee protection needs are recognized and properly addressed in situations of mixed migration flows. The Plan of Action is a framework outlining ten areas that are relevant to asylum issues and in which UNHCR could play a role. Partnership with other actors is instrumental to the Plan, as UNHCR has emphasized that it does not consider itself a migration agency. However, the ten points represent key areas where there is a nexus between asylum and migration. Durable solutions, including resettlement, figure prominently as a point in this framework.

Refugee Protection and
Mixed Migration: A 10-
Point Plan of Action

⁴⁷ UNHCR, *Refugee Protection and Mixed Migration: A 10-Point Plan of Action*, January 2007, Rev.1, <http://www.unhcr.org/refworld/docid/45b0c09b2.html>. For examples of initiatives and practical guidance for implementation see UNHCR, *Refugee Protection and Mixed Migration: The 10-Point Plan in action*, February 2011, <http://www.unhcr.org/refworld/docid/4d9430ea2.html>

Urban Refugees

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

- to ensure that cities are recognized as legitimate places for refugees to reside and exercise the rights to which they are entitled; and,
- to maximize the protection space available to urban refugees and the humanitarian organizations that support them.⁴⁸

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

The urban policy also reopens the complex and controversial discussion about the legitimacy of 'secondary' or 'onward' movements for refugees who have not found "effective protection". While ExCom Conclusion 58 stipulates that refugees who have found effective protection in a given country should normally not move on to another state in an irregular manner, and some resettlement states have been hesitant to resettle those who they feel may have moved irregularly, UNHCR acknowledges that the effectiveness of protection must be carefully assessed.

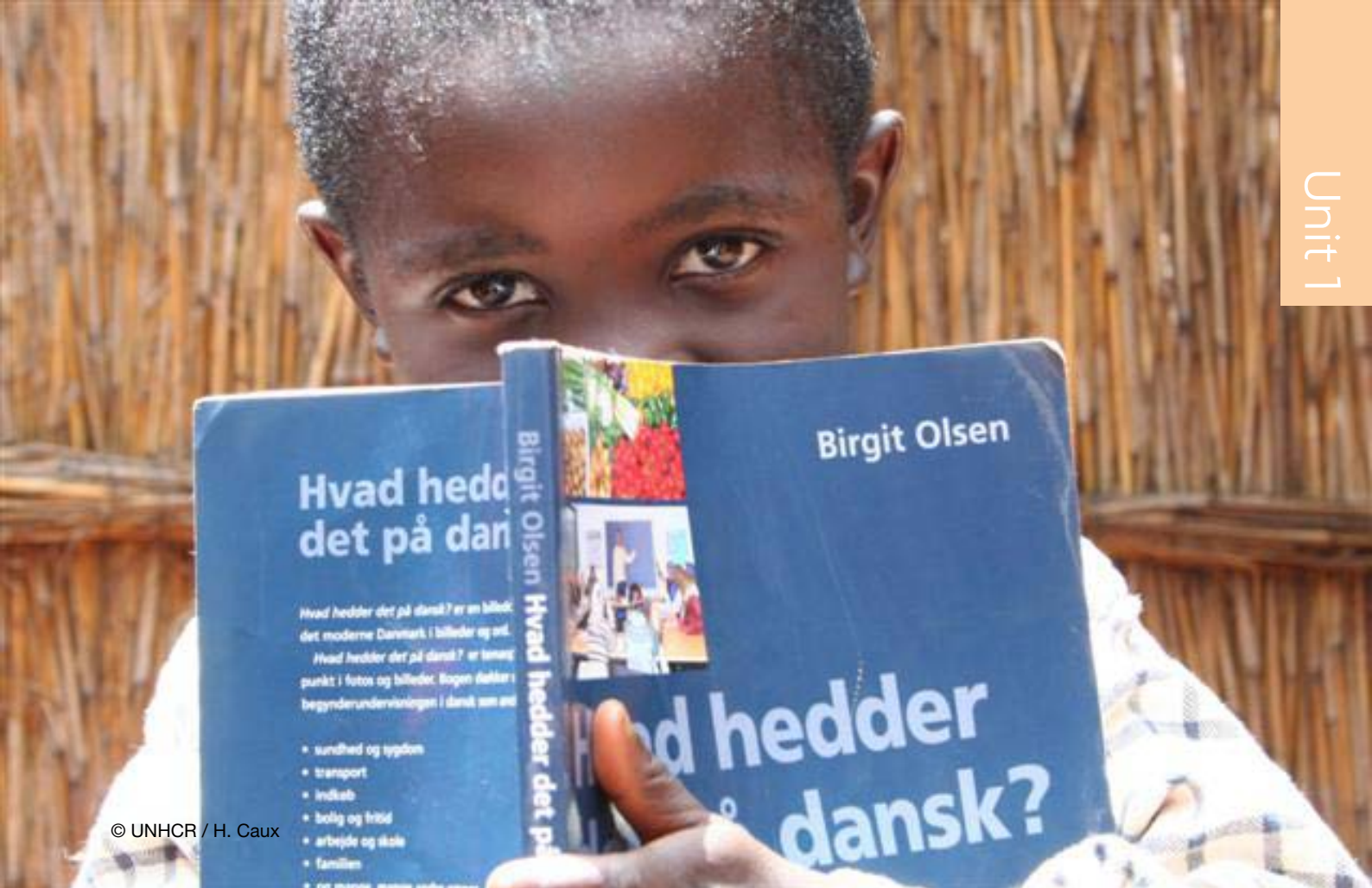
Effective protection:

"A refugee who is unable to live in decent and dignified conditions and who has no real prospect of finding a durable solution in or from their country of asylum within a reasonable timeframe cannot be considered to have found effective protection. When a refugee moves to seek reunification with immediate family members who are not in a position to reunite in that person's country of first asylum, and when a refugee moves as a result of other strong linkages with the country of destination, the onward movement may also be justified."⁴⁹

Ensuring effective and equitable management of resettlement can be a particular challenge in urban settings, in general because refugees may be difficult to identify, and more specifically because the most vulnerable among them are sometimes the least visible and vocal.

⁴⁸ UNHCR, *UNHCR Policy on Refugee Protection and Solutions in Urban Areas*, September 2009, <http://www.unhcr.org/refworld/docid/4ab8e7f2.html>

⁴⁹ *Ibid*, at para 154.



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

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

Current International Protection Environment and Resettlement Challenges

History has shown that when the needs are compelling, and the political will exists, resettlement can be arranged quickly and efficiently. Renewed attention on resettlement has presented both opportunities and challenges.

Resettlement has re-emerged as an important expression of international solidarity and responsibility-sharing to provide refugees with a durable solution, as well as an invaluable tool of protection. As we will review further in the next Unit, there has been considerable expansion of the number of resettlement places available and the number of departures. The number of resettlement countries has grown from the 10 “traditional” countries in the 1980s, to 27 countries that have established resettlement programmes, or have committed themselves to implementing programmes.⁵⁰

Resettlement States worldwide (as of September 2013)

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

* programme to be implemented as from 2014

Gap Between Resettlement Needs and Resettlement Places

However, despite the welcome addition of new resettlement countries, the overall number of resettlement or “quota” places that individual States provide has not kept pace with the number of refugees identified as in need of resettlement, or UNHCR’s enhanced and predictable submission capacity.

For 2013 alone, UNHCR estimated global resettlement needs of 180,676 refugees, leaving a huge gap of vulnerable refugees without a solution after the 86,000 available places are filled.⁵¹ UNHCR and existing resettlement partners continue to explore further opportunities to bridge the gap.

⁵⁰ For more information on current resettlement trends and figures, see the *Resettlement Fact Sheet*, available from the Resettlement page under Durable Solutions on the UNHCR Intranet or *Frequently Asked Questions about Resettlement* from the Resettlement page on the UNHCR web site at <http://www.unhcr.org>

⁵¹ In 2009, 84,657 refugees departed to 24 countries of resettlement, the largest number since the early 1990s. For statistics and needs projections, see UNHCR, *UNHCR Projected Global Resettlement Needs 2013*, June 2012, <http://www.unhcr.org/refworld/docid/4ff149472.html> and subsequent updates.

At a Glance Figures⁵²

	2011	2010	2009	2008	2007	2006	2005
Submissions	91,843*	108,042	128,558	121,214	98,999	54,182	46,260
Departures	61,649	72,914	84,657	65,859	49,868	29,560	38,507
Countries of Asylum**	79	86	94	80	80	88	73
Countries of Origin**	77	71	77	68	65	67	69
Countries of Resettlement***	22	28	24	24	25	20	23

* This figure includes 4,029 individual resubmissions (1,400 cases)

** Based on submissions

*** Based on departures

Although resettlement will be a durable solution for a comparatively small number of refugees, it plays a vital role; particularly for refugees whose life, liberty, safety, health or other fundamental human rights are at risk in the country where they sought asylum. Where local integration is not an option, and voluntary repatriation is not possible in the foreseeable future, resettlement may be the only durable solution available, especially in protracted refugee situations.

For some refugees, resettlement may be the only durable solution available

The possibility of resettlement creates high expectations among many refugees whose status or safety is insecure. Frustrations caused by the lack of resettlement places, action to expose fraud, slow-moving processes, delayed departures or rejected resettlement applications can also put the safety of UNHCR and partner staff in the field at risk. Managing expectations is a critical part of any resettlement operation, and is covered in more detail in Unit 6.

Managing expectations

Shrinking Protection Space, Shrinking Humanitarian Space, Decline in Availability of Durable Solutions

Resettlement must always be considered within the overall protection context, where there are major challenges. The climate for international protection continues to be restrictive in many ways, posing contemporary challenges and impacting the search for durable solutions, including resettlement. During the past decade, the number of internally displaced persons (IDPs) has increased considerably, and there has been no reduction in the overall number of refugees, reflecting a decrease in the availability of durable solutions.⁵³

Resettlement and the overall protection context

⁵² *ibid.*

⁵³ According to the UNHCR, *2010 Global Trends* (p. 5), "The total number of refugees and IDPs under UNHCR's care remained high, standing at 25.2 million by year-end. While the number of refugees increased marginally to 10.55 million, the number of IDPs protected and assisted by UNHCR dropped to 14.7 million. This was the result of a large number of IDPs being able to return during the course of 2010." <http://www.unhcr.org/refworld/docid/4e01b00e2.html>

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

Shrinking humanitarian space

The international humanitarian space itself is also shrinking, as ongoing conflict, insecurity and instability in entire regions in Africa, Asia and the Middle East hinder access to UNHCR’s persons of concern, and endanger those delivering humanitarian assistance.⁵⁴

Protection in Emergencies

New conflicts have erupted in different parts of the world, and persistent conflicts continue to create refugees. In 2011, an estimated 4.3 million people were newly displaced due to conflict or persecution, and significant UNHCR resources were dedicated to providing protection during emergencies. These sudden large-scale influxes have placed an increased burden on UNHCR’s refugee status determination [RSD] and resettlement processes. Volatile situations in major countries of asylum continue to challenge UNHCR processing and State selection. However, conflicts including the Libya crisis in 2011 demonstrated the vital role resettlement can play in response to emergency refugee situations and the need for increased capacity and flexibility among global resettlement partners to respond to emergency situations in a timely manner.

Decline in the Availability of Other Durable Solutions

In many refugees’ countries of origin, successful return and reintegration have been hindered by stalled or failed peace processes, the presence of landmines, insufficient registration, inadequate reception capacity, and shortages of services and livelihood opportunities. As per UNHCR’s 2010 *Global Trends* report, only 197,600 refugees voluntarily returned to their country of origin with UNHCR support in 2010, the lowest figure in more than 20 years.⁵⁵

Host country economic difficulties, coupled with social and political factors, have rendered the realization of full self-sufficiency a challenging prospect in many parts

⁵⁴ For a more detailed discussion of current protection trends, see *UNHCR, Note on International Protection*, 30 June 2010, <http://www.unhcr.org/refworld/docid/4caaeabe2.html> and subsequent annual releases of the Note on International Protection.

⁵⁵ UNHCR, *2010 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons*, June 2011, <http://www.unhcr.org/refworld/docid/4e01b00e2.html>

of the world, although local integration has emerged as a viable solution for some refugees in Africa.⁵⁶ With the lack of voluntary repatriation and local integration opportunities, the need for resettlement is growing.

Concerns Related to Security

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

Fraud in the Processes

Refugee status and resettlement places are valuable commodities, particularly in countries with acute poverty, where the temptation to make money by whatever means is strong. This makes the resettlement process a target for abuse. UNHCR has taken a strong stand to combat fraud and corruption to preserve the integrity of resettlement, and has put in place sanctions for refugees who perpetrate resettlement fraud.⁵⁷ The possibilities for abuse are not, however, a reason for reducing resettlement where the need for it persists.

UNHCR has taken a strong stand to combat fraud and corruption

Managing Resettlement Effectively

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

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

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

Discriminatory State criteria and long processing times can undermine effective protection

⁵⁶ The United Republic of Tanzania naturalized 162,000 Burundians as part of the comprehensive solution to this refugee situation. A further 53,600 Burundian refugees opted to repatriate with the help of UNHCR.

⁵⁷ See UNHCR, *Policy and Procedural Guidelines: Addressing Resettlement Fraud Perpetrated by Refugees*, March 2008, <http://www.unhcr.org/refworld/docid/47d7d7372.html>

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

Concerns Related to Irregular Migration and Mixed Migration

Measures to control migration must include safeguards for refugees and asylum-seekers

Increasing efforts to control irregular migration, including more extensive border monitoring, posting liaison and ‘interdiction’ officers abroad, stricter visa regimes, and carrier sanctions, that have been introduced since the 1980s have indiscriminately impacted not only economic migrants, but also refugees and asylum-seekers. With the options for regular arrival reduced, refugees have increasingly relied on smugglers and traffickers to cross borders. UNHCR has highlighted concerns that measures to control or manage migration should include special safeguards for refugees and asylum-seekers to access territory and asylum procedures.

Increasingly restrictive approaches to asylum, including in the interpretation of the 1951 Convention

The mixed flows of asylum-seekers and migrants have raised concerns about abuse of the asylum system by ‘economic migrants’ and persons not in need of international protection. As economies stagnate, the costs of asylum systems and reception facilities have also raised concerns. Some States have argued that it would be far less expensive for them if refugees stayed in their regions of origin. States have thus increasingly introduced restrictive measures in their asylum procedures, including more restrictive interpretations of the 1951 Convention. In doing so, they have increased the risk of breaches of the 1951 Convention and have decreased the likelihood of refugees being recognized. UNHCR has also raised concerns that such restrictions could force refugees to go underground, foregoing the protection that they should rightly receive.

Resettlement and Integration

Resettlement is a process that does not end with refugees’ transfer to a third State; integration in the country of resettlement is essential to the durability of resettlement. The resettlement country should provide legal status that ensures protection against *refoulement* and provides a resettled refugee and her/his family or dependants with access to civil, political, economic, social and cultural rights similar to those enjoyed by nationals. The resettlement country should also provide access for refugees to become naturalized citizens.⁵⁸

For resettlement to be truly a durable solution, resettled refugees require support to integrate into their new communities. Ensuring that the refugees they resettle integrate effectively remains a major focus for resettlement States, and developing their structural capacity to receive refugees remains a challenge for some of the newer resettlement countries.

⁵⁸ UNHCR Resettlement Handbook, 2011, <http://www.unhcr.org/resettlementhandbook>

Integration is
a two-way process

UNHCR has sought to draw the attention of States to the specific integration needs of resettled refugees, and to encourage integration programmes that focus on a two-way exchange to create welcoming communities and foster positive integration. Negative public attitudes towards persons of concern threaten the protection environment and increase difficulties for UNHCR to secure resettlement places for refugees from certain regions. Racial discrimination and intolerance are common causes of flight which can also put refugees at risk at subsequent stages of the displacement cycle, including during integration into their new resettlement community.⁵⁹

Integrating resettled refugees is beneficial for both the refugees and the receiving State. Resettled refugees become independent and active participants of society through integration. This, in turn, empowers them to make valuable contributions to the host society.

It is therefore crucial for resettlement States to have services in place to assist settlement, such as language and vocational training and other programmes that facilitate access to education and employment. It is also important to provide refugees with cultural orientation and manage their expectations prior to, and after, their arrival in the resettlement country to ease the process of adjustment. It is equally essential to create the possibility of, and support, for family reunification. The success of integration programmes is thus largely dependent on the political will and commitment of the resettlement country and the resources governments allocate to integration programmes.

Because of the importance of integration to resettlement, UNHCR launched an Integration Initiative in 1991. The *Refugee Resettlement: An International Handbook to Guide Reception and Integration* is an important outcome of this initiative. Targeted at programme planners, it gives examples of good practices for managing initial reception, preparing host communities, language training, education, and employment, and addresses issues that planners should consider in order to ensure that the needs of all resettled refugees are taken into account. Resettling refugees requires advance preparation, planning, and long-term commitment. UNHCR has produced a short guide on *The Integration of Resettled Refugees* to provide an overview of the essential elements a State must put in place in order to establish a resettlement programme, and the fundamentals to be developed over the longer-term to ensure that their resettlement programme is sustainable.⁶⁰

Refugee Resettlement:
An International
Handbook to Guide
Reception and
Integration

⁵⁹ UNHCR, *Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance through a Strategic Approach*, IOM/067/2009 – FOM/066/2009, 21 December 2009, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4b30941e2.html>

⁶⁰ UNHCR, *Refugee Resettlement. An International Handbook to Guide Reception and Integration*, September 2002, <http://www.unhcr.org/refworld/docid/405189284.html>, UNHCR, *The Integration of Resettled Refugees: Essentials for Establishing a Resettlement Programme and Fundamentals for Sustainable Resettlement Programmes*, June 2013, <http://www.refworld.org/docid/51b81d9f4.html>

Unit 1 - Resources

Essential Reading

- pp 31-88, UNHCR, *Agenda for Protection*, October 2003, Third edition, <http://www.unhcr.org/refworld/docid/4714a1bf2.html>

Supplementary Reading

- UNHCR, *Progress Report on Resettlement*, 5 June 2012, EC/63/SC/CRP.12, <http://www.unhcr.org/refworld/docid/4ff146382.html>
- UNHCR, *Protection Gaps Framework for Analysis: Enhancing Protection of Refugees*, June 2006, <http://www.unhcr.org/refworld/docid/430328b04.html>

Reference Documents

- Chapter 1 and 2, UNHCR, *UNHCR Resettlement Handbook*, 2011, www.unhcr.org/resettlementhandbook
- UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, A/Res/428(V), <http://www.unhcr.org/refworld/docid/3b00f0715c.html>
- UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, <http://www.unhcr.org/refworld/docid/3be01b964.html>

Unit 2

Resettlement as a Tool for International Protection and a Durable Solution

Learning Objectives

The global policy and operational issues relating to resettlement are addressed in greater depth in this Unit. The Unit introduces the resettlement submission categories, the strategic use of resettlement, the use of resettlement both as a tool of international protection and as a durable solution, and the concept of comprehensive approaches to durable solutions. It also outlines important developments in the global management of resettlement within UNHCR, introduces the role of resettlement States and fora for discussing policy and operational issues relating to resettlement, and presents some key challenges in resettlement that have arisen in recent years.

At the end of this Unit, you should be able to:

- understand and explain in general terms the resettlement submission categories
- describe how resettlement can serve as a tool for international protection, a durable solution and a burden- and responsibility-sharing tool
- recognize how resettlement can be part of a strategic and comprehensive approach
- explain the structural and operational changes UNHCR has undergone at an organizational level with respect to resettlement
- recall how operational planning is undertaken and how to become familiar with current global priorities
- give a general overview on how States approach resettlement
- outline some key challenges to resettlement.

The designated Learning Programme administrator will recommend the time allotment for the completion of this Unit.

Contents

The Use of Resettlement	48
Requirements for Resettlement Submission.....	48
Resettlement as a Tool of International Protection	50
Resettlement as a Durable Solution.....	50
Resettlement as a Demonstration of International Responsibility Sharing	52
Strategic Use of Resettlement	52
Group Resettlement Methodology.....	54
Protracted Refugee Situations	54
 Global Management of Resettlement in UNHCR: Changes and Challenges.....	 56
Structural Developments to Improve Management of Resettlement Activities	57
Global Operational Coordination.....	58
 States, NGOs and Resettlement	 62
Working Group on Resettlement and the Annual Tripartite Consultations on Resettlement	62
Expanding the Community of Resettlement States	65
Expanding the base: a snapshot.....	66
Partnerships with NGOs.....	67
 Resettlement Needs vs. 'Resettleability'.....	 69
More Restrictive Approaches with Respect to Asylum.....	69
Differences in the Definition of a Family	72
Fraud and Other Issues.....	77
 Unit 2 - Resources.....	 76

The Use of Resettlement

Definition of resettlement

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

Even if their case is submitted to a resettlement State by UNHCR, whether individual refugees will ultimately be resettled depends on the admission criteria of the resettlement State. Resettlement is thus, by definition, a voluntary and important burden and responsibility sharing tool. Moreover, the number of refugees who may benefit from resettlement is relatively small¹ in comparison to refugees who may benefit from other durable solutions.

The importance of resettlement as a durable solution and as a tool of international protection has increased considerably in recent years. The profile of resettlement cases is increasingly characterized by new and diverse nationalities, more complex cases originating from situations of armed conflict, generalized violence, serious and systematic violations of human rights or serious disturbances to public order and individuals needing specialized attention and treatment, such as survivors of violence and women and girls at risk. This increasing complexity has generated a number of challenges for UNHCR and resettlement countries, such as how better to identify the people most in need of resettlement, how to ensure global consistency and predictability in resettlement delivery, and how to maintain the capacity to manage resettlement activities.

Requirements for Resettlement Submission

To be submitted for resettlement, individuals or families must:

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

Preconditions for Resettlement Consideration

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

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

¹ In 2011, only 61,649 refugees benefited from resettlement, although about 800,000 were found to be in need of resettlement.

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

Prioritizing among refugees in need of resettlement

Resettlement Submission Categories

LEGAL AND/OR PHYSICAL PROTECTION NEEDS of the refugee in the country of refuge (this includes a threat of refoulement).

Resettlement submission categories

SURVIVORS OF TORTURE AND/OR VIOLENCE, where repatriation or the conditions of asylum could result in further traumatization and/or heightened risk; or where appropriate treatment is not available.

MEDICAL NEEDS, in particular life-saving treatment that is unavailable in the country of refuge.

WOMEN AND GIRLS AT RISK, who have protection problems particular to their gender.

FAMILY REUNIFICATION, when resettlement is the only means to reunite refugee family members who, owing to refugee flight or displacement, are separated by borders or entire continents.

CHILDREN AND ADOLESCENTS AT RISK, where a best interests determination (BID) supports resettlement.

LACK OF FORESEEABLE ALTERNATIVE DURABLE SOLUTIONS, which generally is relevant only when other solutions are not feasible in the foreseeable future, when resettlement can be used strategically, and/or when it can open possibilities for comprehensive solutions.

Resettlement submission priorities and categories will be reviewed in greater detail in the online course "*Identification of Refugees in Need of Resettlement*", which covers Unit 4.

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

The 'universal imperative'

Resettlement as a Tool of International Protection

Effective identification of vulnerable individuals is essential

Resettlement as a tool of protection under UNHCR auspices is geared to the specific needs of refugees under the Office's mandate whose life, liberty, safety, health or other fundamental human rights are at risk in the country where they sought refuge. The use of resettlement as a tool of refugee protection requires effective methods for the early identification of vulnerable or "at-risk" individuals or families within a population of refugees.

The resettlement of groups may also be warranted on international protection grounds

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

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

Resettlement as a Durable Solution

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

Viability of all durable solutions must be assessed

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



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The *Agenda for Protection* provides a useful framework for cooperation among States, NGOs and UNHCR on refugee matters, and has helped UNHCR identify its priorities globally and on a country-by-country basis. Particularly relevant for resettlement is Goal 5, which calls for the expansion of resettlement opportunities, and more efficient use of resettlement both as a protection tool and as a durable solution; and Goal 3, which calls on States and UNHCR to use resettlement more effectively as a tool of responsibility and burden-sharing. The commitments of States to meet their objectives and to collaborate with UNHCR on the overall goals keep the *Agenda for Protection* alive as an important lobbying and advocacy tool.²

As described in Unit 1, the three durable solutions are complementary and any combination of the three may be applied to a given situation.

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

Comprehensive approaches to durable solutions

² See UNHCR, *Agenda for Protection*, October 2003, Third edition, <http://www.unhcr.org/refworld/docid/4714a1bf2.html>

Resettlement as a Demonstration of International Responsibility Sharing

While UNHCR has been mandated to provide international protection and seek durable solutions for refugees, the principal responsibility for providing international protection for refugees lies with States and is in the interest of the entire international community. Respect by States for their international protection responsibilities towards refugees is strengthened through international solidarity, and the refugee protection regime is enhanced through committed international cooperation in a spirit of effective responsibility and burden-sharing among all States.³

Working Group on Resettlement and the Annual Tripartite Consultations on Resettlement

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

Strategic Use of Resettlement

Resettlement may bring about positive results that go beyond those usually viewed as a direct resettlement outcome

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

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

The **strategic use of resettlement** is defined as “the planned use of resettlement in a manner that maximizes the benefits, directly or indirectly, other than those received by the refugee being resettled. Those benefits may accrue to other refugees, the hosting state, other states, or the international protection regime in general”.⁴

Examples of how UNHCR has systematically used resettlement in a strategic manner to enhance protection are outlined in the June 2010 *UNHCR Position Paper on the Strategic Use of Resettlement*.⁵

While strategic use of resettlement as a responsibility-sharing tool can be promoted by a single State, coordination with other resettlement countries and UNHCR is likely to maximize derivative benefits. Such coordination may involve negotiation of mutually agreeable arrangements between the international community and the State of first asylum, possibly requiring a multi-year commitment by the international community, as well as assistance to further local integration or enhance life for refugees in first asylum countries.

The importance of international coordination of resettlement

The 2004 *Multilateral Framework of Understandings on Resettlement*⁶ provides guidance on concluding such agreements, which aim to strengthen the international refugee protection system through a more strategic use of resettlement for the benefit of a greater number of refugees. Specifically, to guide parties to situation-specific multilateral agreements (namely, UNHCR, refugee-hosting countries, resettlement countries, countries of origin, the International Organization for Migration (IOM) and other relevant resettlement partners) in designing comprehensive arrangements which involve multilateral resettlement operations. Under the framework, resettlement countries are also urged to develop selection criteria with the flexibility to resettle persons of concern to UNHCR who may not fall within the terms of the 1951 Convention, which has been particularly important for the group resettlement methodology.

Multilateral Framework of Understandings on Resettlement

⁴ UNHCR, *The Strategic Use of Resettlement*, 3 June 2003, <http://www.unhcr.org/refworld/docid/41597a824.html>

⁵ UNHCR, *Position Paper on the Strategic Use of Resettlement*, 4 June 2010, <http://www.unhcr.org/refworld/docid/4c0d10ac2.html>. For details on priority situations see also UNHCR, *Implementation of the Strategic Use of Resettlement*, September 2011, <http://www.unhcr.org/refworld/docid/4ff147912.html>

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

Group Resettlement Methodology

Group resettlement methodology

These multilateral processes and specific follow-ups on the *Agenda for Protection* goals were quickly integrated into UNHCR work, and continue to support the development of additional tools and collaborative efforts to expand the use of resettlement as a durable solution within comprehensive solutions strategies.⁷

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

Protracted Refugee Situations

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

Definition of a protracted refugee situation

A **protracted refugee situation** is any situation “in which refugees find themselves in a long-lasting and intractable state of limbo. Their lives may not be at risk, but their basic rights and essential economic, social and psychological needs remain unfulfilled after years in exile. A refugee in this situation is often unable to break free from enforced reliance on external assistance.”⁸

⁷ For an overview of the implementation of the Agenda for Protection, see UNHCR, *Agenda for Protection: Review and Way Forward*, 48th Standing Committee, EC/61/SC/INF.1, May 2010, <http://www.unhcr.org/4c0527999.html>

⁸ Definition used in UNHCR, *Protracted Refugee Situations*, Standing Committee to the Executive Committee of the High Commissioner’s Programme, 30th meeting, EC/54/SC/CRP.14, 10 June 2004, <http://www.unhcr.org/refworld/docid/4a54bc00d.html>

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

Over half of the refugees for whom UNHCR is responsible have been living in exile for years, or even decades, without any immediate prospect of finding a solution to their situation. The plight of millions of refugees throughout the world who live in protracted refugee situations is one of UNHCR's and the international community's greatest challenges. The 2009 ExCom *Conclusion on Protracted Refugee Situations* highlighted again that protracted refugee situations may increase the risks to which refugees are exposed. It emphasized the need to redouble international efforts and cooperation to find practical and comprehensive approaches to resolving their plight and to realize durable solutions for them. It called on States and UNHCR to actively pursue the strategic and increased use of resettlement in a spirit of international burden and responsibility sharing. It encouraged States to provide more resettlement places and to explore flexible resettlement criteria, acknowledging that many refugees in protracted situations may face difficulties in articulating a detailed refugee claim.

In December 2008, the High Commissioner's Dialogue on Protection Challenges focused on protracted refugee situations. It examined the many negative consequences they generate, and identified some emerging opportunities for resolving them.⁹ The High Commissioner also launched a *Special Initiative on Protracted Refugee Situations*, which focuses on five situations in different parts of the world where refugees have been living in exile for long periods of time: Afghan refugees in the Islamic Republic of Iran and Pakistan; refugees from Myanmar in Bangladesh; Bosnian and Croatian refugees in Serbia; Burundian refugees in the United Republic of Tanzania; and Eritrean refugees in eastern Sudan.¹⁰ Resettlement was identified as an integral component of durable solutions for three of these situations: the Islamic Republic of Iran and Pakistan, Bangladesh and eastern Sudan.

High Commissioner's Initiative - Five Priority Situations

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

⁹ UNHCR, *Protracted Refugee Situations*, 20 November 2008, UNHCR/DPC/2008/Doc. 02, <http://www.unhcr.org/refworld/docid/492fb92d2.html>

¹⁰ For an overview of the five priority situations, see UNHCR, *Protracted Refugee Situations*. High Commissioner's Initiative, December 2008, <http://www.unhcr.org/refworld/docid/496f041d2.html>

Global Management of Resettlement in UNHCR: Changes and Challenges

The impact of the Global Consultations and the Agenda for Protection on UNHCR's management of resettlement globally

Redoubling the search for durable solutions, including by expanding and making more efficient use of resettlement as called for by the Global Consultations and the Agenda for Protection, required UNHCR to increase its capacity to resettle refugees. The number of resettlement operations increased considerably, and in addition to developing policy guidance, UNHCR has strengthened its operational capacity and management of global resettlement activities. The focus on multi-year planning, improvements in identification, increased capacity for resettlement processing, and the strengthened role of resettlement in comprehensive solutions strategies have all contributed to a significant increase in the identification and submission of persons in need of resettlement.

The considerable increase in the number of resettlement operations makes the effective planning and coordination of resettlement activities within UNHCR, and with resettlement States and other external resettlement partners ever more vital. Resettlement has indeed become a part of the planning and operations of the majority of UNHCR offices throughout the world, though the size of the individual operations differs. In some offices, resettlement is managed through dedicated resettlement staff, while in other smaller operations the protection staff may be responsible for resettlement processing.

Steps in the resettlement process

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

- identification of refugees in need of resettlement as part of the overall protection strategy of the office
- assessment of eligibility and need for resettlement
- preparation of documentation and a Resettlement Registration Form (RRF)
- submission decision, both in terms of resettlement submission categories and priority
- submission of the RRF to a resettlement country
- pre-departure processing
- reception and integration in the resettlement country.

Structural Developments to Improve Management of Resettlement Activities

Changes have been introduced in recent years to reflect the importance of resettlement in UNHCR operations, to improve UNHCR's ability to manage resettlement activities globally, and to increase operational capacity to resettle. These changes, including the focus on multi-year planning, the strengthened role of resettlement in comprehensive solutions strategies and improvements in the identification of persons have resulted in a steady increase of identification and submissions of persons in need of resettlement over the past few years.

In 2006, the Resettlement Section at Headquarters was upgraded to a Service, not only to improve the management of global resettlement activities but also to reflect the important role of resettlement in UNHCR operations.

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

Close coordination between UNHCR Headquarters and field offices is important for policy and operational purposes. UNHCR has established **Regional Resettlement Hubs** to improve coordination and planning in regions where the number of offices involved in resettlement, and the number of refugees resettled, have increased considerably.¹¹ These Regional Resettlement Hubs help manage resettlement submissions on a regional basis and coordinate the implementation of global policies on a regional level, thereby ensuring greater consistency and transparency in the processing of resettlement. In addition, the Regional Resettlement Hubs reinforce the capacities of resettlement operations, a function that is particularly important for smaller country operations.

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

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

Upgrading and establishment of a Resettlement Service

Efforts to ensure greater consistency in the application of resettlement policy and procedures

Establishment of Regional Hubs

Regional Planning Meetings

UNHCR-ICMC Resettlement Deployment Scheme

¹¹ Currently, there are two Regional Resettlement Hubs, also referred to as Regional Support Hubs: Nairobi (Kenya) and Beirut (Lebanon). There are also regional resettlement officers in Almaty (Kazakhstan), Bangkok (Thailand), Dakar (Senegal), Kinshasa (Democratic Republic of the Congo) and Pretoria (South Africa).

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

The International Catholic Migration Commission (ICMC) has administered the deployment scheme since 1998, and has developed new tools to manage the scheme as it grows and changes over time. The deployment scheme is currently an important resource for UNHCR offices, enhancing their capacity to identify, assess, and submit resettlement cases.¹²

Status of the affiliate work force including ICMC deployees and UNVs

Although the formal status of persons working with UNHCR in resettlement may differ, throughout this learning programme the term “staff” includes regular staff members, persons on temporary contracts, consultants, secondees, UN volunteers, experts on mission, deployees and other affiliate workforce members, and staff of implementing partners specifically assigned to work with UNHCR.

Global Operational Coordination

UNHCR has developed new tools and standardized procedures for staff and partners to help the management of resettlement operations. It has streamlined identification and referral procedures, put in place an anti-fraud plan to enhance the credibility and reliability of processing, elaborated specific resettlement training programmes to strengthen staff expertise, increased the resources available for resettlement activities and expanded its partnership arrangements with NGOs. The tools and procedures include, among others: the global *Baseline Standard Operating Procedures* (SOPs), the *proGres* registration database, action to combat fraud, the *Heightened Risk Identification Tool* (HRIT), and the establishment of Emergency Transit Facilities (ETFs).

Baseline Standard Operating Procedures (SOPs) on Resettlement

The **Baseline Standard Operating Procedures on Resettlement**¹³ were developed by the Resettlement Service to ensure global standardization, transparency, and predictability in resettlement delivery, and to reinforce procedural safeguards to mitigate the risk of fraud. The global baseline SOPs set minimum standards against which all operations are measured, while still permitting office-specific procedures adapted to the size of the operation and the local situation. The baseline SOPs were introduced in the second half of 2007, but are continually updated and revised to

¹² More information about the deployment scheme can be found at <http://www.icmc.net>. Similar deployment schemes also exist to enhance the general capacity for protection work (Surge Protection Capacity Project), as well as to support refugee status determination (RSD) operations.

¹³ UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html>

reflect evolving resettlement policy developments. Each resettlement operation is expected to review their field resettlement SOPs against the baseline SOPs on an annual basis.

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

proGres as
a tool to manage
resettlement

Fraud and measures to prevent and address it have become serious concerns for both resettlement States and UNHCR. UNHCR developed a Resettlement Anti-fraud Plan of Action in 2004 in response to past experience of resettlement fraud which threatened the integrity of protection and resettlement activities. The Plan included the formulation of preventive strategies and tools to implement them from registration to resettlement processing; training and awareness-raising of UNHCR staff, implementing partners and refugees; and the development of policies related to the consequences of fraud. Anti-fraud measures have now been incorporated into the standard operating procedures for all resettlement operations. These safeguards reduce fraud, protect refugees from victimization, protect innocent staff from false allegations, and contribute to the overall credibility and effectiveness of UNHCR's resettlement activities.

Combating fraud

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

Heightened Risk
Identification Tool (HRIT)

Pursuant to UNHCR's priority to use resettlement as a protection tool and as part of a comprehensive durable solutions strategy, UNHCR country offices undertake a yearly exercise of proactive planning for resettlement as an integral part of the overall planning process. UNHCR country offices forecast overall refugee resettlement needs for specific populations, as well as refugee resettlement needs for the next calendar year, and UNHCR's capacity to address them. Each office's Comprehensive Needs Assessments should reflect resettlement planning to ensure that resettlement activities do not occur in a vacuum, but rather are coordinated with the work done in other areas of protection.¹⁴

Proactive planning
for resettlement is
part of the annual
Comprehensive Needs
Assessment

¹⁴ UNHCR issues annual instructions and guidelines on planning, reporting and implementation. These instructions are available on the UNHCR Intranet. (Internal)

Each Country Office that identified resettlement as one of the possible durable solutions for its population(s) of concern is requested to analyze total and immediate resettlement needs, protection and durable solutions strategies, and capacities and constraints. Country offices draw on various data sources and follow standard methodologies to reach an estimate of the number of refugees in need of resettlement for the following calendar year in the Country Operations Plan. Although offices are also requested to estimate or project their capacity to process cases within the programme year, the overall resettlement needs are not based on the office capacity, but on the **actual resettlement needs** and, where applicable, involve the strategic use of resettlement.

Annual Projected Global Resettlement Needs document

The information provided is compiled by the Resettlement Service in close consultation with relevant Bureaux and Regional Hubs/Offices into the *UNHCR Projected Global Resettlement Needs* document, which reports on the resettlement needs for each country operation for the following calendar year. This document is the key document for planning the resettlement activities of the Office, as it provides the rationale and scope of UNHCR's resettlement operations worldwide. This document is shared with resettlement countries and NGO partners and serves as the primary reference for dialogue on resettlement needs, priorities and likely gaps and challenges in programme delivery, informing decisions on quota and resource allocations for the following year.

Selection interviews vs. acceptance of cases on a 'dossier' basis

UNHCR encourages all States to be open to accepting resettlement cases on the basis of the review of an applicant's dossier. Dossier decisions allow more flexibility in situations where the cases may not require a selection interview, where logistics and/or physical access to the refugee are problematic, or where urgent decisions are required. Some of the countries who usually prefer to decide resettlement admissions after conducting an interview with refugee applicants are also willing to accept 'dossier' submissions on an ad hoc basis, or specifically for emergency cases.

Planning selection missions

Most states undertake 'selection missions' to interview refugees prior to deciding on their admissibility. These selection missions are planned only after there is a consensus on the proposed annual intake. UNHCR Headquarters and Regional Resettlement Hubs / Regional Offices coordinate the timing and target destinations of global selection missions in consultation with the field. The operational needs of the field must be considered, as selection missions require not only logistical support for the duration of the mission itself, but also enough time to prepare sufficient submissions in advance of the mission. Early planning is crucial for adequate preparation.

Pre and Post-mission Questionnaires for Resettlement Interview Missions

To help further with early planning, UNHCR has introduced a *Pre-mission Questionnaire for Resettlement Interview Missions*¹⁵ for States to complete, which assists Governments and UNHCR field offices with the planning process. A *Post-mission Questionnaire for Resettlement Interview Missions*¹⁶ is also used to allow for an evaluation and further dialogue on issues regarding the mission and to promote continuous improvement by all parties in resettlement delivery.

¹⁵ UN High Commissioner for Refugees, *Pre-Mission Questionnaire for Resettlement Interview Missions*, 5 January 2009, <http://www.unhcr.org/refworld/docid/49631d782.html>

¹⁶ UN High Commissioner for Refugees, *Post-Mission Questionnaire for Resettlement Interview Missions*, 5 January 2009, <http://www.unhcr.org/refworld/docid/49631dcb2.html>

UNHCR advocates for States to provide a larger number of places for emergency and urgent cases to meet identified needs, but only a limited number of places are currently available. There are also real concerns about the timeframes for processing cases identified as requiring immediate emergency resettlement. The average length of time between the submission of emergency cases by UNHCR in 2009, and the departure for resettlement, was approximately 5 months (140 days).¹⁷

Need for additional places for emergency and urgent cases

To increase the capacity for providing protection, at least on a temporary basis, UNHCR has negotiated Emergency Transit Facilities (ETFs) or systems where refugees could be evacuated temporarily until a resettlement State is identified, or until the processing for resettlement is completed.

Two models of temporary transit facilities have been established: an Emergency Transit Centre (ETC) model, as in Romania and the Slovak Republic, that have physical facilities for housing evacuated refugees, and an Emergency Transit Mechanism (ETM) such as that in the Philippines where there is no facility per se and where refugees are accommodated in a variety of types of housing. The term Emergency Transit Facility (ETF) is used to cover both situations.

Emergency Transit Facilities

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

From the formal establishment and operationalization of these Emergency Transit Facilities (ETFs) end of May 2012. 1,400 refugees have been moved to one of the ETFs for resettlement processing.

Refugees in need of resettlement are often located in remote or scattered locations, where access is complicated by safety and security concerns, or visa restrictions imposed by host countries. Access challenges are a particular concern for resettlement countries required by legislation to conduct face-to-face resettlement interviews. In response to these challenges, UNHCR and States are developing the use of video conferencing to conduct resettlement interviews. Although there are challenges and limitations, video conferencing can assist resettlement States to address access issues, respond expeditiously to emergency submissions and expand opportunities for refugees who otherwise would not have been processed for resettlement.

Conducting resettlement interviews by videoconferencing

¹⁷ Data based on total emergency resettlement submissions by UNHCR Headquarters and Regional Hubs to resettlement States offering places on a dossier basis in 2009.

¹⁸ For more information see UNHCR, *Guidance Note on Emergency Transit Facilities: Timisoara, Romania / Manila, Philippines / Humenné, the Slovak Republic*, May 4, 2011, <http://www.unhcr.org/refworld/docid/4dddec3a2.html>

States, NGOs and Resettlement

Resettlement partnership

Resettlement is by definition a partnership activity, and effective collaboration between resettlement partners is essential to be able to offer refugees the opportunity to rebuild their lives in a third country. In the climate of finite resources and increasing resettlement needs, it is vital to optimize cooperation to better address these needs. Collaboration between resettlement partners extends across the resettlement continuum, from identification and referral in the field, to processing, acceptance and travel, and to reception and integration in a third country.

UNHCR continues to improve access to resettlement for refugees by diversifying resettlement activities across operational contexts, enhancing operational standards, and improving the coordination of activities. Strengthening partnerships is not only a policy priority for UNHCR; it is also a protection imperative in order to achieve these goals and facilitate equitable access of refugees to durable solutions.

Regular communications among resettlement partners enhances resettlement delivery

Global consistency and predictability in resettlement delivery is essential. A lack of predictability not only increases uncertainty for States, NGOs, IOM, UNHCR and the refugees concerned, but also makes planning more difficult for resource mobilization and assistance. Regular fora for interaction among the different actors are necessary for exchanging information and discussing policies and operational issues, including the allocation of resettlement places.

Working Group on Resettlement and the Annual Tripartite Consultations on Resettlement

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

A UNHCR evaluation on resettlement activities in 1994¹⁹ highlighted the importance of dialogue and cooperation among all partners involved in resettlement, and called for UNHCR to establish mechanisms of systematic consultation with them. This led to the formation of the Working Group on Resettlement (WGR) in 1995, which is comprised of resettlement States, UNHCR, and international organizations (initially only the International Organization for Migration). The WGR began meeting informally in 1995, and invited NGOs from resettlement States to their first formal meeting, held in October 1995, in recognition of the role of NGOs as partners in action. This was the foundation of the Annual Tripartite Consultations on Resettlement, the first of which was held in June 1996. The Consultations quickly became a valued forum for strengthening partnerships and enhancing a consultative and collaborative approach to resettlement.

¹⁹ UN High Commissioner for Refugees, *Resettlement in the 1990s: A Review of Policy and Practice*, EVAL/RES/14, December 1994, <http://www.unhcr.org/3ae6bcfd4.pdf>



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

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

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

The ATCR and WGR provide important opportunities to discuss responses to populations in need of resettlement

The ATCR and WGR meetings offer resettlement States, NGOs and UNHCR important opportunities to share information on resettlement needs and priorities, address operational issues, develop joint strategies to respond to specific populations in need of resettlement, and build consensus in ExCom for resettlement through many avenues, including establishing new programmes. At these meetings, UNHCR draws attention to populations for whom resettlement is a priority or could be used strategically, and it is here that UNHCR's report on Projected Global Resettlement Needs²⁰ is discussed in detail with partners.

Bilateral meetings

UNHCR usually receives an indication from States – in separate bilateral or smaller multilateral meetings – concerning their anticipated response to specific resettlement needs and the composition of the population and numbers to be resettled in the coming year.

In addition to the ATCR and the WGR, UNHCR holds numerous bilateral meetings with Governments to strengthen joint planning efforts, and to discuss specific needs and issues that arise with particular countries. Such meetings may take place at a regional or national level throughout the year at Headquarters. With new resettlement countries or States accepting refugees on an *ad hoc* basis, UNHCR provides additional support to help them ensure that goals are met and that any challenges are overcome.

Expanding the Community of Resettlement States

Expanding the resettlement base

As introduced in Unit 1, while the number of resettlement States has recently expanded to 27, the overall number of resettlement or "quota" places provided by individual States has not kept pace with the number of refugees identified as in need of resettlement.²¹

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

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

²⁰ The UNHCR *Projected Global Resettlement Needs* reports are produced annually based on the information submitted by each country operation's proactive resettlement planning. These reports are generally for restricted distribution, though a public version is often made available following the ATCR.

²¹ For more information on current resettlement trends and figures, see the *Resettlement Fact Sheet*, available from the Resettlement page under Durable Solutions on the UNHCR Intranet or *Frequently Asked Questions about Resettlement* from the Resettlement page on the UNHCR web site at <http://www.unhcr.org>

The ATCR forum has also played a crucial role in encouraging the expansion of the resettlement and providing support for new resettlement countries. UNHCR and resettlement States have invited and encouraged States that have shown interest in becoming resettlement States, or that have accepted refugees for resettlement on an *ad hoc* basis without formally establishing annual resettlement programmes, to attend the WGR and the ATCR. UNHCR and ATCR members have further encouraged new resettlement States through “twinning” or technical cooperation relationships with established resettlement countries and other capacity-building arrangements. This collaboration also supported two major regional initiatives to encourage more States to participate: the Latin American Solidarity Resettlement Programme and the development of the Joint European Union resettlement programme.

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

Solidarity Resettlement Programme

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

UNHCR, governments and non-governmental actors have been working closely with the European Commission to encourage more European Union Member States to participate in refugee resettlement, and to encourage established European resettlement countries to increase the number of places available. The adoption of the *Joint EU Resettlement Programme* in 2012 is a significant step towards increased cooperation and concrete engagement of European States in resettlement.

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

European Resettlement and the European Refugee Fund

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

Specific quotas and mechanisms for emergency or urgent cases

Within their resettlement quotas, a number of States place emphasis on responding to refugees with specific needs, such as having minimum targets for women at risk or quotas for medical cases. As mentioned, some States also have mechanisms in place to respond to emergency cases, which may include medical cases, but the number of places available is normally quite limited. States may identify additional criteria for resettlement and/or indicate regions and populations they are interested in targeting. However, these are often guided by the needs and priorities indicated by UNHCR.

Expanding the base: a focus on Europe

For 2014, UNHCR estimates:

- 690,915 refugees identified as in need of resettlement globally, and
- 94,113 refugees prioritized for submission in 2014
- 80,000 resettlement places available globally, of which almost 90% are offered by the United States, Australia and Canada alone²²

Efforts to expand the resettlement base have found success in Europe, and as discussed in Unit 1 a number of European Union members have recently made the commitment to regularly resettle refugees. Although the number of resettlement places offered in Europe is still very low, there is an increased focus on resettlement at the EU level, and a number of national and local campaigns active in Europe to advocate for more and better resettlement.

UNHCR has worked closely and strategically with partners ICMC and IOM to strengthen EU resettlement through the development of the European Resettlement Network. The core objectives of the Network are to exchange information, knowledge and best practices among policy makers and practitioners in resettlement and integration of resettled refugees. The network's website, <http://www.resettlement.eu> provides an overview of resettlement in Europe, and a database of good practices. A number of other projects and publications also serve to facilitate the sharing of knowledge and expertise among policy makers at various levels of government, practitioners, and civil society partners.²³

Launched by a coalition of NGOs, the Resettlement Saves Lives Campaign advocates for Europe to provide 20,000 annual resettlement places by the year 2020. Through awareness-raising among the general public and activities at the local and national levels, this campaign also aims to build welcoming communities for resettled refugees.

²² UNHCR *Projected Global Resettlement Needs 2014*.

²³ See www.resettlement.eu for links to current projects, campaigns and resources, including the 2013 update of ICMCs *Welcome to Europe: A comprehensive guide to resettlement*.

Partnerships with NGOs

UNHCR's NGO partners

Non-governmental organizations (NGOs) are the single largest group of UNHCR's partners. They play an essential role in meeting the basic needs of persons of concern to UNHCR.

Implementing partnerships are those in which UNHCR provides financial support to an NGO that performs specific services to help refugees under a formal project agreement, subject to UNHCR financial rules and regulations. Seventy-five per cent of these organizations are local or national organizations.

Operational partnerships involve the voluntary close coordination between UNHCR and NGOs, but not financial support by UNHCR.

NGOs play a significant role in providing resettlement support, both in countries of asylum, and in countries of resettlement. NGO partners are involved in a wide range of operational, outreach and advocacy activities including:

- joint planning and information-sharing
- providing legal assistance and counselling
- disseminating information to refugees and the wider community
- identifying refugees in need of protection interventions, including resettlement
- preparing and referring resettlement cases
- conducting assessments including Best Interests Determinations (BIDs)
- delivering specialized services
- processing and transferring refugees to a resettlement country
- providing cultural orientation sessions to departing refugees
- implementing reception and integration programmes postarrival and
- conducting training and capacity building of local authorities and communities where refugees will be received.

UNHCR continues to strengthen partnerships with NGOs across the continuum of resettlement activities, including through sub-agreements and the deployment of NGO personnel to UNHCR operations.

The specific role and function of NGOs within a country's resettlement programme varies from country to country. In many cases, NGOs provide a liaison function to the refugee, UNHCR, and the receiving Government and community. Some resettlement countries involve NGOs intimately in case preparation and pre-departure processing, as well as reception and integration. Others involve their NGOs in programme planning, selection missions, or dossier screening.

It is often through the work of NGOs and their community volunteers that the public first gets to know about refugees and the work of UNHCR. This aspect of NGO work has a positive impact on fundraising, advocacy for various refugee groups, and public awareness of refugee issues.

Partnerships with NGOs are essential to effective resettlement delivery



UNHCR and NGOs are encouraged to explore creative partnerships, and develop specific activities, projects or programmes to enhance protection and assistance to refugees. To support and encourage strengthened cooperation, UNHCR and NGOs have developed the *UNHCR-NGO Toolkit for Practical Cooperation on Resettlement*.²⁴ This Toolkit also assists in developing consistency and predictability in the way UNHCR offices engage NGO partners in the field of resettlement.

The toolkit is a resource to help UNHCR and non-governmental organizations (NGOs) strengthen their partnership and cooperation on resettlement. It is a collection of tools that provides practical guidance for the UN refugee agency and NGOs to cooperate in various areas: operational activities; community outreach; information sharing, planning and advocacy; and reception and integration. It is also an assemblage of examples of such partnerships in action, both historical and current, to elicit best practices and build on earlier efforts.

²⁴ The Toolkit was developed jointly by UNHCR, Hebrew Immigrant Aid Society (HIAS), and Mapendo International with input from other NGOs and is available at <http://www.unhcr.org/ngotoolkit>

Resettlement Needs vs. 'Resettleability'

To determine the need for resettlement, UNHCR applies globally agreed upon definitions and categories for submission, which have been endorsed by the States themselves through ExCom, to identify refugees for resettlement. The 'universal imperative', i.e. categories being applied consistently from one operation to another to ensure consistency and transparency in the identification of refugees for resettlement consideration, is relevant to this process.

The 'universal imperative'

However, as noted earlier, the groups in need of resettlement do not always match the indicated priorities of States. Matching the preferences (e.g. target populations, profiles) indicated by States with actual resettlement needs is thus often a challenge for UNHCR.

Specific challenges may also arise due to organizational differences of opinion on particular policy issues. Resettlement States often determine the use and allocation of their resettlement capacity based on domestic considerations and constraints, rather than on UNHCR or international standards.

States' general policies on asylum and migration also impact their resettlement policies and criteria. As we saw in the last Unit, States have become increasingly restrictive in this regard, so UNHCR may need to undertake specific lobbying and advocacy efforts on behalf of specific refugee populations. Its challenge in managing the global resettlement programme is to maximize and diversify the places made available for refugees submitted by UNHCR and ensure the predictability of the process, while at the same time being sensitive to the domestic concerns of resettlement countries.

More Restrictive Approaches with Respect to Asylum

In principle, resettlement should be considered only for refugees and their dependent family members. As we saw in Unit 1, however, UNHCR and States may not use the same definition of a refugee. The State concerned may define a refugee in accordance with the 1951 Convention, whereas UNHCR defines refugees more broadly to include persons fleeing serious and indiscriminate threats to life, physical integrity, or freedom resulting from generalized violence or events seriously disturbing public order. Some, but not all, States permit this wider category of persons to be considered for resettlement. Differences therefore arise if States apply the same definition of refugee for resettlement cases as they would for persons of the same or similar profile who arrived spontaneously, which can result in refusals to accept specific cases presented for resettlement by UNHCR.

Status of persons to be resettled

Ability to integrate as an additional criterion

A number of States also add their own criteria to the general resettlement criteria. One issue of concern to States is the refugees' ability to integrate in the resettlement country. Some States thus seek to use indicators of 'integration potential' similar to those applied when considering standard immigration, such as language skills, education, and professional background. Despite the fact that many refugees have integrated and made considerable contributions to their host societies, particularly where they have been given appropriate support, the strict application of such a criterion could prevent refugees without this 'integration potential' from obtaining the protection or durable solution they need. UNHCR has urged States to consider integration issues flexibly, not to penalize refugees who need protection, and to develop effective programmes to address settlement needs. Indeed, as the ATCR underscores, "integration potential" is often largely a measure of the State's capacity to assist with effective integration. Thus, UNHCR, as part of the Integration Initiative with States and NGOs, supported the development of the publication *Refugee Resettlement: An International Handbook to Guide Reception and Integration* to promote good practices.²⁵

Additional informal criteria

States may also impose 'informal' criteria, based on domestic policy considerations rather than strict legislative requirements, when selecting refugees for resettlement. Some States have included limitations on family size, restrictions on age or gender (such as a preference against the elderly for fear of the cost to the community, or against men of a certain age group for fear of a possible threat to public order), and restrictions on certain sensitive national or ethnic groups. These criteria are generally not based on legislation or formal policies and are usually not announced formally, but may nonetheless have an important impact on which cases are accepted for resettlement. Such criteria are sometimes discriminatory, and can considerably reduce the transparency and predictability of the process.

Secondary movements as an additional challenge for resettlement

Some States have also been reluctant to consider resettlement submissions for refugees who moved irregularly to a second or third country of asylum. This is particularly true when the country of asylum is located far from the country of origin and close to the country of resettlement; this suggests that the refugee has a pattern of irregular movement. While States generally have not formalized such restrictions in legislation, some States argue that accepting such refugees will encourage further irregular migration flows.

UNHCR is well aware of the concern that poorly managed resettlement might create a "pull factor"; i.e. encourage the irregular movement of refugees from neighbouring countries, or individuals from their country of origin, in hopes of obtaining resettlement. Where, however, the reason for onward movement is protection-related or necessitated by the lack of any other durable solutions, UNHCR will treat the refugee under normal procedures in terms of resettlement.²⁶

²⁵ UN High Commissioner for Refugees, *Refugee Resettlement. An International Handbook to Guide Reception and Integration*, September 2002. <http://www.unhcr.org/refworld/docid/405189284.html>

²⁶ See also Unit 4 on this issue.

Resettlement vs. spontaneously arriving asylum-seekers

Restrictions related to security concerns at times bar entry and at best cause considerable delays

Concern among States with irregular mixed movements of economic migrants and asylum-seekers has led them to focus increasingly on resettlement as an alternative that permits a managed approach to asylum and migration. States have argued, for example, that more ‘deserving’ refugees can be admitted through resettlement, implying that refugees arriving spontaneously are not necessarily the most deserving or needy. UNHCR has emphasized, however, that resettlement cannot replace access to territory and to fair and effective asylum procedures that conform to international and regional obligations for spontaneously arriving asylum-seekers.

Security concerns have also had an impact on refugee admissions in major resettlement countries by leading these States to impose greater restrictions on asylum admissions. Many States have reduced the number of processing locations and added security clearance checks, both of which have considerably extended the time required for processing and admission. Some States have also instituted stricter legislative and policy requirements for refugees.²⁷

UNHCR is acutely aware of the concerns of States to maintain public security and combat terrorism. These concerns are entirely legitimate and UNHCR understands and shares the desire of States to ensure the integrity of resettlement programmes. A balance must be struck which addresses these concerns while avoiding the erosion of long-standing refugee protection principles.

Some security measures have added delays of months – and even years – to the receipt of resettlement submissions responses. These delays have increased the uncertainty for UNHCR about whether a solution will be available in a particular country or whether another solution should be sought. Planning becomes very difficult in this context, especially where the need for resettlement is urgent and the repercussions may be particularly serious. Where resettlement is part of a comprehensive and/or strategic approach, such delays can also reduce the impetus to open other avenues or to improve asylum conditions in the first host country.

²⁷ Most of these requirements have been related to concerns about terrorism, the definition of which has been broadly interpreted in many contexts. For example, the US *Patriot Act 2001* and the *Real ID Act 2005* bar entry for individuals who have past or current associations with organizations deemed to be “terrorist” or who may have committed or planned to commit ‘terrorist’ activities, including providing financial or in kind material support, including minimal assistance. The government has discretion as to whether it will exempt an individual who provided such support under duress or a group of persons supporting an identified organization.

Within the European Union, the *European Union Qualification Directive* allows States to determine whether a recognized refugee poses a threat to national security before issuing a residence permit. In Germany, the *Act to Combat Terrorism 2002* and the *Anti-Terrorism Supplement 2007* permit authorities to deny residence permits to foreigners who have participated in or supported terrorism, and the *Residence Act of 30 July 2004* (as amended March 2005) provides for their expulsion and deportation. In the United Kingdom, the *Anti-Terrorism, Crime and Security Act of 2001* grants the Home Secretary the authority to certify a non-citizen as a suspected “international terrorist” if the Home Secretary believes that this person’s presence in the UK threatens national security and suspects that this person is a terrorist.

Differences in the Definition of a Family

The definition of refugee is not the only area where UNHCR and resettlement States may differ. A difference in the way family is defined by UNHCR and by resettlement States has also given rise to challenges, both in the context of initial resettlement and subsequent family reunification.

Derivative status

Normally, when a refugee is recognized, his or her accompanying family members are each granted what is called ‘derivative status’; that is, because they are with the principal applicant in the same country, they are deemed to be refugees who derive their status from the main claimant. This approach is meant to protect the right to family unity and to protect family members who may be at risk of persecution based on their link to the principal claimant. In principle, however, family members who also individually meet the eligibility criteria for refugee status should be recognized as such based on their individual protection needs, particularly if there is a possibility that adult members of the family might be submitted for resettlement as separate linked cases.

Note: When preparing a Resettlement Registration Form (RRF), although it may not have been necessary to conduct an individual RSD for each accompanying family members, it is important to include in the RRF a paragraph articulating each adult’s flight history and need for resettlement.

Derivative status, or separate refugee status, may not be granted to all family members because of their personal status; for example, if the accompanying family members are citizens of the host country or another country, they will not automatically be given derivative status. Nevertheless, and even in such cases, however, UNHCR may intervene with resettlement as at least one member of the family is considered to be a refugee.

No universally agreed definition of a family

Effecting resettlement on family reunification grounds can be challenging, however, as UNHCR’s definition of family for the purposes of resettlement is more inclusive than that used by many resettlement States. There is not one universally agreed definition as to what constitutes a family; in some cases determined by cultural factors, or as a result of bonds formed during the refugee experience, the concept of ‘family’ for many refugees may not correlate to narrow interpretations of a nuclear family (husband, wife and minor children), but rather more broadly may include extended family members or non-blood relatives with whom close economic and emotional bonds are shared. In particular, same-sex unions should be accorded equal rights, such as derivative status and inclusion in the resettlement submission, as common-law (heterosexual) partnerships. UNHCR promotes a path of cultural sensitivity combined with a pragmatic approach as the best course of action in the process of determining the parameters of a given refugee family.

UNHCR’s definition of a family

Dependent persons should be understood as persons who depend substantially and directly on any other person, in particular because of economic reasons, but also taking social or emotional dependency into consideration.”²⁸

²⁸ UNHCR *Resettlement Handbook* (2011), chapter 7.4.1.



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Dependency should be assumed when a person is under the age of 18, which is the age of majority provided under the 1989 *Convention on the Rights of the Child* (CRC), and that person presumably relies on others for financial and family support. Dependency should also be recognized if a person has a disability and/or is unable to support him/herself regardless of age. The principle of dependency allows for operational flexibility to address specific needs for family members other than those of the nuclear family. Consideration should be given to financial, physical, and emotional elements, as well as to the protection needs of other relatives that must be kept as part of the same family unit.

UNHCR Offices have a responsibility, as part of their mandate, to protect refugees and to promote and facilitate the reunification of refugee families. This means they should assist family members of a recognized refugee to join her or him in the country of asylum. This applies whether or not the family members are still in their country of origin. UNHCR's assistance and support may be requested by the family member(s), by the refugee, and/or by the UNHCR Office where the refugee or her or his family is living. Assistance may involve:

- helping refugees or their family members submit official applications for family reunification and/or for entry or exit permission, in accordance with UNHCR guidelines to protect the integrity of the process, and/or
- assisting the refugee in applying for resettlement based upon family reunification.

In this context, the concept of family is to be interpreted broadly, and is to include family members who are economically and/or emotionally dependent upon the refugee.

UNHCR's family reunification challenges increase if family members are not located in the same country. Some States may impose additional restrictions with regard to the age or marital status of children, or they may impose the same conditions on

Status of family members and possible restrictions on family reunification

refugee family reunification as on regular migrants (such as requiring them to show sufficient income, adequate housing, etc.).

UNHCR is also concerned with the status and type of permit that refugees receive once in the country of asylum or country of resettlement. In principle, family members should be able to enjoy the same protection, or refugee status, as the main applicant. UNHCR also believes that refugee family reunification cases should not be subject to the same restrictions that are applied to other migrants, as refugees do not have the option to reunite elsewhere with their families.

Polygamous marriages

Interviewing polygamous²⁹ families for resettlement requires careful consideration of the social and legal challenges posed by their marital status, and the protection needs that could arise from the separation necessitated by resettlement processing. *UNHCR's Resettlement Assessment Tool: Polygamous Families*³⁰ provides guidance on the procedures to be followed when considering whether resettlement is an appropriate solution for polygamous families.

Most resettlement countries accept only one wife in view of their own national legislation forbidding polygamy, and in the context of resettling polygamous families, children risk being separated from either their biological mother or father. In principle, UNHCR should avoid a situation where one wife is chosen over the others in order for a man and his chosen family members to be submitted to a resettlement State, thereby putting the unity of the polygamous family at risk.

However, there are circumstances where refugees in polygamous families present protection needs or vulnerabilities, which warrant resettlement consideration. Given specific and serious social and legal protection challenges that resettlement of refugees in polygamous families would entail, additional considerations and procedural safeguards are required when assessing the resettlement needs of refugees in polygamous families.

UNHCR may consider the submission of **all** members of a polygamous family for resettlement in cases where:

- a member of a polygamous family has a **resettlement need**, and is eligible for submission under a resettlement category, and
- the principle of family unity and physical, financial, psychological and/or emotional dependency dictate that the **entire family must be resettled together**.

Submitting the family together, even if split into separate cases, helps to maintain family unity and to ensure that wives not legally recognized by resettlement States (and their children) do not become more vulnerable to protection risks by being left behind in the country of asylum. The willingness of a resettlement State to accept such submissions must be confirmed early in the process.

²⁹ The term 'polygamy' includes both polygyny (in which a man has multiple wives) and polyandry (in which a woman has multiple husbands).

³⁰ UNHCR, *Resettlement Assessment Tool: Polygamous Families*, June 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4dc7a9032.html>

Whereas UNHCR recognizes that States have an interest in ensuring proper and accurate identification of family relationships, and in combating fraud to ensure that effective family reunion processes are preserved, UNHCR is concerned about the implications for privacy and family unity of increasing State reliance on DNA testing.

The *UNHCR Note on DNA Testing to Establish Family Relationships in the Refugee Context*³¹ provides guidance on “(i) the general issue of how DNA testing is to be conducted so as to safeguard dignity and human rights; and (ii) safeguarding of applicable principles of family unity where DNA testing is conducted to verify family links.”

UNHCR promotes a **rights and dignity-based approach** to DNA testing. In general, DNA testing should only be used to verify family relationships where, after all other proof of relationships has been examined, serious doubts remain; or where DNA testing is the only recourse available to prove or disprove fraud. Moreover, in recognition of complex familial compositions that are often formed in the refugee context, negative DNA results should not be the sole determinative factor in establishing family relationships.

For these reasons, clear criteria should be established by States in regard to the circumstances in which DNA is required. Persons being tested must be given appropriate counselling, both pre- and post-testing, to ensure that they fully understand the purposes of the testing, their rights in the process, and the use of the test results. Testing must only take place after full and informed consent is given, and proper procedures must be followed in the collection, transmission and retention of DNA material and data to ensure confidentiality.

Fraud and Other Issues

Fraud and measures to prevent and address it have become serious concerns for both resettlement States and UNHCR. UNHCR developed a *Resettlement Anti-fraud Plan of Action* in 2004 in response to past experience of resettlement fraud which threatened the integrity of protection and resettlement activities. The Plan included the formulation of preventive strategies and tools to implement them from registration to resettlement processing; training and awareness-raising of UNHCR staff, implementing partners and refugees; and the development of policies related to the consequences of fraud. Anti-fraud measures have now been incorporated into the standard operating procedures for all resettlement operations. These safeguards reduce fraud, protect refugees from victimization, protect innocent staff from false allegations, and contribute to the overall credibility and effectiveness of UNHCR’s resettlement activities.

A number of the safeguards which have been introduced to help reduce the possibility of fraud and abuse will be discussed in the following Units. We will explore fraud, and measures to prevent it, in greater detail in Unit 6.

³¹ UNHCR, *UNHCR Note on DNA Testing to Establish Family Relationships in the Refugee Context*, June 2008, <http://www.unhcr.org/refworld/docid/48620c2d2.html>

Unit 2 - Resources

Essential Reading:

- UNHCR, *Multilateral Framework of Understandings on Resettlement*, 16 September 2004, FORUM/2004/6, <http://www.unhcr.org/refworld/docid/41597d0a4.html>
- UNHCR, *Position Paper on the Strategic Use of Resettlement*, 4 June 2010, <http://www.unhcr.org/refworld/docid/4c0d10ac2.html>
- UNHCR, *Discussion Paper: Implementation of the Strategic Use of Resettlement*, October 2011, <http://www.unhcr.org/refworld/docid/4ff147912.html>

Supplementary Reading:

- UNHCR, *UNHCR Projected Global Resettlement Needs 2014*, June 2013, <http://www.unhcr.org/51e3eabf9.html>
- UNHCR, *Updated Fact Sheets on Priority Situations for the Strategic Use of Resettlement*, ATCR June 2013, restricted distribution, available from the UNHCR Intranet (under Resettlement/ATCR)

Reference Documents:

- Chapters 2, 6 and 8, UNHCR, *UNHCR Resettlement Handbook*, 2011, www.unhcr.org/resettlementhandbook

Unit 3

Refugee Status Determination

Learning Objectives

As we saw in the last Unit, recognition as a refugee, with very few exceptions, is a pre-condition for resettlement consideration.¹ In addition, the Resettlement Registration Form (RRF) requires a credible and convincing explanation of why UNHCR considers an applicant to be a refugee. Although protection or eligibility staff normally provide these explanations, it is useful for resettlement staff to have a good understanding of the basics of Refugee Status Determination (RSD). Understanding in greater detail what makes someone a refugee will also help you identify areas which you may wish to clarify in the resettlement interview.

At the end of this Unit, you should be able to:

- explain who is eligible for refugee status and key elements of the refugee criteria
- appreciate what is required to examine credibility and prepare a well-supported credibility assessment
- understand the characteristics of a good legal analysis of eligibility for refugee status, and recognize whether there are any gaps
- confirm whether any exclusion considerations have been identified and addressed.

The designated Learning Programme administrator will recommend the time allotment for the completion of this Unit.

¹ The few exceptions to the precondition of refugee recognition are non-refugee stateless persons, and certain dependent non-refugee family members of refugees. In the family context, including in cases of family reunification under resettlement provisions, it suffices that one family member has been determined to be a refugee under UNHCR's mandate.

Contents

Refugee Status Determination and Resettlement.....	80
Recognizing a Quality RSD Assessment.....	84
The Role of Country-of-Origin Information (COI) in Establishing Well-Founded Fear of Persecution.....	84
Assessment of the Claim and Report-Writing.....	85
The Legal Analysis	86
Who is a Refugee?.....	88
Refugee Status Determination under UNHCR's Mandate	88
The Refugee Definition of the 1951 Convention	91
1951 Convention Grounds – the 'Nexus' Requirement.....	94
Eligibility under the Broader Refugee Definition.....	98
The Application of the Exclusion Clauses of Article 1F.....	99
Applying the Exclusion Clauses of Article 1F.....	100
Framework for Analysis.....	103
The Application of the Framework for Analysis to a Case Study	107
Case Study.....	107
Analysis of the Case Study: Inclusion	109
Analysis of the Case Study: Exclusion.....	110
Exclusion and Resettlement.....	117
The Importance of Exclusion in the Context of Resettlement.....	117
States' Heightened Interest in the Issue of Exclusion.....	118
UNHCR's Responsibility with Regard to Exclusion in the Context of Resettlement	119
Standard Operating Procedures Relating to Resettlement Submissions in Cases where Exclusion is Triggered	121
Unit 3 - Resources.....	122

Refugee Status Determination and Resettlement

Situations where UNHCR may undertake RSD under its mandate

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

The assessment as to who is a refugee, i.e. the determination of refugee status under the 1951 Convention and the 1967 Protocol, is incumbent upon the Contracting State to which the asylum-seeker submits an application for refugee status. States therefore have the primary responsibility for determining the status of individuals who arrive on their territory, and in particular for determining whether an individual is a Convention Refugee entitled to international protection.

However, UNHCR may also under certain circumstances conduct refugee status determination (RSD) under its mandate to determine whether a specific individual or group of individuals fall within the criteria for international refugee protection. UNHCR's authority to conduct RSD derives from its Statute² as developed and refined by subsequent UN General Assembly and ECOSOC resolutions. In addition, UNHCR has specific responsibilities in relation to other persons of concern.³ Recognition under UNHCR's mandate is a vital protection function and, in certain circumstances, a precondition to implementing durable solutions, including resettlement. The situations where UNHCR conducts refugee status determination include:

Situations where UNHCR conducts refugee status determination

- in States that are not party to the 1951 Convention or the 1967 Protocol
- in States that are party to the 1951 Convention or the 1967 Protocol but have not established asylum procedures
- in States that are party to the 1951 Convention but retain the geographic limitation thereby denying some access to their asylum procedures and
- where UNHCR has assessed serious shortcomings in the State's asylum procedure such that refugees are unlikely to obtain the protection they need, either because they are not recognized, or because recognition does not entail the protection it should.

² UNHCR's Statute was adopted by the UN General Assembly in 1950 as an annex to Resolution 428 (V) of 14 December 1950.

³ Besides asylum-seekers and refugees, "persons of concern to UNHCR" also include returnees, stateless persons and, under certain circumstances, internally displaced persons.

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

In both signatory and non-signatory States, UNHCR may examine individual eligibility for refugee status for the sole purpose of implementing resettlement as a durable solution. This is often undertaken where refugee status has been recognized on a *prima facie* basis. For example, the widespread violence associated with the conflict in Iraq triggered massive flight. UNHCR's RSD operations in several countries in the region adopted procedures under which asylum-seekers from south and central Iraq were recognized on a *prima facie* basis, following a more detailed registration (enhanced registration) to identify immediate protection needs as well as possible exclusion triggers.

Eligibility
examination for
Resettlement only

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

Mandate refugee status
and resettlement

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

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

Substantiating a
prima facie recognition

Therefore **it may be sufficient for UNHCR offices in their resettlement submissions to simply substantiate the *prima facie* recognition** rather than elaborate individual basis for eligibility for refugee status, provided the refugee cases do not show evident exclusion elements/triggers. For this purpose, the 1951 Convention ground(s) relevant for the group recognition on a *prima facie* basis, and the supporting country of origin information could be referred to in standard paragraphs included with the submission.

In other contexts resettlement submissions regarding refugees recognized on a *prima facie* basis will require an individual examination to reaffirm refugee status and to document in greater detail the basis of the refugee status recognition. This examination, however, does not represent individualized refugee status determination. The procedures to reaffirm individual elements of the claim of *prima facie* recognized refugees will differ from the formal refugee status determination process. Nevertheless the substantive/doctrinal principles and due process

guarantees that apply to the examination of eligibility for refugee status are also relevant in resettlement interviews to draw out and elaborate the individual elements of the claim for refugees recognized on a *prima facie* basis.

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

Separation of RSD from resettlement as a safeguard

Refugee status determination should not normally be undertaken by resettlement staff, but rather by protection or eligibility staff, partially as an additional safeguard against fraud and abuse. However, resettlement staff are responsible for ensuring that Resettlement Registration Forms (RRFs) are accurate and of a high standard in respect to the refugee(s) concerned. Understanding what constitutes a quality assessment of refugee status is imperative, as it allows resettlement staff to follow up properly with protection or eligibility staff whenever any doubts or questions arise.

Importance of an inclusive interpretation of the 1951 Convention definition of a refugee

Refugee Status Determination is seldom a straightforward exercise. In refugee claims, the applicant has the burden of establishing the veracity of his/her allegations and the accuracy of the facts on which the refugee claim is based. Yet, in the majority of cases, the applicant will not be able to substantiate all of his/her statements. The duty to ascertain and evaluate all the relevant facts is shared between the applicant and the decision maker. By their nature, the facts that are relevant to refugee claims are often impossible to prove with certainty. The eligibility officer must decide if, based on the evidence provided, including known information about the country of origin, as well as the applicant's statements, it is likely that the claim is credible. The challenge for eligibility officers is enormous, and the RSD decisions reached have profound implications for human lives. It is therefore essential that eligibility officers have the proper knowledge and skills.

The definition of 'refugee' set out in the 1951 Convention and its 1967 Protocol, as well as the broader definition encompassed in UNHCR's mandate and in some regional instruments, set out the legal requirements for an individual to be considered a refugee. The "inclusion criteria" in these definitions must be considered together with the "exclusion clauses", which set out the circumstances under which a person who meets the inclusion criteria may, nonetheless, be ineligible for refugee status.

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

It is important to remember that, even in situations of generalized violence, or events seriously disturbing public order, targeted persecution may occur against groups of people based on specific traits such as ethnicity or political affiliation. In situations of armed conflict, many individuals may have a well-founded fear of harm for reasons set out in the 1951 refugee definition. In such cases, a link to a 1951 Convention criterion can and should be made.

Refugees who do not meet the 1951 Convention are not automatically excluded from submission for resettlement if this is the most appropriate durable solution. However, as noted above, as many States do not accept obligations towards refugees who do not meet the 1951 Convention criteria, the prospects for resettlement are, in reality, very often more limited for refugees recognized by UNHCR or States under one of the broader refugee definitions.

A quality assessment of refugee status should include the accepted facts of the claim and a detailed legal analysis of how each of the criteria are met, together with supporting documentation where available. Any exclusion considerations should also be explored. For resettlement purposes, if there are no factors that raise possible exclusion considerations, this should be clearly noted.

A quality assessment includes a well-argued legal analysis, including any exclusion considerations

Making these assessments requires a detailed understanding of each specific criterion of the refugee definition, the exclusion provisions, as well as standards of proof and the basis on which a credibility evaluation should be made. ***The Handbook on Procedures and Criteria for Determining Refugee Status Under the 1951 Convention and 1967 Protocol Relating to the Status of Refugees***⁴ remains one of the most authoritative texts on the interpretation and application of the 1951 Convention inclusion criteria, and has been complemented by more detailed guidance in the series of ***Guidelines on International Protection*** (“GIP”) and ***Other guidance notes*** on specific eligibility issues. See the essential reading section of this chapter for a list of the GIP and other guidance notes.

Tools for understanding the refugee definition: the *Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection*

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

⁴ UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, December 2011, <http://www.refworld.org/docid/4f33c8d92.html>

Recognizing a Quality RSD Assessment

The Role of Country-of-Origin Information (COI) in Establishing Well-Founded Fear of Persecution

Relevant and up-to-date country-of-origin information is crucial

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

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

- to ask pertinent questions and to help elicit the asylum-seeker's story;
- to identify and clarify any apparent contradictions or inconsistencies as the interview progresses;
- to assess the reliability of statements and other information provided by the applicant and any witnesses and establish the relevant facts.
- to assess the risk of future harm for the applicant if returned to the country of origin/habitual residence.

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

Absence of information should not in itself justify a negative eligibility decision

The mere absence of information, moreover, or one's inability to find information that supports an applicant's claim, should not in itself justify a negative eligibility decision, where the applicant's statements are coherent and plausible and do not contradict generally known facts .

Country-of-Origin Information Sources

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

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

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

Both the source and the information should be carefully evaluated

Assessment of the Claim and Report-Writing

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

A quality RSD assessment is both well-organized and comprehensive

The **RSD ASSESSMENT** should include a:

1. **SUMMARY OF THE CLAIM**
2. **CREDIBILITY ASSESSMENT**, which should identify evidence that was not accepted or was regarded to be insufficient in relation to each material element of the claim and provide an explanation for this finding. The facts relating to a material element accepted as true will form the basis of the legal analysis.
3. **STATEMENT OF THE FACTS** which are considered established.
4. **LEGAL ANALYSIS** of whether the accepted facts bring the applicant within the refugee criteria; this should examine first eligibility under the 1951 Convention, and if these criteria is not met, it should proceed to examine whether the applicant falls within the broader refugee protection criteria; the legal analysis also includes an assessment of the availability of an internal flight or relocation alternative.
5. **ASSESSMENT** of whether exclusion issues may apply, and an examination of the relevant issues where potential exclusion grounds are identified.
6. **RECOMMENDATION** on whether or not the applicant should be recognized.

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

The UNHCR **RSD ASSESSMENT FORM** has been developed to provide a standard structure for the analysis of the main elements of the decision. The form is designed to assist eligibility officers to establish the relevant facts and address the relevant issues.

A poor-quality Assessment can result in the case being delayed for resettlement or returned for an additional RSD Assessment

We have already mentioned the close link existing between the refugee status determination process and the resettlement process. In the preparation of the RSD Assessment the link is all the more evident as, in many UNHCR Offices, resettlement referrals are carried out on the basis of the RSD Assessment. The quality of the information and analysis contained in the RSD Assessment, therefore, will directly affect the speed and the effectiveness with which resettlement is implemented.

RSD Assessments that are not well-organized and well-written inevitably result in the delay of the case for resettlement. For example, some substantial inconsistencies may arise at the moment of the resettlement interview and this may result in the case's referral back to the RSD decision maker for clarifications. Under certain circumstances, this delay may be critical to the refugees who have an urgent protection need.

The Legal Analysis

The legal analysis of a refugee claim is a step-by-step process, breaking the analysis down into its individual elements, examining each part systematically

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

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

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

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

It is important to avoid including elements of subjectivity in the RSD process

The Importance of a Well-Supported RSD Assessment

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

The quality and comprehensiveness of the RSD Assessment will also have an important bearing on the quality of resettlement referrals.

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

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

The organization and quality of information provided in the RSD Assessment, the language and tone used to present it, and its quality and comprehensiveness have an important bearing on the quality – and success – of resettlement referrals

Who is a Refugee?

Refugee Status Determination under UNHCR's Mandate

Understanding the definition of 'refugee' as set forth in the various legal instruments is crucial

In the words of a renowned expert on international refugee law, the purpose of defining who is a refugee is *"to facilitate, and justify, aid and protection."*⁵ The term "protection" also, of course, encompasses finding a durable solution.

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

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

Definition of refugee according to the 1951 Convention

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

Individuals meeting the criteria of the 1951 Convention are referred to as "Convention refugees" or refugees with "Convention status"

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

II) Refugees under the Broader Refugee Definition

The definition of 'refugee' under UNHCR's broader international mandate extends UNHCR's protection responsibilities

UNHCR's mandate to protect refugees also extends to persons who are found not to be in need of international protection under the 1951 Convention, but who are nevertheless affected by the indiscriminate effects of armed conflict or other "man-made disasters", including, for example, foreign domination, intervention, occupation or colonialism. In addition to individuals who meet the criteria in the 1951 Convention definition, UNHCR recognizes as refugees those who are:

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

⁵ See G.S. Goodwin-Gill, *The Refugee in International Law*, 2nd edition, 1996, Oxford University Press, p. 4.



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

Individuals falling within UNHCR’s extended mandate are referred to as “Mandate refugees”

Refugee Definitions in Regional Instruments

1969 OAU Convention Governing Specific Aspects of the Refugee Problems in Africa (the “OAU Convention”) – Article 1⁶

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

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

Definition of ‘refugee’ according to the 1969 OAU Convention

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

Definition of 'refugee' according to the 1984 Cartagena Declaration

1984 Cartagena Declaration – Conclusion No. 3⁷

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

In most cases where eligibility under the broader refugee definition is relevant, UNHCR offices will have received direction from Headquarters regarding the characterization of events in the region concerned and the impact that these events are deemed to be having upon the populations affected. This is usually provided through **eligibility guidelines**, which are prepared to promote a common understanding of the objective country conditions, and a harmonized approach to the status determination of individuals from the countries concerned.⁸

How does UNHCR Determine Refugee Status?

Importance of an inclusive interpretation of the 1951 Convention definition of a refugee

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

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

Determining whether an applicant falls within the eligibility criteria under the 1951 Convention may, in practice, provide a more secure status than recognition as a refugee under UNHCR's extended mandate. States (particularly those who are not bound by relevant regional refugee instruments) may not necessarily accept any obligation towards those who do not fall within the 1951 Convention criteria, and it is therefore often more difficult for UNHCR to ensure international protection or to find durable solutions in such cases.

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

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

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

⁸ See for example UNHCR, *UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia*, 5 May 2010, HCR/EG/SOM/10/1, <http://www.unhcr.org/refworld/docid/4be3b9142.html>

The Refugee Definition of the 1951 Convention

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

Inclusion criteria

Outside the Country of Nationality or Habitual Residence

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

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

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

The first inclusion criterion is to be outside one's country of nationality or habitual residence. Although UNHCR is involved with internally displaced persons (IDPs) in various capacities, these individuals remain, in principle, under the protection of their respective State.

Well-Founded Fear

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

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

The applicant's fear can be considered well-founded if there is a **reasonable possibility** that he/she would face some form of harm or predicament if returned

to the country of origin or habitual residence. In general, eligibility for refugee protection under the 1951 Convention requires a current or future fear of persecution. The applicant must not necessarily have suffered persecution in the past, but if it is established that this has happened, it may normally be assumed that there continues to be a risk of persecution in the future.

Persecution

The notion of persecution infers a threat to life or physical freedom, or other serious violations of human rights

The concept of “persecution” is not defined in the 1951 Convention or in any other international instrument. From Article 33 of the 1951 Convention it can be inferred that a **threat to life or physical freedom** constitutes persecution, as would other **serious violations of human rights**, as well as other kinds of serious harm or intolerable predicament. Persecution is therefore not limited to human rights abuses, as it also encompasses other kinds of **serious harm or intolerable predicament**.

Primary human rights law instruments include the 1948 *Universal Declaration of Human Rights*, the 1966 *International Covenants on Civil and Political Rights*, and on *Economic Social and Cultural Rights*

The preamble to the 1951 Convention refers to international human rights standards, which all persons, regardless of their nationality, enjoy. The 1948 ***Universal Declaration of Human Rights*** (UDHR)⁹ set out a list of fundamental rights which should be universally respected. The 1966 *International Covenants on Civil and Political Rights* (ICCPR),¹⁰ and on *Economic, Social and Cultural Rights* (ICESCR)¹¹ codified these rights in legally-binding form. A series of other human rights instruments have built on and developed these standards to address specific categories of rights.

Certain other rights may be limited by States under certain circumstances

When determining whether particular acts amount to persecution, decision makers should keep in mind that under international human rights instruments, States may never legitimately restrict certain fundamental rights. Referred to as “non-derogable”; these rights include the right to be protected against arbitrary deprivation of life, torture, cruel punishment or treatment, slavery, retroactive penal laws, the right to be recognized as a person before the law, and the right to freedom of thought, conscience and religion.¹² Their violation would normally constitute persecution. The enjoyment of other rights (known as “derogable”) may be limited during times of an officially-proclaimed national emergency, but only to an extent which is strictly necessary and proportionate, and without any element of discrimination. Derogable rights include the right to be protected against arbitrary arrest, the right of all accused to a fair trial, the protection of privacy and integrity of the individual and the family, the rights of children.¹³ Moreover, with regard to certain rights and freedoms, human rights law recognizes that restrictions may be warranted under certain circumstances, including for the purposes of national

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

¹⁰ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, <http://www.unhcr.org/refworld/docid/3ae6b3aa0.html>

¹¹ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, <http://www.unhcr.org/refworld/docid/3ae6b36c0.html>

¹² ICCPR Articles 6, 7, 7, 8, 15, 16, and 18(2) respectively.

¹³ ICCPR Articles 9-10, 14, 17, 22, 25, and 25 respectively.

security or public safety, public order, and the protection of the rights and freedoms of others. Restrictions may thus be placed on freedom of movement, the right to manifest one's religion and beliefs, to freedom of opinion and expression, and to freedom of association and assembly.¹⁴ The ICCPR, in particular, permits the limitation of a number of rights on grounds specifically spelled out in the relevant provisions.

Other rights do not create immediately binding obligations in terms of their realization but require States to work progressively towards their objectives. This is the case for economic, social and cultural rights. However, even where States are not able immediately to extend these to all citizens, they may not discriminate between groups in society with regard to access to these rights. These include the right to work, adequate food, clothing, housing, medical care, social security, primary education, or participation in cultural, scientific, literary or artistic life.¹⁵

Threshold of Persecution

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

Discrimination amounting to persecution

When assessing whether a particular treatment or measures amount to persecution, decision makers consider them in light of the **specific individual circumstances of the applicant**. The same act may affect people differently depending on their previous history, profile and vulnerability.

Circumstances not Amounting to Persecution

Certain circumstances do not amount to persecution. Thus, for example, persons who fear natural disasters are not refugees, unless they also have a well-founded fear of persecution for one of the reasons set out in the 1951 Convention definition (discussed below). Likewise, persons who leave their countries solely to improve their economic situation are not refugees, although as noted above, severe economic restrictions which deprive a person of all means of earning a livelihood can amount to persecution.

¹⁴ ICCPR Articles 12, 18(3), 19, and 21-22 respectively.

¹⁵ ICESCR Articles 6, 11, 11, 11, 12, 9, 13, and 15 respectively.

Who is the Persecutor?

Persecution may be perpetrated by the State through its official agents or its instigation or acquiescence, or by individuals or groups where the State is either unwilling or unable to provide protection

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

1951 Convention Grounds – the ‘Nexus’ Requirement

Persecution must be linked to one of the five grounds mentioned in the 1951 Convention, namely race, religion, nationality, political opinion, or membership in a particular social group

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

In practice, more than one Convention ground may apply, for example if a member of a particular religious or ethnic group is also a political opponent. The link between the fear of persecution and the relevant 1951 Convention ground is also present where the authorities mistakenly impute a particular belief (e.g. religion or political opinion) or attribute a characteristic (e.g. homosexual) to the individual concerned. Neutrality may also form the basis of a refugee claim, for example in the context of a civil war, as a person who remains neutral in such circumstances may be perceived by either side as a political opponent, which in turn may result in his/her persecution.

Gender-related claims may fall within any of the five grounds. The UNHCR Guidelines on Gender-Related Persecution provide further guidance

The UNHCR *Guidelines on Gender-Related Persecution* provide detailed guidance on examining gender-related claims in light of the five grounds contained in the 1951 Convention.¹⁶ The Guidelines emphasize that gender-related claims may fall within any of the five grounds. Examination of these claims should not therefore be limited to the ground of “membership of a particular social group”. The challenge for decision makers in this respect is to understand the way in which gender fits into each of the five grounds. When analyzing gender-related claims, for example, there is a need to consider that certain acts and situations affecting women, that often appear purely private and personal, may in reality be *profoundly political* and should therefore be considered under the ground “political opinion”.

¹⁶ UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01, <http://www.unhcr.org/refworld/docid/3d36f1c64.html>

Claims of children should also be considered in light of the 1951 Convention grounds. In particular, it is important to note that children may also have political opinions, though these may be manifested differently from the opinions of adult men and women in the society. In this particular respect, it is important to note that children may not have a subjective fear (because of their age and lack of maturity). This, however, would not impact upon their need for protection provided that the objective element of fear is present.¹⁷

Race

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

Persecution on account of race often overlaps with other 1951 Convention grounds, such as nationality, religion or (imputed) political opinion.

Religion¹⁸

As noted above, freedom of religion is a fundamental human right. It includes the right to have or not to have a religion, to practice one’s religion, and to change religions. “Religion” as a 1951 Convention ground refers not only to the established institutionalized religions; it covers any system of belief – that is, convictions or values about a divine or ultimate reality, or the spiritual destiny of mankind.

Claims for refugee status on this basis may involve elements related to religious belief (or the fact of not having a belief), religious identity or religion as a way of life. Examples of persecution for reason of religion include the following:

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

Understanding the underlying social context is crucial, for example in the case of ‘mixed’ marriages

Claims for refugee status on the basis of religion may be related to elements of religious belief (or their absence), religious identity or religion as a way of life

¹⁷ For detailed guidance on examining the claims of child applicants, read UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08: <http://www.unhcr.org/refworld/docid/4b2f4f6d2.html>

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

Nationality

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

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

Membership of a Particular Social Group¹⁹

A ‘particular social group’ within the meaning of the 1951 Convention shares a common characteristic which is innate, unchangeable, and otherwise fundamental to identity, conscience or the exercise of human rights, or is perceived as a group by society

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

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

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

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

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

¹⁹ A detailed analysis of the applicability of this Convention ground is contained in UN High Commissioner for Refugees, *Guidelines on International Protection No. 2: “Membership of a Particular Social Group” Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/02, <http://www.unhcr.org/refworld/docid/3d36f23f4.html>. See also UN High Commissioner for Refugees, *Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, October 2012, <http://www.refworld.org/docid/50348afc2.html>

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

Gender as a factor in the determination of the claim

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

Political Opinion

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

Political opinions upon which a claim for refugee status is based go beyond identification with a specific political party or recognized ideology

Availability of State Protection

The final clause of the 1951 Convention refugee definition states that a refugee is a person who is unable or (owing to a well-founded fear of persecution) unwilling to avail him/herself of the protection of the country of nationality or habitual residence. Being **unable** to avail oneself of the protection of the country implies circumstances that are beyond the control of the person concerned. For instance, a country may be unable to extend proper protection in a state of war, civil war, or other grave disturbance. Being **unwilling** to avail oneself of the protection of the country of nationality or habitual residence implies that the person refuses to accept the protection of that country due to his/her well-founded fear of persecution.

As individuals should normally be afforded the protection of their State, international protection is extended to those individuals unwilling or unable to avail themselves of State protection.

As noted above, claims based on a fear of persecution by groups or individuals who are not part of the State apparatus require an assessment of whether the State is both able **and** willing to protect the individual concerned. If this is the case, the applicant’s fear may not be well-founded.

Persecution by groups or individuals who are non-state actors

If the applicant’s fear of persecution emanates from non-State actors and is confined to a specific part of the country, outside of which the feared harm cannot materialize, it may be appropriate to assess whether he/she would have a possibility of finding protection elsewhere in the country of origin. This is known as the “internal flight or relocation alternative” (IFA/IRA). The assessment of a potential IFA/IRA

Internal flight or relocation alternative (IFA/IRA)

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

requires that a specific area be identified where there is no risk of persecution and where the applicant could reasonably be expected to establish him/herself and lead a normal life. Where an IFA/IRA is available, he/she would not be considered to be eligible for international refugee protection. Guidance on this subject can be found in UNHCR's *Guidelines on International Protection: "Internal Flight or Relocation Alternative"*.²¹

Eligibility under the Broader Refugee Definition

Individuals fleeing generalized violence or events seriously disturbing public order may be eligible for mandate refugee status

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

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

The basis for the claim is a serious threat to the applicant's life, and physical integrity or freedom

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

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

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

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

The application of the Exclusion Clauses of Article 1F

Article 1F²² provides that the 1951 Convention “shall not apply to any person with respect to whom there are serious reasons for considering that:

- he [or she] has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- he [or she] has committed a serious non-political crime outside the country of refuge prior to his [or her] admission to that country as a refugee;
- he [or she] has been guilty of acts contrary to the purposes and principles of the United Nations.”

Article 1F of the 1951 Convention sets out the conditions by which an individual may be found undeserving of international protection.

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

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

²² Please note that the 1951 Convention also provides for exclusion from refugee status of certain categories of persons who are not in need of international protection, either because they are receiving protection or assistance from organs or agencies of the UN other than UNHCR (Article 1[D]), or because they are currently recognised by the competent authorities of the country in which they have taken residence as having the rights and obligations attached to the possession of the nationality of that country (Article 1[E]). Guidance on the application of these exclusion clauses can be found in UN High Commissioner for Refugees, *Note on the Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees*, 2 October 2002, <http://www.unhcr.org/refworld/docid/3da192be4.html>; and UN High Commissioner for Refugees, *UNHCR Note on the Interpretation of Article 1E of the 1951 Convention relating to the Status of Refugees*, March 2009, <http://www.unhcr.org/refworld/docid/49c3a3d12.html>, respectively.

Please note that the *Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees* of 4 September 2003 and its *Background Note on the Application of the Exclusion Clauses* are the fundamental UNHCR policy documents setting out the legal principles and standards governing the application of the exclusion clauses.²³ The Background Note on Exclusion should also be considered the main reference throughout this portion of the Unit. The procedural safeguards which should be observed in exclusion proceedings are set out in UNHCR's *Procedural Standards for Refugee Status Determination under UNHCR's Mandate* of November 2003, at § 4.8.²⁴ All UNHCR staff involved in interviewing, decision making and/or reviewing RSD decisions should be familiar with these documents.

The integrity of the institution of asylum depends on the proper application of Article 1F

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

Applying the Exclusion Clauses of Article 1F

Inclusion Before Exclusion

Each individual RSD Assessment should address the question of whether or not exclusion considerations arise

In principle, inclusion should be considered before exclusion, so as to allow the decision maker to examine both the reasons justifying refugee status and the factors related to exclusion in a holistic manner.²⁵

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

²³ UN High Commissioner for Refugees, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees* (hereinafter "Guidelines on Exclusion"), 4 September 2003, HCR/GIP/03/05, <http://www.unhcr.org/refworld/docid/3f5857684.html> and UN High Commissioner for Refugees, *Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees* (hereinafter "Background Note on Exclusion"), 4 September 2003, <http://www.unhcr.org/refworld/docid/3f5857d24.html>.

²⁴ UN High Commissioner for Refugees, *Procedural Standards for Refugee Status Determination Under UNHCR's Mandate* (hereinafter "RSD Procedural Standards"), 20 November 2003, <http://www.unhcr.org/refworld/docid/42d66dd84.html>.

²⁵ However, as noted in UNHCR's Guidelines on Exclusion, exclusion may be exceptionally considered without particular reference to inclusion issues (i) where there is an indictment by an international criminal tribunal; (ii) in cases where there is apparent and readily available evidence pointing strongly towards the applicant's involvement in particularly serious crimes, notably in prominent Article 1F (c) cases; and (iii) at the appeal stage in cases where exclusion is the question at issue.

Standard and Burden of Proof

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

The information which links an individual with acts within the scope of Article 1F must be evaluated carefully in light of all relevant circumstances, including its nature, content and source.

The burden of proof with regard to exclusion lies, in principle, on the decision maker. In other words, the State or UNHCR must show that there are indeed “serious reasons for considering” that the person concerned comes within the scope of Article 1F. This always requires an individualized assessment of the applicant’s conduct, including where he/she was a member of a repressive regime or a group that commits or advocates violent crimes, or if he or she took part in an armed conflict in the past.²⁶

Where exclusion considerations are raised by an indictment or conviction by a national court, it is necessary to determine whether the person concerned is fleeing persecution or seeking to escape legitimate prosecution. This is especially relevant in cases where criminal proceedings are under way before a court in the person’s country of origin.²⁷

Procedural Safeguards

Given the exceptional nature and potentially severe consequences of exclusion for the individual, procedural safeguards are particularly important in exclusion cases. These include, in particular, the need for a full RSD interview and the right of the individual concerned to respond to information which may form the basis for an exclusion decision.²⁸ Procedural fairness also requires that the excluded person be given a possibility to submit an appeal, which should be examined by a person or organ different from the one involved in adjudicating and/or reviewing the first-instance decision.

²⁶ Further guidance on the standard and burden of proof in cases involving exclusion under Article 1F of the 1951 Convention can be found in UNHCR’s *Background Note on Exclusion Clauses*: <http://www.unhcr.org/refworld/docid/3f5857d24.html>, at paras. 105-111.

²⁷ By contrast, indictments by an international criminal tribunal would generally meet the “serious reasons for considering” standard required under Article 1F. For further guidance on this point, see UNHCR, *Background Note on Exclusion*, at para. 106.

²⁸ The applicant’s right to full disclosure of relevant information may be limited only in certain exceptional situations, where this is necessary (generally to protect the security of UNHCR staff or a witness or other source of information). Guidance on the circumstances in which this may be relevant, and on appropriate UNHCR procedures, can be found in the *RSD Procedural Standards*, at § 4.8.2 and § 6.2.

As opposed to the “reasonable possibility” standard of inclusion, exclusion requires the threshold of “serious reasons for considering” that the individual committed or participated in the commission of excludable acts

Indictments or convictions by national courts may constitute a means of persecution and must be examined carefully

Procedural fairness requires a full RSD interview to be conducted, and the individual has a right both to respond to any information which may justify exclusion, and to appeal the decision

Non-cooperation is not sufficient to exclude an asylum-seeker unless the 'serious reasons' standard is met

UNHCR is not meant to conduct a criminal trial, nor is the UNHCR's role that of a judge

Non-Cooperation

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

Exclusion at the Eligibility Stage, Cancellation and Revocation of Refugee Status

The need for an individualized examination of all aspects of a person's claim applies at any stage

Cancellation of refugee status

Revocation of refugee status

UNHCR's protection responsibilities do not extend to persons who come within the scope of the exclusion clauses of the 1951 Convention.²⁹

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

- In the course of **individual RSD procedures** at the initial eligibility stage, where exclusion considerations are examined as part of the determination of eligibility for international refugee protection.
- Where exclusion issues arise for individuals who are part of a group considered eligible for **refugee status recognition on a *prima facie* basis**, for example in the context of a mass influx. Such persons undergo full individual RSD.
- Where exclusion issues that were not previously considered arise during other processes, including a resettlement interview. Such persons must undergo a full exclusion assessment before their cases can be submitted for resettlement.
- In proceedings with a view to the possible **cancellation** of refugee status. Cancellation means a decision to invalidate refugee status which should not have been granted in the first place, either because the person concerned did not meet the inclusion criteria, or because an exclusion clause should have been applied to him or her at the time of the initial determination.
- Through the **revocation** of refugee status, which means the withdrawal of refugee status from a person who was properly recognized as a refugee but engages in conduct within the scope of the exclusion clauses contained in Article 1F (a) or (c) of the 1951 Convention after recognition.³⁰

²⁹ UNHCR's 1950 Statute contains, in paragraphs 7(b), (c) and (d), exclusion provisions which are similar to Articles 1D, 1E and 1F of the 1951 Convention. The refugee definition set out in the 1951 Convention constitutes the later and more specific expression of the refugee concept evolving at the time of the drafting of both definitions. For this reason, the exclusion clauses in the 1951 Convention take precedence over those contained in the 1950 Statute, and UNHCR staff should apply the criteria set out in Articles 1D, 1E and 1F of the 1951 Convention when determining whether an individual is excluded from mandate refugee status.

³⁰ Guidance on the cancellation and revocation of mandate refugee status can be found in UNHCR, *Guidelines on the Cancellation of Mandate Refugee Status* (Internal), 22 November 2004: <http://swigea56.hcrnet.ch/refworld/docid/41dd6eb84.html>, and (external) UNHCR: *Note on the Cancellation of Refugee Status*, 22 November 2004, <http://www.unhcr.org/refworld/docid/41a5dfd94.html>

Framework for Analysis

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

How do we assess the applicability of Article 1F on Exclusion to individual cases? Below you will find a Framework for Analysis which sets out a step-by-step approach and lists the issues that need to be considered when examining the exclusion clauses in the course of RSD procedures. Please note that the Framework for Analysis follows the structure of Part V (Exclusion) of the RSD Assessment Form. In keeping with the principle that inclusion should be considered before exclusion, the exclusion analysis should be conducted after it has been determined that the individual concerned meets the inclusion criteria set out in Article 1A(2).

If exclusion considerations are triggered (Step 1), it is necessary to examine, in sequence:

- Step 2 - whether the acts in question come within the scope of Article 1F(a), (b) or (c), and if so,
- Step 3 - whether the person's conduct and state of mind with regard to these acts give rise to individual criminal responsibility, and if this is the case,
- Step 4 - whether the seriousness of the act committed outweighs the consequences of exclusion from refugee status for the individual concerned (proportionality assessment).

Step 1: Exclusion Triggers

IS ARTICLE 1F TRIGGERED?

(Question V-1 of the RSD Assessment Form)

- Is there any reliable information indicating that the applicant may have been associated with acts that could bring him/her within the application of the exclusion clauses in Article 1F(a), (b) or (c) of the 1951 Convention?

Step 2: Identifying the Acts

The second step – identifying the acts – requires decision makers to assess the relevant facts in light of the legal criteria set out in Article 1F (a), (b) and/or (c). Article 1F contains an exhaustive list of the acts which may give rise to exclusion from international refugee protection on the grounds that the person concerned is undeserving of such protection. Only those acts which fall within one or more of its clauses, because they constitute (a) crimes against peace, war crimes, crimes against humanity, (b) serious non-political crimes, and/or (c) acts contrary to the purposes and principles of the United Nations, may lead to exclusion under this provision.³¹

WHAT ACTS, IF ANY, MAY BRING THE APPLICANT WITHIN THE SCOPE OF ARTICLE 1F?

(Questions V-2, V-3 and V-4 of the RSD Assessment Form)

- Identify the acts and qualify them in light of the criteria of Article 1F(a), (b) and/or (c)
- Establish whether there is credible and reliable information linking the applicant to acts within the scope of Article 1F

Step 3: Individual Responsibility

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

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

³¹ Detailed guidance on the types of acts which may give rise to exclusion under Article 1F of the 1951 Convention can be found in UNHCR's *Background Note on Exclusion Clauses*, <http://www.unhcr.org/refworld/docid/3f5857d24.html>, at paras. 26-49.

It is also necessary to examine whether the applicant has a valid defence, that is, if there are circumstances exempting him or her from liability for the crime(s) he or she committed or participated in. A defence may apply, for example, if the applicant acted under duress resulting from an imminent, serious threat against him or herself or another person, or in self-defence. As part of a comprehensive exclusion analysis, decision makers should examine the possible existence of circumstances which would negate individual responsibility, even if this has not been raised by the applicant.³²

BASIS FOR INDIVIDUAL RESPONSIBILITY

(Question V-5 of the RSD Assessment Form)

Is there credible and reliable information to establish that:

- the applicant committed the act(s) in question or participated in the commission of excludable acts by others or failed to prevent the commission of such acts?
- the applicant's conduct meets the requirements as to the mental element (*mens rea*), i.e. intent (with regard to conduct or consequences) and knowledge (with regard to circumstances or consequences)?

GROUND FOR REJECTING INDIVIDUAL RESPONSIBILITY

(Question V-6 of the RSD Assessment Form)

Do(es) any of the following apply to negate the applicant's individual responsibility:

- Lack of mental element (e.g. due to insanity, mental handicap, involuntary intoxication, lack of mental capacity). This element will be considered when evaluating the requirements of *mens rea*;
- Defences (e.g. superior orders, duress/coercion, self-defence);
- Expiation (e.g. sentence purged, amnesty or pardon).

Step 4: Proportionality Assessment

If there are serious reasons for considering that the applicant is individually responsible for acts within the scope of Article 1F, the final step in the exclusion analysis consists of assessing whether exclusion would be in keeping with the general legal principle of proportionality. Decision makers must weigh the seriousness of the crime(s) in question against the potential consequences of exclusion for the individual concerned, that is, the treatment which the applicant is likely to face, if he/she were to be excluded. The existence or otherwise of effective protection mechanisms under international or regional human rights instruments is an important factor in this regard.³³

³² Detailed guidance on how to determine individual responsibility in the context of exclusion under Article 1F of the 1951 Convention can be found in UNHCR's *Background Note on Exclusion Clauses*: <http://www.unhcr.org/refworld/docid/3f5857d24.html>, at paras. 50-75 and 91-93.

³³ Detailed guidance on the proportionality assessment in the context of exclusion under Article 1F of the 1951 Convention can be found in UNHCR's *Background Note on Exclusion Clauses*: <http://www.unhcr.org/refworld/docid/3f5857d24.html>, at paras. 76-78.

(Question V-7 of the RSD Assessment Form)

- Does the seriousness of the crime(s) in question outweigh the consequences of exclusion for the individual?

Consequences of exclusion

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

However, the fact that a person has been excluded from refugee status does not affect his/her entitlement to the enjoyment of other rights and benefits that are to be afforded under relevant human rights instruments or national legislation.³⁴

The revised *Procedural Standards for Refugee Status Determination under UNHCR's Mandate*³⁵ set out the UNHCR Headquarters review approval process for exclusion, revocation, cancellation and cessation decisions taken by the field.

Exclusion and family unity

If the principal applicant is excluded, the situation of his/her family members or dependants must be determined on an individual basis. They will qualify for refugee status if it is established that they have a well-founded fear of persecution linked to a 1951 Convention ground in their own right, even if the fear of persecution derives from the relationship with the excluded person. Family members and/or dependants of excludable persons can only be excluded if they themselves are found individually responsible for excludable acts falling within the scope of Article 1F.

The excluded person him/herself cannot, however, obtain derivative refugee status – that is, recognition as a refugee on family unity grounds and based on the refugee status granted to one of his/her family members.³⁶

³⁴ Further guidance on the consequences of exclusion under Article 1F can be found in UNHCR's *Background Note on Exclusion Clauses*, paras. 21-22, <http://www.unhcr.org/refworld/docid/3f5857d24.html>

³⁵ UNHCR, *IOM/019/2010 - FOM/019/2010 Revision of Procedural Standards for Refugee Status Determination under UNHCR's Mandate: Headquarters review of exclusion, revocation, cancellation and cessation decisions*, 12 April 2010, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4bc44e912.html>

³⁶ Further guidance on family unity and exclusion can be found in UNHCR's *Background Note on Exclusion Clauses*, paras. 94-95, <http://www.unhcr.org/refworld/docid/3f5857d24.html>

The Application of the Framework for Analysis to a Case Study

The following case study may serve to illustrate how this Framework for Analysis helps structure the assessment of an individual case in which exclusion considerations are raised.

Case Study

The UNHCR Office in Country A was approached by Mr. K.M., a 34-year-old member of a religious and ethnic minority in Country B, who requested recognition as a refugee. During the first interview with an eligibility officer, Mr. K.M. provided the following account:

“Members of my ethnic group are restricted from many kinds of employment and are not allowed to practise their religion. My children are prohibited from going to local schools. Despite my many academic qualifications, I am unemployed. I was dismissed three times by my employers, after it became known that I belonged to the religious and ethnic minority. I was arrested twice for participating in public protests against the government's treatment of my minority group. On each of these occasions, I was detained for one week and was severely tortured during detention.

Out of exasperation, I decided to join a clandestine organization whose goal was to improve overall conditions for my ethnic group and to achieve greater autonomy within our region. After a few years, the organization dissolved, and all its members managed to flee to another country. Many members of the ethnic and religious minority, including my family and our neighbours, fled to Country A, out of fear of retaliation from the authorities. We were all recognised on a prima facie basis by the authorities of Country A. Two leaders of the clandestine organization, who also fled to Country A were tried in absentia and sentenced to death in our home country. The authorities of Country A have repeatedly refused the extradition of these individuals, but increasing pressure is being put on them and we have heard that they are considering the possibility of returning them to Country B. I am afraid that the two leaders will mention my name among the members of the organization.”

At the end of the interview, UNHCR's eligibility officer informed Mr. K.M. that some time would be needed to verify the information he had provided, and that it might be necessary to interview him again. UNHCR subsequently obtained COI, including

numerous reports by UN bodies and human rights organizations, which confirmed that Mr. K.M.'s ethnic minority was subject to widespread human rights violations in his country of origin.

UNHCR also found out that the clandestine organization which Mr. K.M. joined initially operated through peaceful information campaigns in the villages situated in their region. After a few years, however, the organization split and a more radical wing was formed. According to reports from a number of reliable sources, this radical wing was responsible for a violent incident, in which explosives were used during a public rally organized by the ruling party in a square in the centre of the capital of Country B, and which resulted in the killing of five High Level Government Officials and severe injury to eight civilians. The explosion took place as the government representatives attending the rally entered the square to approach the podium from where they were scheduled to speak. The organization dissolved shortly after this incident. According to public statements made by the two leaders of the organization who were detained in Country A and are currently under strict surveillance by the authorities of that country pending a final decision on the request for their extradition, Mr. K.M. had been part of its radical wing and had assisted in the planning and implementation of the above-mentioned violent incident.

Mr. K.M. was interviewed again and asked about the incident. He denied any involvement in the events which led to the killing of the government officials and injury of civilians. He described himself as a mere "supporter" of the group. When asked for more details about his own role and activities within the group, Mr. K.M. was evasive and reluctant to talk.

At this stage, the interviewer informed Mr. K.M. that exclusion was being considered in his case and confronted him with the statements made by the two leaders of the organization, according to which he had participated in the planning and execution of the incident during the public rally. In response, Mr. K.M. affirmed that, while he was an active supporter of the group, he never took part in the practical accomplishment of the violent incident. He stated that he was present at a meeting in which plans for the incident were being discussed, but that he only mentioned the location of the rally, the time it was starting and the route the government officials were planning to take in order to arrive at the podium. This information had been given to him by an acquaintance. Mr. K.M. said he did this because he felt he had to say something and appear to be in favour of the plan, as failure to do so might have resulted in his expulsion from the organization for lack of commitment to its cause. Mr. K.M. also said that he believed the two leaders of the organization were trying to appear to be collaborating with the authorities of Country A in order to improve their own situation and avoid being extradited.

Following the second interview with Mr. K.M., UNHCR also interviewed a number of other members of his ethnic group and some family members, all of whom affirmed that Mr. K.M. was not involved in any violent acts.

Analysis of the Case Study: Inclusion

Inclusion before
Exclusion

As noted above, the decision maker must begin his/her analysis of a claim by determining whether an asylum-seeker meets the inclusion criteria set out in Article 1A(2) of the 1951 Convention or that he/she is eligible for recognition as a refugee on the basis of the broader refugee definition applicable under UNHCR's international protection mandate.

THE CASE OF MR. K.M. – INCLUSION ANALYSIS

The decision maker came to the conclusion that Mr. K.M. meets the inclusion criteria of the 1951 Convention. This was based on the following considerations:

- **Credibility assessment:** Mr. K.M.'s account of his past experience and the treatment he fears to suffer if returned to his country of origin is credible and coherent. It is also consistent with available COI. During the second interview, Mr. K.M. was somewhat evasive and reluctant to provide information concerning his role and activities within the clandestine organization he had joined and his involvement in the violent incident, but this does not undermine the overall credibility of his claim.
- **Well-founded fear:** Mr. K.M. has expressed a fear of being subjected to human rights violations and discrimination in his country of origin. This fear is well-founded. COI confirms that violations of human rights of members of the ethnic minority to which Mr. K.M. belongs are widespread. Mr. K.M. has already been detained and tortured. He has also suffered serious discrimination. There is a reasonable possibility that Mr. K.M. would be subjected to similar treatment if he were to be returned to his country of origin.
- **Persecution:** Mr. K.M. was not allowed to practise his religion and was arrested twice for participating in peaceful demonstrations against the Government. Both times, he was severely tortured while in detention. Such treatment is in clear violation of the applicant's basic human rights and constitutes persecution in the sense of the 1951 Convention. The same applies to the various forms of discrimination which Mr. K.M. and his family have been subjected to as members of the ethnic and religious minority. He has been dismissed twice from his job and his children are not allowed to attend local schools.
- **1951 Convention ground:** Mr. K.M. has been persecuted in his country of origin on account of his religion, nationality (ethnic origin) and political opinion.

Analysis of the Case Study: Exclusion

Step 1: Trigger

When there is nothing in an applicant's claim that would suggest an issue of exclusion, an exclusion analysis is not required

Not every case requires an exclusion analysis. If there is nothing in an applicant's claim which suggests that exclusion may be an issue, an exclusion analysis is not required.³⁷ However, if there are indications that the applicant may have been associated with acts within the scope of Article 1F, the decision maker must carefully examine whether the criteria for exclusion are met. The need to conduct an exclusion analysis may be triggered by statements of the applicant him/herself, or any other information which suggests that he/she may be linked with excludable acts (for example, an indictment or conviction by an international tribunal or a national court, an extradition request).

THE CASE OF MR. K.M. – STEP 1: IS ARTICLE 1F TRIGGERED?

The decision maker ticked “Yes” in response to Question V-1 of the RSD Assessment Form and provided the following explanation:

“In Mr. K.M.’s case, exclusion considerations were triggered by the information obtained during UNHCR’s inquiries to verify the statements made by him in the course of the first interview. It emerged that the organization he admitted to have belonged to was engaged in potentially excludable acts.”

Step 2: Identifying the Acts

There must be acts indications that specific acts, which fall under Article 1F(a), (b), or (c), have been committed, and also that such acts are linked to the individual concerned

The next step in the exclusion analysis requires the decision maker to address the following two questions:

A. Acts

First, it is necessary to determine whether the acts in question constitute crimes covered by Article 1F. This involves identifying the relevant acts and determining whether these acts come within the scope of Article 1F(a), (b) and/or (c).³⁸

B. Link

If it is determined that the act(s) in question are covered by Article 1F, the decision maker must examine whether there are serious reasons for considering that the applicant is linked to these acts. The basis for establishing this link could be the applicant's own statements or those of family members, witnesses or others, or any other credible and reliable information.

³⁷ Under Question V-1 of the *RSD Assessment Form*.

³⁸ For detailed guidance on the acts which may give rise to exclusion under Article 1F of the 1951 Convention, see paragraphs 23–49 of the *Background Note on Exclusion*, *supra* note 23.

THE CASE OF MR. K.M. – STEP 2: IS THE APPLICANT ASSOCIATED WITH ACTS WITHIN THE SCOPE OF ARTICLE 1F?

A. Identifying the act(s) and determining the relevant clause(s) of Article 1F

The decision maker proceeded, first, to identify the acts which may bring the applicant within the scope of an exclusion clause, and then continued the analysis by determining the relevant sub-clause of Article 1F:

“In the case of Mr. K.M., the act which needs to be examined in light of the criteria of Article 1F is the violent incident which resulted in the killing of five high level government officials and injury to eight civilians through the use of explosives during a public rally held in the capital of Country B.

Neither Article 1F(a) nor 1F(c) are applicable in the present case. The reasons for this are as follows:

There are no indications that an armed conflict was taking place in Country B at the relevant time. As a consequence, Article 1F(a) – ‘war crimes’ – is not relevant. Article 1F(a) – ‘crimes against peace’ – is equally inapplicable to the acts in question. Inhumane acts including murder committed during peacetime could constitute ‘crimes against humanity’, the third category under Article 1F(a), but for this to be the case these crimes would need to have been part of a widespread or systematic attack against civilians. In the present case, there are no indications that the violent incident met these criteria.

For Article 1F(c) – ‘acts contrary to the purposes and principles of the United Nations’ – to be applicable, the acts in question would need to impinge on the international plane, on account of their gravity, international impact and implications for international peace and security. This does not apply in the present case.

However, it is necessary to consider whether the violent incident during the public rally comes within the scope of Article 1F(b) – ‘serious nonpolitical crime committed outside the country of refuge prior to admission to that country as a refugee’. For the reasons set out below, it is considered that the criteria of this exclusion clause are met, and that the acts in question are:

Serious: the killing of five people and causing severe injury to eight others by detonating explosives in a public place clearly meets the level of seriousness required under this provision.

Non-political: It is necessary to consider the motivation, context, methods and proportionality of a crime to its objectives. In the present case, the radical wing of the organization acted for political motives and with the purpose of improving the situation of their ethnic and religious minority. Despite the political motivation, however, the killing of five officials and serious injury to eight civilians at the public rally constitutes a ‘non-political’ offence within the meaning of Article 1F(b). The acts in question (i.e. detonating an explosive device in circumstances which was likely to cause indiscriminate death or injury to members of the public) fail to meet the so-called predominance and proportionality tests, which



are required under Article 1F(b). For the predominance test to be satisfied, there must be a close, direct and clear link between the acts and the intended goal. The proportionality test requires weighing the seriousness of the acts against the political objective.

Outside the country of refuge prior to admission to that country as a refugee: the acts in question took place in Country B, before Mr. K.M. reached Country A.”

B. Establishing the link between the acts in question and the applicant

Having determined that there are serious reasons for considering that acts within the scope of Article 1F(b) have been committed, the decision maker went on to examine whether there was credible and reliable information linking the applicant to the excludable acts:

“Mr. K.M. stated that he joined the clandestine organization. He also said that he was present at a meeting during which the violent incident at the public rally was planned. There is COI from reliable sources detailing the incident and attributing responsibility for it to the radical wing of the organization.

In view of the above, it is concluded that there are serious reasons for considering that Mr. K.M. was associated with the radical wing of the clandestine organization, and that the latter carried out a serious non-political crime within the meaning of Article 1F(b). It is necessary, therefore, to consider whether his conduct gave rise to individual responsibility for the killing and injury of a total of thirteen people during the public rally.”

The decision maker ticked “No” in response to Questions V-2 and V-4 of the RSD Assessment Form, “Yes” under Question V-3.

Step 3: Individual Responsibility

At this stage of the exclusion assessment, it is necessary to determine whether the applicant incurred individual responsibility for the excludable acts identified in Step 2. This involves two sets of issues.

A. BASIS FOR INDIVIDUAL RESPONSIBILITY

First, the decision maker will need to examine the basis for incurring individual responsibility.³⁹

This means establishing whether there is credible and reliable information/evidence that:

- i. the applicant *committed* a crime him/herself or *participated* in the commission of a crime by someone else (i.e. through planning, instigating, ordering, aiding or abetting, participating in a joint criminal enterprise);
- ii. he/she did so with the necessary mental element (*mens rea*). This requires an assessment of the applicant's state of mind when engaging in a particular conduct. For most crimes within the scope of Article 1F, the mental element required is *intent and knowledge* (Article 30 of the ICC Statute).⁴⁰

Both 'intent' and 'knowledge' are required to engage individual responsibility

'**Intent**' exists where the person concerned means to engage in a certain conduct or cause a certain consequence. '**Knowledge**' means that he/she is aware that a particular circumstance exists, or that a consequence will occur in the ordinary course of events. As with all factual findings under Article 1F, the decision maker must determine whether there are *serious reasons for considering* that an applicant meant to act in a certain way and was aware of relevant circumstances and/or the consequences of his/her conduct. A finding that he/she had the mens rea necessary for committing an Article 1F crime has to incorporate rigorous procedural safeguards, including the opportunity for the applicant to consider and comment on the evidence presented by the caseworker (such as detailed and specific COI findings) on which the decision to exclude may be made, and not rely merely on the basis of reliable COI alone, even if sufficiently detailed and specific regarding the circumstances.

³⁹ For more detailed guidance on individual responsibility for acts within the scope of Article 1F of the 1951 Convention, please refer to paragraphs 50–64 of the *Background Note on Exclusion*, *supra* note 23. Special considerations apply with regard to establishing individual responsibility of children. As para 28 of the *Guidelines on Exclusion* notes (*supra* note 23), "The exclusion clauses apply in principle to minors, but only if they have reached the age of criminal responsibility and possess the mental capacity to be held responsible for the crime in question. Given the vulnerability of children, great care should be exercised in considering exclusion with respect to a minor and defences such as duress should in particular be examined carefully. Where UNHCR conducts refugee status determination under its mandate, all such cases should be referred to Headquarters before a final decision is made."

⁴⁰ UN General Assembly, *Rome Statute of the International Criminal Court (last amended January 2002)*, 17 July 1998, A/CONF. 183/9, <http://www.unhcr.org/refworld/docid/3ae6b3a84.html>

Individual determination of conduct and state of mind are required

There is no automatic exclusion simply because of membership in certain groups

The individual must have the opportunity to rebut this presumption

Command / superior responsibility may be engaged for crimes committed by subordinates in some circumstances.

Various grounds exist for rejecting individual responsibility

In all cases, an *individual determination* of the applicant's conduct and state of mind is required. This also applies to persons who belong to a group or government responsible for excludable crimes. There is no automatic exclusion for such persons (this would amount to a finding of "guilt by association"), although for certain particularly violent groups or governments, it may be justified to apply a *presumption of individual responsibility* for acts within the scope of Article 1F on the basis that anyone who voluntarily became or remained a member of such groups would thereby knowingly make a substantial contribution to the crimes committed by the group or government. Such a presumption is rebuttable, that is, the person concerned must be given an opportunity to respond to it, and the presumption does not apply if the applicant provides a plausible explanation to the effect that he/she was not involved in the acts in question.

Under certain circumstances, persons in positions of authority in a military or civilian hierarchy may also incur individual responsibility for crimes committed by persons under their effective command or control. This is known as command/superior responsibility.

B. GROUNDS FOR REJECTING INDIVIDUAL RESPONSIBILITY

Second, it is necessary to assess whether there are grounds for rejecting individual responsibility.⁴¹

Examining whether there are any grounds which would negate individual responsibility in a particular case also forms part of the exclusion analysis. This may be the case if the applicant acted without the necessary *mens rea* (for example, due to insanity, involuntary intoxication), or if he/she has a valid defence, that is, if there are particular circumstances which relieve him/her from responsibility for the crimes committed (e.g. superior orders, duress or self-defence).

Moreover, in certain cases, where an applicant has served a sentence for a crime within the scope of Article 1F (referred to as expiation), or where he/she has benefited from an amnesty, exclusion may no longer be considered applicable.

⁴¹ For detailed guidance on grounds which may negate individual responsibility for acts within the scope of Article 1F of the 1951 Convention, please refer to paragraphs 64–75 of the *Background Note on Exclusion*, *supra* note 23.

THE CASE OF MR. K.M. – STEP 3: INDIVIDUAL RESPONSIBILITY

“As noted in the credibility assessment, Mr. K.M. was evasive and reluctant to talk about his role and activities as a member of the organization. This does not, however, give rise to a negative finding with regard to his overall credibility. The statements made by the leaders are not specific and do not contain any details with regard to Mr. K.M.’s conduct, nor was it possible to obtain such details through COI or other sources.

In view of the above, there are no serious reasons for considering that Mr. K.M. perpetrated the killing of five officials and injuring eight civilians during the public rally in the capital of country B. It is necessary, however, to examine whether through his conduct during the meeting at which the incident was planned, Mr. K.M. made a substantial contribution to the subsequent commission of the crimes.

In particular, it must be established whether, by providing information about the public rally, he incurred individual responsibility on the basis of aiding or abetting. For this to be the case, the applicant’s conduct must have had a substantial effect on the commission of the crime, and he must have acted in the knowledge that he/she was thereby assisting or facilitating the commission of the crime.

Mr. K.M. took part in a meeting during which plans for the violent incident were discussed. Mr. K.M. felt he had to appear in favour of the plan and therefore provided information about the location of the rally, the time at which it was set to start, and the route by which government officials were planning to arrive at the podium. This information had been given to him by an acquaintance.

Mr. K.M. knew that the group was planning to carry out the violent incident. In the circumstances, it must be considered that he was aware that the information he was providing had a substantial effect on the perpetration of the crime. It is therefore concluded that Mr. K.M. knowingly facilitated the commission of the crime and, as a consequence, incurred individual responsibility for the killing of five officials and serious injury to eight civilians during the public rally.

It is also necessary to consider whether there are any circumstances which would negate Mr. K.M.’s individual responsibility. Mr. K.M. stated that he felt he had to make his contribution in order to appear in favour of the plan, as he feared that failure to do so would result in his expulsion from the group for lack of commitment. This does not give rise to a valid defence of duress, as Mr. K.M. did not act in order to avert an imminent threat of death or serious bodily harm, nor are there any indications that other grounds for rejecting individual responsibility (e.g. lack of mental capacity, superior orders, self-defence) are applicable in his case.”

The decision maker ticked “Yes” in response to Question V-5 of the RSD Assessment Form and “No” under Question V-6.

Step 4: Proportionality Assessment⁴²

The final step involves weighing the seriousness of the crimes against the consequences of exclusion, an analysis which should consider any mitigating or aggravating factors

If the applicant's individual responsibility for acts within the scope of Article 1F has been established, the final stage of the exclusion analysis consists in weighing the seriousness of the crimes against the consequences of exclusion for the person concerned, notably the degree of persecution feared. In assessing the seriousness of the crime, decision makers should consider any mitigating or aggravating factors. In order to determine the consequences of exclusion, it is necessary to assess what will happen in practice to the person concerned. One relevant question in this regard is whether the host country respects its obligations under international and regional human rights law not to return a person to a risk of torture or other serious human rights violations.

Particularly heinous crimes will normally justify exclusion in proportionality considerations

In all potential exclusion cases, a proportionality analysis must be conducted. If the applicant is likely to face severe persecution, the crime in question must be very serious in order to exclude him/her. Conversely, a very serious crime will justify exclusion, as the gravity of particularly heinous crimes will outweigh the consequences of exclusion, no matter how serious the risk to the applicant upon return. Such crimes include crimes against peace, crimes against humanity or acts against the purposes and principles of the United Nations, as these are considered to be particularly grave.

THE CASE OF MR. K.M. – STEP 4: PROPORTIONALITY

The decision maker made the following assessment:

“On the one hand, the crime in question is very serious: it resulted in the death of five persons and serious injury to eight others. On the other hand, Mr. K.M. would risk serious persecution if he were to be returned to his country of origin. If he is excluded, Mr. K.M. would still benefit from protection under international human rights law. However, in practice, the authorities of the host country regularly return people to the country of origin regardless of the risk of human rights abuses, which are widely reported by the UN and other reliable sources.

In weighing the two, it is considered that the gravity of the crime outweighs the potential consequences.”

The decision maker ticked “Yes” in response to Question V-7 of the RSD Assessment Form and, under V-8, recommended that Mr. K.M. be excluded on the basis of Article 1F(b).

⁴² For further guidance on the proportionality assessment, please refer to paragraphs. 76–78 of the *Background Note on Exclusion*, *supra* note 23.

Exclusion and Resettlement

The Importance of Exclusion in the Context of Resettlement

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

A proper exclusion analysis helps preserve the integrity of the institution of asylum

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

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

Because of the particular serious implications for the individual concerned and the complex criteria that are relevant to the determination, examination of the application of the exclusion clauses in Article 1F should only be undertaken by UNHCR protection staff that have the requisite knowledge and training. For the same reasons, the *Procedural Standards for Refugee Status Determination under UNHCR's Mandate* require Headquarters review of all exclusion, revocation, cancellation and cessation decisions taken in the field.⁴³

The granting of resettlement, like asylum, is a fundamentally humanitarian and non-political act. Accepting refugees for resettlement is a mark of true generosity on the part of Governments and a strong expression of their commitment to the mandate of UNHCR. Resettlement under the auspices of UNHCR is strictly limited to addressing the needs of those individuals who have been recognized as refugees under UNHCR's mandate, and who meet the requirements spelled out in the Resettlement Handbook.⁴⁴ From this perspective, ensuring that the exclusion clauses are applied to those who come within the scope of Article 1F and are therefore considered not deserving of international protection also helps to maintain and to preserve the integrity of the resettlement concept.

Resettlement is a fundamentally humanitarian and nonpolitical act

⁴³ UNHCR, *IOM/019/2010 - FOM/019/2010 Revision of Procedural Standards for Refugee Status Determination under UNHCR's Mandate: Headquarters review of exclusion, revocation, cancellation and cessation decisions*, 12 April 2010, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4bc44e912.html>

⁴⁴ *UNHCR Resettlement Handbook*, 2011: <http://www.unhcr.org/resettlementhandbook>

Resettlement countries rely on UNHCR's ability and professionalism in assessing cases submitted for resettlement

UNHCR and resettlement countries operate in a system of partnership, based on reciprocal trust and reliance. On the one hand, UNHCR relies on the responsiveness of resettlement countries to find resettlement places for refugees in need, often in urgent and emergency circumstances; on the other hand, the resettlement countries rely on UNHCR's ability and professionalism in assessing the cases submitted for resettlement. In particular, countries trust that each refugee case that UNHCR submits to them for resettlement has been thoroughly reviewed and accurately checked for exclusion considerations.

States' Heightened Interest in the Issue of Exclusion

Efforts to combat terrorism and to punish serious violations of human rights and humanitarian law have increased States' interest in exclusion

There is no doubt that the exclusion clauses are receiving unprecedented levels of interest from States, both in the international and in the national arena. This interest has been fed by the growing number of internal conflicts accompanied by serious violations of human rights and humanitarian law, and has further increased in the context of current efforts to combat terrorism. States want to see the perpetrators of heinous acts punished for their crimes and are concerned that these perpetrators may reach their countries either directly through individual asylum requests or through UNHCR-sponsored resettlement.⁴⁵ For this reason, major resettlement countries have recently called for a more rigorous implementation of the current exclusion regime in the context of resettlement.⁴⁶

Some States have created their own exclusion regimes, applying specific Statutory requirements in addition to the exclusionary acts of Article 1F

While the exclusion clauses of Article 1F have been incorporated ad verbatim in the national legislation of many States, some countries have created their own exclusion regime, based in part on the 1951 Convention and in part on their own national concerns, including, in particular, security considerations.⁴⁷ Thus, for example, statutory requirements for the admission of asylum-seekers, including checks for involvement in criminal conduct prior to arrival, are applied in an extensive manner and may in effect amount to 'exclusion' from international refugee protection.⁴⁸ In other countries, the authorities' interpretation of Article 1F is particularly broad.⁴⁹

⁴⁵ As noted by M. Kingsley Nyinah in "Exclusion Under Article 1F" *International Journal of Refugee Law*, Volume 12, Special Issue 2000, p.302: "one result [of the current trend] has been the tendency for Article 1F exclusion to become increasingly politicised, with States and UNHCR under pressure to draw sharp lines between the undeserving and the victims, and to be seen to be doing so".

⁴⁶ Statement made by a major resettlement country at the ExCom meeting in October 2001.

⁴⁷ This is the case, for example, in the United States of America. Under US law, an applicant may be excluded from refugee protection when he/she is considered i) to be a persecutor of others; ii) to have committed serious non-political crimes; iii) to have committed a particularly serious crime; iv) to pose a threat to national security or v) to be a terrorist.

⁴⁸ For the purpose of admissibility, the definition of combatants and terrorists is interpreted in an extensive manner in Canada.

⁴⁹ In the Canadian interpretation of Article 1 F, for example, "the goal [of the Article] is to exclude persons who have willingly engaged in acts of violence or actively participated in militant or subversive organizations that support violence. These actions, *be they taking up arms or giving active support to militant groups through non-combative means*, call into question the suitability of these individuals as immigrants to Canada" [emphasis added]. Excerpts from CIC Basic Overseas Refugee Selection Course, *Self-Instruction Manual, Module 3/ Eligibility: Convention Refugees Seeking Resettlement*, p. 63.

In practice, this results in a significant number of individuals whom UNHCR considers to be refugees under the 1951 Convention, or under its mandate, being denied refugee status and/or consideration for resettlement by some countries. It is important to remember that the criteria which give rise to exclusion from refugee status on account of certain acts are exhaustively enumerated in Article 1F.

Exclusion criteria are exhaustively enumerated in Article 1F

UNHCR's Responsibility with Regard to Exclusion in the Context of Resettlement

What can be done to ensure that resettlement countries continue to rely upon the quality of UNHCR-assessed cases that are submitted to them for resettlement?

The exclusion clauses form part of the refugee definition contained in Article 1 of the 1951 Convention and consideration of their applicability is an integral component of the procedures to determine an individual's eligibility for refugee status. It is self-evident that the quality of status determination procedures reflects directly on the quality of exclusion procedures. Thus, any calls for improving the quality of exclusion procedures must be linked to the need to raise the standards for the overall process of refugee status determination.

The quality of refugee status determination reflects directly on the quality of exclusion procedures

UNHCR has an obligation to ensure that the exclusion clauses be applied scrupulously, albeit carefully, and as a result of procedures which offer appropriate safeguards to the individual concerned. The heightened interest of States in security issues which, as noted above, is particularly manifest in the context of resettlement, makes it all the more important that UNHCR's exclusion analysis meet high standards of professionalism and expertise.

UNHCR's exclusion analysis must meet high standards of professionalism and expertise

When dealing with exclusion in the context of resettlement referrals, remember:

Include a Reference to Exclusion in all RSD Assessments, whether or not the Cases are Submitted for Resettlement.

Always include a reference to exclusion in the RSD Assessments of refugee cases, irrespective of whether or not these cases are submitted for resettlement.⁵⁰ A one-line reference (e.g. "exclusion clauses are not relevant/applicable to this case") may suffice, but only in those cases where the exclusion is **manifestly** not at issue. If the cases are submitted for resettlement, make sure that a reference to exclusion is also incorporated in the Resettlement Registration Form (RRF).

Always include a reference to exclusion in RSD Assessments and in RRFs

⁵⁰ See Question V-1 of the RSD Assessment Form.

Conduct a Detailed Analysis for the Cases where Exclusion Considerations are Triggered.

For cases where exclusion considerations are triggered, a detailed analysis is essential

As we have seen above, whenever there are indications that an applicant may be associated with acts within the scope of Article 1F, UNHCR must conduct an exclusion analysis. Thus, for example, an exclusion assessment will regularly be necessary if there is information to the effect that the applicant was a member of an organization or a government known to have been involved in violent acts, or in cases of former members of the army, the secret services, the police, as well as members of militias or other paramilitary groups at any level. In all such cases, UNHCR must address the issue of exclusion when determining the applicant's eligibility for refugee status. If exclusion is triggered, but UNHCR finds that Article 1F is not applicable, this determination and the reasons for it should be set out in the RSD Assessment Form.

When Submitting such Cases for Resettlement, Provide the Reasons why the Exclusion Clauses are not Applicable.

The exclusion analysis must explain why the exclusion clauses are not applicable, and this must be substantiated

As noted above, each RRF should contain a statement on exclusion. Where exclusion is an issue but, after a thorough examination of all relevant factors, it has been established that Article 1F is not applicable, the RRF should provide the reasons for this determination. It is not enough to write in the RRF that "an individual does not fall under the exclusion clauses of the 1951 Convention". This needs to be further explained and substantiated. To support the eligibility analysis in the RRF vis-à-vis resettlement countries, the submitting Office should cite the principal sources of information it relied upon in reaching its determination. It is good practice to ground the legal reasoning on the UNHCR *Guidelines and Background Note on Exclusion*.⁵¹

Invest Some Time and Effort to Assess the Possible Applicability of the Exclusion Clauses

A well-considered exclusion analysis protects the integrity of the RSD and resettlement processes, and maintains the credibility of UNHCR vis-à-vis States

Providing an exclusion analysis in the RRFs can be a complex exercise. It is important, however, to invest some time in this effort and to use the best of your ability to come to a reasoned and accurate decision on exclusion for each individual case.

Remember that, by properly addressing the exclusion clauses in your eligibility assessments, you contribute to preserving the integrity of the RSD and resettlement process and to maintaining the credibility of UNHCR vis-à-vis States.

⁵¹ *Supra* note 23.

Standard Operating Procedures Relating to Resettlement Submissions in Cases where Exclusion is Triggered

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

The RSD decision should be reviewed by the Senior Protection Officer responsible for RSD or the Head of Office whenever:

- there is uncertainty during resettlement processing whether exclusion triggers were adequately examined during individual RSD
- exclusion was triggered but not examined in full individualized RSD proceedings for a refugee recognized on a *prima facie* basis
- new exclusion considerations concerning a refugee arise during resettlement processing.

Resettlement processing should only resume when an exclusion assessment has been conducted and the refugee status has been confirmed.

In sensitive or borderline cases, the Field Office should submit its finalized decision, together with the Office's detailed analysis and recommendation, to the Senior Legal Advisor of the relevant Bureau for guidance. DIP is available to provide advice to the Bureaux on complex doctrinal issues related to the interpretation of Article 1F.

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

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

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

Unit 3 - Resources

Essential Reading

- UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, December 2011, <http://www.refworld.org/docid/4f33c8d92.html>
- UNHCR, IOM/019/2010 - FOM/019/2010 *Revision of Procedural Standards for Refugee Status Determination under UNHCR's Mandate: Headquarters review of exclusion, revocation, cancellation and cessation decisions*, 12 April 2010, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4bc44e912.html>

Supplementary Reading

- UNHCR, *Interpreting Article 1 of the 1951 Convention Relating to the Status of Refugees*, April 2001, <http://www.unhcr.org/refworld/docid/3b20a3914.html>

Reference Documents

- Chapters 3, UNHCR, *UNHCR Resettlement Handbook*, 2011, www.unhcr.org/resettlementhandbook
- UNHCR, *Manual on Mandate Refugee Status Determination (RSD) - A Reference Tool for UNHCR Adjudicators*, 1 October 2005, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/438c17194.html>
- UNHCR, *Procedural Standards for Refugee Status Determination Under UNHCR's Mandate*, 20 November 2003, <http://www.unhcr.org/refworld/docid/42d66dd84.html>

UNHCR Guidelines on International Protection

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

Status of Refugees, 23 July 2003, HCR/GIP/03/04,
<http://www.unhcr.org/refworld/docid/3f2791a44.html>

- *GIP No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, HCR/GIP/03/05, <http://www.unhcr.org/refworld/docid/3f5857684.html>
- *GIP No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, 28 April 2004, HCR/GIP/04/06, <http://www.unhcr.org/refworld/docid/4090f9794.html>
- *GIP No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked*, 7 April 2006, HCR/GIP/06/07, <http://www.unhcr.org/refworld/docid/443679fa4.html>
- *GIP No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, <http://www.unhcr.org/refworld/docid/4b2f4f6d2.html>
- *GIP No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, October 2012, <http://www.refworld.org/docid/50348afc2.html>

Learning Objectives

This Unit focuses on the identification of refugees for resettlement.

The Unit begins by reviewing overarching protection principles and highlighting both the protection needs and potential vulnerabilities of segments of the refugee population, as well as the specific considerations that need to be kept in mind when assessing certain profiles of persons of concern.

The Unit then reviews identification systems, and various tools and methods that are used to map and profile the protection needs of the refugee population and to help identify both groups and individual refugees who may be considered for resettlement. The use of internal and external referral partners is introduced, and some of the challenges in the identification process are addressed. Finally, the Unit examines the resettlement submission categories in depth.

At the end of this Unit, you should be able to:

- understand and explain the tools and methods to map and profile the refugee population to identify appropriate protection interventions, including resettlement need;
- understand identification challenges and the importance of training and managing expectations;
- identify key partners in the identification of refugees in need of resettlement;
- understand the importance of referral systems and an individual case management framework;
- explain the resettlement submission categories in detail.

The designated Learning Programme administrator will recommend the time allotment for the completion of this Unit.

Contents

Key Protection Considerations in the Identification Process	126
Age, Gender, and Diversity Sensitive Approach	126
Responses to Sexual and Gender-Based Violence.....	127
The Principle of Family Unity	128
Specific Protection Needs and Potential Vulnerabilities	129
Women and Girls	129
Children and Adolescents	132
Older Refugees.....	133
Refugees with Disabilities.....	135
Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Refugees	136
Specific Protection Risks and Considerations	138
Non-Refugee Stateless Persons	138
Human Trafficking.....	139
Female Genital Mutilation	140
SGBV Perpetrators	141
Child Marriages	142
The Identification Process.....	145
Establishing Identification Systems.....	146
Proactive Planning for Resettlement within Operational Planning	147
Tools and Methodologies to Assist with Identification of Needs.....	149
Registration as a Starting Point for Identification	149
Participatory Assessments	151
Mapping and Profiling Refugee Needs.....	152
The Heightened Risk Identification Tool	153
Consultation with Internal and External Partners in the Identification Process.....	154
Referral of Individual Cases for Resettlement.....	157
Internal Referrals	157
External Referrals	158
Self-Referrals	161
Identifying Groups in Need of Resettlement.....	162
Group Resettlement within Protection Strategies	163
Identifying a “Group”	163
Challenges in Identification.....	165
Managing Expectations	165
Importance of Training.....	166
Resettlement Submission Categories	167
Basic Considerations.....	167
Submission Priority Levels	168
Resettlement Submission Categories	169
Legal and/or Physical Protection Needs	170
Survivors of Violence and/or Torture	172
Medical Needs.....	174
Women (and Girls) at Risk	177
Family Reunification	178
Children and Adolescents at Risk	180
Lack of Foreseeable Alternative Durable Solutions.....	183
Unit 4 - Resources.....	191

Key Protection Considerations in the Identification Process

Properly identifying refugees in need of resettlement consideration is one of the most crucial, yet challenging aspects of resettlement. While resettlement is not a right, ensuring that the refugees who are most in need of resettlement have access to the process in a timely, efficient and transparent manner is essential to ensuring a continuum of refugee protection. An effective and globally consistent identification process is also critical to providing refugees with fair access to resettlement processing, and can decrease potential for the fraudulent use of the resettlement system.

Resettlement cannot be considered in isolation from other protection interventions

Resettlement cannot be considered in isolation from other protection interventions. UNHCR offices incorporate resettlement needs into the development of overall protection strategies as part of regional and country operational planning. However, the identification of refugees potentially in need of resettlement, and the subsequent assessment of individual cases must be an ongoing, active and systematic process. It requires detailed knowledge and documentation of the refugee population and of their specific needs and vulnerabilities, and collaboration between UNHCR Protection, Community Services and Durable Solutions staff and implementing partners to identify and implement appropriate responses.

Age, Gender, and Diversity Sensitive Approach

UNHCR's mission to safeguard the rights and well-being of all persons of concern can only be achieved if women, men, girls and boys, of all ages and backgrounds, are able to benefit equitably from UNHCR's interventions. UNHCR is committed to ensuring that all groups have equal access to UNHCR's protection, services and resources, and are able to participate equally in the making of decisions that affect them.

UNHCR is committed to ensuring equal access to its protection, services and resources

To achieve this objective, UNHCR has adopted an age, gender and diversity sensitive approach and targeted actions to address protection gaps. The age, gender and diversity mainstreaming (AGDM) strategy promotes gender equality and the rights of all persons of concern regardless of age or background, and calls for the meaningful participation of displaced girls, boys, women and men, so that their problems, initiatives and solutions can be incorporated into all of UNHCR's programmes and policies.

Gender does not refer only to women. Mainstreaming age, gender and diversity sensitive approaches is a key institutional commitment and an operational priority that includes men and women of all ages, including children. Being aware of vulnerabilities and inequalities safeguards against inadvertently contributing to further discrimination and injustice through the use of procedures and practices that neglect age, gender and diversity considerations.

Procedures and policies must take into account age, gender and diversity considerations

Responses to Sexual and Gender-Based Violence

Refugees are among those most vulnerable to acts of violence, including sexual and gender-based violence (SGBV). SGBV is a widespread and systematic human rights violation, which is exacerbated by unequal gender relations within communities and used as a means of exercising power. SGBV is a serious, life-threatening health and protection issue affecting women, girls, men and boys. SGBV can be a cause of forced displacement, and it is often also an intolerable consequence of the breakdown of law and order, and family and community structures that accompany displacement.

SGBV is a widespread and systematic human rights violation

UNHCR places the well-being of the survivor at the centre of any intervention. Individuals or groups who have suffered sexual and gender-based violence may be referred to as either victims or survivors. While victims should be treated with compassion and sensitivity, referring to them as survivors recognizes their strength and resilience. The word victim may imply powerlessness and stigmatization, characterizations that are to be avoided by all concerned parties.

Addressing SGBV is an integral part of UNHCR's protection mandate and requires both short and long-term intervention strategies of prevention and response. UNHCR employs an inclusive conception of sexual and gender-based violence recognizing that, although the majority of victims/survivors are women and girls, men and boys are also targets of sexual and gender-based violence.

Resettlement can be an important protection tool for refugees who have survived or are facing a threat of sexual and gender-based violence, including rape, assault against sexual minorities, trafficking for the purposes of sexual slavery, female genital mutilation (FGM) and forced marriage.

Resettlement may be an important protection tool

The Principle of Family Unity

Family unity is a fundamental principle of refugee protection

A fundamental principle of refugee protection, the unity of the family, derives directly from the universally recognized right to family life.¹ As covered in Unit 2, UNHCR Offices have a responsibility, as part of their mandate, to protect refugees and to promote and facilitate the reunification of refugee families. In the resettlement context, this applies both to retaining family unity throughout the resettlement process, and restoring family unity through resettlement.

Retaining and restoring family unity through resettlement

If one family member is being considered for resettlement (e.g. on protection grounds), **UNHCR will seek to ensure**, where possible and in line with the principle of family unity, **that all of the refugee's family members, including dependent non-nuclear family members, are resettled together**. Furthermore, UNHCR will seek to facilitate the reunification of family members, including through resettlement submission.

Dependency is central to identifying members of the family

However, as covered in Unit 2, there is no single, universally agreed-upon definition as to what constitutes a family, which can make ensuring family unity through resettlement challenging, both in the context of initial resettlement and subsequent family reunification. UNHCR's inclusive definition of a family for the purposes of resettlement recognizes the different cultural dimensions and societal norms that impact who is considered part of a family, and centers on the concept of **dependency** to identify family members.

For operational purposes, with regard to the identification of refugees for resettlement, a dependant person should be understood to be someone who depends for his or her existence substantially and directly on any other person, in particular for economic reasons, but also taking social or emotional dependency and cultural norms into consideration.²

¹ UNHCR's promotion of the unity of the family is supported by the principle, set forth in both the Universal Declaration of Human Rights of 1948 and the International Covenant on Civil and Political Rights of 1966, which states: "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

² *UNHCR Resettlement Handbook* (2011), chapter 7.4.1, <http://www.unhcr.org/resettlementhandbook>. Also review Unit 2, and see Chapter VI of the *Handbook on Procedures and Criteria for Determining Refugee Status*, UNHCR, Geneva, Switzerland, January 1992.

Specific Protection Needs and Potential Vulnerabilities

The identification of refugees potentially in need of resettlement requires detailed knowledge of the refugee population and of their specific needs and vulnerabilities. However, the purpose of the various identification tools including registration, participatory assessments, and surveys is to assess the most appropriate type of *protection* intervention, not only to identify resettlement needs.

Most appropriate protection response must be assessed

Furthermore, as active participants in their own quest for solutions, refugees must be seen as persons with specific needs and rights, rather than simply as members of “vulnerable groups”. Seeing only the vulnerabilities can lead to insufficient analysis of the protection risks faced by individuals, and, in particular, disregard for their capacities. An inclusive and empowering approach in the development of protection strategies, including the assessment of appropriate durable solutions, requires an understanding of specific needs related to age, gender roles and mental and/or physical condition, and recognition of refugees’ right to be actively involved in all action undertaken to protect them and determine their future. Resettlement consideration could be the appropriate response to the specific protection needs and potential vulnerabilities within segments of the refugee population highlighted below.³

Women and Girls

Conflict often serves to exacerbate discrimination and violence against women and girls. Such violence is endemic not only in conflict, but during its aftermath, as women and girls try to re-establish their daily lives. Sexual and gender-based violence – including rape, forced impregnation, forced abortion, trafficking, sexual slavery, and the intentional spread of sexually transmitted infections, including HIV/AIDS – is one of the defining characteristics of contemporary armed conflict and can constitute gender-related persecution.⁴ Its primary targets are women and girls. Women and girls also risk abduction and forced recruitment by armed groups, whether as fighters, for sexual exploitation, or other tasks.

Discrimination and violence against women and girls exacerbated by conflict

³ Other groups including refugees from minorities and indigenous groups also face vulnerabilities that could warrant resettlement consideration. For more information see Chapter 5.2.6 of the Resettlement Handbook and UNHCR, *Working with National or Ethnic, Religious and Linguistic Minorities and Indigenous Peoples in Forced Displacement*, 2011, <http://www.unhcr.org/refworld/docid/4ee72a2a.html>

⁴ UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01: <http://www.unhcr.org/refworld/docid/3d36f1c64.html>



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Threats to safety

The impact of forced displacement on women and girls can be devastating. Risks of abduction, rape, sexual abuse, harassment and exploitation are just some of the problems experienced by refugee women, whether they are single, widowed, or accompanied by a male family member. Threats to a refugee woman's safety may come from the host community, local government or military, other armed elements, or from within the refugee community itself. Members of her family or community may prove unable to address her concerns, or may even be unwilling to offer assistance due to social or cultural attitudes which do not recognize the rights of women. UNHCR and other aid agencies may also be unable to address these issues in the short-term in any effective way, due to the endemic nature of the problem or the difficulty in changing long-held cultural values and practices.

Family separation

Displacement may also separate families, removing the support and protection that the family used to provide. Remaining family members may have to assume different roles and women and girls may become sole providers for their children/siblings. The number of single- and/or child-headed households increases during conflict, and female adolescent heads of household are particularly at risk of rights violations and marginalization.

Respecting the diversity of women and girls is important to accurate assessment of needs and vulnerabilities

An accurate and gender-sensitive assessment of the refugee's protection needs and particular vulnerabilities in the country of refuge is critical in determining her need for resettlement. In this regard, it is important to respect the diversity of women and girls and recognize that factors such as age, language, ethnicity, race, caste, culture, religion, disability, sexual orientation, family and socio-economic status, and rural or urban background can create additional barriers to gender equality and effective protection.

Children and Adolescents

Who is a child?

A “child” as defined in Article 1 of the UN *Convention on the Rights of the Child* (CRC),⁵ means “every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier”. In terms of actions by UNHCR, the word “child” refers to all children falling under the competence of the Office, including asylum-seeking children, refugee children, internally displaced children and returnee children assisted and protected by UNHCR, as well as stateless children.

Refugee children face far greater dangers to their safety and well-being than the average child. The sudden and violent onset of emergencies, the disruption of families and community structures as well as the acute shortage of resources with which most refugees are confronted, deeply affect the physical and psychological well-being of refugee children. Children should be among the first to receive protection and assistance, and early and continuous identification of children at heightened risk is a UNHCR priority. Participatory assessments have helped give a voice to children of concern and ensure the right of children to have their views heard, notably in the development and improvement of programmes and protection responses.

Children’s physical and psychological well-being is affected by displacement

Factors that put children in a situation of heightened risk can include both risks in the wider protection environment and risks resulting from individual circumstances. The ExCom *Conclusion on Children at Risk* lists individual risk factors, including, but not limited to:

Heightened risk factors

- unaccompanied and separated children, particularly those in child-headed households as well as those accompanied by abusive or exploitative adults
- stateless children
- adolescents, in particular girl mothers and their children
- child victims of trafficking and sexual abuse, including pornography, pedophilia and prostitution
- survivors of torture
- survivors of violence, in particular sexual and gender-based violence and other forms of abuse and exploitation
- children who get married under the age specified in national laws and/or children in forced marriages
- children who are or have been associated with armed forces or groups
- children in detention

⁵ The CRC is the treaty which sets the most standards concerning children. While the CRC is not a refugee treaty, refugee children are covered because all CRC rights are to be granted to all persons under 18 years of age (Article 1) without discrimination of any kind (Article 2). UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, <http://www.unhcr.org/refworld/docid/3ae6b38f0.html>

- children who suffer from social discrimination
- children with mental or physical disabilities
- children living with or affected by HIV and AIDS and children suffering from other serious diseases, and
- children out of school.⁶

Key Elements of Case Management for Children at Risk

Effective protection of unaccompanied and separated children, as well as other children at risk requires:

- measures to identify unaccompanied, separated and other children at risk
- child-sensitive registration mechanisms
- the appointment of a guardian
- provision of temporary care arrangements and monitoring
- refugee status determination
- individual documentation
- timely tracing, and verification of family relationship
- family reunification, and
- identification and implementation of durable solutions.

Best Interests of the Child

The principle of best interests of the child must permeate all protection and care issues involving UNHCR and implementing partners, and should be applied in a systematic manner during every step of the displacement cycle, including considerations for durable solutions. All partner staff and communities need to be sufficiently informed about the best interests determination process and its purpose, and they must be trained on the identification and referral of children at risk.

Considerations to assess best interests

The term “best interests” broadly describes the well-being of a child. Such well-being is determined by a variety of considerations, such as:

- individual factors including the age, sex, level of maturity and experiences of the child;
- social context factors such as the presence or absence of parents and quality of the relationships between the child and family/caretaker;
- physical and psychosocial situation of the child; and;
- the protection environment and security situation.

⁶ UNHCR, *Conclusion on Children at Risk*, 5 October 2007, No. 107 (LVIII) - 2007: <http://www.unhcr.org/refworld/docid/471897232.html>

Depending on the circumstances, either a Best Interests Assessment (BIA) or a Best Interests Determination (BID) is required in order to ensure the optimal implementation of the best interests principle in actions affecting individual children. States have a responsibility to establish child protection systems with provisions to determine the best interests of the child, and UNHCR should *only* conduct a Best Interests Determination in the absence of competent State authorities or when States are unable or unwilling to carry out the BID.

UNHCR's *Guidelines on Determining the Best Interests of the Child* outline the policies and procedures to be followed, and the *Field Handbook for the Implementation of UNHCR BID Guidelines*, provides specific details on implementing the procedures.⁷

UNHCR BID Guidelines

Older Refugees

Crises and disasters have a disproportionate impact on older persons. In both urban and camp environments, the challenges facing older persons can be considerable. Older refugees may be particularly vulnerable when confronted with the causes and effects of becoming a refugee. Some may have been separated from family, friends or their community during flight, or have witnessed the killing of family members. The loss of the family support network can have a major impact on older persons who need support. The physical hardship of exile, particularly for those without the support of family, may well take its toll on the older refugees, who, if already frail, may not have the strength to ward off disease and illness. Elder abuse, and sexual and gender-based violence against older women are also often undetected and underreported protection risks facing older refugees.⁸

Threats facing older persons in flight and displacement

In terms of solutions, older persons have fewer opportunities to integrate locally, due to factors such as the ability to speak the language, secure paid employment or access to regular pension, health and education schemes. In return situations, it can be a challenge to provide support to older persons wishing to return as international funding policies may focus on younger families, especially for the allocation of housing and land. Resettlement opportunities may also be limited for older persons, as resettlement countries do not usually prioritize places for older persons. Furthermore, some resettlement countries set age limits for the admission of older dependent parents under their family reunification criteria, or otherwise apply strict dependency criteria.

Challenges facing older refugees in seeking durable solutions

Nevertheless, all efforts must be made to retain family unity, and include older refugees dependent on family members in any considerations of durable solutions, including resettlement.

Including older members of the family in resettlement

⁷ UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008: <http://www.unhcr.org/refworld/docid/48480c342.html> and UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, 2011: <http://www.unhcr.org/refworld/docid/4dda4cb02.html>. See also, UNHCR, *Operational Guidance Note: Best Interests Assessments For Children being Resettled with Only One Parent*, April 2013, <http://www.refworld.org/docid/5163f4ff4.html>

⁸ UNHCR, *Working with Older Persons in Forced Displacement*, 2013, <http://www.refworld.org/docid/4ee72aaf2.html>



Furthermore, the interests and needs of older refugees within the family must be taken into account before a decision on resettlement is reached. Some older refugees are themselves the individuals with the strongest protection claim, and highest resettlement need in their family; other older refugees may be reluctant to uproot themselves and leave an asylum country with their families or to join family members who are already living in a resettlement country. Older refugees dependent on family members being resettled should be included in resettlement submissions, and resettlement States should be encouraged to accept the entire family unit.⁹

Refugees with Disabilities

The United Nations *Convention on the Rights of Persons with Disabilities* defines persons with disabilities as: “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”¹⁰

Persons with disabilities, who may face difficulties in communication, concentration, understanding or mobility, are at increased risk of discrimination, exploitation and violence, and may also encounter serious barriers in accessing essential protection services. Refugees with disabilities may be unable to access transport, understand written and verbal information, register with institutions for documentation and support, or recall and recount with accuracy relevant details during interviews. Children with disabilities are also at a greater risk of abuse, neglect, abandonment, exploitation, health concerns, exposure to the risk of longer term psychosocial disturbances, family separation and denial of the right to education.

Threats and challenges facing refugees with disabilities

Persons with disabilities can be perceived as a burden to their community, thereby increasing the sense of stigma and isolation, especially if there are no social services available to provide support.¹¹ Women, children, and older persons with disabilities, those who are housebound, and those “hidden” (and possibly even restrained) due to cultural stigma may be especially vulnerable to sexual and other forms of exploitation and abuse, but are often excluded from SGBV prevention and response programmes. SGBV also increases vulnerability to HIV/AIDS. Often persons with disabilities have difficulty accessing legal, HIV/AIDS, and reproductive health services, and many available services do not take their needs into account.¹²

Difficulties accessing services

⁹ There is no longer a separate resettlement submission category for Older Refugees. The submission category for cases of older refugees in need of resettlement should be selected according to their protection needs.

¹⁰ UN General Assembly, *Convention on the Rights of Persons with Disabilities: resolution / adopted by the General Assembly, 24 January 2007, A/RES/61/106, Article 1(2)*, <http://www.unhcr.org/refworld/docid/45f973632.html>

¹¹ For further discussion see UNHCR, *Resettlement Assessment Tool: Refugees with Disabilities*, April 2013, <http://www.refworld.org/docid/5163f43e4.html>

¹² See UNHCR, *Working with Persons with Disabilities in Forced Displacement*, 2011, <http://www.unhcr.org/refworld/docid/4e6072b22.html>.

Accessing durable solutions

Refugees with disabilities risk remaining “invisible” and excluded from support and services when repatriating, and from opportunities for self reliance and local integration. Their prospects for resettlement may also be limited by overlooking their protection needs, as well as the restrictive policies of some resettlement States. A disability is only one aspect of the attributes of any human being, and persons with disabilities should be considered for resettlement on an equal footing with other refugees. In those instances where their disabilities have led to increased protection risks, resettlement as a tool of protection may also be the most appropriate solution.

Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Refugees

Harm and discrimination facing LGBTI persons

In many parts of the world individuals are subject to serious human rights abuses because of their real or perceived sexual orientation, gender identity, gender expression, and even their sexed bodies. Sexual minorities, including individuals who are lesbian, gay, bisexual, transgender or intersex (LGBTI) may become targets of hate crimes and face serious violations of their fundamental rights, including executions, imprisonment and sexual and gender-based violence. Many LGBTI people, including some who are still minors, flee their home countries due to discrimination and abuse and seek protection elsewhere. Nonconformance to expected gender roles often leaves LGBTI refugees marginalized and without family or community support, exacerbating their challenges in accessing protection and basic services. An understanding of the multiple forms of harm and discrimination experienced by LGBTI persons throughout the displacement cycle is vital in order to adequately respond to their protection needs.

Terms

SEXUAL ORIENTATION refers to each person’s capacity for emotional, affectional and sexual attraction to, and intimate relations with, individuals of a different or the same gender, or more than one gender.

GENDER IDENTITY refers to each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth.

GENDER EXPRESSION refers to each person’s external manifestation of gender, which can correspond, or not, with culturally normative expectations in terms of masculinity or femininity.

SEXED BODIES (defined basically by each person’s chromosomes, genitals and gonads) can vary from culturally established standards of maleness and femaleness, and constitute a key component of bodily diversity.

LGBTI is an umbrella term used to describe a diverse group or community of people who do not conform to traditional notions of male and female gender roles existing in most societies.

A LESBIAN is a woman whose enduring physical, romantic and/or emotional attraction is to other women.

GAY is often used to describe a man whose enduring physical, romantic and/or emotional attraction is to other men, although the term gay can be used to describe both gay men and lesbians.

BISEXUAL describes an individual who is physically, romantically and/or emotionally attracted to both men and women.

TRANSGENDER is an umbrella term for people whose gender identity and/or gender expression differs from the sex they were assigned at birth.

INTERSEX is an umbrella term covering bodily variations in regard to culturally established standards of maleness and femaleness, including variations at the level of chromosomes, gonads and genitals, and variations produced by medical interventions aimed to normalize intersex bodies.¹³

LGBTI persons are entitled to all human rights on an equal basis with others. The human rights principle of non-discrimination in relation to sexual orientation and gender identity is applicable in the refugee context, including in regard to the interpretation and application of the 1951 Convention. The 2007 *Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity* set out the human rights protection framework as applicable to LGBTI individuals, including in the refugee context.¹⁴

LGBTI persons are entitled to all human rights on an equal basis with others

Protecting LGBTI individuals is particularly challenging in countries with laws criminalizing same-sex relations or cross-dressing, as making a refugee claim on the basis of their sexual orientation or gender identity in these countries is also an admission to “illegal behaviour”. Morality laws aimed at public indecency and lewdness or against sex work are also often used disproportionately against LGBTI individuals. Even when these laws are not enforced, their existence often reflects and promotes a culture of intolerance, which can result in abuse and discrimination. Hostile societal attitudes to LGBTI persons, even within refugee or immigrant communities, further contribute to marginalization and exclusion.

Laws criminalizing same-sex relations

A number of intersecting factors contribute to discrimination experienced by LGBTI asylum-seekers and refugees, including their sexual orientation, gender identity, age, nationality, race, and possibly also their HIV status, and general health. Full account needs to be taken of diverse gender expressions, evolving identities and the actual circumstances of the individual and their partners or other family members when assessing responses to their protection needs. Resettlement may be the only viable durable solution for LGBTI refugees facing intolerance and heightened risk in countries of first asylum, and emergency processing or evacuation may be required as lengthy processing can exacerbate the security risks.¹⁵

Intersecting factors must be assessed to determine appropriate protection responses

¹³ See UNHCR, *Working with Lesbian, Gay, Bisexual, Transgender & Intersex Persons in Forced Displacement*, 2011, <http://www.unhcr.org/refworld/docid/4e6073972.html>, UNHCR, *Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity*, 23 October 2012, <http://www.refworld.org/docid/50348afc2.html> and UNHCR, *Resettlement Assessment Tool: Lesbian, Gay, Bisexual, Transgender and Intersex Refugees*, April 2013, <http://www.refworld.org/docid/5163f3ee4.html>

¹⁴ International Commission of Jurists (ICJ), *Yogyakarta Principles - Principles on the application of international human rights law in relation to sexual orientation and gender identity*, March 2007, <http://www.unhcr.org/refworld/docid/48244e602.html>

¹⁵ UNHCR, *Summary Conclusions: Asylum-Seekers and Refugees Seeking Protection on Account of their Sexual Orientation and Gender Identity*, November 2010, <http://www.unhcr.org/refworld/docid/4cff99a42.html>

Specific Protection Risks and Considerations

Beyond the potential vulnerabilities of certain segments of the refugee population, there are other specific protection risks and considerations that arise in the context of identifying refugees and other persons of concern in need of resettlement. These issues have an impact both on considerations of urgency, and appropriateness of resettlement.

Non-Refugee Stateless Persons

Acute protection needs
warrant resettlement
consideration

Persons of concern to UNHCR include stateless persons who are not refugees. Generally, solutions for stateless persons should be sought in a State with which they have links and of which they could ultimately acquire or reacquire nationality. In almost all cases, this will be either the State of birth or of current or former habitual residence (or a successor State). Nonetheless, in some situations, despite repeated efforts made by the international community, it is clear that neither the present State of residence nor any former State of residence or of nationality will grant its nationality or a stable residence status in the foreseeable future. This leaves a stateless individual without the enjoyment of basic rights. In such circumstances, acute protection needs may arise, in particular where individuals are outside of a State with which they have links, and cannot return to that State.¹⁶

Based on the foregoing, resettlement may be considered for cases where the individual:

- does not have in the current or a former State of habitual residence a secure, lawful residence status which brings with it a minimum standard of treatment equivalent to that set out in the 1954 Convention relating to the Status of Stateless Persons, and
- has no reasonable prospect of acquiring such a residence status or nationality, and
- has acute protection needs which cannot be addressed inside the country of current or former habitual residence.

Field offices considering resettlement of non-refugee stateless persons in these circumstances should consult the Resettlement Service prior to submission. *Guidance on the submission of such cases is provided in Chapter 7.2.2 of the Resettlement Handbook.*

¹⁶ UNHCR, *General Conclusion on International Protection*, 10 October 2003, No. 95 (LIV) - 2003, para. (v), <http://www.unhcr.org/refworld/docid/3f93aede7.html>

Human Trafficking¹⁷

Trafficking in persons is prohibited by international law and criminalized in the national legislation of a growing number of States. Although States have a responsibility to combat trafficking and to protect and assist victims of trafficking, UNHCR has a responsibility to ensure that persons of concern do not fall victim to trafficking, and to ensure that individuals who have been trafficked or who fear trafficking have access to the asylum procedures. The specific protection needs or risks facing refugees who have been trafficked, or who risk being trafficked, may indicate a resettlement need.

UNHCR responsibility to ensure that persons of concern do not fall victim to trafficking

A victim of trafficking who has been determined to be a refugee may additionally fear reprisals, punishment or re-trafficking in the country of asylum. Victims who have escaped from their traffickers could be in fear of revealing the real extent of the persecution they have suffered. Women in particular may feel ashamed of what has happened to them, may suffer from trauma caused by sexual abuse and violence, and, additionally, may fear rejection by their family or community. Children also require special attention, and the impact of reprisals by members of the trafficking network, social exclusion, ostracism and/or discrimination against a child victim of trafficking needs to be assessed in a child-sensitive manner. Such child victims of trafficking may have very limited possibilities of accessing and enjoying their human rights, including survival rights, if returned to their families.¹⁸

Reprisals, punishment or re-trafficking feared by victims

Resettlement may be the appropriate response to refugees who have survived or fear trafficking, but is a very limited option. As part of a broader international response to improve the range of protection and assistance options available to victims of trafficking, UNHCR has also developed a stronger cooperation framework with IOM with the aim of combining the available expertise, capacities, and potential of both agencies.¹⁹

International cooperation to broaden protection options available

¹⁷ For further guidance see UNHCR, *Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked*, 7 April 2006, HCR/GIP/06/07, <http://www.unhcr.org/refworld/docid/443679fa4.html>

¹⁸ UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A) 2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, <http://www.unhcr.org/refworld/docid/4b2f4f6d2.html>

¹⁹ UNHCR, *Developing Standard Operating Procedures to Facilitate the Protection of Trafficked Persons*, December 2009, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4b5876442.html>



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Female Genital Mutilation

Female Genital Mutilation (FGM) is a form of gender-based violence that inflicts severe harm, both mental and physical, which UNHCR considers to amount to persecution.²⁰

Other labels for FGM

The term “female genital mutilation” (also called “female genital cutting” and “female genital mutilation/cutting”) refers to all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons.²¹

State responsibility to apply legal sanctions

From the standpoint of international human rights law, UNHCR cannot condone FGM, and must not take a stance that is seen as acquiescing to the practice. However, it is not UNHCR's role to apply legal sanctions, or to invoke such sanctions as exist in a particular country of asylum for individual cases.²² The responsibility for prosecuting such cases lies with the country of asylum. This must be treated separately from consideration of a refugee's protection needs, which fall within UNHCR's mandate. Regardless of whether a refugee has perpetrated FGM, resettlement is still a crucial protection tool and may, in practice, present the only available durable solution. Girls and women who have been subjected to FGM should additionally not be penalized for the actions of their family members, nor should their rights to family unity be violated by deprioritizing perpetrators who are family members for resettlement.

Resettlement may be an appropriate protection tool for girls *at risk* of FGM. However, cases must be carefully assessed in context, and require a BID if there is consideration of removing the child from her family.

SGBV Perpetrators

Refugees must be protected from sexual and gender-based violence. When refugees are perpetrators of sexual and gender-based violence (SGBV), UNHCR encourages the host country to hold them accountable. At the same time, UNHCR recognizes that refugee perpetrators, as refugees, are entitled to international protection.²³

Refugee perpetrators are still entitled to protection

Resettlement is a protection tool for refugees facing serious protection risks or vulnerabilities, and priority for resettlement consideration is given on the basis of need. For refugees facing acute protection problems, including for refugees who are alleged perpetrators of SGBV, or family members of alleged perpetrators, resettlement may be identified as the most appropriate durable solution for ensuring the protection of a refugee or his/her family. Resettlement is also used to provide a durable solution for refugees in protracted situations, and other group

Circumstances where resettlement may be considered for alleged perpetrators of SGBV

²⁰ UNHCR, *Guidelines on International Protection No. 1: Gender-related persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, 7 May 2002, (HCR/GIP/02/01), para. 9. See also UNHCR, *Guidance Note on Refugee Claims relating to Female Genital Mutilation*, May 2009, <http://www.unhcr.org/refworld/docid/4a0c28492.html>

²¹ Inter-Agency, *Eliminating Female Genital Mutilation: An Interagency Statement*, February 2008, <http://www.unhcr.org/refworld/docid/47c6aa6e2.html>

²² As of 2009, eighteen countries – Benin, Burkina Faso, Central African Republic, Congo, Côte d'Ivoire, Djibouti, Egypt, Eritrea, Ethiopia, Ghana, Guinea, Kenya, Niger, Senegal, South Africa, Sudan, Tanzania, and Togo – have enacted laws specifically criminalizing FGM, whereas Chad, the Democratic Republic of the Congo, Gambia, and Mauritania have not enacted specific provisions, but FGM may be penalized under sections of the Penal Code. Penalties range from a minimum of three months to a maximum of life in prison, and many States also impose monetary fines. However, in most of the named countries, with the exception of Kenya, there have been no convictions for commission of FGM, and in most cases, no charges were ever filed. See United Kingdom: Home Office, *Female Genital Mutilation (FGM)*, 20 June 2008, <http://www.unhcr.org/refworld/docid/48776e342.html>

resettlement contexts. In these circumstances, UNHCR assesses resettlement priorities within populations facing similar protection needs and vulnerabilities. Therefore, operational circumstances lead UNHCR to consider resettlement cases of individuals against whom allegations related to SGBV may exist, or where certain forms of SGBV—in particular domestic violence and harmful traditional practices such as female genital mutilation (FGM)—may be widespread in the population.

In the context of determining whether to submit a refugee who is suspected of having perpetrated SGBV, UNHCR works to balance the appropriateness of submission for resettlement and the integrity of the resettlement operation, while also applying a fair and coherent resettlement approach that respects the principles of protection, due process and family unity.

*Resettlement
Assessment Tool:
Alleged Perpetrators
of SGBV*

The *Resettlement Assessment Tool: Alleged Perpetrators of Sexual and Gender-Based Violence (SGBV)*²⁴ has been developed to harmonize procedures for assessing cases of refugees against whom there are allegations of sexual and gender-based violence and determining whether or not to submit the case for resettlement, and which details of SGBV should be included in the resettlement submission. The tool guides staff to ensure that all considerations and procedural safeguards are taken into account to reach a final decision in accordance with UNHCR's responsibility to provide international protection to persons of concern, and with fundamental principles of international human rights law. In view of the serious consequences for refugees, *all allegations need to be investigated, and if found to be substantiated, the nature of the act/crime fully clarified*. The refugee and his/her family members must also be informed of UNHCR's decision whether to submit the case and the details that UNHCR will share with the country of resettlement about the incident, and should be *individually counselled* regarding the implications of these decisions.

Child Marriages

*Harmful traditional
practice, but common in
many parts of the world*

Child marriage, or the union of two persons at least one of whom is under 18 years of age, has been recognized as a harmful traditional practice.²⁵ However, child marriages are common in many parts of the world, especially in sub-Saharan Africa, South East Asia, and among some groups in the Middle East and other parts of Africa and Asia.

²³ Some individuals may indeed be found **undeserving** of international protection and may be excluded from international protection because of SGBV-crimes of particular magnitude under Article 1F(a) (“a war crime, or a crime against humanity”, or Article 1F(b) (“serious, non-political crime committed outside the country of refuge”). However, many SGBV-crimes, particularly – but not exclusively – crimes committed in the domestic sphere may not achieve the threshold of a “widespread, systematic attack against a civilian population” as required for crimes against humanity, may not be considered as a war crime, or may have been committed within the country of refuge (thereby not engaging Article 1F[b]). While some of the more serious allegations will trigger exclusion considerations, the majority of incidents brought to the Office's attention do not warrant exclusion under Article 1F.

²⁴ UNHCR, *Resettlement Assessment Tool: Alleged Perpetrators of Sexual and Gender-Based Violence*, June 2011, (Internal): <http://swigea56.hcrnet.ch/refworld/docid/4dc7a99d2.html>

All UNHCR decisions taken regarding married refugee children should be guided by the principle of best interests of the child. When there are *clear indications that there are risks or signs of abuse, neglect, exploitation or violence and the child is at imminent risk*, measures should be taken to ensure the safety of the child, e.g. through referral to a safe house. Each circumstance is different and an appropriate response therefore requires a case-by-case assessment.

Best interests process for married children in the context of resettlement

UNHCR does not normally submit cases of married children for resettlement unless there are compelling protection risks that warrant resettlement, and resettlement is in the best interests of the child. A Best Interests Assessment (BIA) or a full Best Interests Determination (BID) must be conducted in these circumstances:

- (1) Two married child spouses, being considered for resettlement without a parent/caregiver are considered separated children and require separate BIDs.
- (2) Two married child spouses, when being considered for resettlement together with a parent/caretaker require only BIAs.
- (3) A child married to an adult requires either a BIA or a BID, depending on the circumstances and the general considerations listed above.
- (4) If the married child couple has a child, the best interests of that child should also be considered in the BID process.

The *Resettlement Assessment Tool: Married Children*²⁶ is designed to assist UNHCR staff to assess the protection needs, legal situation and social context of refugees in child marriages, and to process the resettlement submission in cases where it is determined that resettlement is in the child's best interests. Protection considerations related to child marriages and the requirements for Best Interests Determinations (BID) are also discussed in Chapter 5.2.2 of the *Resettlement Handbook and in Section 3.6 of the Field Handbook for the Implementation of UNHCR BID Guidelines*.²⁷

*Resettlement
Assessment Tool:
Married Children*

A resettlement submission for a married refugee child together with their spouse may be warranted when:

- a married refugee child has a compelling protection need or vulnerability, or
- a member of the refugee family upon which the married refugee child is dependent has a compelling protection need or vulnerability, and
- resettlement is considered the most appropriate option for addressing the specific protection need or vulnerability, and

²⁵ See UNHCR, *UNHCR Policy on Harmful Traditional Practices (Annexes)*, 19 December 1997: <http://www.unhcr.org/refworld/docid/3efc79f34.html>

²⁶ UNHCR, *Resettlement Assessment Tool: Married Children*, June 2011, (Internal): <http://swigea56.hcrnet.ch/refworld/docid/4dc7a79f2.html>

²⁷ UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, November 2011: <http://www.unhcr.org/refworld/docid/4dda4cb02.html>

- the married refugee child wishes to be resettled together with her/his spouse, and
- a Best Interests Assessment (BIA) or formal Best Interests Determination (BID) has determined that the refugee child should be submitted for resettlement with her/his spouse.

As recommended through the BIA/BID process, the resettlement of married refugee children may be necessary in order to:

- maintain family unity and prevent separation of the child from her/his parents/legal guardians
- ensure that the refugee or members of the child's family do not become more vulnerable to protection risks by having to wait until the child reaches the age of 18 years old to be submitted for resettlement
- protect the child from sexual and gender-based violence, or other violations of her/his human rights.

The Identification Process

Preconditions for resettlement consideration

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

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

A. Initial Identification of Resettlement Needs

The initial identification of those with resettlement needs, and therefore those who meet the preconditions for resettlement consideration, encompasses two main aspects:

1. **STRATEGIC PLANNING**, via such tools as *proGres* and *Focus*,²⁸ give an indication of overall needs and allows proactive durable solutions planning to provide a holistic picture of an operation's resettlement needs for current and subsequent years.
2. **INDIVIDUAL IDENTIFICATION**, through use of participatory assessments, the *Heightened Risk Identification Tool*,²⁹ and referrals from partners or from other UNHCR units (Protection or Community Services, for example) can help augment registration data and identify the most vulnerable individuals for resettlement consideration.

Proactive resettlement planning is important to identify needs, priorities, and likely gaps, and to ensure informed decisions on quota and resource allocations. Offices must establish effective identification and referral systems in order to conduct strategic planning and individual identification transparently and efficiently. These systems are discussed further below.

B. Identification of a Case for Resettlement Submission

Moving forward with the identification of an individual case for resettlement submission requires another step of ensuring that refugees fall within one of the resettlement submission categories, which were introduced in Unit 2 and are discussed later in this Unit.

²⁸ *Focus* is Results Based Management (RBM) software used in UNHCR for de-centralized budgeting, monitoring and reporting on Field Operations.

²⁹ UNHCR, *The Heightened Risk Identification Tool*, June 2010, Second Edition: <http://www.unhcr.org/refworld/docid/4c46c6860.html>; *User Guide*: <http://www.unhcr.org/refworld/docid/46f7c0cd2.html>. These documents are available in French, Spanish, Arabic and Russian on the Resettlement page of the UNHCR Intranet.

Establishing Identification Systems

The demand for effective methods of identifying resettlement needs has grown as UNHCR increases its focus on developing comprehensive approaches to durable solutions, and using resettlement strategically. This section outlines some of the overall considerations regarding the establishment of effective identification system and referral systems, mapping and profiling of needs, identification tools and methodologies including partnerships, and the overall considerations for proactive resettlement planning within protection and durable solutions strategies.

Identification systems must be tailored to particular operational contexts

UNHCR country offices must consider how to approach resettlement identification appropriately and effectively in their particular situation. Different identification challenges arise in refugee camps than in less structured settings, such as in urban areas, and staff need different approaches for refugees recognized through individual status determination than for those recognized on a *prima facie* group basis. Identification systems can be put in place even with limited resources, by linking them to other ongoing activities organized by UNHCR or by partners (e.g. registration, renewal of documentation, counselling, workshops, etc.).

Systems designed and implemented to mitigate risks

Identification systems should also be designed and implemented to mitigate the risks associated with unplanned resettlement delivery, such as unrealistic expectations, fraud, irregular secondary movements and inconsistent approaches to resettlement delivery. They should allow for proactive and systematic identification by UNHCR and its partners, and ensure the early identification of refugees who are at risk of serious harm, including the refugees who may have the most challenges in having their needs made known. The identification systems should also be integrated into the overall protection and durable solutions strategy of the office and the region.

Identification based on need

UNHCR identifies refugees for resettlement based on a refugee's objective *need* for resettlement and not on their subjective *desire* for it. Identification should not be based on the preferences of any specific actors, such as the host State, resettlement States, other partners, or UNHCR staff themselves. Identification based on need also means that identification should not be limited by the expected capacity of the office, the number of resettlement places presumed available, additional criteria (whether formal or informal) introduced by resettlement States, or restrictions imposed by the country of asylum. UNHCR must cooperate with asylum and resettlement States for resettlement to succeed, but they should not influence UNHCR's identification process itself.

Internal and external collaboration under the coordination of the UNHCR officer accountable for resettlement

A designated officer oversees all identification efforts for resettlement purposes. An interrelated working environment and team dynamic should be fostered in offices to maximize synergies between resettlement and other work areas (e.g. protection, field and community services) to strengthen case management and the search for durable solutions for refugees. It is also vital that UNHCR staff cooperate and coordinate with NGOs and other external partners to identify needs. While various actors may be involved in the identification of refugees in need of resettlement, it is essential that these actors are well managed and monitored by the UNHCR officer accountable for resettlement, as well as by senior management within the office, to ensure transparent and consistent identification.

Given the number of partners potentially involved in needs assessments and eventual resettlement identification, regular and effective communication will help ensure coordination of activities. It is also crucial to document the identification process well and to develop and implement transparent identification procedures in accordance with the *Baseline Standard Operating Procedures on Resettlement*.³⁰ Safeguards also need to be introduced into any identification mechanisms to mitigate the risk of fraud, abuse and threats to refugee and staff safety. Fear of such risks, however, should not prevent engaging in resettlement, since the establishment of an effective system for identifying refugees in need of resettlement will mitigate those risks.

Regular communication, transparent procedures, and the introduction of safeguards

Resettlement must be integrated into the overall protection and durable solutions strategy of the office and the region. Identification systems must be designed to ensure consistent delivery of resettlement and mitigate risks such as fraud and abuse.

Proactive Planning for Resettlement within Operational Planning

Assessing the needs of populations of concern, and designing the most appropriate strategy to bring about changes in the condition and situation of the population of concern are core UNHCR protection processes and fully engage the whole operations team. Incorporating resettlement into the planning process and the overall protection strategy of the office helps to ensure that all durable solutions are assessed comprehensively, and that any negative impacts either of resettlement on other activities, or vice-versa, are mitigated.

Designing an appropriate protection strategy is a core UNHCR protection process

For the annual Regional/Country operation planning process in Focus, UNHCR teams conduct comprehensive assessments of the protection problems and needs of the population of concern, and record the results as a Summary Protection Assessment. These results are analyzed in order to design and develop their operations plan. Selecting the most appropriate goals for population groups, and developing or revising the protection and solutions strategy for that population are critical planning steps. As durable solutions strategies are often most effective when planned within a regional context, dialogue at the assessment stage with UNHCR offices in neighbouring countries of origin and asylum helps to ensure that the causes of displacement, as well as problems associated with finding durable solutions, are consistently reflected across their comprehensive assessments. Proactive planning for resettlement is an integral part of this annual process, which ensures that global resettlement needs are both assessed, and addressed, comprehensively.

Proactive planning for resettlement is an integral part of the annual country operations planning process

³⁰ UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal): <http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html>

Summary protection assessments aim to offer a concise narrative snapshot of the core protection problems currently affecting each type of population of concern (i.e. Refugees, Stateless persons, Returnees and IDPs) that can serve as a baseline for operational planning. Operational targets are set to reduce identified gaps between the baselines and the conditions UNHCR considers to be the minimum acceptable standard, and eventual impacts are measured against these indicators.

Resettlement needs and strategies identified within the Country Operations Plan

Each Country Office that identified resettlement as one of the possible durable solutions for its population(s) of concern is requested to analyze total and immediate resettlement needs, protection and durable solutions strategies, and capacities and constraints. Country offices draw on various data sources and follow standard methodologies to reach an estimate of the number of refugees in need of resettlement for the following calendar year in the Country Operations Plan. Country offices are also asked to provide information on their capacity to process cases, and to analyze the use of resettlement within the protection framework and solutions strategy as well as implementation considerations and constraints.³¹

UNHCR Projected Global Resettlement Needs Document

The UNHCR *Projected Global Resettlement Needs* document is the key document for planning the resettlement activities of the Office

The information provided is compiled by the Resettlement Service in close consultation with relevant Bureaux and Regional Hubs/Offices into the *UNHCR Projected Global Resettlement Needs* document which reports on the resettlement needs for each country operation for the following calendar year. This document is the key document for planning the resettlement activities of the Office as it provides the rationale and scope of UNHCR's resettlement operations worldwide. Shared with the resettlement countries and NGO partners at the Annual Tripartite Consultations on Resettlement (ATCR), this document serves as the primary reference document for dialogue on resettlement needs, priorities, likely gaps and challenges in programme delivery, allowing informed decisions on quota and resource allocations for the following year.

³¹ See UNHCR Intranet for Instructions and Guidelines on the annual planning exercise.

Tools and Methodologies to Assist with Identification of Needs

Operational planning on a global level, including resettlement planning, is highly contingent on quality data from individual operations. The development of the *proGres* database has provided UNHCR with an essential resource for operations to collect and maintain data on their populations of concern, starting with quality registration data, but also including data on protection interventions and individual specific needs.

Operational planning contingent on quality data - *proGres* database an essential resource

In addition to making effective use of *proGres* and/or other databases, the projection of resettlement and other protection needs will depend on information gathered during participatory assessments with refugees and other interactions with persons of concern. The sections below examine UNHCR's tools and methodologies for data collection and needs assessments. Sources include:

- *proGres* and registration data
- participatory assessments
- internal and partner reports and dialogue
- data from the *Heightened Risk Identification Tool* (HRIT) and
- internal and external referral systems.

Registration as a Starting Point for Identification

A particularly important source of information is registration data. Registration is a systematic method of collecting and recording individual and family details. Registration data is used to identify a person, to confirm a person's identity, or to provide information pertaining to an individual's refugee or other status. This data is a principal means to know the population of concern on an individual basis, and is thus fundamental to effective protection.

Registration is a systematic collection of individual and family details

UNHCR registration standards require that a core set of information be gathered about all members of the population of concern at an individual level as soon as possible. Initial registration includes basic facts such as age, gender, and family size statistics for the refugee population. Factors that may also be captured are duration of stay in the country of asylum, national, ethnic and religious characteristics and, where possible, livelihoods, place of residence and specific needs.

Core set of information gathered

Refugee situation impacts extent of detail gathered

UNHCR may undertake registration with the government and partners of the country of asylum, or only with NGOs. The timing or the extent of registration may vary depending on the refugee situation. When dealing with a mass influx of refugees, any registration is likely to be quite basic. Other issues, such as security considerations, may also cause difficulties in obtaining registration data. The *UNHCR Handbook for Registration*³² provides for three broad levels of registration. The levels are distinguished by the amount of data collected, the degree to which the generic process is respected, and the measure of compliance with the operational standards.

Registration data must be regularly updated

Registration needs to be an ongoing process with continued verification and registration of any changes in the data relating both to any individual or family/household (such as births, deaths, marriages, divorces, new arrivals and departures) and to specific needs. Data verification is particularly important when the population is believed to have changed considerably, or registration data is otherwise not thought to be accurate.

Updating data can help identify individuals and groups at risk

Updated and accurate registration data helps to identify individuals and groups at risk and their specific needs. Correct registration data can help to protect a person from the risk of *refoulement*, SGBV, unlawful detention, prolonged detention because of status, and forcible recruitment. Furthermore, specific protection programmes such as tracing, legal representation and family reunification can only be adequately implemented if current and reliable data is available. Where detailed registration data is available, it may be possible to identify refugees not only for protection interventions but also for potential resettlement consideration.

Accurate registration data is critical for resettlement

Reliable data is particularly important at all stages of the resettlement referral process to ensure that the information about the principal applicant and all family members is accurate and to prevent possibilities for misrepresentation.

Use of *proGres*

Resettlement staff need to build effective liaisons with other units

UNHCR has made considerable advances in data management at the global level, and has placed emphasis on ensuring that registration data is collected with a view to the needs of all UNHCR activities. However, it is of critical importance for subsequent work on resettlement that the utility of the data is maximized. Resettlement staff members need to build effective liaisons with other units, and ensure that early and regular consultations are held during the registration design and implementation phases.

proGres must be used proactively by all units

Registration data should normally be contained in a database, and thus searchable. Where *proGres* is in place, it must be used proactively by all colleagues including protection, RSD, field, community services and resettlement colleagues. The Office's SOPs should specify who has access to changing data in *proGres* and on the files. This will be discussed more in Unit 6.

³² UNHCR, *UNHCR Handbook for Registration*, September 2003: <http://www.unhcr.org/refworld/docid/3f967dc14.html>

Multivariate data analysis can show patterns within the population that may give rise to protection considerations, and that may assist with the design and implementation of participatory assessments and targeted surveys. It may be necessary to cross-check the data, particularly for specific needs and vulnerabilities, as these may be recorded in the database without verification. As a central depository of data from registration, RSD/protection, community services and resettlement staff, the *proGres* database greatly facilitates this task.

proGres in Partnership

As of 2010, *proGres* was used in over 75 countries and has become the main repository for the storing and management of personal data of persons of concern to UNHCR. *proGres* databases worldwide contain records of some 4.8 million individuals, of which 2.8 million records are active. The “*proGres* in Partnership” project developing version 4 of the software foresees significant changes including a centralized data structure, data sharing and exchange among UNHCR offices and with external partners, and functionalities to enhance fast and efficient registration during emergencies and in urban settings.

proGres 4 in development

Participatory Assessments

Refugees must be at the centre of decision making concerning their protection and well-being. In order to gain a deeper understanding of the protection problems they encounter, and the challenges they face in achieving solutions, it is essential to consult them directly and listen to them. Participatory assessments provide an outline and steps for a structured dialogue with persons of concern.

Refugees must be consulted directly

A **participatory assessment** is a process of building partnerships with refugee women and men of all ages and backgrounds through structured dialogue. Participatory assessment includes holding separate discussions with women, girls, boys, and men, including adolescents, in order to gather accurate information on the specific protection risks they face, their underlying causes, their capacities to deal with the risks, and their proposed solutions. Participatory assessment forms the basis for implementing a rights- and community-based approach, and helps mobilize communities to take collective action to enhance their own protection. Participatory assessment is also a phase of a comprehensive situation analysis.³³

Participatory assessments done in an age, gender and diversity sensitive approach produce critical data and may help identify individuals in urgent need of intervention, or uncover specific types of vulnerabilities that have not previously been recognized or considered. Resettlement needs are not the primary focus of the assessments, but they provide important information to assist with forward planning, especially

³³ UNHCR, *UNHCR Tool for Participatory Assessment in Operations*, First edition, May 2006, p. 1-2: <http://www.unhcr.org/refworld/docid/462df4232.html>

with regard to the challenges and opportunities to promote resettlement, and the scope for working with partners. Indeed, the more a particular identification effort is distinguished from resettlement as a durable solution, the less likely it is that information obtained is skewed towards resettlement; this also mitigates the risk of fraud. Nevertheless, resettlement staff should be involved in the design of any assessment efforts to ensure that the needs for resettlement are properly identified.

Mapping and Profiling Refugee Needs

Mapping or profiling the socio-demographic characteristics and protection needs and challenges of the refugee populations identifies groups or categories of refugees with common needs and characteristics, and provides UNHCR a clearer picture of the population profile. This facilitates the proactive identification of individuals or groups likely to need priority intervention, as well as refugees for whom resettlement may be the most appropriate durable solution.

Mapping allows for pre-emptive risk mitigation, and as an important planning exercise, its results should be reflected in the Regional/Country Operation Plans. UNHCR offices should seek to identify protection needs systematically by population group so that relevant data is available to develop durable solution strategies.

Efforts must be made to access refugees to include them in mapping

Any mapping and profiling of refugee populations should also include refugees who are difficult to access. The most detailed information is normally available for refugees living in camps, but efforts must be made to access refugees in urban or other areas.³⁴ Ideally, more than one method of mapping and profiling is used, to ensure that the resettlement needs reflect the actual and updated needs. A multidisciplinary approach also helps bridge potential gaps and mitigates the risk of data bias. Mapping and protection profiling also provides the oversight to focus and prioritize protection and resettlement interventions consistently by population group within the national and regional operational planning.

Confidentiality essential

Identifying refugees in need of resettlement, however, should not add to the risks faced by individuals and groups, but rather should be sensitive to cultural and community dynamics and accurate in their portrayal of refugee situations. Although the profile of the population in need of resettlement identified through mapping the protection needs and risks faced by individuals should be documented as comprehensively as possible, confidentiality should be respected, and an individual's consent should be received before information is shared with other actors. Even then, information should only be shared when required for a specific purpose.³⁵

³⁴ See UNHCR, *UNHCR Policy on Refugee Protection and Solutions in Urban Areas*, September 2009, <http://www.unhcr.org/refworld/docid/4ab8e7f2.html>

³⁵ UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html>



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The Heightened Risk Identification Tool

The *Heightened Risk Identification Tool* (HRIT) was developed to enhance UNHCR's effectiveness in identifying refugees at risk by linking community-based and participatory assessments with individual assessment methods. The (HRIT) and accompanying *User Guide* have been designed for UNHCR staff, (principally those involved in community services and protection, including resettlement), and for implementing partners to identify individuals at risk who require immediate intervention. The tool should be used comprehensively to identify protection needs—not only for identification of refugees in need of resettlement.

HRIT- tool to identify protection risks and possible interventions

The HRIT is designed to be flexible and simple, yet comprehensive. The 2010 second edition is a more user friendly tool, with easy interface to UNHCR's registration database *proGres* to enhance case management.³⁶ It can be used in different ways and operational contexts, including:

- prior to and following RSD
- in conjunction with a participatory assessment exercise
- as a stand-alone methodology involving community-based consultations and individual assessments
- as a tool to sample survey the refugee population to measure risk levels
- as an interview format or checklist for case workers, and
- as a checklist tool for roving officers to use in refugee camps or in urban settings.

³⁶ UNHCR, *The Heightened Risk Identification Tool*, June 2010, Second Edition: <http://www.unhcr.org/refworld/docid/4c46c6860.html> *User Guide*: <http://www.unhcr.org/refworld/docid/46f7c0cd2.html>

Consultation with Internal and External Partners in the Identification Process

Internal and external coordination and cooperation with partners is vital. Partners in identification include: - different units in the UNHCR office, NGOs, refugees

The identification of resettlement needs, gaps, and capacities can be enhanced in many operations, but the responsibility does not rest with resettlement staff alone. Internal colleagues, external partners such as NGOs, and refugees themselves may have important information and access that can support identification of those at risk and in need of protection intervention. Consultation with partners helps UNHCR gain insight into a refugee's particular vulnerabilities in the country of asylum, and provides access to additional data that can be used to cross-check available registration data.

All available information – including standard reports and data from partners and refugees, reports from protection, community services and resettlement coordination and strategic planning meetings – may be useful sources against which to cross-check available data. Country of origin information (COI) can also be a useful tool, not only for RSD purposes, but also for the identification and assessment of resettlement needs.

Internal Coordination Among UNHCR Staff

RSD and resettlement

Colleagues undertaking registration and RSD are likely to have information not only about who is a refugee, but also who might have suffered from torture, trauma, or other specific vulnerability. Refugee status determination data itself can be useful in identifying resettlement needs, and staff should automatically review the files of newly recognized refugees (whether recognized under the 1951 Convention or under the broader definition) in order to identify any individuals with particular vulnerabilities, such as women at risk, medical cases, security cases, and survivors of violence and torture. This screening requires organization and coordination within the office, and may be undertaken by RSD, resettlement or other protection staff. As discussed in Unit 3, however, there should be a clear separation between the steps of refugee status determination and the identification of resettlement need, not least because it adds an additional safeguard to manage expectations and risks associated with fraud and abuse.

Protection profiling of refugees recognized on a *prima facie* group basis

Where refugees have been recognized on a *prima facie* group basis, field protection colleagues will likely have information on persons with particular vulnerabilities that will be useful for initial mapping and protection profiling of the refugee population for resettlement purposes. Close cooperation between RSD and resettlement staff on these cases is vital to ensure the credibility of UNHCR and the resettlement process. Resettlement needs are not predicated on refugee status alone, but also on specific protection needs in the asylum country. Cooperation with protection colleagues is thus needed to identify, for example, which vulnerabilities cannot be dealt with in the asylum country, or which refugees may be at heightened risk.



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Where community services units or officers exist, they may be helpful in identifying problems faced by people with specific needs, and highlighting vulnerabilities in local contexts. They may also be helpful in identifying specific cases for resettlement,³⁷ and may have access to information useful for mapping the protection needs and risks within a refugee population.

Community services staff can identify risks and vulnerabilities

In smaller operations without distinct units dealing with protection, community services and resettlement, it is still useful to understand the links between the different sectors of UNHCR's protection work in order to ensure attention to the larger context and avoid negative impacts of one activity on the other. No matter the size of the operation, good communication and cooperation between the different staff involved is very important.

Cooperation between staff is very important

Collaboration with External Partners

External partners, such as non-governmental organizations (NGOs), also have access to refugees and potentially important information. These include implementing partners, and other organizations such as legal aid institutions, religious or charitable organizations and local foundations. Information from organizations not necessarily targeting refugees, especially those working with women, children, medical and social services may also be very useful.

External partners

³⁷ For transparency and accountability, internal referrals should follow standard operating procedures.

NGO role in identification may be formal or informal

NGOs may be engaged as implementing partners specifically for the purpose of identification or may have identification included in their sub-agreement with UNHCR as a secondary protection function because their main activity is likely to bring them in close contact with persons who may be in need of resettlement. In other cases, NGOs may be unwilling to enter into a formal referral arrangement with UNHCR, but may be willing to share information informally and thus may help identify people at risk.

UNHCR-NGO Toolkit for Practical Cooperation on Resettlement

The *UNHCR-NGO Toolkit for Practical Cooperation on Resettlement*³⁸ provides practical guidance for UNHCR and NGO cooperation in all aspects of resettlement work, including identification.

In any arrangement, it is important to remain cognizant of the kinds of community pressures NGOs may face if refugees become aware that they are conducting resettlement identification activities, particularly if any NGO staff are also members of the refugee community. This needs to be addressed in developing a referral system.

Refugees themselves are an important source of information. Care should be taken to ensure that the most vulnerable are identified

Refugees themselves are an important source of information, both for initial profiling and mapping, and for identifying specific refugees for resettlement purposes. However, the refugees who are most vulnerable are often the least visible and the least vocal, so while it is important to utilize existing structures within a refugee population, it is also important to ensure mechanisms that allow refugees fair and equitable access to the identification process. Such access for refugees who have 'hidden' protection problems is particularly important, as they may be especially vulnerable. This may require specific activities such as participatory assessments or community consultations to be undertaken with refugees who experience difficulty in having their voice heard.

³⁸ The UNHCR-NGO Toolkit for Practical Cooperation on Resettlement is available from the UNHCR website www.unhcr.org. See Chapter 8.2.2 of the *Resettlement Handbook* for more information on the Toolkit.

Referral of Individual Cases for Resettlement

Ensuring that refugees most in need of protection and resettlement have access to those services is a fundamental aspect of UNHCR's mandate responsibility. Some especially vulnerable refugees may not be identified through mapping or other data analysis, but may be in particular need of access to resettlement. It is therefore essential for UNHCR to have effective referral systems in place that involve internal and external partners who bridge gaps in protection and resettlement delivery.

Referrals for resettlement consideration may be made internally by other UNHCR staff, by external partners, or directly by the concerned refugee as a self-referral. The most effective and responsive resettlement procedures will consider referrals from all three sources and will encourage proactive identification. However, to ensure consistency and reduce possibilities for fraud, the processing of all referrals, regardless of the source, must follow standard procedures as detailed in the Office's Resettlement SOPs.

Standard operating procedures to process referrals

Each office should have a designated focal point for receiving internal, external and self-referrals, and established procedures for documenting, forwarding and assessing the resettlement needs. Depending on the capacity of a given field office, the focal point for external and internal referrals may be the same individual. The focal point receiving referrals will raise any preliminary queries with the referring staff member or partner, and will document receipt of the referrals in *proGres* and the existing case file. Operational guidelines regarding the assessment of referrals are covered in the next Unit.

Focal point for receiving referrals

The task of making, receiving and assessing referrals is facilitated through the use of a standard referral form. A sample resettlement consideration form is annexed to the Baseline SOPs, and many field offices have adapted internal and external referral forms to their operation's needs.

The use of standard referral forms

Internal Referrals

As discussed in the section on internal collaboration within UNHCR, various sections within a field office may be well placed to make resettlement referrals on the basis of their day-to-day contact with refugees. The Protection Unit can identify refugees with persistent protection problems and Community Service members could identify and refer vulnerable refugees for resettlement considerations. In principle, however, all UNHCR staff members who come into contact with refugees, including those working with education, health issues, food distribution or other field activities, may identify individuals and families with protection issues or specific resettlement needs.

Training of staff on nature and limitations of resettlement is essential

Coordination and training are essential within a field office to ensure that internal referrals are effective in identifying refugees in need of resettlement consideration. Field office staff must be well informed of the nature and limitations of resettlement to ensure that only appropriate referrals are made, and that unrealistic resettlement expectations are not raised.

To ensure that referrals are made primarily for legitimate and deserving refugees, those making referrals should be reminded of the following:

- All referrals must be made in writing and should contain the following basic information:
 - basic bio data
 - the reason for the referral
 - the immediacy of the need
 - steps already taken to address the need
 - the name and title of the referring staff member, and
 - the date of referral.
- Family composition should be verified in a non-resettlement context, either by registration data, home visits (preferably by community service staff), or reports from other staff members.
- The need for consistency in practice, and respect for the universal imperative. A case should only be referred if cases with the same profile are generally submitted.

External Referrals

External referrals are usually made by NGO partners assisting UNHCR with implementation, NGOs who are otherwise involved in refugee work and other external partners such as governmental agencies. Some NGOs make resettlement referrals directly to resettlement States and/or to UNHCR for its assessment and submission to the resettlement country.

UNHCR supports the active involvement of NGOs and international organizations in resettlement. Given their expertise and knowledge of the refugee population, NGOs are particularly well-suited to make important contributions to the identification of vulnerable refugees facing protection problems.

External referrals are an important means of expanding access to resettlement and increasing capacity for identification, but they should not negate UNHCR's own efforts to proactively identify refugees in need of resettlement. UNHCR should maintain a central role in the resettlement process. As the internationally mandated agency for seeking solutions to refugee problems, UNHCR should retain responsibility for analyzing the protection context to ensure that resettlement is integrated into a larger protection and durable solutions strategy. NGO partnerships in resettlement must be coordinated in order to be effective, to prevent fraud and

UNHCR supports the active involvement of NGOs and international organizations in protection delivery in general and in resettlement in particular

malfeasance, to ensure transparency and consistency in UNHCR resettlement submission categories, and to ensure that refugees' expectations do not result in protection problems in the field. Involving and counselling refugees has also been, and will continue to be, an integral part of resettlement work and its strategic use.

The relationship between UNHCR and external partners generally follows three primary arrangements through which partners play an active role in identifying potential resettlement cases. The local situation and the availability and willingness of partners to engage in the process determine which arrangement is used. A combination of approaches may be most useful in any operation.

Types of Arrangements to Receive External Referrals

Formal arrangements

Through a specific project sub-agreement or a Memorandum of Understanding, NGOs or governmental agencies may run projects to assess protection and other needs in refugee populations. These formal arrangements usually include a framework for cases to be referred to UNHCR for appropriate follow-up, including for resettlement intervention. Given the complexities involved in operational projects and the need for cohesion with UNHCR's protection work, especially in large, protracted *prima facie* refugee situations, such arrangements usually involve consultation with UNHCR Headquarters.

Types of arrangements
with external referrals

Partnerships with secondary protection functions

Refugee assistance programmes benefit greatly from the contribution of partners who, by the terms of their sub-agreements with UNHCR or other less formal arrangements, provide services in refugee camps and settlements. The possibility of writing protection and heightened risk identification functions into these sub-agreements, especially in the case of NGOs working with particular groups of vulnerable refugees, may be explored. The development of any such arrangement must, however, involve the officer accountable for resettlement in addition to other protection staff and senior management, including the UNHCR country representative, and the NGO's country representative, where applicable.

Case-by-case referrals

In many field operations, NGOs working with refugees may not wish to incorporate formal protection components or resettlement referral systems into their programmes for fear of compromising the purpose of the original programme. In such cases, mechanisms could be set up to receive informal referrals on a case-by-case basis. Such mechanisms could also be established with other external partners.

The success of these three possible types of arrangements, individually or as part of a combined approach, will depend on the field situation, the urgency and nature of the resettlement need, and the field capacities of NGOs and UNHCR. All three approaches do, however, hold significant potential and are, to a certain degree, already employed in various forms.

To ensure accountability and oversight, all arrangements should specify in writing the roles and responsibilities of the NGO and UNHCR, and these should be detailed in the Office's Resettlement SOPs.

The formal development of any external referral mechanisms must be authorized by the officer accountable for resettlement activities, and must incorporate a number of important elements:

- **TRAINING:** Any resettlement referral mechanisms involving actors external to UNHCR must be preceded by appropriate training on resettlement procedures and submission categories.
- **ACCOUNTABILITY AND OVERSIGHT:** Any referral mechanism must be formalized to the extent that it operates according to accountable and transparent standards. To this end, all arrangements must specify, *in writing*, guidelines on the specific roles and responsibilities of the NGO and UNHCR, responsibilities of feedback to the NGO and to the refugee, a definition of the relationship between the NGO and UNHCR, and recognition of the submission categories contained in the Resettlement Handbook. Oversight must also be ensured through regular meetings between representatives of the NGO and UNHCR to discuss activities and concerns and to conduct spot-checks on the referral activities.
- **STANDARDIZATION:** Standard Operating Procedures (SOPs) must be developed detailing the referral, reception, treatment and follow-up on NGO-referred cases and measures must be implemented to ensure that all cases are referred according to these SOPs.
- **SAFEGUARDS:** In the interest of maintaining the integrity of not only the resettlement activities of the Field Office, but also the original NGO programme, safeguards must be incorporated into the mechanisms to ensure that possibilities for abuse are reduced. It must be clearly stated that all services are free of charge.
- **MANAGING EXPECTATIONS:** Any increase in identification activities will likely result in heightened resettlement expectations within the refugee population. As such, a common strategy must be developed for the management of resettlement expectations (see Unit 6).
- Where appropriate, multiple focal points may be identified for **RECEIVING EXTERNAL REFERRALS**, depending on the nature of the external referral source. These focal points would be responsible for documenting receipt of the referral in the resettlement database or registry, retrieving any file or documentation held by the Field Office on the refugee in question, and forwarding the referral and documentation to the designated officer responsible for conducting a resettlement needs assessment (see Unit 5).
- These focal points would retain responsibility for **LIAISING WITH THE EXTERNAL REFERRAL SOURCE** throughout the resettlement process, and providing the referral source with regular updates on the status of the resettlement case.

Self-Referrals

Self-referrals are approaches directly to UNHCR, generally in writing, by refugees, their relatives or friends, or refugee groups or committees. These unsolicited requests have become a common feature of resettlement activities in most UNHCR field offices around the world. While the credibility of some written resettlement requests, including emails, may be considered questionable, they have proven to be both an effective means of identifying vulnerable refugees and providing refugees with direct access to the resettlement process.

Self-referrals proven to be an effective means of identification

However, extensive reliance on self-referrals raises a number of concerns in resettlement identification:

Concerns about self-referrals

- **POTENTIAL BIAS** against refugees who cannot express their protection needs in writing, or who otherwise have difficulty accessing UNHCR;
- **LACK OF CONTROL** over the type of information received affects whether informed decisions on resettlement eligibility can be made;
- **CREDIBILITY** of self-referrals may be more questionable; and,
- **POSSIBILITY OF FRAUD**, such as brokers charging fees to present written claims to UNHCR.

Clear and standardized procedures must be established to respond to self-referrals, including a process of verifying the details provided (through an interview, home-visit or file study), and managing the expectations raised. Care must also be taken to adhere to UNHCR's *Confidentiality Guidelines* in answering requests made by third parties (provide no individual information about the refugee in question without obtaining the refugee's consent).³⁹

Refugees submitting resettlement requests must be advised that the submission of a request will not necessarily result in the opening of a case, and will certainly not necessarily result in the resettlement of the refugee. Refugees submitting unsolicited requests for resettlement should also be advised on the processing times for such requests or if, in fact, all unsolicited requests will receive a response. There should be prior agreement on these issues with senior protection staff, and they should be covered in the Resettlement SOPs.

Needs raised through self-referrals may be more appropriately met by other units

Refugees may request resettlement in response to a need that can and should be met by other units within UNHCR, or by a partner organization. Unsolicited requests should consequently be screened upon receipt to possibly identify a unit or partner organization that would be better suited to address the need conveyed by the refugee – typically the Protection Unit or the Community or Social Services Unit.

A resettlement programme's heavy reliance on self-referrals as a means to identify resettlement needs may indicate systemic problems or gaps in the protection framework of the operation.

³⁹ UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001: (Internal) <http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html>

Identifying Groups in Need of Resettlement

Group resettlement – important component of a comprehensive approach to solutions

Identifying groups in need of resettlement through UNHCR’s group methodology⁴⁰ supplements individual identification and serves as an additional component of UNHCR’s resettlement and durable solution activities. Group resettlement can be an important component of a comprehensive approach to solutions for a specific population, often with respect to a protracted refugee situation. However, group resettlement does not replace the responsibility and accountability of UNHCR offices for the identification and processing of individual resettlement cases based on established resettlement procedures and submission categories.

The group resettlement methodology aims to expand resettlement opportunities whilst achieving operational efficiencies and, where possible, making strategic use of resettlement. In practice, group processing involves a simplified large-scale processing of cases by UNHCR and resettlement States without requiring the full completion of individual Resettlement Registration Forms (RRFs). Considerable time is saved through the use of standardized abridged RRFs for groups,⁴¹ or direct transmission of data without RRFs in the case of groups designated under Priority 2 processing to the United States of America.⁴²

Group resettlement is generally considered for large numbers of refugees, where a number of conditions are met to minimize the risks associated with this type of approach. All group resettlement proposals must be discussed with, and cleared by, UNHCR Headquarters (Resettlement Service and relevant Bureau) prior to finalization. Operational procedures for group resettlement methodology vary depending on local circumstances, the nature of the eligible refugee group, the complexity of their cases, and the countries of resettlement. These procedures are described in Unit 5.

⁴⁰ UNHCR, *Methodology for Resettlement of Groups*, IOM/67 - FOM 67/2003, (Internal) <http://intranet.hcrnet.ch/support/policy/iomfom/2003/iom6703b.htm>

⁴¹ See UNHCR, *Operational Guidance Note: Preparing Abridged Resettlement Registration Forms (RRFs) for Expedited Resettlement Processing*, 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4ddde4702.html>

⁴² For information on “Priority 2”, see the United States of America’s Country Chapter linked to the *Resettlement Handbook* at <http://www.unhcr.org/resettlementhandbook>. For further details on direct transmission of data from *proGres* to WRAPS see Chapter 7.6.3 of the *Handbook* or consult: *Interface between proGres and WRAPS: Standard Operating Procedures for UNHCR Offices that are not covered by a UNHCR Resettlement Hub*, July 2007, Annexed to UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html>

Group Resettlement within Protection Strategies

The group resettlement process begins with the consideration of the potential use of group resettlement methodology as part of the Field Office's planning of their protection and durable solutions strategies. Durable solutions strategies are often most effective when planned within a regional context. Dialogue with UNHCR offices in neighbouring countries during the assessment stage helps to ensure that the potential impact of launching a group resettlement programme is thoroughly considered.

Identifying a “Group”

The Field Office considering the use of group resettlement should examine certain parameters to identify potential refugee groups in protracted and other situations.

The following parameters are a guide:

- Members of a group should ideally, but not necessarily, have the same nationality, a shared refugee claim and need for resettlement.
- The group of refugees should share some common characteristics, e.g., gender, age, political, ethnic or religious background, vulnerability, or any other characteristic which might distinguish them easily from other groups present in the country or region.
- A group must be clearly delineated and finite, so as to avoid infinite replenishment of the group and increased possibilities for fraud.
- The location(s) of the group should be known and established.

Commonalities within a group

The group might be defined by the situational context (e.g. all persons in a camp) and/or specific characteristics such as nationality, refugee claim, flight history, and experience in the country of origin or host country, or political, ethnic, or religious background that might help easily distinguish the group from other refugees present in the country or region. Preferably, the characteristics used to define group membership should be verifiable by some concrete or objective data. Facts such as nationality, date of arrival, or residence in a certain camp during a certain period of time, can frequently be determined from information UNHCR has gathered in a non-resettlement context. Ideally, members of the group should also already possess some form of identification (e.g. UNHCR/government attestations, ID cards with photos, ration cards, travel documents).

Characteristics to define group membership should be verifiable

Identification Methodology

Identification methodology depends on local circumstances

The identification methodology adopted by a field office will depend on local needs and circumstances. Any combination of the following sources can help identify the potential groups for resettlement:

INTERNAL (e.g. participatory assessments and community consultations, risk assessments, social surveys and population needs-based mapping, protection assessments, RSD and Community Services-based data, *proGres* data);

EXTERNAL (e.g. refugees, refugee hosting States, NGOs, embassies; the requirements of emergency circumstances);

JOINT ACTIVITIES (e.g. Annual Tripartite Consultations on Resettlement and Working Group on Resettlement/strategic use of resettlement initiatives).

Once a group has been identified, a preliminary group proposal (Step 1 of the Group Profile and Proposal Document) must be completed to propose the group for consideration by the Resettlement Service, Hub/Regional Office and relevant Bureau. Detailed instructions on this process can be found in Section 5.7 of the Resettlement Handbook.

Challenges in Identification

UNHCR's focus on multi-year planning, the strengthened role of resettlement in comprehensive solutions strategies, and improvements in the identification procedures have led to a substantial growth in the number of refugees identified as in need of resettlement. However, those refugees identified as in need of resettlement now far outnumber the current number of available places. This introduces new challenges related to prioritizing among those identified as in need of resettlement, establishing an order for resettlement submission, and advocating for the allocation of quotas and resources.

Those with identified resettlement needs outnumber available places

Nevertheless, the identification of refugees potentially in need of resettlement and the assessment of cases must continue to be an active and systematic process. Close cooperation among all concerned staff across functional units and when applicable with implementing partners, is of considerable importance. Failure to identify a refugee in need of resettlement in a correct and timely manner will result in an unnecessary continuation of insecurity for that refugee. Incorrect identification of a refugee for resettlement could result in the development of unobtainable expectations.

Identification must remain an active and systematic process

Resettlement staff must consider how to approach resettlement identification appropriately and effectively in their particular situation. Identification systems can be put in place even with limited resources, by linking them to other ongoing activities or by developing a needsmapping proposal that may then be used to obtain the required resources.

Managing Expectations

As further described in Unit 6, one of the main challenges of any resettlement operation is managing expectations, and offices need to explore ways to collect information on protection and on the characteristics of the population without raising expectations of resettlement. An effective method of limiting expectations is collaboration to link the process of identifying the needs and protection vulnerabilities of refugees to other protection interventions, not just to resettlement. The purpose of the various tools and methods for identifying refugees – registration, surveys, community consultations and participatory assessments – is thus not only to identify resettlement needs, but also to assess when other types of interventions are necessary.

Linking identification methods to nonresettlement interventions helps limit expectations

Counselling and disseminating clear information on resettlement also helps to manage expectations and reduce fraud and malfeasance. It is therefore important for each office to develop an information strategy, which may include: regular public

Each office should develop an information strategy

meetings that maximize reach to different groups of refugees, including women and children; standardized information on resettlement presented in brochures, signs and posters, TV and radio broadcasts; and individual counselling when refugees make specific enquiries to UNHCR or are interviewed concerning protection needs or assistance.

Improving communications with refugees to foster trust

Improving the ways UNHCR and its partners communicate with refugees, as well as by addressing their specific needs through participatory assessments, surveys and individual interviews can help to reduce misunderstandings and foster trust in the process. Transparency in the procedures, including the fact that identification, or self-identification, does not necessarily result in being submitted for resettlement, is crucial for maintaining realistic expectations.

Finally, actively involving refugees in identifying their own needs and realistically assessing their potential solutions is one of the most effective methods of managing expectations.

Importance of Training

All staff and partners need to understand that resettlement decisions are made according to the policies and procedures outlined in the Resettlement Handbook. Incorrect identification of refugees for resettlement can result in unfairness, unrealistic expectations, frustration and perceptions of mismanagement and fraud. Staff and partners should further understand how to integrate identification systems into their respective activities, including ways to improve access to the most vulnerable refugees. Finally, they should be able to distinguish between cases requiring emergency or urgent intervention, and cases in which the need is less pressing.

Joint information-sharing and training sessions should focus on specific aspects of resettlement case identification and management, UNHCR's code of conduct and confidentiality considerations, ways to mitigate risks such as fraud and abuse, and how to manage refugee expectations.

Training helps to ensure consistency, transparency and accountability in identification systems

Training must be considered an important part of establishing identification systems, ensuring consistency, transparency and accountability, and countering any negative or ill-informed views regarding resettlement. All staff – junior and senior, international and national, internal and external – that may potentially be involved in identification and referrals should be trained on UNHCR resettlement policy and practice, and the identification of specific needs.

Resettlement Submission Categories

Once vulnerable individuals or groups potentially in need of resettlement have been identified, it is necessary to assess and verify resettlement needs and suitability for submission.

Basic Considerations

It is important that UNHCR resettlement activities are carried out on the basis of a correct and consistent application of the categories and considerations detailed in the *Resettlement Handbook*. This approach will ensure that all refugees in need of resettlement receive the appropriate attention. It will, in addition, help to avoid frustration and aggression among refugees as well as other negative phenomena, like secondary or onward movements, often related to inconsistent resettlement activities. A coherent and transparent approach will, furthermore, strengthen the credibility of UNHCR in general and widen the confidence of refugees, resettlement countries and other partners, which in turn should help to ensure that resettlement can be done efficiently and effectively.

The notion of integration potential should not negatively influence the selection and promotion of resettlement cases. For example, educational level or other factors considered to be enhancing the prospects for integration are not determining factors when submitting cases for resettlement.⁴³

Resettlement should not be pursued because individual refugees have become a burden or because of their behaviour or solely in response to action undertaken by refugees to draw attention to their demands – for example, violent or aggressive action towards office staff or hunger strikes.⁴⁴ While such individuals may have concerns which need to be heard and require an appropriate response, it is the merits of their case which determine if resettlement should be considered. Similarly, refugees who have cooperated with investigation activities, or have assisted UNHCR in some other way do not warrant resettlement as a reward, but should be considered on the merits of their case, including increased risk resulting from their cooperation. Resettlement should not be promoted merely for reasons of pity for a refugee's plight, because of the individual's impressive qualifications or previous professional status, or as a reward for a "deserving" individual.

A coherent and transparent approach to resettlement strengthens UNHCR credibility

"Integration potential" factors are NOT determining factors for resettlement submission

Merits of the case determine resettlement submission

⁴³ In the context of the *Global Consultations on International Protection* it has been stated that "Integration potential" should not play a determining role in the consideration of protection resettlement cases", see *Strengthening and Expanding Resettlement Today: Dilemmas, Challenges and Opportunities, Global Consultations on International Protection*, 4th mtg., EC/GC/02/7, 25 April 2002.

⁴⁴ For details on dealing with such situations see UNHCR, *Guidelines for Handling Protests, Demonstrations and other Group Disturbances among Refugees*, 15 September 2004, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/48b2c8112.html>

Submission Priority Levels

The urgency of the resettlement needs is an important factor in prioritizing cases. UNHCR resettlement submissions have three priority levels: emergency, urgent and normal.

Emergency Priority

This level applies to cases in which the immediacy of security and/or medical condition necessitates removal from the threatening conditions **within a few days**, if not within hours. Emergency resettlement may be necessary to ensure the security of refugees who are threatened with *refoulement* to their country of origin, or who face serious or life-threatening threats to their physical safety in the country where they have sought refuge. Ideally, there is a seven-day maximum time period between the submission of an emergency case for acceptance by the resettlement country, and the refugee's departure.

Submissions of emergency cases must only be made after a thorough assessment of both refugee status and the urgency of removal. Such selective application helps to preserve credibility and scarce resettlement places. Close communication between UNHCR and resettlement States is essential during the processing of emergency and urgent cases to ensure a common understanding of the refugee's current circumstances and how quickly resettlement must occur.

Each office is responsible for taking temporary protective measures pending resettlement and immediately notifying the Regional Resettlement Hub/ Regional Office/Headquarters. Offices should also consult immediately if the situation warrants evacuation to an Emergency Transit Facility (ETF). See Chapter 7.6.4 of the Resettlement Handbook for more details on emergency and ETF procedures.

Urgent Priority

Refugees who face conditions requiring their expeditious resettlement, but within a less limited time frame than indicated above, are categorized as urgent cases. These refugees have serious medical risks or other vulnerabilities requiring expedited resettlement within six weeks of submission. Field offices may request Headquarters' support, if it is not already involved in the original submission. Generally, urgent cases should be prepared and submitted to a resettlement State within two weeks of identification.

Normal Priority

The majority of cases fall within this category. This level applies to all cases where there are no immediate medical, social, or security concerns that merit expedited processing. If possible, normal submissions should be processed according to the specific need for resettlement: e.g. cases of women or children at risk should

receive priority over submissions of refugees lacking foreseeable alternative durable solutions. UNHCR expects decisions and departure within 12 months of submission.

Field offices must ensure that systems are in place to minimize the time between needs identification and the submission for resettlement, to prevent normal and urgent cases from becoming emergency ones. Ensuring that submissions are complete is also important in order to avoid processing delays, which is especially critical for emergency or urgent cases.

Resettlement Submission Categories

To have their case submitted to a resettlement country, refugees must meet the requirements for submission under one or more of the RESETTLEMENT SUBMISSION CATEGORIES.

- **LEGAL AND/OR PHYSICAL PROTECTION NEEDS** of the refugee in the country of refuge (this includes a threat of *refoulement*).
- **SURVIVORS OF VIOLENCE AND/OR TORTURE**, where repatriation or the conditions of asylum could result in further traumatization and/or heightened risk; or where appropriate treatment is not available.
- **MEDICAL NEEDS**, in particular life-saving treatment that is unavailable in the country of refuge.
- **WOMEN AND GIRLS AT RISK**, who have protection problems particular to their gender.
- **FAMILY REUNIFICATION**, when resettlement is the only means to reunite refugee family members who, owing to refugee flight or displacement, are separated by borders or entire continents.
- **CHILDREN AND ADOLESCENTS AT RISK**, where a best interest determination (BID) supports resettlement.
- **LACK OF FORESEEABLE ALTERNATIVE DURABLE SOLUTIONS**, which generally is relevant only when other solutions are not feasible in the foreseeable future, when resettlement can be used strategically, and/or when it can open possibilities for comprehensive solutions.

These submission categories should be seen as inclusive, as outlined below and in Chapter 6 of the Resettlement Handbook. In many cases, resettlement submission categories may overlap, and submissions can effectively be made under both a primary and secondary category.

Legal and/or Physical Protection Needs

As an instrument of international protection resettlement is, first, a guarantee for the legal and physical protection of refugees. Resettlement may offer the only means to preserve fundamental human rights and to guarantee protection when refugees are faced with threats that seriously jeopardize their continued stay in a country of refuge.

The legal and/or physical protection needs of refugees may differ depending on personal characteristics of the individual concerned, such as their sex, age, disability, sexual orientation, gender identity, ethnicity or other characteristics.

Submission under the Legal and/or Physical Protection Needs Category

It is the responsibility of any country to provide protection to and ensure the safety of refugees on its territory or at its borders. It is UNHCR's responsibility to intervene with the authorities of the country of refuge to ensure that such protection is provided. Only if all means of intervention have been exhausted or at least evaluated, should resettlement based on individual protection needs be considered.

For resettlement submission under the **Legal and/or Physical Protection Needs** category a refugee's situation must **meet one or more of the following conditions**:

- immediate or long-term threat of *refoulement* to the country of origin or expulsion to another country from where the refugee may be *refouled*
 - threat of arbitrary arrest, detention or imprisonment
 - threat to physical safety or fundamental human rights in the country of refuge, rendering asylum untenable.
-

Threat of *Refoulement*, Expulsion and Arbitrary Arrest and/or Detention

In some circumstances, refugees fleeing from persecution may be refused entry by a potential country of asylum, may be threatened with expulsion, subjected to prolonged arbitrary detention, or otherwise prevented from seeking and enjoying asylum. In some countries which are not signatories to the 1951 Convention or its 1967 Protocol, asylum-seekers or even refugees who are recognized under UNHCR's mandate, are subject to detention and prosecution, if not deportation. In order to ensure that refugees will not be *refouled* or deported to a country where their life, safety and freedom may be endangered, resettlement may be the only option. Whereas UNHCR in principle should promote state responsibility for refugee protection, including the provision of a durable solution, UNHCR may resort to resettlement for such cases if the State does not provide any alternative protection.

Where asylum-seekers or refugees are subjected to arbitrary detention, prosecution or deportation in countries that are State parties to the 1951 Convention and/or its 1967 Protocol, UNHCR should advise the State of its obligations to meet international standards for refugee protection. Whereas the emphasis in such situations should be securing state protection rather than resettlement, the urgency of the protection risk may make resettlement the only possible solution.

Threat to Physical Safety or Fundamental Human Rights in the Country of Refuge

Where a threat to the life and/or personal safety or other fundamental human rights guarantees of a refugee exists, resettlement may be the only solution. The threat must be real and direct, not accidental or collateral. While past harassment, especially when repetitive, may provide such an indication, it is not a prerequisite. The threat may be targeted at an individual, but it also can be aimed at a group – such as a family, a neighbourhood, or a sexual minority. The threat must continue to exist. Past harassment, even if repetitive, would normally not be enough, although an assessment of the appropriateness of resettlement would depend on the circumstances.

Gender may play a role in determining both the nature of the threat and the required responses and/or preventative measures needed. For instance, in the case of refugee women and girls, the threat to physical safety may take the form of sexual violence. It is important to note that lesbian, gay, bisexual, transgender and inter-sex (LGBTI) persons may be under continuous threat of human rights abuses due to discriminatory laws and the prevalence of hostile societal attitudes in the country of refuge.⁴⁵

In situations where it has been established that the denial of human rights places the refugee at risk and renders asylum untenable, resettlement should be pursued after all other efforts have been exhausted or at least considered. In other situations, refugees who have been admitted to a country of asylum may be threatened not by the authorities of that State, but by other hostile groups or governments. If under such circumstances the host country is not willing or able to provide protection from such threats, resettlement may be the only solution. In addition, such circumstances would also need to be deemed as rendering asylum untenable before pursuing resettlement as an option. Re-establishment of protection by the authorities or relocation internally in the country of asylum – where feasible – should be pursued prior to submission for resettlement.

⁴⁵ See Chapter 5.2.5 of the Resettlement Handbook for more detail on the forms of harm and discrimination faced by LGBTI persons.

Survivors of Violence and/or Torture

The publication *Mental Health of Refugees* provides useful guidance in recognizing victims

Refugees who have survived torture or violence may have specific needs that warrant resettlement consideration because the trauma they have endured may have a serious detrimental affect on their mental and physical well-being. The situation in the country of asylum may not be conducive for effective support (due to, for example, the inaccessibility of appropriate health care, counselling services or stability) and may compound the trauma. The specific form of torture or violence inflicted upon them may also vary depending on age, sex and particular vulnerability. Survivors of violence and/or torture may not be easily identified unless they show clear signs of trauma, or inform UNHCR of their experiences.⁴⁶

Submission under the Survivor of Violence and/or Torture category

A refugee submitted for resettlement under the Survivor of Violence and/or Torture category:

- has experienced torture and/or violence either in the country of origin or the country of asylum, and
- may have lingering physical or psychological effects from the torture or violence, although there may be no apparent physical signs or symptoms, and
- could face further traumatization and/or heightened risk due to the conditions of asylum or repatriation, and
- may require medical or psychological care, support or counselling not available in the country of asylum, and
- requires resettlement to meet their specific needs.

Defining violence and torture

UNHCR encourages a broad interpretation of the terms “torture” and “violence” when considering the resettlement needs of refugees who have suffered extreme forms of abuse.

Violence is the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation.⁴⁷

Torture has been defined in international instruments and conventions. Internationally, the most commonly cited definition is contained in the United Nation’s *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT) adopted in 1984 (hereinafter the Convention against Torture).

⁴⁶ Mental Health of Refugees, a joint publication by UNHCR and the World Health Organization (WHO), provides guidance on how to better recognize such cases. Chapters 8 and 9 in particular concern survivors of torture and other violence, including rape. UNHCR, *Mental Health of Refugees*, 1996, <http://www.unhcr.org/refworld/docid/4a54bc010.html>

⁴⁷ World Health Organization, *World Report on Violence and Health*, 2002, http://www.who.int/violence_injury_prevention/violence/world_report/en/full_en.pdf

Torture as defined under the Convention against Torture (CAT)⁴⁸

“Article 1(1) For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third persons has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

Article 16 refers to acts of cruel, inhuman or degrading treatment or punishment.

It is worth noting that under the CAT definition, **public officials are accountable** not only for acts of torture which they **personally commit** or instigate, but **also if they consent or acquiesce** when someone else commits such an act. State responsibility also arises where national authorities are “unable or unwilling” to provide effective protection from ill-treatment (i.e. fail to prevent or remedy such acts), **including illtreatment by non-State actors**.⁴⁹ This includes failure to protect individuals from domestic violence and harmful traditional practices perpetrated by private citizens when these amount to torture.

Refugees may have themselves survived or witnessed other forms of extreme violence in their country of origin or their country of asylum including:

- experiencing the violent death of family members or others close to them,
- witnessing the torture, severe mistreatment, or rape of family members or others close to them,
- sexual and gender-based violence including: rape, defilement, sexual abuse or exploitation, forced prostitution, trafficking or sexual slavery, severe emotional or psychological violence and abuse, or harmful traditional practices such as female genital mutilation (FGM) and honour killing and maiming, or
- substantial non-criminal detention, including kidnapping.

The protection environment needs to be carefully assessed to ensure that interviewing torture survivors will not endanger other members of their families or result in post-interview retaliation against survivors. Where possible, assessments should be conducted by protection staff who have technical expertise and who understand the local context. This is particularly important when conducting assessments on sensitive issues such as rape, torture or detention.

⁴⁸ UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: resolution/adopted by the General Assembly*, 10 December 1984, A/RES/39/46, <http://www.unhcr.org/refworld/docid/3b00f2224.html>

⁴⁹ UN Office of the High Commissioner for Human Rights, *Fact Sheet No. 4 (Rev.1), Combating Torture*, May 2002, No. 4 (Rev.1), p. 34, <http://www.unhcr.org/refworld/docid/4794774b0.html>

Consequences of violence and torture

Some forms of torture and violence leave physical wounds, scars, or long-lasting impairments or disabilities. There may also be acute psychological and social impacts of violence and torture in the short term, which can persist to undermine the long-term mental health. However, not all torture survivors develop medical conditions which are easily identifiable. In cases of refugees who sustained torture but do not show obvious consequences of it, one should always consider the risk of latent effects.

Medical Needs

Before considering a person for resettlement under the medical needs category, all staff concerned must exercise special care to ascertain whether the basic considerations have been fully applied. The resettlement of persons with medical needs is challenging, and resettlement opportunities are limited.

In order to respect the objectivity and impartiality of the assessment, it is strongly recommended that an independent clinical practitioner, rather than medically qualified UNHCR staff, complete the Medical Assessment Form (MAF). It is also essential that UNHCR identifies the most serious and compelling cases that can only be addressed through resettlement. UNHCR has produced two self-training modules to assist resettlement officers and physicians to understand their role in identifying and processing those refugees in need of resettlement under the Medical Needs category.⁵⁰

Most refugees with medical needs will not qualify under this category, but may qualify under another category

Most refugees with medical needs will not require or qualify for resettlement under this category. It is important to determine the nature of the medical need and what possibilities exist for referral and treatment in the country of asylum before resorting to a resettlement submission on medical grounds. It is also important to note that individuals who have a medical condition, but who do not qualify for resettlement under this category, may be eligible for resettlement under other submission categories. A medical condition does not prejudice resettlement consideration under any of the other resettlement submission categories. Documenting medical information carefully is important to ensuring that refugees' needs are addressed.

⁵⁰ UNHCR, *Revised UNHCR Medical Assessment Form (MAF) and Guidance Note, IOM/044-FOM/044/2010*, 2010, UNHCR, *Resettlement on Medical Grounds: Guidance for UNHCR Resettlement Officers*, August 2011, and UNHCR, *Resettlement on Medical Grounds: Guidance for Physicians*, August 2011, all available from UNHCR Intranet (Durable Solutions/Resettlement/Tools and Resources).

Submission under the Medical Needs category

For resettlement submission under the Medical Needs category, all of the following four conditions must be met:

1. Diagnosis

- The health condition and/or disability is life-threatening without proper treatment, or
- There is a risk of irreversible loss of functions without proper treatment, or
- The particular situation/environment in the country of asylum is the reason for or significantly worsens the health condition.

2. Treatment

- Adequate treatment is not available (e.g. due to lack of medical facilities or expertise) or is inaccessible (e.g. due to imposed restrictions or lack of funds) in the country of asylum, and
- Adequate treatment cannot be ensured through temporary medical evacuation to a third country.

3. Prognosis

- The health condition and/or disability presents a significant obstacle to leading a normal life, becoming well adjusted, and from functioning at a satisfactory level, and puts the individual and/or dependent family member(s) at heightened risk in the country of asylum, or
- The particular situation/environment in the country of asylum significantly worsens the health condition and/or disability, and
- There is a favourable prognosis that treatment (including supportive rehabilitation and healthcare arrangements) and/or residence in the country of resettlement would significantly improve the health condition and/or disability or lead to an improvement in daily functioning and quality of life.

4. Informed Consent

- It is the expressed wish of the individual, after having been counselled, in particular with regard to prospects for treatment of the medical condition or disability as well as the social, cultural and psychological adaptation required in a new community.
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Guidance on the Circumstances of Medical Needs

Cases in which a disease or medical condition can be adequately addressed by medication, a change in diet, or through other treatment available in the country of asylum, should not be referred for medical resettlement. Where it is believed that a medical condition would benefit from treatment elsewhere, it should be determined if indeed such treatment is available locally, or whether medical evacuation or other alternatives to medical resettlement might be feasible. In cases where the four conditions outlined above are not met, consider the applicability of other UNHCR resettlement submission categories for all members of the case.

Diseases and other
medical conditions

Disabilities Refugees who are well-adjusted to their disability and are functioning at a satisfactory level are generally not to be considered for resettlement under this category. Only when such disabilities cannot be treated locally, or within the UNHCR medical referral scheme, and when they seriously threaten the person’s safety or quality of life, should resettlement on grounds of medical needs be explored. In cases where the four conditions outlined above are not met, consider the applicability of other UNHCR resettlement categories for all members of the case. In some situations an individual’s disability might expose her/him to heightened risk necessitating resettlement under the “legal and/or physical protection needs” category, for example.

Prioritization of Medical Resettlement Needs

Cases to be submitted on medical grounds should be prioritized based on the severity and/or stage of the condition and urgency for treatment. In order to ensure a timely response to medical needs, the assessing physician must indicate the proper priority level. Submissions without correct prioritization are prone to delays that could cause the health condition to worsen, leading to irreversible loss of function or even death. The prioritization also impacts the country of submission, as not all resettlement countries have the capacity to process cases with medical needs on an emergency basis.

Priority Level	Severity of Condition: Any medical condition that:	Time frame for medical intervention	Time frame for resettlement (departure)
Emergency	Is immediately life-threatening (i.e. life-saving surgery).	< 1 month	within 1 week
Urgent	Requires life-saving interventions, but is not immediately life-threatening. Is at risk of major progression or complication without further intervention (i.e. many cancers).	to < 6 months	within 6 weeks
Normal	Is not life-threatening or at risk of major progression/complication, but requires intervention in order to ensure reduction of risk of progression/ complications and to improve the person’s quality of life and overall functioning.	6 months	within 52 weeks

Additional Considerations after Determining the Prioritization of Medical Cases

UNHCR should ensure a non-discriminatory and clinical approach in giving priority consideration to individuals with the most compelling needs for resettlement on medical grounds, taking into consideration the medical facts of the case. In certain situations, where a number of cases have been identified for resettlement falling within the same priority level (e.g. normal priority), UNHCR staff may be required to further prioritize cases. In deciding which cases should be prioritized within the same category, staff must consider the medical condition in addition to other non-medical considerations such as the vulnerabilities of family members. Furthermore,

while in specific situations it may be appropriate to give priority to the needs of persons whose medical condition is directly related to their persecution, flight or exile – such as survivors of violence and torture – this should not prejudice the access to resettlement of others who have similar, or more compelling medical needs or related vulnerabilities.

Timely identification of refugees with medical conditions can make a significant impact on the prognosis, which in turn can impact the likelihood of acceptance by a resettlement country. Field offices must ensure that medical needs submissions are made as soon as possible. Medical Assessment Forms (MAFs) are valid for six months only.

Women (and Girls) at Risk

Women and girls may face unique or gender-related forms of persecution or violence, and specific action is required to ensure that women and girls enjoy protection and access to durable solutions on an equal basis with men and boys. Key protection concepts discussed in Chapter 5 of the Resettlement Handbook should be reviewed when considering the resettlement of a woman or girl at risk. This includes the importance of early identification and immediate response to the protection needs and potential vulnerabilities of segments of the refugee population, including refugee women and girls.

Definition of a Woman or a Girl at Risk

UNHCR considers as a women at risk or a girl at risk **those women or girls who have protection problems particular to their gender, and lack effective protection** normally provided by male family members. They may be: single heads of families, unaccompanied girls or women, or together with their male (or female) family members.

Submission under the Women and Girls at Risk Category

After identification, women and girls at risk require a response to their immediate protection needs, followed by an assessment of their long-term protection needs. Resettlement is not necessarily the most appropriate solution in all cases of refugee women and girls facing particular protection problems related to their gender. For all unaccompanied, separated children and other children at risk, a Best Interests Determination (BID) is a crucial step in the identification of the most appropriate solution, and a BID must be conducted prior to resettlement. For women and girls at risk, an assessment of resettlement needs should include a review of the *intensity* of one or more of the factors mentioned below, as well as the *urgency* of her case, and should also determine any specific follow-up action in the country of resettlement.

Intensity of risk factors and urgency of case part of resettlement assessment

Resettlement submission of refugee women and girls under the Women and Girls at Risk category is considered when:

- She faces precarious security or physical protection threats as a result of her gender
 - She has specific needs arising from past persecution and/or traumatization
 - She faces circumstances of severe hardship resulting in exposure to exploitation and abuse, rendering asylum untenable
 - There has been a change in the social norms, customs, laws and values resulting in the suspension of or deviation from traditional protection and conflict resolution mechanisms and the lack of alternative systems of support and protection. This places the refugee woman or girl at such risk that it renders asylum untenable.
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Operational Aspects for Submissions under the Women and Girls at Risk Category

A number of resettlement States have special programmes to address the integration needs of women and girls at risk. Please refer to the Country Chapters of the Resettlement Handbook online for details on each resettlement State's policies, procedures and settlement supports, including the capacity to receive emergency cases.

Submissions under this category must include a detailed explanation of why the refugee is considered a woman or girl at risk. The *Specific Needs* section of the Resettlement Registration Form (RRF) should be completed, drawing on any assessments or reports provided by protection staff or implementing partners. As with all individual submissions, careful attention should also be paid to ensuring that the details of the refugee claim are well articulated for each adult in the case.

Family Reunification

The importance of resettlement as a tool of international protection extends to preserving or restoring the basic dignity of a refugee's life through family reunification. Family members are frequently left behind or dispersed during refugee flight. In some cases, refugee families are separated when a family member has not been able to accompany the rest of his or her family to a country of resettlement. Family separation leads to hardship and may create serious obstacles to a refugee's integration in a new country. The preservation or restoration of family unity is considered an important aspect of all durable solutions.

Please review the core principle of family unity, and UNHCR's definition of a family as covered in **Chapter 5.1.2** of the Resettlement Handbook.

The involvement of UNHCR offices in family reunification takes various forms

Without the opportunity to reunite with family members, resettlement runs the risk of not being a meaningful, durable and sustainable solution. The involvement of UNHCR field offices in supporting and facilitating family reunification in the resettlement context takes various forms, *including* the submission of a resettlement case under family reunification as a primary or secondary submission category. The circumstances and protection considerations of each individual case need to be carefully weighed to determine whether the submission of a resettlement case or the facilitation of other immigration options is the most appropriate action to reunite the family.

The definitions and policies set out in this Learning Programme and in the *Resettlement Handbook*, specifically as related to the concept of dependency in the identification of family members, are to be followed by UNHCR staff despite the fact that UNHCR definitions may not always correspond with those applied by the State to which resettlement cases are submitted.

Submission under the Family Reunification Category

By definition, the submission of a resettlement case under the Family Reunification category is made to reunite refugees with a family member already in a resettlement State. The family reunification policies and procedures of the relevant resettlement State must be reviewed carefully prior to a submission decision in order to determine whether a resettlement submission is the most appropriate option, or whether UNHCR should facilitate processing under a State's family reunification or humanitarian migration programmes. As State policies, procedures and resources dedicated to family reunification vary considerably, decisions must be made on a case-by-case basis.

Facilitation of case processing under a States' family reunification or humanitarian immigration programmes may be preferable to resettlement submission

The factors to consider when determining whether to make a resettlement submission under the Family Reunification category are:

- the urgency of the resettlement need
- the short and long-term protection implications for the refugees
- a realistic appraisal of the availability and accessibility of other immigration options, and
- the resettlement State preferences.

In some situations the most efficient route to family reunification is under the State's direct family reunification or other humanitarian programmes. But in other situations family members may not meet the State's criteria, there may be very long waiting lists, or the circumstances of the family member in the resettlement country makes it unlikely that the reunification will be processed quickly. In these cases a resettlement submission may be warranted.

For submission under the Family Reunification category all four of the following conditions must be met:

- At least one person within the family unit to be reunited is a refugee under the UNHCR mandate or a person of concern to UNHCR, and
- The individuals to be reunited are family members under UNHCR's inclusive definition (see Chapter 6.6.2 of the Resettlement Handbook), and
- The individuals are reuniting with a member of the family already in a resettlement country (see Chapter 6.6.3), and
- The availability and accessibility of other family reunification or migration options has been reviewed and the submission of a resettlement case has been determined to be the most appropriate option given the resettlement needs and protection implications for the family member (see Chapter 6.6.4, and Chapter 6.6.5).

The definition of eligible family members, the criteria for eligibility, and the procedures involved varies considerably among resettlement countries. Each resettlement State provides detailed information on their family reunification policies and procedures in the Country Chapters, and these should be consulted by UNHCR offices considering family reunification cases.

Children and Adolescents at Risk

The 1989 Convention on the Rights of the Child (CRC) as the normative framework

Children and adolescents are entitled to special care and assistance under the Convention on the Rights of the Child. Their developmental needs, their dependency, and their legal and social status make this special attention essential, and early and continuous identification of children at heightened risk is a UNHCR priority.

Chapter 5.2.2 of the Resettlement Handbook describes the specific protection needs and potential vulnerabilities of refugee children and adolescents, outlines key elements of a child protection system for children at risk, and reviews the UNHCR Guidelines on Determining the Best Interests of the Child. Please review this crucial information when considering the resettlement of a child or adolescent at risk.

Who is a child?

A “**child**” as defined in Article 1 of the Convention on the Rights of the Child (CRC), means “every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier”.⁵¹ In terms of actions by UNHCR, the word “child” refers to all children falling under the competence of the Office, including asylum-seeking children, refugee children, internally displaced children and returnee children assisted and protected by UNHCR and stateless children.

Although in common usage a **child** is a person who has not yet reached puberty or sexual maturity, and a person who is no longer a child but not yet an adult is considered an **adolescent**, under international law everyone under 18 is a child.

Unaccompanied children are children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

Separated children are those separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members or caregivers.

Orphans are children, *both* of whose parents are known to be dead. Note that in some countries a child who has lost one parent is also called an orphan. Due to the ambiguous meaning, UNHCR rarely uses the term orphan.

Submission under the Children and Adolescents at Risk Category

Children at risk have legal and physical protection needs, may be survivors of violence and torture, and may be submitted for resettlement to facilitate family reunification. Girls at risk may also be submitted under the Women and Girls at Risk category. However, Children and Adolescents at Risk remains a separate resettlement submission category to highlight the specific protection needs of refugee children and adolescents at risk, and to ensure that they receive priority processing. Listing this as a secondary submission category also serves to draw attention to the presence of a separated child or other child, or adolescent at risk, within a resettlement case.

This category has historically been applied predominately to cases of unaccompanied children being resettled without a caregiver. Some resettlement States have developed intensive settlement support programmes and alternative care arrangements geared specifically to meet the needs of unaccompanied children.⁵²

⁵¹ UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, <http://www.unhcr.org/refworld/docid/3ae6b38f0.html>

⁵² For guidance on settlement programmes for children and youth see Chapter 3.3 of UNHCR, *Refugee Resettlement. An International Handbook to Guide Reception and Integration*, September 2002, <http://www.unhcr.org/refworld/docid/405189284.html> For specific details on resettlement State programs see the Country Chapters linked to the *Resettlement Handbook* at <http://www.unhcr.org/resettlementhandbook>

Submission under Children and Adolescents at Risk as a primary category is also appropriate when the protection needs of a child or adolescent within a refugee family are the most compelling factors leading to the determination of resettlement as the appropriate durable solution. Among others, this could include situations where a child or adolescent faces protection risks due to their political or social activities or sexual orientation.

A child and adolescent submitted for resettlement under the Children and Adolescents at Risk category:

- is under 18
- may or may not be an unaccompanied or separated child
- has compelling protection needs which are not addressed in the country of asylum, and resettlement has been determined to be the most appropriate solution.

The following considerations must be kept in mind when preparing a submission of an unaccompanied or separated child under the category of Children and Adolescents at Risk:

- A Best Interests Determination (BID) must identify resettlement as the most appropriate solution.
 - The services and supports offered for unaccompanied or separated children should be considered when determining the resettlement State to which such a case will be submitted.
 - The ability of the child to articulate a refugee claim may also be a factor in determining the resettlement State.
 - Records should be kept carefully to facilitate family tracing and potential reunification in cases of unaccompanied and separated children.
-

Best Interests Determination

All unaccompanied and separated children being considered for resettlement require a Best Interests Determination (BID) according to the standards and procedures outlined in the *UNHCR Guidelines on Determining the Best Interests of the Child*.⁵³ The BID will assess whether resettlement is in the child's best interests.

As outlined in the BID Guidelines and reviewed in Chapter 5.2.2 of the *Resettlement Handbook*, a best interests assessment of the situation of unaccompanied and separated, as well as other children at risk, should begin immediately after the identification of the child at risk. As part of this assessment, the process of family tracing is initiated, and the short-term care and protection needs are addressed. Experience globally shows that the vast majority of unaccompanied or separated children and adolescents do in fact have parents or other relatives alive who can be located through tracing activities and who are able and willing to care for the child. Recognition of this fact is fundamental to helping unaccompanied and separated children, and to the basic principles of child protection.

⁵³ UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, <http://www.unhcr.org/refworld/docid/48480c342.html>

A formal Best Interests Determination (BID) process should begin within two years of the identification of the unaccompanied or separated child, or earlier if there are concerns regarding the temporary care arrangements, or if durable solutions or family reunification are being considered.

The Child's Refugee Claim

UNHCR encourages countries to consider the best interests of the child principle when conducting RSD, and to determine refugee status using the broadest possible interpretation when reviewing a resettlement submission of a child at risk. It may be difficult for an unaccompanied child to establish refugee status using the same refugee criteria and procedures applied to adults. Children may not be able to articulate their claims to refugee status in the same way as adults and, therefore, may require special assistance to do so. Furthermore, children and adolescents' unique experiences of persecution may not always be taken into account, due to factors such as their age, their level of maturity and development, and their dependency on adults.

UNHCR's *Guidelines on Child Asylum Claims* offer substantive and procedural guidance on carrying out refugee status determination in a child-sensitive manner. The specific rights and protection needs of children in asylum procedures highlighted are also relevant in the review and articulation of the refugee claim required in the resettlement process.⁵⁴

Lack of Foreseeable Alternative Durable Solutions

This submission category focuses on refugees who do not require resettlement for immediate protection needs, but who require an end to their refugee situation – a durable solution. These refugees are unable to return home in the foreseeable future, and have no opportunity to establish themselves in their country of refuge. In many cases, these refugees are in protracted refugee situations.

Most resettlement submissions under the Lack of Foreseeable Alternative Durable Solutions category (previously titled “refugees without local integration prospects”) are in coordination with national or regional strategies to address the needs of specific refugee groups. However, individual cases may also be submitted under this category.

Identifying resettlement as the most appropriate durable solution for entire groups, or individuals within certain populations is part of the development of a protection and durable solutions strategy. Resettlement under this category is particularly promoted by UNHCR when resettlement can be used strategically, implemented within comprehensive solution strategies, and/or can help unlock protracted refugee situations.

This submission category focuses on refugees who require resettlement for a durable solution rather than immediate protection

⁵⁴ UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, <http://www.unhcr.org/refworld/docid/4b2f4f6d2.html>

A **protracted refugee situation** is any situation “in which refugees find themselves in a long-lasting and intractable state of limbo. Their lives may not be at risk, but their basic rights and essential economic, social and psychological needs remain unfulfilled after years in exile. A refugee in this situation is often unable to break free from enforced reliance on external assistance.”⁵⁵

Proactive planning for resettlement is an integral part of the annual planning process, during which the protection needs of populations of concern are assessed, and the most appropriate strategies to bring about changes in the condition and situations of population groups, including durable solutions strategies, are identified. The potential for voluntary repatriation, the quality of asylum and the level of social prospects inherent in the country of asylum are key considerations in the assessment of appropriate durable solutions. Incorporating resettlement into the planning process and the overall protection strategy of the office helps to ensure that all three durable solutions are assessed comprehensively, and that any negative impacts of resettlement on other activities, (or vice-versa), are mitigated.

As a concept, local integration sets explicit legal, economic, social and cultural standards for its attainment. The Lack of Foreseeable Alternative Durable Solutions resettlement submission category is future-oriented. It balances the quality of asylum in a given country at a given moment against the prospects of enhancing asylum and prospects of local integration or voluntary repatriation within a foreseeable time frame.

The major challenge for UNHCR in this respect is to continue upholding its protection principles by resettling refugees who objectively are without local integration prospects in the host country, while at the same time working towards expanding and strengthening the quality of asylum and the refugees’ local integration prospects in that same country. Likewise, where voluntary repatriation is beginning or ongoing, resettlement activities should continue, but be delivered carefully, to avoid undermining voluntary repatriation. All resettlement efforts, in particular resettlement as a durable solution, should be incorporated into a broader and comprehensive protection framework that provides for a clear strategy in this regard.

⁵⁵ Definition used in UNHCR, *Protracted Refugee Situations*, Standing Committee to the Executive Committee of the High Commissioner’s Programme, 30th meeting, EC/54/SC/CRP.14, 10 June 2004, <http://www.unhcr.org/refworld/docid/4a54bc00d.html>

It should be recalled that *self-reliance* is promoted by UNHCR at all times, and provides the basis for any of the three durable solutions. As such, it does not in itself constitute local integration nor does it preclude resettlement. Field offices should reflect this in communicating with refugees, governments and other partners, in order to address any misperceptions and to ensure a correct understanding of the applicability of the Lack of Foreseeable Alternative Durable Solutions category for resettlement submissions.

Submission under the Lack of Foreseeable Alternative Durable Solutions category

The submission of groups of refugees under this category requires prior consultation with the Resettlement Service at UNHCR Headquarters, as well as resettlement States. An abridged Resettlement Registration Form (RRF) may be developed under the group methodology. See Unit 5.

When assessing a group or an individual case for resettlement under the Lack of Foreseeable Alternative Durable Solutions category, the preconditions and the indicators relating to legal protection and durable solutions, the conditions of asylum, the socio-economic situation, and the individual's psychosocial situation must be carefully considered.

When submitting an individual case under Lack of Foreseeable Alternative Durable Solutions as the primary resettlement submission category, it is paramount to include adequate justification in the RRF.

Basic Considerations and Methodology

The first step in considering the application of this category is *the profiling or mapping of a refugee population*. As explained above, mapping the socio-demographic characteristics and protection needs and challenges of the refugee populations identifies groups or categories of refugees with common needs and characteristics. Mapping and protection profiling also provides the oversight to ensure consistency across national assessments of resettlement needs and to facilitate regional operational planning. Understanding the needs of the refugee population, and providing appropriate solutions to their specific problems, is the primary means of realizing the complementarity of the three durable solutions, an element that is of particular importance in assessing the potential applicability of the Lack of Foreseeable Alternative Durable Solutions resettlement submission category.

Second, in determining whether a refugee or a group of refugees should be considered for resettlement under this category, the formulation and application of a set of *objective indicators related to different areas of protection* is crucial. These include indicators related to the availability of protection and solutions, conditions of asylum, socio-economic considerations, and psychosocial factors.

Third, it should be noted that an *individual-level analysis* may identify case-specific grounds for utilizing this resettlement submission category.

Fourth, as will be apparent, the objective indicators provided below are of an *interrelated, general and non-exhaustive nature*. Therefore, UNHCR field offices

are encouraged to develop additional, country-specific, and in some case, region-specific indicators as needed and appropriate.

Indicators Relating to Legal Protection and Durable Solutions

A. LEGAL, SOCIAL AND ECONOMIC PROTECTION IN THE COUNTRY OF REFUGE

Broadly speaking, the concept of “local integration” can be translated into the question as to whether the country of refuge – at the minimum – provides a protection regime which complies with the principles enshrined in the 1951 Convention with regard to the treatment of refugees as well as with basic international human rights instruments. In the affirmative, the refugees in question would not be a resettlement priority at the moment.

Where, however:

- refugees are at best only tolerated in the country of refuge and/or considered as “illegal immigrants”, or
- their stay in the country of refuge is based on a temporary protection regime, which is discretionary in nature, the Lack of Foreseeable Alternative Durable Solutions submission category would still be an option, and application of the remainder of the indicators would need to be analyzed.

B. PROSPECTS FOR VOLUNTARY REPATRIATION IN THE FORESEEABLE FUTURE

A determination of whether voluntary return to the country of origin is feasible in the foreseeable future is necessary. While this assessment needs to take into account individual socio-economic and psychosocial aspects (see below), an analysis of mere objective factors may lead to the assumption that:

- voluntary repatriation in safety and with dignity is still precluded for the specific refugees under consideration *and*
- there are no indicators that the situation in the country of origin will improve in the foreseeable future.

Both would be indicators that the Lack of Foreseeable Alternative Durable Solutions submission category might remain an option for the refugee(s) in question.

Voluntary repatriation does not necessarily foreclose the possibility of resettlement for individuals under other resettlement submission categories. In situations where spontaneous voluntary repatriation takes place or when voluntary repatriation is actively promoted, there may be individuals who are unable to repatriate due to a continued fear of persecution in their country of origin. In the absence of the possibility of local integration in the country of asylum, resettlement for these refugees may provide the only durable solution. Such cases should be processed with discretion and in consultation with UNHCR Headquarters to avoid unrealistic resettlement expectations.

C. DO REFUGEES HAVE MEANINGFUL PROSPECTS OF LOCAL INTEGRATION IN THE COUNTRY OF REFUGE?

Refugees may not have meaningful prospects in situations where local authorities remain firmly opposed to even limited integration opportunities for the refugee population in general or the group/nationality under consideration, despite efforts on the part of UNHCR, refugees themselves and other actors.

Indications of meaningful integration prospects include (but are not limited to):

- issuance of work permits
- inclusion of refugees in local apprenticeship schemes
- significant number of marriages between refugees and the members of the local population, and
- an inclination on the part of the authorities to grant citizenship to refugees of a specific nationality/category.

An individual refugee's case for resettlement should, furthermore, be examined in light of conditions faced by other refugees similarly situated. This includes a realistic evaluation of how best to address the needs of other refugees in a similar category or those in identical circumstances in the country of refuge or neighbouring countries. For these purposes and to ensure regional consistency of durable solutions strategies, UNHCR offices with a refugee population of a similar profile should consult closely.

Resettlement under this category can also serve to open possibilities for comprehensive solutions strategies. Providing a durable solution for those refugees within a certain population who are not able to repatriate or integrate, can facilitate the return or integration of the remainder.

Indicators Relating to Conditions of Asylum

A. LENGTH OF STAY IN THE COUNTRY OF REFUGE

There is no definite length of stay in a country of refuge after which it can be said that a refugee lacks a durable solution. The emphasis in this regard is on the careful assessment of the foreseeable local integration prospects of the individual or group rather than on hard and fast rules relating to time frames. Individual refugees may sometimes be quickly identified as having no prospect of either ever returning to their country of origin, or ever integrating in their country of refuge due to their cultural, social, religious or educational backgrounds.

Resettlement under this category may be the most appropriate solution for such refugees. However the length of stay is a factor in determining local integration prospects, under the basic assumption that the longer the stay without having been provided with a durable solution, the lower the potential for eventually being allowed to locally integrate. Protracted stays in refugee camps (formally defined as five years or more) can increase the risks to which refugees may be exposed, and have negative consequences. Refugee children and adolescents born in the country

of refuge that have never known any other environment (refugee camp, urban area), nor seen their homeland, are particularly affected. Given their overall situation, these children/adolescents are at risk of becoming a “lost generation”.

B. REFUGEES’ LIVING CONDITIONS IN THE COUNTRY OF REFUGE

Where refugees are located in closed camps, or in an urban setting in below-standard living conditions (i.e. with an income below the minimum wage of local daily labourers in the host country), this would indicate that local integration prospects are limited.

If refugees, on the contrary, are based in open camps with freedom of movement from/to the camp and opportunities for interaction with the local population this would represent the opposite assumption. This also applies for refugees living under reasonable living conditions in an urban setting (meaning that they reach the minimum wage of local daily labourers in the host country).

C. REFUGEES’ LIVING CONDITIONS WITHIN THE REGION COMPARED TO REFUGEES OF THE SAME GROUP/CATEGORY

In the event that living conditions in the country of refuge are worse or similar to those of refugees in other countries within the region, resettlement should be maintained as an option.

For example, if refugees of a particular profile (ethnicity, nationality etc.) are hosted in closed camps in the asylum country under consideration, but enjoy freedom of movement in a neighbouring country, use of the Lack of Foreseeable Alternative Durable Solutions submission category would warrant further analysis.

Socio-Economic Indicators

A. ACCESS TO FUNDAMENTAL SERVICES

In the instance that refugees do not have access to basic services (essentially constituting certain human rights), indications are that resettlement may be relevant. The pointers listed below are indicative of the lack of local integration prospects:

Education

- Refugee children do not have access to primary public education facilities.
- Refugee children and/or adults do not have access to the secondary public education or vocational training schemes.

Medical services

- Refugees have no access/limited access to public medical facilities:
- because they are refugees, or
- because as refugees belonging to a minority they have poorer facilities or limited access to general facilities.

Access to work

- Refugees do not enjoy the right to employment or access to other economic activity because, for example, they are prevented from trading in local markets, or vulnerable to harassment or detention when pursuing economic opportunities in urban areas.

Access to property

- Refugees are de jure or de facto prevented from renting or buying property. A de facto obstacle may derive from discrimination against the refugee category or population generally and take the form and shape of, for example, an obligation to pay higher prices than the local population.

B. OVERALL LIVING STANDARDS FOR LOCAL POPULATION IN A SIMILAR SITUATION

Where refugees, compared to the local population in a similar situation, are discriminated against with regard to access to services and/or accommodation, as a matter of government policy, and such treatment cannot be justified under the 1951 Convention or international human rights instruments, this may indicate that resettlement should be pursued if other indicators equally point to this solution.

C. RESETTLEMENT OPPORTUNITIES FOR THE PARTICULAR REFUGEE CATEGORY WITHIN THE REGION

The below listed assumptions indicate that resettlement might be appropriate:

- Resettlement under this category is carried out consistently for the same profile of refugees within the country of refuge, whether in camps or in urban areas.
- Refugees belonging to the profile under consideration have equal resettlement opportunities within the region.
- Resettlement for the refugee profile under consideration is carried out as part of a comprehensive durable solutions strategy that aims at attaining local integration for other profiles among the same refugee constituency (e.g. refugees married to local citizens; refugees with the same cultural and linguistic background).

D. FAMILY SUPPORT AND INTEGRATION INTO THE REFUGEE COMMUNITY

This indicator goes more to the subjective level of the individual refugee. It should be established whether the refugee individual/group is: separated from close family members; or has lost close family members; or s/he is single. In addition, s/he has no sustained support from the refugee community. If it is concluded that family or community support is absent, resettlement should be considered.

E. THE REFUGEE'S INDIVIDUAL SOCIO-ECONOMIC PROFILE

- The individual/group is excluded from refugees' predominant social, economic and community networks. (This is particularly relevant in urban contexts, where refugees are known to survive thanks to the support of community-based networks and the sharing of resources among members of the same clan or community.)

- The individual/group is entirely dependent upon UNHCR's assistance and is inactive for external reasons (e.g. a Government's restrictive approach to refugees).

In these cases, resettlement should be considered.

Psychosocial Indicators

A. THE REFUGEE'S PAST HISTORY OF PERSECUTION AND CIRCUMSTANCES OF FLIGHT

As with other indicators listed in this section, if the subjective indicators outlined below are met, resettlement should be considered insofar as all the other indicators also apply.

- The persecution history of the individual/group is **relatively more severe** than that of other refugees/groups in a similar situation. While the circumstances of the refugee's/the group's flight did not create specific needs which warrant resettlement under one of the other submission categories, the circumstances of asylum have resulted in a negative impact on his/her/its motivation, emotional capacity and strength to cope with the challenge of integrating in his/her/its present country of refuge.
- The individual/group has a **several-year multiple flight history** behind him/her/them (e.g. Refugees who were uprooted from their home country at a very young age and have not stopped fleeing ever since then).
- Their history has strongly affected the refugees' emotional stability and their opportunities for self-development (education and training). Refugees under this category are considered **socially and economically disadvantaged**.

B. EFFORTS MADE ON THE PART OF THE REFUGEES TO IMPROVE THEIR PERSONAL SITUATION

The individual/group has demonstrated **self-initiative** and **resourcefulness** in trying to improve his/her/its own situation in the country of refuge by taking advantage of all existing opportunities (e.g. community work, self-education, language-training).

Setting priorities

Individuals or groups should be submitted for resettlement under this category only where the resettlement places and required resources are available, or are made available. It is recognized that cases submitted under the category Lack of Foreseeable Alternative Durable Solutions have an ongoing, not an urgent, need for resettlement. When resettlement places are limited, or adequate resources for conducting resettlement activities are not available, cases related to more urgent protection concerns will *always* take precedence.

Unit 4 - Resources

Essential reading

- UNHCR, *The Heightened Risk Identification Tool*, June 2010, Second Edition, <http://www.unhcr.org/refworld/docid/4c46c6860.html>;
User Guide, <http://www.unhcr.org/refworld/docid/46f7c0cd2.html>
- UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, 2011, <http://www.unhcr.org/refworld/docid/4dda4cb02.html>
- UNHCR, *Working with Persons with Disabilities in Forced Displacement*, 2011, <http://www.unhcr.org/refworld/docid/4e6072b22.html>
- UNHCR, *Working with National or Ethnic, Religious and Linguistic Minorities and Indigenous Peoples in Forced Displacement*, 2011, <http://www.unhcr.org/refworld/docid/4ee72a2a2.html>
- UNHCR, *Working with Lesbian, Gay, Bisexual, Transgender & Intersex Persons in Forced Displacement*, 2011, <http://www.unhcr.org/refworld/docid/4e6073972.html>
- UNHCR, *Working with Men and Boy Survivors of Sexual and Gender-based Violence in Forced Displacement*, July 2012, <http://www.unhcr.org/refworld/docid/5006aa262.html>
- UNHCR, *Working with Older Persons in Forced Displacement*, 2013, <http://www.refworld.org/docid/4ee72aaf2.html>

Supplementary Reading

- UNHCR, *Resettlement Assessment Tool: Alleged Perpetrators of Sexual and Gender-Based Violence*, June 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4dc7a99d2.html>
- UNHCR, *Resettlement Assessment Tool: Polygamous Families*, June 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4dc7a9032.html>
- UNHCR, *Resettlement Assessment Tool: Married Children*, June 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4dc7a79f2.html>
- UNHCR, *Resettlement Assessment Tool: Refugees with Disabilities*, April 2013, <http://www.refworld.org/docid/5163f43e4.html>

- UNHCR, *Resettlement Assessment Tool: Lesbian, Gay, Bisexual, Transgender and Intersex Refugees*, April 2013, <http://www.refworld.org/docid/5163f3ee4.html>
- UNHCR, *Resettlement on Medical Grounds: Guidance for UNHCR Resettlement Officers*, August 2011, UNHCR Intranet (Durable Solutions/Resettlement/Tools and Resources)

Reference Documents

- Chapters 5 and 6, UNHCR, *UNHCR Resettlement Handbook*, 2011, www.unhcr.org/resettlementhandbook
- UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, <http://www.unhcr.org/refworld/docid/48480c342.html>
- UNHCR, *UNHCR Tool for Participatory Assessment in Operations*, May 2006, First edition, <http://www.unhcr.org/refworld/docid/462df4232.html>
- UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, January 2008, <http://www.unhcr.org/refworld/docid/47cfc2962.html>

Unit 5

Processing of resettlement submissions

Learning Objectives

In the last Unit we reviewed the first, and arguably most challenging, stage in the resettlement process: identification. However, identifying a refugee in need of protection does not necessarily mean that s/he will be considered for resettlement. This Unit will examine in greater detail the various factors in determining whether or not resettlement is an appropriate response. While the main focus will be on individual processing, we will also examine group resettlement methodology.

At the end of this Unit, you should be able to explain as well as follow in greater detail the steps relating to each of the following stages of the resettlement process:

- case verification and assessment;
- preparation of documentation and a Resettlement Registration Form (RRF);
- making submission decisions;
- UNHCR submission of the RRF to a resettlement country;
- pre-departure processing and monitoring.

The designated Learning Programme administrator will recommend the time allotment for the completion of this Unit.

Contents

Safeguards in the processing of resettlement submissions	196
Identification, case verification and assessment.....	197
Verification of registration and refugee status.....	198
Resettlement needs assessment	202
Review and Follow-up.....	204
Conducting interviews	207
Preparing for an interview	207
The interview	211
Special situations	215
Case Composition	219
The family unit.....	219
Preparation of a resettlement submission	221
Completing the RRF.....	222
UNHCR resettlement submission	227
Determining the country of submission	228
Prioritizing submissions	229
Submitting the case	230
State selection	235
Selection missions	235
Requests for additional information	236
Follow-up after submission.....	237
Selection decision	238
Pre-departure arrangements and monitoring.....	243
The importance of UNHCR oversight	243
Pre-departure arrangements.....	243
Group Resettlement Methodology.....	245
The Group Profile and Proposal Document	246
Unit 5 - Resources.....	249

Safeguards in the processing of resettlement submissions

Regardless of the field context, resettlement management and processing safeguards and operational standards are critical to the integrity of resettlement processing. Resettlement submissions should be processed in line with a number of key principles. In particular, they should:

- follow Standard Operating Procedures (SOPs);¹
- consistently apply the resettlement policies;
- ensure transparency, oversight and accountability.

Each field office's Resettlement Standard Operating Procedures (SOPs) must incorporate the baseline standard for all UNHCR operations in assessing and submitting individuals for resettlement, and detail the procedures specific to the office for each of the stages of the resettlement process:

1. **IDENTIFICATION** of refugees in need of resettlement consideration;
2. **ASSESSMENT** of individual resettlement need;
3. **PREPARATION** of a resettlement submission;
4. **UNHCR SUBMISSION** decision;
5. Resettlement country **DECISION**;
6. **PRE-DEPARTURE** arrangements and monitoring.

Processing must be transparent and allow retracing of each step

Transparency of the process: A refugee's case file should clearly indicate why and by whom each step and decision was taken. Staff should rely on *proGres*, where it is in place, and all documentation should be signed, dated and kept in the refugee's physical case file.

Transparency is also important vis-à-vis resettlement partners. UNHCR should hold regular meetings with resettlement partners to discuss protection needs and interventions as appropriate, and to keep them informed of the resettlement process, albeit while fully respecting principles of confidentiality.

Each step should be appropriately accounted for and authorized

Oversight and accountability: The Accountable Officer for resettlement activities oversees and coordinates all resettlement activities, and ensures effective management and compliance with SOPs. This oversight function may include random checks of individual cases at different stages in the process. Issues of office management and accountability will be discussed in more detail in Unit 6.

¹ UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html>

Identification, case verification and assessment

The identification of refugees in need of resettlement is arguably the most crucial and challenging aspect of the resettlement process. Resettlement needs must be identified proactively, as part of UNHCR's standard assessment of protection and durable solutions needs, rather than reactively through the demand of an individual.

For this reason, resettlement must be employed as part of a comprehensive protection strategy to address the needs of refugees in a country of asylum and operations must establish an identification and referral system to facilitate the active identification of cases.

The effective identification of refugees potentially in need of resettlement and the assessment of cases requires an active and systematic process of cooperation between operational partners in the field and the relevant units within a given office.

Preconditions for resettlement consideration

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

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

All refugees identified as being in need of resettlement consideration must pass through verification and assessment stages before a resettlement submission may be prepared:

Verification and assessment stages

1. **VERIFICATION** of registration details;
2. **VERIFICATION** of refugee status, **OR QUALIFICATION FOR RESETTLEMENT ON EXCEPTIONAL GROUNDS**;
3. **RESETTLEMENT NEEDS ASSESSMENT** in line with priorities, policy considerations and submission categories.

A staff member with designated resettlement responsibilities is assigned to undertake these verifications, according to the urgency of resettlement need. If the case was referred internally, the staff member who conducts this verification and assessment should be different from the person who referred the case. This serves to strengthen objectivity, bridge gaps in quality assurance, reduce perceptions of individual bias and safeguard against fraud.

Remember: Update *proGres* to reflect every action taken on the case.

These verifications are designed to ensure the credibility and resettlement needs of the individual case, and to ensure consistency in the field office's resettlement activities. The Annex of the Baseline SOPs includes sample forms that will assist field offices to develop appropriate, efficient and effective mechanisms and procedures for these stages.

For submissions under the group methodology

A verification exercise must be conducted to determine inclusion in the group, and to obtain refugees' consent for UNHCR to share information with resettlement countries.

This verification exercise also provides an opportunity to seek any additional information required for resettlement processing.

The SOPs developed for the processing of the group will outline the procedures for the verification exercise, and the steps required before the submission of the cases.

Verification of registration and refugee status

There should be a database entry for each person identified for possible resettlement, where possible in *proGres*

The following **registration details** need to be verified for each refugee who is identified for resettlement consideration:

- bio-data in *proGres* (or other database) is current; and photographs of the Principal Applicant and all dependants are included;
- family composition is accurate and complete.

If there is reason to doubt the relationship claimed by the head of the family, dependants should be interviewed independently. If doubts persist about the credibility of the family composition, the Field Office may keep the resettlement consideration on hold until these doubts can be effectively addressed and resolved. Discrepancies may indicate fraudulent misrepresentation of family composition, but may also indicate misguided fears about the possible separation from dependants who are not nuclear family members.²

² See UNHCR, *Operational Guidance Note on Resettlement Case Composition*, June 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4dc7aa0d2.html>



BIAs, BIDs, Counselling, MAFs, and Investigations

This verification process may reveal family composition details or protection needs that require protection assessments including BIAs, BIDs or counselling before proceeding with resettlement consideration. These could include separated or unaccompanied children, children resettled with only one parent, polygamous families, or married children. Cases with medical needs may require medical or psychosocial assessments. A *proGres* check could also reveal specific needs codes regarding alleged violence that may require further investigation. If these assessments have not been completed, the case should be referred to the appropriate protection staff as required.

It must also be verified that the refugee has been recognized as a refugee under UNHCR's mandate. Refugee status should be cross-checked with *proGres* and the physical file. However, additional checks with protection staff responsible for refugee status determination (RSD) may be required.

If status determination was undertaken by UNHCR under its mandate, all steps should have been fully documented, including the decision, the grounds on which the individual has been recognized, a credibility assessment and any exclusion considerations as applicable. If the government of the country of asylum conducted the RSD, this fact needs to be entered in *proGres* and in the physical case file.

Refugee status must be verified. Where *proGres* is available and used, it can provide this confirmation.

Individual RSD will normally be required for the resettlement where a person has been recognized on a *prima facie* basis

Individual RSD is normally required for purposes of resettlement. However, in some instances, resettlement countries have accepted resettlement submissions from UNHCR on behalf of refugees recognized on a *prima facie* basis. Therefore, it may be sufficient for UNHCR resettlement staff to substantiate the *prima facie* recognition as part of the resettlement submission, provided the refugee cases do not show evident exclusion elements. Unit 3 addresses these issues and Chapter 3 of the *Resettlement Handbook* covers RSD in more detail.

If any **EXCLUSION TRIGGERS** arise during the review, the case must be sent back to the Protection Unit for due consideration on whether a full-fledged exclusion analysis is required, the outcome of which will determine whether to proceed with the resettlement submission or not.

There are certain exceptions to the requirement to be recognized as a refugee in order to be submitted for resettlement by UNHCR. Exceptions can be made for non-refugee stateless persons for whom resettlement is considered the most appropriate durable solution, and also for the resettlement of non-refugee dependent family members to retain family unity.

Resettlement of Non-refugee Stateless Persons

Resettlement of non-refugee stateless persons with acute protection needs

Persons of concern to UNHCR include stateless persons who are not refugees. In line with the *General Conclusion on International Protection No. 95 (LIV)*, UNHCR can consider resettlement for non-refugee stateless persons on an exceptional basis.

Resettlement may be considered for non-refugee stateless persons where the individual:

- does not have in the current or a former state of habitual residence a secure, lawful residence status which brings with it a minimum standard of treatment equivalent to that set out in the *1954 Convention relating to the Status of Stateless Persons*; and
- has no reasonable prospect of acquiring such a residence status or nationality; and
- has acute protection needs that cannot be addressed inside the country of current or former habitual residence.

Field offices considering resettlement of non-refugee stateless persons in these circumstances should consult the Resettlement Service. Prospective resettlement countries also need to be consulted prior to submission to confirm their willingness to consider the case, and the possibility of processing stateless persons under their national legislation.

Ideally, States should give similar status to resettled non-refugee stateless persons as that given to resettled refugees. Namely, a status that provides the person in question and their accompanying dependants the enjoyment of civil, economic, social and cultural rights similar to those enjoyed by nationals and the opportunity

to eventually become a naturalized citizen of the resettlement country. At the very minimum, the resettled individuals should be granted status as stateless persons under the 1954 *Convention relating to the Status of Stateless Persons*, encompassing rights and obligations enshrined in this instrument.³

Resettlement of Non-refugee Family Members

In exceptional circumstances, UNHCR may also include a dependent non-refugee family member in a resettlement submission in order to retain family unity. This is primarily relevant when a dependent spouse or other relative is a national of the country of asylum, as most other dependants are eligible for derivative refugee status.

Resettlement of dependent non-refugee family members to retain family unity

During RSD, dependants who are determined to fall within the criteria for refugee status in their own right are granted refugee status rather than derivative refugee status. The family link to the resettled refugee may itself lead to persecution, and “membership in a particular social group” may apply.

Dependants of a recognized refugee, who do not have grounds to make an independent claim, may be granted derivative refugee status in most circumstances. These include dependants who arrive in the country of asylum subsequent to the recognition of the principal applicant, or who are in another country of asylum. Individuals who obtain derivative refugee status enjoy the same rights and entitlements as other recognized refugees, and should retain this status notwithstanding the subsequent dissolution of the family through separation, divorce, death or the fact that a child reaches the age of majority. Therefore, in most circumstances, the dependants of refugees have refugee status or derivative refugee status.

However, nationals of the country of asylum are not eligible for refugee status. Therefore, the inclusion of a non-refugee family member in a resettlement submission is appropriate to retain family unity when the non-refugee is emotionally, socially, and economically dependent on the refugee family and their citizenship does not accord any protection or rights to the family unit.

A detailed assessment of all available documents and the personal circumstances of the family member must be conducted to document the dependency. The agreement of the resettlement country to consider a family including non-refugees is also required. The possibility of processing other immigration channels should

Dependency must be carefully documented

³ The 1954 Convention contains provisions regarding stateless persons' rights and obligations pertaining to their legal status in the country of residence that are similar to the legal regime provided by the 1951 Convention Relating to Refugee Status. These rights include access to courts, property rights, which are, at a minimum, equal to those granted to aliens generally, and freedom to practice their religion. Obligations include conformity to the laws and regulations of the country. The Convention further addresses a variety of matters that have an important effect on day-to-day life, such as gainful employment, public education, public relief, labour legislation and social security. UN General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, <http://www.unhcr.org/refworld/docid/3ae6b3840.html>

be explored with the resettlement State if the State does not agree to the inclusion of the non-refugee family member on the resettlement submission. However, the risk of short-term or prolonged separation must be weighed carefully, and the family must be counselled before a decision is taken to remove a fully dependent non-refugee from a resettlement case. Review Chapter 5.1.2 of the *Resettlement Handbook* for more guidance.

Facilitating family reunification through other immigration channels

UNHCR also facilitates family reunification processed through the immigration programme of a resettlement country – outside of the context of a UNHCR resettlement submission. At least one of the parties seeking the assistance of the Office – either the individual requesting the reunification or the family member with whom he or she is seeking to be reunited – should be a refugee, although it is not necessary that all parties are refugees. See Chapter 6.6.5 of the *Resettlement Handbook* for more details on the type of assistance the Office can offer.

Resettlement needs assessment

Preparation of a written needs assessment is required

A preliminary assessment of an individual's need for resettlement should be conducted based on the information contained in the referral (internal, external or unsolicited) and any relevant information contained in the refugee's file.

The preliminary needs assessment should be completed within two weeks of a referral

The preliminary resettlement needs assessment should preferably be completed within two weeks of the receipt of the referral. The Annex of the Baseline SOPs includes a sample Resettlement Needs Assessment Form that can be adapted for use, as well as a sample refusal letter for unsolicited requests. Information gathered at this stage may later be transferred directly to the Resettlement Registration Form (RRF).

As part of the preliminary resettlement needs assessment the reviewing staff member should:

- **DETERMINE IF SUFFICIENT INFORMATION IS AVAILABLE** to make a proper assessment of the need for resettlement – such as reports by specialist staff or external experts (e.g. medical assessments, and Best Interests Determination in specific cases involving children);
- **IDENTIFY ANY PROBLEMS WITH THE FILE** that would prevent the applicant from being interviewed for resettlement (e.g. including fraud indicators such as evidence of tampering);
- **REVIEW THE PROTECTION ENVIRONMENT**, and appropriateness of resettlement:
 - prospects for voluntary repatriation;
 - quality of asylum, including respect for basic human rights in the host country and the possibility of local integration;
 - whether resettlement is appropriate, considering the universal imperative and/or possible strategic dividends;

- assess resettlement need and **IDENTIFY PRIMARY, AND IF APPLICABLE, SECONDARY RESETTLEMENT SUBMISSION CATEGORIES**;
- verify that **ALL RELEVANT INFORMATION** and documentation in the file is **TRANSLATED**;
- review the case for **FAMILY LINKS** in other countries;
- **ASSESS PRIORITY OF THE CASE**, i.e. whether the individual requires urgent or emergency resettlement intervention;
- **PRODUCE A WRITTEN SUMMARY**, including a recommendation for follow-up action.

Based on the analysis of the assessment, one of three possible follow-up actions may be recommended:

- **ADDITIONAL INFORMATION** is required, perhaps from the referral source prior to finalizing the resettlement assessment; or
- the resettlement need appears to be **FOUNDED**, and should proceed to a resettlement interview; or
- resettlement intervention appears **UNFOUNDED** or lacks merit according to UNHCR guidelines and priorities, and the referral source should be notified that the refugee will not be considered for resettlement consideration at that time.

Emergency and Urgent Resettlement Priority

When faced with an emergency resettlement requirement, time available for investigation of a refugee's statement may be severely limited. Nevertheless, such time as may be available must be used to the maximum with a view to checking the veracity of the story and its consistency. It is important that emergency and urgent priorities only be used when this is clearly appropriate, to avoid undermining the credibility of UNHCR and the responsiveness of resettlement States.

Staff must bring cases identified as requiring emergency or urgent resettlement submission to the immediate attention of the Accountable Officer and the responsible Protection Officer. Ideally, emergency priority cases should be prepared and submitted within 24 hours of identification and urgent cases within two weeks. Each office is responsible for taking temporary measures to address immediate protection needs.

Cases requiring emergency or urgent submission must be brought to attention of the Accountable Officer

Review and Follow-up

Supervising officer's review

The refugee file including the written assessment and the recommendation should be passed to a supervising officer for review. For normal priority cases, the supervising officer should review the recommendation within two weeks of receipt.

Once the supervising officer has confirmed the appropriate course of action, the relevant follow-up steps below should be taken, taking care also to update the refugee's file and *proGres*.

If **additional information** is required:

- Send a letter/email requesting additional information to the referral source, and attach a copy of the correspondence to the refugee's file.
- Schedule an interview with the refugee if this is required to gather sufficient information to complete the resettlement needs assessment adequately.

Important to avoid raising expectations

It is important to emphasize that the completion of a resettlement needs assessment does not necessarily mean that UNHCR will submit the refugee's case for resettlement. Staff must take special care to avoid raising resettlement expectations at this stage in the process.

If resettlement need is **founded**:

- Schedule the refugee in question for a resettlement interview with all dependants.

If resettlement intervention appears to be **unfounded**:

- Notify the referral source that the refugee will not be considered for resettlement at that time. The notification should preferably be in writing, and should outline the basis of this assessment. Attach a copy of this notification to the refugee's file and update *proGres*.

The referral source may request UNHCR to reconsider this assessment if circumstances change or new elements arise. Such requests must be made in writing, and should be considered by the Field Office in light of the priorities of other pending resettlement cases.

Assessments from Specialist Staff and External Experts

Reports from specialist UNHCR staff or external experts are essential to assessing the resettlement needs of refugees with certain specific needs and family situations.

Medical assessments

Cases being assessed for resettlement on medical needs should be accompanied by a medical report. If the case merits consideration, UNHCR staff must refer any individual being considered for resettlement submission under the Medical Needs category to recognized and qualified professionals for the completion of a Medical Assessment Form (MAF).⁴ This specialized medical form must be completed in a timely and accurate manner by qualified medical practitioners with the required

⁴ UNHCR, *Revised UNHCR Medical Assessment Form (MAF) and Guidance Note*, IOM/044-FOM/044/2010, (Internal), available on the UNHCR Intranet



knowledge and clinical training. Furthermore, in order to respect the objectivity and impartiality of the assessment, it is strongly recommended that an independent clinical practitioner perform the medical assessments of refugees being considered for resettlement submission. Medically qualified UNHCR staff should in principle not be requested to complete the MAF.

The MAF records pertinent information derived from clinical findings and the interpretation of diagnostic tests. It must be completed in a detailed, clear and comprehensible manner while respecting medical ethics. The compilation of pertinent medical information on the MAF helps UNHCR staff determine the individual's eligibility and priority for resettlement on medical grounds. Timely identification of refugees with medical conditions can favourably affect the prognosis, which can in turn directly impact the selection decision of a resettlement country.

The best interests of the child are an overriding consideration in all decisions and actions concerning unaccompanied or separated children and other children at risk. The office must comply with the *UNHCR Guidelines on Determining the Best Interests of the Child*⁵ and the *Convention on the Rights of the Child*.⁶ Trained child protection, community services, or child welfare staff should undertake the collection and analysis of comprehensive information on the child and his or her environment for a Best Interests Determination (BID).

Best Interests
Assessments and
Determinations

⁵ UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, <http://www.unhcr.org/refworld/docid/48480c342.html>

⁶ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, <http://www.unhcr.org/refworld/docid/3ae6b38f0.html>

Formal BID reports are required for the resettlement submission of all separated or unaccompanied children, as well as for other children at risk as detailed in the Field Handbook for the Implementation of the UNHCR BID Guidelines.

In some circumstances, such as the resettlement submission of married children with their parents, or a child being resettled with only parent, a less formal Best Interests Assessment (BIA) may be required.⁷

Consult the Regional Resettlement Hub/Regional Office or the Resettlement Service for advice if there is no access to specialist staff, or there are unusual delays in preparing necessary reports.

Field offices must ensure that systems are in place to minimize the time between needs identification and the submission for resettlement, to prevent normal and urgent cases from becoming emergency ones.

⁷ UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, 2011, <http://www.unhcr.org/refworld/docid/4dda4cb02.html>. See also UNHCR, *Operational Guidance Note: Best Interests Assessments in the Context of Resettlement*, April 2013, <http://www.refworld.org/docid/5163f4ff4.html>

Conducting interviews

The advice of the Field Security Advisor should be sought concerning precautions and practices to be followed in each interview location. Staff should also review the security precautions outlined in Chapter 4.6 of the *Resettlement Handbook*.

Preparing for an interview

Interviews may play an important role in the preparation of a resettlement needs assessment, and will *always* be necessary during the preparation of a resettlement submission. The purpose of the interview is to allow for a more thorough assessment of the resettlement need, verification of any information and clarification of any inconsistencies or doubts.

The Baseline Standard Operating Procedures (SOPs) provide detailed instructions on how to prepare for, conduct and document the interview.

When scheduling an interview, it is important to inform the refugees of the purpose of the interview, and to stress the importance of bringing all dependants and all relevant documentation to the interview.

A refugee scheduled for a resettlement interview will not necessarily have their case submitted. To help manage expectations the interviewer must inform the refugee that the interview is a thorough assessment as to whether the refugee qualifies for resettlement according to established policies and priorities, regardless of any preliminary assessment that has been done of the case.

Interviews are necessary to prepare a resettlement submission

Baseline SOPs provide detailed guidance on interviewing

Interviews do not always lead to submissions. Expectations must be managed carefully.

Training and Guidelines

Interviewers are encouraged to consult the readings at the end of this Unit for guidance on interviewing in the refugee context. Of particular relevance is the *Training Module RLD4: Interviewing Applicants for Refugee Status*,⁸ which includes general interviewing guidelines, as well as issues pertinent to interviewing women, children and survivors of trauma. The *Field Handbook for the Implementation of the UNHCR BID Guidelines*⁹ provides guidance on communicating with children. Basic guidance on how to recognize and interact with survivors of violence or torture can be found in *Mental Health of Refugees*.¹⁰

Overall, interviewers are encouraged to develop *age-appropriate* and gender and diversity sensitive interviewing and communication skills to help ensure that the needs and protection risks of more vulnerable family members are adequately identified, and that their views are taken into account.

⁸ UNHCR, *RLD4 – Interviewing Applicants for Refugee Status*, 1995, RLD4, <http://www.unhcr.org/refworld/docid/3ccea3304.html>

⁹ UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, 2011, <http://www.unhcr.org/refworld/docid/4dda4cb02.html>

¹⁰ UNHCR, *Mental Health of Refugees*, 1996, <http://www.unhcr.org/refworld/docid/4a54bc010.html>

Case-specific Preparation

The interviewer must prepare carefully

It is important to be fully prepared for interviews. The interviewer should have a good understanding of the current conditions in the refugee's country of origin and country of asylum.

Prior to the interview, the interviewer should carefully review the contents of the file and ensure that all relevant information including the RSD report is included. The interviewer should note any inconsistencies with regard to the information, or doubts about the genuineness of any documentation. If not yet completed, translations of required documents can be requested.

In addition, staff should prepare for interviewing particularly vulnerable persons in the family, including survivors of violence (e.g. of sexual or gender-based violence), because sensitive questioning will occur, and it is important to address such issues in a culturally respectful, gender-sensitive and age-appropriate way. When possible, the interviewer and the interpreter should be of the same sex as the refugee being interviewed. Preparations should be made for interviewing family members separately, and with discretion.

Pre-interview RRF Generation and Preparation

In certain contexts, it will be useful for the interviewer to generate a Resettlement Registration Form (RRF) from *proGres* for use during the interview, and complete it as thoroughly as possible in order to ensure the accuracy of the bio-data. Preparing a draft summary of the refugee claim based on the RSD assessment may also facilitate interviewing the refugee.

Summarize the facts of the claim

The PRA's situation should be summarized from a factual point of view on the refugee claim section of the RRF. For example, do not write "*The PRA claimed/ explained that she was raped.*" Instead state "*The PRA was raped.*"

Use of Interpreters

Interpreters play a key role, and interviewers need to be aware of how to conduct interviews through a third person

The majority of interviews are held with the assistance of an interpreter. Interpreters do not replace the interviewer, but play a vital role to facilitate communication with the refugee.

Interpreting is a skill, and interpreters must be adequately trained to ensure professionalism, integrity and confidentiality in their tasks. Staff should consult UNHCR's *Guidelines for the Recruitment, Training, Supervision and Conditions of Service for Interpreters in a Refugee Context*.¹¹ Mandatory induction training includes the *Self-study Module 3: Interpreting in a Refugee Context*.¹²

¹¹ UNHCR, *Interpreting in a refugee context: Guidelines for the recruitment, training, supervision and conditions of service for interpreters in a refugee context*, IOM - FOM/005/2009, 19 January 2009, (Internal) <http://swigea57.hcrnet.ch/refworld/docid/497f147c2.html>

¹² UNHCR, *Self-Study Module 3: Interpreting in a Refugee Context*, 1 January 2009, <http://www.unhcr.org/refworld/docid/49b6314d2.html>

Interpreters are required to sign the *UNHCR Code of Conduct*¹³ and the *UNHCR Interpreter Undertaking of Confidentiality and Impartiality*¹⁴ when they take up their duties. This undertaking sets out the obligations and ethical requirements of interpreters.

Interpreters must understand their obligations and ethical requirements

It is essential that interpreters understand the confidential nature of all protection interviews, and resettlement interviews in particular. Interpreters must agree, in advance, to the following conditions:

- that they will not share the contents or nature of any interview in which they assisted;
- that they will not share the contents or nature of any documents they handle within the UNHCR premises related to their duties as an interpreter;
- that they will not solicit or accept any fee, including services in kind, either directly or indirectly, from refugees;
- that they will not provide advice or guidance to any refugee about the resettlement process, either during interviews or outside their official functions;
- that they must indicate if they have a conflict of interest related to the refugee being interviewed before the start of the interview;
- that they will uphold the highest standards of efficiency, competence and integrity in their work;
- that they will be dismissed from their duties as an interpreter if they breach these conditions.

Selecting an Interpreter

Interpreters should be both neutral and objective in their role. It is important to be sensitive to a refugee's culture, gender, age and background when selecting an interpreter:

- Female refugees will likely be more comfortable speaking through a female interpreter to a female interviewer. Many refugee women are unwilling to speak to male interpreters and interviewers.
- There may be occasions when a male refugee would be more at ease with a male interpreter and a male interviewer.
- When working with children and adolescents, care should be exercised to select interpreters who have the necessary skills.

Given the importance of an interpreter's neutrality and objectivity, field offices should **avoid using refugee interpreters** when possible. Where refugee interpreters are used, it is important to ensure that they are not in any way related to the refugee being interviewed, either through a family relationship, or through other ties such as political associations. It is also important to ensure that interpreters are not perceived to be associated in any way with the agent of persecution, or any group antagonistic to the refugee community.

Interpreter neutrality and objectivity is essential. Avoid using refugee interpreters

¹³ UNHCR, *UNHCR Code of Conduct*, June 2004, <http://www.unhcr.org/422dbc89a.html>

¹⁴ See Annex 2, UNHCR, *Interpreting in a refugee context: Guidelines for the recruitment, training, supervision and conditions of service for interpreters in a refugee context*, IOM - FOM/005/2009, 19 January 2009, (Internal) <http://swigea57.hcrnet.ch/refworld/docid/497f147c2.html>

Interpreters should rotate between case officers to safeguard against fraud

To ensure the independence of the interpreter and to safeguard against fraud, where possible, the interpreter for a resettlement interview should not be the same person who interpreted during previous interviews, including in particular refugee status determination interviews. As a further safeguard and quality assurance mechanism, interpreters should rotate between case officers, and should not know in advance which refugee case they will be assigned.

Interpreter's Role

Interpreters should always:

- have a clearly defined role, and understand the purpose of the interview;
- have the support of the interviewer;
- remain neutral;
- work with accuracy;
- be treated with respect;
- have arrangements made for their personal safety and security.

Refugees must be advised of the role of the interpreter

An interview should begin by introducing the interpreter to the refugee and explaining his or her role. It is also important to assure the refugees of their right to confidentiality, and that both the interviewer and the interpreter will respect this. The interpreter must also be asked if there is any potential conflict of interest, which would mean that she or he should not interpret during the interview.

Refugees should also be advised that they may stop the interview or refuse the services of a given interpreter if they are not satisfied with the interpretation. If there are reasonable objections to using the interpreter the interview should be postponed until another interpreter is found.

Questions should be directed to the refugee, and not to the interpreter. The interpreter should translate precisely what the interviewer and the refugee say, and not summarize, elaborate or attempt to provide an explanation of what is said. The interpreter should also be trained to take notes during the interview. This will assist in recording all the information accurately, especially important facts such as dates, names of persons and places. All notes taken by the interpreter during an interview should be kept in the refugee's file.

Security for the interpreter

Special attention should also be paid to the security of interpreters. Cases have been reported where interpreters have been threatened and even attacked by refugees not submitted for resettlement. Interpreters may be blamed for influencing the outcome of the resettlement interview, and consequently the resettlement process. It is for this reason that special attention must be paid to not only the selection and training of interpreters, but also arrangements to ensure the personal safety and security of interpreters involved with the resettlement process. In this regard, it is suggested that advice be sought from specialized security personnel, especially the Field Security Advisor.

The interview

The interviewer must ensure that the principal applicant and all dependants are present on the day of the interview, and that their identities are verified before starting the interview. Unless the case is of an urgent nature, and depending on the context, an interview might be postponed if the family is not complete, or if identity documents are not produced.

The principal applicants and all dependants must be present at the interview

Where the file concerns a family, at least the principal applicant, his/her spouse, and all adults should be interviewed. If deemed necessary, any adolescent children may also be interviewed with the consent of their parent or caregiver. Family members should appear together, but adults should be interviewed separately. The interviewer will be asking about sensitive issues of a personal nature, and must foster a relationship of trust and respect with the refugee. Care should be taken to approach issues in a culturally respectful, age, gender and diversity sensitive way and to allow for a relaxed atmosphere, because misunderstandings are likely to arise due to different cultural contexts. Where possible, separate waiting rooms should also be used for persons prior to and after the individual interviews to prevent collusion and retain confidentiality.

Adults should be interviewed separately. Care must be taken to ensure that sensitive issues are approached in a respectful way

There are a number of important steps to follow at the beginning of an interview to ensure the refugee is fully aware of the purpose of the interview and his or her rights and obligations:

- **INTRODUCTIONS:** The interviewer and interpreter must introduce themselves by name and title, and the interviewer must explain their roles.
- **IDENTITY VERIFICATION:** The interviewer should verify the identity of each member of the family by checking their identity documents and the picture in the file and/or *proGres*.
- **FITNESS FOR INTERVIEW:** If there is any doubt about whether the refugee is fit for interview, the interview should be rescheduled. The refugee should also be asked if s/he is well enough for the interview, with the reassurance that the interview could be rescheduled.
- **ALL UNHCR SERVICES ARE FREE OF CHARGE:** The interviewer should notify the refugee that they should never be asked to provide money or services by UNHCR staff or people employed by UNHCR, and advise them of the process to report any charging.
- **RESETTLEMENT COUNSELLING:** The interviewer must explain the purpose of the interview within the resettlement process. The interviewer should also explain the nature and constraints of resettlement, including the fact that there are set criteria and defined procedures that will be followed.
- **REFUGEE'S RIGHTS:** The refugees should be asked if they understand the interpreter and if they have any objections to the particular interpreter being used. They should also be informed that they could stop the interview if they feel that they are not being understood or if they need a break, and that this is acceptable.

- **REFUGEE'S OBLIGATIONS:** The interviewer should notify the refugees of their obligation to tell the truth, and not to conceal information. They should also be notified that fraud, including using forged documents or falsifying any information, is a crime, and may lead to prosecution by the authorities and rejection for resettlement.
- **CONDUCT OF INTERVIEW:** The interviewer should explain the process of the interview, including that interview notes will be taken, and that adults in the family will be asked questions separately.
- **QUESTIONS:** The interviewer should ask whether the refugees fully understand the steps of the resettlement process and answer any questions about the process before beginning the interview.

Conducting the Interview

Interviews must be focused and effective

There are a number of components to a standard resettlement interview, including a review of the family composition, the history of persecution and flight and the resettlement needs. Throughout the interview, the interviewer should keep in mind the limited purpose of the interview, and strategies for ensuring the interview is focused and effective.

- Use “open” questions to encourage the refugee to freely recount his or her story, and use “closed” questions to draw out specific details.
- If refugees find it difficult to give exact dates for events, but it is important to clarify when different events took place, it may be helpful to ask them to relate an event to a season, religious holiday, or other event. If an exact date is known on a national calendar, take care to translate the date into the standard Gregorian calendar accurately, noting the original date as well for clarity and cross-referencing.
- Limit questions to a “need to know” basis, especially for sensitive issues.
- Remember that it is inappropriate for interviewers to be shown or request to see scars or wounds on a body part not normally visible to the public. If verification of such physical evidence is required, medical or nursing personnel should be asked to witness the evidence and assess whether it is likely to have been caused in the manner described by the refugee.
- Collect as much information as possible, and take care to cross-check facts and address gaps in chronology. The interview is intended to help clarify any inconsistencies, and verify information that is unclear or misleading. This will serve not only to confirm whether a submission is warranted, but will also assist in producing a complete and consistent RRF.
- A formal question-by-question transcript of the interview is not mandatory, although advisable. Depending on the operational context, notes may be entered directly into the RRF. However, if complex issues arise during the interview, separate notes of what was discussed must be prepared for the file.

Verifying Family Composition

The right to family unity is a fundamental principle that interviewers should keep in mind as an overarching concern throughout the interview process. Before going through the refugee's history of persecution and resettlement prospects, the family composition should be reviewed. This verification not only ensures that the data available to UNHCR is correct, but also helps maintain the unity of the family and the prospects for future family reunification.

Chapter 7.3.5 of the *Resettlement Handbook* offers a useful list of interview techniques that have been developed to facilitate the process of verifying family composition. Questions should be asked in a sensitive, non-threatening and conversational way. As family composition, including estimated ages, should have been previously verified in a non-resettlement context, any inconsistencies should be clarified in a respectful and neutral, rather than accusatory, fashion.¹⁵ The goal of this process should be to ensure that all individuals who are legitimately a part of a family structure, whether by blood or custom, are considered together for resettlement. For dependants that are not part of the nuclear family, it is crucial to note the nature of the dependency – social, emotional or economic – and to document this carefully.

Maintaining and restoring family unity is an overarching concern

Ideally, family composition should have been verified in a non-resettlement context

Refugee Claim

The interviewer must review the claim of each member of the family over the age of 18, with the possible exception of the dependent spouse. The time required to review the refugee claims during a resettlement interview will depend largely on whether the refugee family was recognized through individual refugee status determination or on a *prima facie* basis.

The role of the resettlement interview is not to conduct RSD, or examine the claims in every detail. If the refugee family underwent individual refugee status determination, the interviewer should focus on clarifying any details or inconsistencies that may give rise to questions by resettlement States.

For the resettlement submissions of refugees recognized on a *prima facie* basis, it may be sufficient to substantiate the *prima facie* recognition, provided the refugee cases do not show evident exclusion elements. The Convention ground(s) relevant for the group recognition, and the objective situation in the country of origin that supported the acceptance of the group as mandate refugees *prima facie* could be referred to in a generalized manner, or elaborated into a group profile for use with the group methodology.

In other contexts resettlement submissions regarding refugees recognized *prima facie* do require an individual examination to reaffirm refugee status and to document in detail the basis of refugee status recognition.

The elements of an individual refugee claim should be drawn out for all adults

The resettlement interviewer should focus on clarifying details and addressing inconsistencies

¹⁵ For guidance on estimating age, consult UNHCR, *UNHCR Handbook for Registration*, September 2003, <http://www.unhcr.org/refworld/docid/3f967dc14.html>

Detailing individual claims can protect family unity, as some resettlement States split cases and require each adult to articulate a claim

It is also important to draw out the elements of an individual refugee claim for all dependants over the age of 18 (other than the dependent spouse) that did not undergo individual refugee status determination but were accepted on a *prima facie* basis or were granted derivative refugee status. Including details of individual needs for protection on the RRF may help protect family unity, particularly as some resettlement States require each adult to be able to articulate an individualized refugee claim, and may not accept UNHCR's definition of a dependent family. While a claim is not necessarily required for the spouse, the details of the claim should be drawn out if the spouse has a different flight history or a claim arising from a different ground. Each family member should be given a chance to express his/her own refugee claim.

A child's refugee claim

In some circumstances, a child may also have a refugee claim unrelated to that of the remainder of the family, in which case the elements of the child's claim should also be summarized.

A dependant's refugee claim may be completely unrelated to that of the principal applicant and may therefore strengthen the case as a whole. However, it is important to draw out these individual refugee claims even if the family shares a common flight history and the claims are based on the same grounds as that of the principal applicant, or are due to their relationship to the principal applicant. This reinforces the importance and interdependence of the family unit, and improves the prospects of acceptance of the entire family by ensuring that each individual's need for protection is properly expressed.

EXCLUSION CONSIDERATIONS

Cases with unaddressed exclusion triggers must be sent back to the Protection Unit for an exclusion assessment

If any information arises that might trigger exclusion, cessation or cancellation considerations, the interviewer should refer the case file back to the Protection Section/Unit for review of the original decision, including on whether an exclusion analysis may have to be undertaken. This includes facts that may not have been adequately reviewed previously, issues that involve significant discrepancies as well as issues that arise for the first time during the resettlement interview.

Resettlement Need

Assessment of resettlement need includes review of interdependencies

The interview should also confirm the refugee family's need for resettlement, as guided by the requirements and resettlement submission categories. The interviewer should review the resettlement needs of each individual member of the family and take note of interdependencies within the family. In many cases the protection needs of a dependent adult would become more acute should the remainder of the family be resettled without them.

As noted, it is important to confirm that voluntary repatriation is not a viable option for the family, and that specific vulnerabilities cannot be dealt with in the country of asylum. It is also essential to resolve any doubts or inconsistencies relating to vulnerabilities.

If sufficient information is available, the interviewer should confirm the appropriate primary and secondary resettlement submission categories for the case, noting the reasoning for the choice on the file.

Closing the Interview

The interview must provide refugees with an opportunity to ask any questions, and provide information they consider important that has not been covered. The interviewer also needs to ensure that all documentation in the file is accurate and that the file is complete. If any additional supporting documents are required, the interviewer should request the refugee to provide them by a specific date.

Opportunity for questions, review of required documents

If possible, the interviewer should review the notes of the refugee's statements during the interview together with the refugee, who can then add information or correct misunderstandings. This also provides an opportunity to clarify any discrepancies or gaps. The interviewer incorporates the changes proposed by the refugee where they clarify the refugee's statements.

Updating *proGres*

When updating the *proGres* events after the interview, remember to enter the details of the relatives of the individuals interviewed. Ensuring that the bio-data of all immediate family members including parents, spouses, children and siblings is recorded accurately will simplify the process of completing the Resettlement Registration Form (RRF).

Special situations

Interviewing Polygamous Families

Interviewing polygamous families for resettlement requires careful consideration of the social and legal challenges posed by their marital status, and the protection needs that could arise from the separation necessitated by resettlement processing. *UNHCR's Resettlement Assessment Tool: Polygamous Families*¹⁶ provides guidance on the procedures to be followed when considering whether resettlement is the appropriate solution for polygamous families.

Social and legal issues must be considered carefully to determine whether resettlement is appropriate

¹⁶ UNHCR, *Resettlement Assessment Tool: Polygamous Families*, June 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4dc7a9032.html>

UNHCR should avoid putting the unity of the polygamous family at risk

Polygamy is widely considered a violation of the principle of equality of men and women in marriage.¹⁷ However, UNHCR aims to respect the culturally diverse interpretations of family membership, and recognizes polygamous families as eligible for UNHCR assistance, including consideration for resettlement. Most resettlement countries accept only one wife in view of their own national legislation forbidding polygamy, and in the context of resettling polygamous families, children risk being separated from either their biological mother or father. In principle, UNHCR should avoid a situation where one wife is chosen over the others in order for a man and his chosen family members to be submitted to a resettlement State, thereby putting the unity of the polygamous family at risk.

However, there are circumstances where refugees in polygamous families present protection needs or vulnerabilities, which warrant resettlement consideration. Given specific and serious social and legal protection challenges that resettlement of refugees in polygamous families would entail, additional considerations and procedural safeguards are required when assessing the resettlement needs of refugees in polygamous families.

The physical, financial, psychological and emotional dependency among the spouses is a crucial factor

UNHCR may consider the submission of **all** members of a polygamous family for resettlement in cases where:

- a member of a polygamous family has a **resettlement need**, and is eligible for submission under a resettlement category; and
- the principle of family unity and physical, financial, psychological and/or emotional dependency **dictate that the entire family must be resettled together.**

Submitting the family together, even if split onto separate cases, helps to maintain family unity and to ensure that wives not legally recognized by resettlement States and their children do not become more vulnerable to protection risks by being left behind in the country of asylum. The willingness of a resettlement State to accept such submissions must be confirmed early in the process.

It is important to assess all of the specific legal and social consequences for each of the wives and their children and to discuss these consequences thoroughly with each family member before they make a decision regarding their consent to the submission of the family for resettlement (and separation into individual cases, where applicable).

These interviews must be conducted with sensitivity to determine that no family member is being coerced. In addition, UNHCR must counsel each family member that their decision will remain confidential so as to alleviate potential concerns about repercussions from other family members should the individual not consent to the submission of the family for resettlement, and the family not be submitted for resettlement.

¹⁷ UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No. 21: Equality in Marriage and Family Relations*, 1994, para. 14, <http://www.unhcr.org/refworld/docid/48abd52c0.html> See Article 5, *UN General Assembly, Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180, <http://www.unhcr.org/refworld/docid/3b00f2244.html>

Interviewing Married Refugee Children

The presence of a married refugee child under the age of 18 within a refugee family requires special considerations before determining that resettlement is the appropriate solution. In all cases of married children, either a Best Interests Assessment (BIA) or a formal Best Interests Determination (BID) is required in order to determine that the child should be submitted for resettlement with her/his spouse.

Submitting a married refugee under the age of 18 for resettlement with their spouse requires a BIA or BID

The *Resettlement Assessment Tool: Married Children*¹⁸ has been developed to ensure UNHCR's obligations to promote family unity, durable solutions, and protection for refugee children in accordance with its mandate and fundamental principles of international human rights law are considered when assessing cases of refugee children who are married. The tool outlines the considerations and procedural safeguards that should be taken into account to reach a decision regarding resettlement needs.

Because child marriage has no legal effect under international law and widely treated as a form of sexual and gender-based violence, *UNHCR does not, in principle, submit cases of married refugees under the age of 18 years old with their spouses*, unless there are compelling protection risks that can best be addressed through resettlement.

Cases of married children are submitted only when there are compelling protection risks

Where a BID determines that it is in the child's best interests that s/he be submitted for resettlement, the BID recommendation should provide guidance on which family members will be included on the refugee child's case; and family members, if any, will be included as linked cross-referenced cases.

In contrast, child marriage may not be recognized as legally valid by the resettlement State, and the child's spouse may not be accepted if included in a submission with the child's parents. The family should be counselled that there is always a risk that the child and her/his parents may be accepted, while the spouse will be rejected, and vice versa.

Validity of the marriage in the resettlement State

Conducting Interviews in Places of Detention

In some circumstances one may be obliged to conduct an interview in a place of detention, which means that an applicant is not free to leave a place under official control. This could include airport detention centres, prisons, or police stations.

It should be recalled that the UNHCR Executive Committee has recommended that refugees and asylum-seekers who are detained be provided with an opportunity to contact UNHCR, or in the absence of such office, available national refugee assistance agencies. In countries without a UNHCR office, but with United Nations Development Programme (UNDP) representation, the latter usually assists in interviewing asylum-seekers and refugees and in documenting their cases.

¹⁸ UNHCR, *Resettlement Assessment Tool: Married Children*, June 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4dc7a79f2.html>

Precautions

The following precautions should be taken if an interview is to be conducted in a place of detention:

- the interviewer and any accompanying personnel should have proper identification documents when attending to an interview;
- it is also important to seek prior authorization from the competent authorities to access the detention centre;
- the person to be interviewed should be given advance notice of the appointment;
- the interpreter should be provided by UNHCR and be briefed on the circumstances of the interview, including the interview environment;
- the interview should be conducted in a private room – if this is not possible, no other persons (such as guards, other detainees, etc.) should be present or able to overhear the interview proceedings;
- before beginning the interview, a brief discussion should be held with the applicant to create a calm and reassuring atmosphere;
- when taking notes during the interview, it should be considered whether they may be confiscated or photocopied by the authorities upon leaving the detention centre (if this is a possibility, only brief notes using key words should be made during the interview and full notes prepared immediately after leaving the premises).

Home Visits

The Field SOPs should specify criteria and guidelines for home visits

Home visits conducted by staff or partners are a legitimate and valuable tool to assist UNHCR in better understanding the living situation and specific needs of refugees. The Field Office Resettlement SOPs should establish clear criteria for determining when home visits are required, as well as guidelines clarifying the nature of home visit questioning and reporting. Home visits may be used:

- **AS A GENERAL INTEGRITY MEASURE:** Home visits should be used selectively to ensure the integrity of the resettlement process (depending on local needs and circumstances, as a spot-checking device, and possibly for consistent use in situations of widespread fraud, or where the specific living situation is a factor in determining resettlement intervention). In this connection, home visits could be used to test the credibility of the case.
- **TO ENHANCE CASE DOCUMENTATION:** Home visits can be useful for providing additional supporting details for resettlement submissions, as well as assisting staff to recommend interim or alternative protection and solution interventions.
- **TO ASSESS WOMEN AND GIRLS AT RISK:** When conducting visits in the case of women/girls at risk, the visiting officer should focus broadly on *all elements* of the women and girls at risk definition, not exclusively on the presence or absence of males of a certain age/ability/relationship in the household or as part of an extended family circle.

Case Composition

Preserving family unity is essential to the successful integration of resettled refugees, and UNHCR is committed to ensuring that resettlement should not separate dependent family members. However, determining the appropriate family composition of resettlement cases is often challenging due to differing State definitions of family and variations in procedures for processing cases.

UNHCR's *Operational Guidance Note on Resettlement Case Composition*¹⁹ provides guidance for determining the appropriate family composition of resettlement cases and for preparing resettlement cases to ensure family unity in the expeditious achievement of a durable solution.

The definitions and policies set out in the UNHCR Resettlement Handbook, specifically as related to the concept of dependency in the identification of family members, are to be followed by UNHCR staff despite the fact that UNHCR definitions may not always correspond with those applied by the State to which resettlement cases are submitted.

The family unit

In line with the principle of Family Unity, all dependent members of the family should, in principle, **be included in a single case**, to be submitted together on one RRF. The dependent members of the “family unit” include the nuclear family, dependent members of the extended family, and dependent household members who have strong ties to the family but may not be related.

Dependent members of a family should be submitted together on a single case

Whereas the **nuclear family** is commonly understood to be a father, mother and minor children, UNHCR's inclusive definition of the family, focuses on dependency between members of the family unit.

- All **dependent children** are submitted as integral members of the family, and, unless the best interests of the child so determine, are not separated or subject to split submission. Dependency, rather than age or marital status, determines whether an individual should be included in a case with his or her parent(s) or guardian(s). Similarly, the case should include dependent siblings and dependent children under foster care or guardianship arrangements that are not biologically related.

¹⁹ UNHCR, *Operational Guidance Note on Resettlement Case Composition*, June 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4dc7aa0d2.html>

- **A common-law or same-sex spouse** should be considered an integral member of the nuclear family, and enjoy the same rights as those individuals whose union has been legally recognized. The standard and burden of proof as to the genuineness of the relationship applied to same-sex couples should be the same as is applied to common-law couples; with additional recognition of the difficulties (or inability) same-sex couples may face in obtaining legal recognition of their union. The choice of resettlement country should be sensitive to the treatment of such individuals in the country.
- **Dependent non-refugee spouses** should also be included in the case to retain family unity. A detailed assessment must be conducted to document the dependency and to advocate for inclusion on the resettlement case. The agreement of the resettlement State to consider a family including non-refugees is also required.
- **Other dependent members of the household** are also members of the family unit. This includes dependent parents or older persons, extended family members, or other individuals who may or may not be related by blood but are strongly tied to the principal applicant by psychological, physical, economic, and/or emotional bonds, as guided by the dependency principle. In exceptional circumstances, this could also include non-refugees who are completely dependent on the refugee family.

Cross-referenced Cases

The *Operational Guidance Note on Resettlement Case Composition*²⁰ outlines circumstances where families may be split into separate cases to meet resettlement State submission requirements. However, these cases must be cross-referenced, and Section 7 of each of these RRFs should include a statement emphasizing the need to assess and process the cases jointly due to their mutual dependency. If the resettlement State issues a “split decision” accepting only some of the dependent family members, UNHCR staff must carefully counsel the family on their options, including the possibility of resubmitting the case to another resettlement State to avoid family separation.²¹

Clear distinction must be made between cross-referenced cases of dependants **requiring joint consideration**, and other linked cases

Other cases may also be cross-referenced. These include extended relatives, close friends, and community members whose resettlement to the same destination may provide mutual support during the resettlement process and facilitate integration. However, a clear distinction should be made between cases evidencing genuine dependency, which must always be submitted and considered together, and those cases linked because destining the refugees to the same community might prove beneficial.

²⁰ *ibid.*

²¹ UNHCR, *Guidelines on the Resubmission of Resettlement Cases*, June 2012, <http://www.refworld.org/docid/4ff165b12.html>

Preparation of a resettlement submission

On the basis of the resettlement needs assessment, the officer accountable for resettlement may authorize the preparation of a resettlement submission.

Each individual submission **must** include a Resettlement Registration Form (RRF) and attached documentation as appropriate to the case profile and resettlement submission category.

The RRF is the primary tool at UNHCR's disposal to represent the needs of individual refugees to resettlement countries, and a high standard in the RRF is essential to ensuring a high level of acceptance of resettlement cases. States base their decisions either on interviews, or solely on the RRF received as a "dossier submission".

RRFs must be of a high standard

The RRF must be:

- clear and easy to read, without jargon;
- concise enough to be interesting and understood in one reading;
- complete, with all relevant information included and required documents attached;
- consistent and without contradictions; and
- factually correct, objectively presented and thoroughly checked.

Ensuring quality control for the preparation of RRFs will make resettlement activities more efficient, as fewer RRFs are returned for questions and corrections, and more credible, as RRFs received by resettlement countries will be more consistent.

Submissions under the group methodology

In agreement with resettlement States, an abridged RRF is used for group submissions.

Due to the interface between *proGres* and the Worldwide Refugee Admissions Processing System (WRAPS), submissions to the United States of America under the group methodology do not require an RRF (See Chapter 7.6.3 of the Resettlement Handbook).

Submissions without RRFs, or using abridged RRFs

Abridged RRFs for individual submission

An abridged RRF may also be used for individual expedited processing when refugees share similar refugee claims and/or resettlement needs but were not designated as a group.

The UNHCR *Operational Guidance Note: Preparing Abridged Resettlement Registration Forms (RRFs) for Expedited Resettlement Processing*, 2011, provides global templates for the preparation of abridged RRFs for individual and for group submission.²²

²² UNHCR, *Operational Guidance Note: Preparing Abridged Resettlement Registration Forms (RRFs) for Expedited Resettlement Processing*, 2011, <http://www.unhcr.org/refworld/docid/4ddde4702.html>

Completing the RRF

The RRF must be completed by UNHCR staff. No input or corrections should be made by hand

The RRF must be completed by UNHCR staff members (which includes affiliate workforce such as deployees under direct UNHCR supervision). The detailed instructions on completing the RRF provided in the document *Resettlement Registration Form (RRF) for proGres Users: User Guide* should be followed closely. The 2013 *Operational Guidance Note: Effective Writing in Resettlement Registration Forms*, provides further support to staff completing RRFs.²³

Where *proGres* is not installed in the Office, staff should load the updated non-*proGres* RRF template and follow the instructions provided in the *Resettlement Registration Form (RRF) for Non-proGres Users: User Guide*.²⁴

RRF User Guides

The RRF User Guides were prepared to provide objective standards for the preparation of individual submissions.

All Offices should adhere to the standards of the Guide in order to increase the quality of individual submissions, reduce the number of returned RRFs, and most importantly, increase the probability of acceptance by resettlement countries. The Accountable Officer is responsible for ensuring that RRFs submitted from their field office conform to these standards. The Resettlement Service will notify field offices when the RRF templates and User Guides are revised.

proGres populates basic case information on the RRF

An RRF can be generated through *proGres*, which **populates the basic case information** including the bio-data for members of the case and their relatives.

Staff must then **add the case information that is not populated from *proGres***. This includes:

- a comprehensive outline of the refugee claim and of the UNHCR determination for each adult on the case;
- a substantiated explanation of the need for resettlement;
- detailed information on any specific needs and vulnerabilities; and
- any additional information including dependency assessments.

Supporting Documentation

It is critical to attaching all supporting documentation to the RRF. Supporting documentation includes electronic photographs, copies of any identification documents or certificates and country of origin information reports supporting the claim.

²³ UNHCR, *Resettlement Registration Form (RRF) for proGres Users: User Guide*, revised 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4ad303552.html> and UNHCR, *Operational Guidance Note: Effective Writing in Resettlement Registration Forms*, 2013, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/5253f6cd4.html>

²⁴ UNHCR, *Resettlement Registration Form (RRF) for Non-proGres Users: User Guide*, revised 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4ae579692.html>



Certain reports are mandatory!

Medical Assessment Form

- For all submissions under the Medical Needs category.

BID or BIA Report

- For unaccompanied or separated children.
- For families in which there were unresolved custody disputes.
- For married refugee children.
- For children being resettled with only one parent who does not have legal custody or written consent from the non-accompanying parent.

Signing the RRF Declaration

The signing of the RRF declaration is a significant stage in the overall resettlement process. The declaration is an essential tool for the refugee(s) to affirm and guarantee that the information contained in the RRF is complete and correct. If handled correctly, the signing of the RRF can be a useful occasion to manage resettlement expectations, address concerns about fraud and counsel refugees on the meaning of resettlement.

By signing the declaration, the refugee(s) authorize:

- UNHCR to use the information and any documents pertaining to the family to pursue the case with Governments other than her/his own; and
- the Governments receiving the resettlement submission to share information contained in Sections 1-3 and 6-7 with an appropriate settlement service agency (governmental or non-governmental) provided a confidentiality agreement exists between the agency and the Government authority to protect the confidentiality of that information; and

Mandatory reports

Signing the "Declaration Page" is equivalent to signing a waiver of confidentiality. It is an important opportunity as well to pass on key messages to help manage expectations.

- UNHCR to receive any information relating to resettlement submission on the refugee's behalf from the Government authority. This includes, in particular, the refugee's agreement that the reasons for a decision relating to a resettlement submission are shared with UNHCR.

Where feasible, the RRF declaration should be signed once the entire RRF has been completed, and the refugee(s) have had an opportunity to review the information contained in the completed RRF and correct any errors. Where this is not feasible, the RRF declaration may be signed during an interview.

Submissions must be made within six months of the signature date

To assist in ensuring accuracy and transparency, the declarations must be re-signed should the submission not be made within six months of the signature date.

The following steps must be followed before the refugee is asked to sign the declaration:

- The claim or a summary of the claim should be read back to the refugee(s) to ensure that the information is accurate, and to correct any errors.
- The refugee(s) should be counselled that they are responsible for the information they have provided to UNHCR, and that their case will be rejected and likely closed if that information is later found to be fraudulent.
- The refugee(s) should be given the opportunity to correct or clarify information given during the interview, including family composition details, before signing the declaration.
- The refugee(s) should be notified of the reports and recommendations that will be included in the RRF. This may include medical reports, reports regarding protection incidents or criminality, recommendations from BID reports, or other recommendations regarding supports required after resettlement.
- The refugee(s) should be given the opportunity to ask questions and consider these implications before signing the declaration.
- The refugee(s) should be counselled that signing the declaration does not guarantee that they will be resettled. UNHCR submits the application, but the final decision remains with the resettlement country.
- The refugee(s) should be counselled that signing of the declaration authorizes UNHCR to share their information as described above.
- Unaccompanied children who will be presented as the principal applicant on a resettlement submission should be counselled in a child-friendly manner, using simple and age-appropriate language.

All members of the case above the age of 18, the UNHCR interviewer and the interpreter should all sign on the same occasion

If the refugee(s) agree, the principal applicant, the spouse, any other individuals on the case above the age of 18, the UNHCR interviewer and the interpreter (if applicable) should all sign the declaration page on the same occasion, recording the date and place of the signatures. An unaccompanied child submitted as the principal applicant should also sign the declaration if they have the capacity to give consent. *proGres* will automatically import a signature block for each adult. Thumbprints should be taken from individuals who are not able to provide signatures.

The name and title of the UNHCR staff member who can be contacted for clarification or more information about the case should also be provided.

Quality Assurance

As noted, resettlement States will judge UNHCR's resettlement work by the quality of the RRFs. High quality RRFs thus serve to increase the efficiency of the process. The *Baseline SOPs* provide detailed instructions for review first by a supervising officer or the officer designated accountable for resettlement, as well as by the Regional Resettlement Hub / Regional Office as applicable. You should read these carefully.

All RRFs should be reviewed for their quality by the officer accountable for resettlement and the Regional Hub / Office as applicable

Reviewers should check for completeness of the file and the submission, that the proper procedures have been followed and each step has been documented, the quality of the information and the claim, whether all criteria are fully met, and whether the supporting documentation is complete and does not raise doubts as to authenticity. In some cases, Headquarters may undertake an additional review. In the process, issues may be identified which require further clarification; in some cases, it may be found that the refugee is not eligible for resettlement. In such cases, the refugee in question will need to be informed and counselled. In all cases, *proGres* should be updated accordingly.

Ensuring quality control of completed RRFs serves to improve efficiency, consistency and credibility. The RRF review procedures must be outlined in the Office's Resettlement SOPs. The case officer should pass the completed RRF and case file to the Accountable Officer or another designated Officer for a required quality assurance review. A different staff member than the one who completed the RRF should conduct the review prior to referral to a Hub/Regional Office or Headquarters, and submission to a resettlement country.

RRF review

A control sheet is a useful aid for ensuring a thorough review of RRFs, and a template that offices can adapt for their use is attached to the Baseline SOPs.²⁵

The reviewing officer will:

Review steps

- ensure that the refugee has been recognized under UNHCR's mandate (or is a stateless non-refugee, or a non-refugee dependant), that resettlement is the appropriate solution, and that the individual meets the requirements of the submission category or categories;
- check that the RRF has been prepared according to the proper standards outlined in the RRF User Guides;
- ensure that additional information on specific needs of all members of the case is provided;
- check whether the physical file contains the following:
 - initial referral with necessary supporting documentation;
 - preliminary resettlement needs assessment and documented decision;
 - verified registration and refugee status;
 - completed and signed RRF with all necessary supporting documentation;

²⁵ UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html>



- signed declaration page;
- photographs of all applicants in the case (check photograph(s) in *proGres* to determine whether pictures have been changed or updated and ensure that the full name and case number shows on each picture if the RRF is not *proGres*-generated);
- if applicable, proof of changes in family composition, such as birth certificates, adoption documents, etc. is provided, or justification for the absence of such documentation is included in Section 7;
- be aware of the possibility of fraud where internal consistency is lacking (especially with respect to the narrative and family composition);
- discuss and follow up on any required modifications in the completed RRF with the case officer.

In regions with a Regional Resettlement Hub or a Regional Office, resettlement submissions must be routed through the Regional Resettlement Officer to ensure the quality and integrity of the resettlement process. The procedures and required authorizations should be elaborated in the resettlement SOPs, including procedures for emergency cases.

UNHCR resettlement submission

The Decision to Submit a Resettlement Case

The UNHCR office decision to submit a refugee's case to a resettlement country for resettlement consideration must be made in a transparent way, and according to objective criteria. The Accountable Officer should clear the final decision. Documenting each step of the process, (in *proGres* and on the refugee's file) helps ensure that the resettlement process was followed in accordance with the standards established in the Chapter 7 of the *Resettlement Handbook*.

Decisions must be transparent, and based on objective criteria

When determining if the case in question should be submitted for resettlement, these requirements must be met:

- The case in question must, at minimum, have been recognized as a refugee under the mandate of UNHCR, according to Chapter 3 of the *Resettlement Handbook*, (or be eligible as a stateless non-refugee, or non-refugee dependent family member as described in Chapter 7.2.2 of the *Resettlement Handbook*).
- The prospects of other durable solutions must have been given full consideration and resettlement identified as the most appropriate durable solution.
- The case in question must have been found to have resettlement needs according to the resettlement submission categories outlined in Chapter 6 of the *Resettlement Handbook*.

If the case is found to meet these requirements, then the case can be submitted for resettlement. Ideally, all dependent family members should be submitted together on one case. If this is not possible due to resettlement State submission requirements, cross-referenced cases of dependent family members should be submitted together in one submission, requesting joint processing, and include an assessment of their mutual dependency.

Submit all cross-referenced cases of dependent family members together in one submission

Determining the country of submission

As a general rule, individual cases are submitted to one country at a time

After determining that a particular case should be submitted for resettlement, the next step is to identify a suitable resettlement country if this is not already confirmed. In principle, only one resettlement State should be selected at a time, although a case may be resubmitted to a second State if the first State provides a negative decision. UNHCR's credibility, however, is at stake if a submission is made and accepted by more than one country. An exception is possible only where protection problems of an emergency nature lead an office to decide to make a submission to a second country while a first one is still pending.

Considerations When Identifying the Country of Submission

Considering the options

Unlike the earlier decision on whether the resettlement case meets established international standards, the selection of a resettlement State will be driven in part by the criteria of the resettlement countries. Major considerations to identify a suitable resettlement country include:

- family links, particularly those in resettlement States;
- resettlement submission priority, vulnerability, and the resettlement country's average processing time and capacity for urgent processing;
- selection criteria and admission priorities of resettlement countries;
- allocation of annual quotas of resettlement States;
- health requirements / availability of treatment;
- language abilities;
- cultural aspects;
- nationality;
- family configuration; and, if possible:
- the refugee's expressed preference for a resettlement country.

State criteria and programmes are outlined in the Country Chapters

Most resettlement cases are submitted to an established resettlement State, and field offices should consult the Country Chapters of the *Resettlement Handbook* for details on a particular State's resettlement programme (available at <http://www.unhcr.org/resettlementhandbook>).

Consult the Resettlement Service for updated details on annual quotas and submission procedures

Resettlement States set their **annual quota** according to their regulations and priorities, and consult with UNHCR to determine the allocation of their annual quota among refugee populations in need of resettlement. As well as specifying the regions or specific refugee populations from which they agree to receive submissions, some States also allocate sub-quotas for emergency or urgent cases, family reunification cases, or refugees with specific needs such as medical needs, or women at risk. The Resettlement Service compiles details on resettlement country quotas and submission procedures as a reference for field offices to plan for submission targets and selection missions.

Some resettlement States allocate a portion or their entire quota to **dossier submissions**, on which they make decisions without requiring a direct interview with the refugee. A State may specify from which refugee population they wish to receive dossier submissions, or leave this open to UNHCR discretion.

Decisions made on the basis of the dossier, or an interview

In other cases, resettlement States, by either discretion or law, require an **individual interview** with the refugees under resettlement consideration. These interviews typically take place during resettlement selection missions to the country of asylum.

Submissions may also be made to countries that do not have an established annual quota, but accept resettlement cases on an ad hoc basis, including for cases with family links. These countries may also maintain special programmes benefiting refugees with specific needs, or respond to appeals for certain refugee populations.

Submissions to countries with ad hoc programmes

Field offices are encouraged to consult the Regional Resettlement Hub/Regional Office or the Resettlement Service if there are questions on the appropriate country of resettlement submission.

Family Unity

All efforts must be made to preserve or restore family unity in the course of resettlement operations. UNHCR staff should promote the admission of refugees to a country where they have relatives or other personal ties, whether or not this is an established resettlement State.

Field offices should also ensure that refugees are counselled on the resettlement country to which their case has been submitted. This is an important aspect of managing resettlement expectations.

Prioritizing submissions

The urgency of the resettlement needs can impact the selection of the resettlement country, and the routing of the submission. Resettlement submissions can be made on three priority levels: normal, urgent, and emergency. Field offices must ensure that systems are in place to minimize the time between needs identification and the submission for resettlement, to prevent normal and urgent cases from becoming emergency ones.

Minimize time between identification of needs and submission

The immediacy of the security risks or the severity of the medical condition facing **emergency** cases necessitates their removal from the threatening conditions within a few days, if not within hours. Ideally, emergency cases should be submitted within 24 hours of identification.

Emergency cases: submitted within 24 hours

Urgent cases have serious medical risks or other vulnerability requiring expedited resettlement within six weeks of submission. Ideally, urgent priority cases should be prepared and submitted within two weeks of identification.

Urgent cases: submitted within two weeks

Accelerated procedures and extra resources

UNHCR and resettlement countries must take rapid action, and provide extra resources to process emergency and urgent cases. Some States have allocated emergency sub-quotas, and have developed accelerated procedures to meet emergency needs, whereas other States, including some countries without annual quotas, will consider emergency resettlement submissions and can and do respond rapidly when circumstances warrant.²⁶

RRFs designated for urgent and emergency submission should clearly indicate the nature of the urgency/emergency, i.e. whether the need is for an urgent/emergency decision by the resettlement country or urgent/emergency departure of the refugee from the asylum country or both. Emergency and urgent cases must be treated expeditiously at all stages, and tracked to ensure effective follow-up.

Timely Identification of Medical Cases

Emergency and urgent medical cases must have recent MAFs

Timely identification of refugees with medical conditions can make a significant impact on the prognosis, which in turn can impact the likelihood of acceptance by a resettlement country. Field offices must ensure that submissions under the Medical Needs category are made as soon as possible. Although a Medical Assessment Form (MAF) is valid for up to six months, MAFs supporting emergency or urgent submissions must be recent enough to accurately reflect the prognosis.

Submitting the case

Depending on UNHCR policy and the resettlement State, resettlement submissions are routed through Regional Resettlement Hubs or Regional Offices, through UNHCR Headquarters, or directly to resettlement countries.

Emergency dossier submissions generally need to be routed through the Processing Unit of the Resettlement Service at Headquarters, or through a Regional Resettlement Hub.

Routing depends on the country of submission, and the priority of the submission

Some resettlement countries also require other cases to be routed through the Processing Unit, while other countries allow submissions directly to local embassies that have immigration representation with a designated procedural role. The United States of America, Canada and Australia, for example, allow submissions directly from field offices. However, submissions to these countries should be submitted through the Regional Resettlement Hub or Regional Office where these have been established. This provides an additional safeguard for the quality and consistency of the submissions.

For more details, refer to the instructions given by the Regional Resettlement Hub/Regional Office, or the Resettlement Service and consult the Country

²⁶ Consult the Resettlement Service for updated information on resettlement country quotas and submission procedures.

Chapters of the *Resettlement Handbook* available at <http://www.unhcr.org/resettlementhandbook>. These chapters outline each country's procedures for routing submissions, and may include specific instructions distinguishing between cases to be assessed on a dossier basis, and those to be interviewed during a selection mission.

Country Chapters attached to Resettlement Handbook provide details

A covering email or memo from the Accountable Officer authorizing the resettlement submission should accompany the RRFs and the required supporting documentation. The email or memo should specify:

Covering email or memo sent with submission

- the name of the principal applicant;
- the case file number;
- the case size;
- the nationality and country of asylum of the applicants;
- the prioritization of the submission, and specific details regarding vulnerabilities that impact timing of the processing;
- cross-referenced cases that should be processed together, where applicable.

A copy of this submission email or memo should be kept in the refugee's file, along with the original signed RRF. The submission must also be recorded in *proGres*. When multiple RRFs are submitted at the same time, which is recommended for cross-referenced cases of dependent family members, a single email or memo should be prepared with a submission table listing the above details for each case.

Keep *proGres* and the individual case file up to date

When submissions are made to countries without annual resettlement quotas, the UNHCR Office responsible for the resettlement country should be advised and be provided with a copy of the submission memo or email.

Each field office should maintain a general GroupWise ID for case processing and statistical purposes. It is the responsibility of the Field Office to ensure that statistical data concerning submitted, pending, accepted and departed cases is accurately recorded and reported.

Field offices should make consistent efforts to use selection mission places and normal dossier places, if available, in order to save scarce emergency, urgent and medical dossier quotas for critical emergencies.

Dossier Submissions

Field offices should consult the specific instructions provided by the Resettlement Service on the procedures for dossier submissions. These include instructions on the use of limited emergency, urgent and medical dossier quotas, an overview of quotas allocated by all resettlement countries, instructions on submissions, and relevant contact details.²⁷

Limited quotas for dossier submissions

²⁷ These instructions are issued as the Guidelines on Resettlement Dossier Case Submissions and Family Reunification Procedures together with annexes updating annual quotas, lists of contacts and focal points, and statistical report forms. Contact the Processing Unit of the Resettlement Service at HQRS00@unhcr.org for the current version.



Emergency and Urgent Submissions

To make the most effective use of the limited numbers of available dossier places for emergency and urgent cases, the Processing Unit coordinates these submissions. A certain number of emergency, urgent and medical needs quota places are allocated to the Regional Resettlement Hubs.

Consultation on emergency cases, designated focal point for follow up

Upon the identification of an **emergency** case, the Field Office is encouraged to consult with the Country Office/Regional Resettlement Hub/Regional Office or the Processing Unit of the Resettlement Service to discuss the details of the case and its possible submission routing. Staff should be prepared to discuss the nature of the emergency, the required time frame for departure, as well as third country links or other details that impact the selection of the country of submission. Offices should designate a *focal point* to follow up on individual emergency and urgent cases, and to ensure that unnecessary delays are avoided.

Examine local submission options simultaneously

Field offices are encouraged to simultaneously examine local submission options, due to the limited number of places available under dossier quotas for emergency, urgent and medical needs cases. Close communication between UNHCR and resettlement States is essential during the processing of emergency and urgent cases to ensure a common understanding of the refugee's current circumstances, and how quickly resettlement *must* occur.

A full dossier submission, including a complete RRF justifying the priority and supporting documentation, should ideally be sent to a resettlement State within 24 hours for emergency cases, and within two weeks of identification for urgent cases.

Rapid response
required from
resettlement States

Resettlement States are urged to make a decision on an emergency case within 24 hours of the receipt of submission. In some circumstances, the rapid notice of acceptance by a resettlement State can prevent refoulement, or ease other protection risks. In all emergency cases, however, the resettlement State is encouraged to ensure departure as soon as possible – ideally within one week after acceptance.

Similarly, resettlement States are encouraged to provide a decision on an urgent submission within two weeks, and facilitate departure within four weeks of acceptance.

The UNHCR focal point is encouraged to maintain close communication with the IOM and resettlement country counterparts to facilitate departure after the travel instructions have been received.

If direct departure to the resettlement country is not possible within the required time frame, transfer to an Emergency Transit Facility may be considered.

Emergency Transit Facilities

Wherever possible, the cases of refugees with emergency or urgent resettlement needs should be processed expeditiously, and resettled directly to their destination resettlement countries. However, this is not always feasible. UNHCR has established Emergency Transit Facilities (ETFs) to create systematic and expeditious mechanisms to transfer refugees temporarily, pending their processing for onward permanent resettlement to a third country.

Temporary transfers
for protection, and to
facilitate processing

UNHCR Staff should follow the procedures outlined in the *Guidance Note on Emergency Transit Facilities*²⁸ to ensure that evacuation occurs expeditiously.

Some emergency cases may not be suitable for evacuation. Given the lack of specialized medical treatment available at the ETF, refugees with serious illnesses or in need of immediate major medical interventions may not be considered. Furthermore, the approvals process for transfer to an ETF may be too long for cases requiring immediate removal.

Profiles of refugees who
may be considered for
evacuation

Cases of individuals or groups that may be appropriate for consideration for evacuation to a transit facility include refugees:

- at immediate risk of *refoulement* or facing other acute, life-threatening situations;
- in detention conditions which warrant resettlement as the most appropriate form of protection, and swift release from detention requires a transfer out of the country;
- whose cases are particularly sensitive or high-profile and face imminent or serious protection problems;

²⁸ UNHCR, *Guidance Note on Emergency Transit Facilities: Timisoara, Romania / Manila, Philippines / Humenné, the Slovak Republic*, May 4, 2011, <http://www.unhcr.org/refworld/docid/4dddec3a2.html>

- for whom resettlement processing cannot be completed in the host country due to inaccessibility, such as where resettlement countries are denied entry visas by the asylum country, or where access is restricted due to lack of security;
- in need of resettlement for whom a resettlement country and/or UNHCR requires that their final destination for permanent resettlement not be disclosed to the asylum country;
- in situations where it is more expedient and incurs lower costs to process the cases even if the refugees concerned are not necessarily at immediate risk; and
- in other situations as appropriate.

In certain types of cases, confidentiality may be of greater than normal importance. The offices concerned will need to ensure that appropriate care is taken to restrict information about the evacuation.

State selection

While UNHCR submits cases for resettlement, it cannot guarantee that the case will be accepted by a resettlement country.

Resettlement depends on the willingness of the resettlement country to accept a refugee for legal stay in its territory, in accordance with its laws and regulations. Each resettlement country has its own regulations and procedures in respect to the resettlement of refugees, as detailed in the Country Chapters of the *Resettlement Handbook* available at <http://www.unhcr.org/resettlementhandbook>.

States, and not UNHCR, make the final decision on who will be resettled

In accordance with their regulations and procedures, resettlement countries may consider submissions on a dossier basis, and not require a direct interview with the refugee. In other cases, resettlement countries, by either discretion or law, conduct individual resettlement interviews with refugees under resettlement consideration. Such interviews typically take place during a resettlement selection mission.

Selection missions

Selection missions to the field are an important opportunity for States to consider a large number of resettlement cases at the same time through direct interviews with refugees, and to gain familiarity with the asylum context. They also provide an opportunity for UNHCR to dialogue with officials from resettlement countries to promote understanding of UNHCR goals and encourage flexibility on selection decisions.

Selection missions require good planning, as they call for considerable effort not only to prepare the agreed number of submissions ahead of time, but also to manage logistics and support during the mission itself. Once each resettlement State's allocation of their annual quota is confirmed, the timing of the selection missions can be negotiated between the resettlement State and the Field Office, Regional Resettlement Hub/Regional Office or the Resettlement Service as appropriate.²⁹

²⁹ Consult UNHCR, *Pre-Mission Checklist for Resettlement Interview Missions*, 5 January 2009, <http://www.unhcr.org/refworld/docid/49631d2e2.html> and *Pre-Mission Questionnaire for Resettlement Interview Missions*, 5 January 2009, available at: <http://www.unhcr.org/refworld/docid/49631d782.html> for planning selection missions with resettlement States, and UNHCR, *Post-Mission Questionnaire for Resettlement Interview Missions*, 5 January 2009, available at: <http://www.unhcr.org/refworld/docid/49631dcb2.html> for follow-up

Use of Video Conferencing Technology

Innovative methods to overcome challenges of access

A number of resettlement countries are required by legislation to conduct face-to-face resettlement interviews. Combined with a number of operations where resettlement countries may not be able to physically access refugees -- located in areas where access is difficult (in remote or scattered locations), where access is not possible due to safety and security reasons, or where obtaining entry visas from the host countries meets with obstacles – the resettlement community continues to explore innovative approaches to surmounting these obstacles.

A prime example is the use of video conferencing technology to conduct resettlement interviews. In 2011, this technology was first pioneered by the Dutch authorities at the Emergency Transit Centre (ETC) in Timisoara, Romania under the joint IOM, UNHCR and ICMC project “Promotion of practical cooperation in EU resettlement”.³⁰

Recognized potential to expedite processing

Built on this successful pilot and in recognition of its potential as a resettlement interviewing tool, the use of videoconferencing technology has since, on an ad hoc basis, been extended to other operations.

The lessons learned and best practices developed during these pilot exercises are expected to streamline and improve the use of video conferencing technologies to complement selection missions and dossier consideration.

Requests for additional information

Representatives from the resettlement country may ask for additional information contained in the refugee’s file during selection missions or dossier considerations.

UNHCR’s *Confidentiality Guidelines* stipulate which elements of the refugee’s file may be shared with external partners. While reasonable requests for clarification need to be fulfilled, the general rule is that only the RRF and the documents attached need to be shared with resettlement countries. Internal UNHCR assessments should not be shared without prior approval by the Country Representative or his Deputy. Any decisions must be made in line with the *Confidentiality Guidelines*³¹.

³⁰ The official report of the 6 and 7 June 2011 conference of this joint IOM, UNHCR and ICMC project “Promotion of practical cooperation in EU resettlement” is available upon request. The report includes a detailed account of the Video Interview Pilot prepared by the Immigration and Naturalization Service (INS) of the Netherlands (Annex 7).

³¹ UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html>

Follow-up after submission

The officer accountable for resettlement needs to ensure regular follow-up on all submissions either directly with resettlement States, where they are made locally, or through the Regional Resettlement Hub/Regional Office and/or Headquarters as appropriate.

It is particularly critical to monitor emergency, and urgent submissions, and follow up with the resettlement State when the deadlines have passed without decisions. UNHCR should seek a clear explanation for a delayed decision, and a realistic indication as to when a decision is expected. Should an expeditious decision not be possible- consideration may be given to withdraw the case for resubmission to a State able to issue a quick decision.

The resettlement country should also be contacted when there are excessive delays (i.e. more than 60 days) in scheduling interviews for locally submitted normal priority cases, or for issuing decisions after interviews.

Regular and open lines of communication with the refugees, the referral sources and resettlement States must be maintained

Change of Circumstances

UNHCR retains a responsibility to ensure that any case-related changes that come to UNHCR's attention after the submission are duly and diligently communicated to the resettlement country.

Refugees should be reminded of their obligation to notify UNHCR of any changes in family composition or circumstances that would be of importance for the case. In certain situations family composition changes might fundamentally alter the status of the case, and may warrant a review of the resettlement submission.

UNHCR has a responsibility to ensure family unity, and therefore has a role in verifying the veracity of family relationships. If there has been a change in family composition and/or circumstances staff will:

- promptly bring births, deaths, divorces and other changes in family composition to the attention of the resettlement country;
- discuss a change in family composition with the principal applicant, and interview any "new" adult family member;
- obtain, examine, and copy originals of supporting documentation (birth certificates, marriage certificates, etc.);
- prepare a note for the file describing the situation including an analysis of the legitimacy/credibility of the change in circumstances and changed resettlement submission category, if appropriate; and
- prepare a revised RRF, if required.

If the Office sees a pattern in changes to the family size of cases under consideration for resettlement, the Office should consider the possible underlying motives, and if necessary, take measures to prevent fraud or duress in the refugee community. If a pattern of unanticipated changes in family size emerges,

States must be informed of case-related changes promptly

one possibility is to put all cases that are not of a very urgent nature on hold. The Accountable Officer should carefully assess the need for such measures in consultation with the responsible Protection Officer and the Head of Office.

Selection decision

As soon as a UNHCR office receives a decision on a submission, it must inform all offices concerned with the case, and update *proGres*. In the case of submissions through UNHCR Headquarters, the Resettlement Service will notify the Field Office. The Field Office must ensure that the refugees are informed of the decision in a prompt manner, unless this is done directly by a local embassy or an implementing partner. *proGres* should also be updated.

Acceptance

Where the decision is an acceptance, the next step is pre-departure processing. UNHCR should collaborate closely with governments, IOM, and NGO staff involved in the pre-departure preparations.

Rejection

Where the decision is a refusal, UNHCR will review the decision and evaluate the case to determine if resubmission to another resettlement State is appropriate.

UNHCR considers a resettlement case to be rejected following:

- a State's formal action to reject a case after receiving the submission from UNHCR and fully considering the case according to its policy and/or legal requirements for resettlement admissibility;
- a State's refusal to consider a case submitted by UNHCR;
- a State's return of a submission to UNHCR without having taken any decision; or
- a State's indication that a case that has been submitted by UNHCR is likely to be rejected, or a State's invitation to UNHCR to withdraw a case before the issuance of a decision.

UNHCR encourages States to provide a formal rejection, rather than refuse to consider a case or return a submission to UNHCR without a decision. In the interests of fairness and transparency, UNHCR should not withdraw a resettlement submission before the issuance of a decision unless exceptional circumstances merit otherwise.

A case is **not** considered rejected if a State requests additional information on a case, or if a State suspends its processing of a case pending receipt of additional information from UNHCR or another source.



In view of the complex nature of HIV testing in the context of resettlement, offices in the field which become aware of a refusal based on HIV status may wish to contact the Resettlement Service at UNHCR Headquarters for advice and guidance on general requirements for waivers or exceptions with a view to requesting reconsideration of the case [see below].

Reasons for rejections provided by resettlement countries should be recorded in *proGres* and the refugee's file. Where reasons are not provided with the notice that a submission has been rejected, UNHCR staff should seek a more detailed explanation (preferably in writing) from the resettlement State. This information is a key element in evaluating whether to resubmit a case and the extent of review required for resubmission.

Counselling and provision of information

Refugees should be informed of any significant developments affecting their case, including rejections by States and whether their case may be resubmitted. If reasons have been provided by the declining State, refugees should be provided with these reasons.

If a decision letter is addressed to an individual refugee, the refugee should be given the original, with a copy kept on file with UNHCR noting the date the letter was handed to the refugee. To protect confidentiality, copies of emails, lists, or letters addressed to UNHCR should not be given to refugees. UNHCR continues to advocate for the provision of individual letters.

Withdrawal or Suspension of Submissions

Circumstances requiring withdrawal or suspension consideration

UNHCR may choose to withdraw a case before the State in question has rendered a decision. Some of the following circumstances may prompt UNHCR to withdraw a case, and resubmit it to another country:

- new circumstances (family links, quota reallocation, impending selection mission, etc.) may have come to light encouraging resubmission to a State other than the State of original submission;
- where UNHCR may feel that the case requires a more rapid decision than that particular State can give, and elects to withdraw the case with a view to resubmitting it elsewhere (for example where urgent protection problems suddenly arise requiring upgraded priority or swift resolution and departure of a case pending with a resettlement country, or where the State's decision making, including security clearance, is significantly delayed);
- where a State's "split decision" threatens to separate dependent family members and the decision is made to resubmit the entire family to a new resettlement State.

In these cases, such a decision by UNHCR is considered to be a withdrawal and not a State's rejection. As with rejected cases, withdrawn cases are reviewed and evaluated to determine if resubmission is appropriate. Other circumstances may also prompt UNHCR to withdraw a case, but determine that cases will not warrant resubmission:

- new circumstances may have come to light suggesting that submission for resettlement is currently inappropriate, such as when the reasons for submission substantially change or cease to exist (for example, fundamental changes in the country of origin, family circumstances, or protection needs);
- the refugee disappears and can no longer be contacted in the country of refuge;
- the refugee expresses a desire to no longer pursue resettlement for one or another reason; or
- in exceptional circumstances, as a sanction resulting from substantiated allegations of fraud.³²

³² See UNHCR, *Policy and Procedural Guidelines: Addressing Resettlement Fraud Perpetrated by Refugees*, March 2008, <http://www.unhcr.org/refworld/docid/47d7d7372.html>

Resubmission

The term “resubmission” refers to the submission of a case for resettlement to a second State after the case has been: (a) rejected by another State or (b) withdrawn from consideration by UNHCR.

In order to ensure global consistency and transparency in UNHCR’s decisions with regard to the resubmission of resettlement cases, *UNHCR’s Guidelines on the Resubmission of Resettlement Cases*³³ provide detailed guidance on the procedures to be followed. The guidelines:

- outline the various considerations in determining whether a particular case should be resubmitted for resettlement to another State; and
- provide a framework for ensuring that cases are thoroughly reviewed before resubmission, that any concerns raised in previous rejections or withdrawals have been investigated and addressed, and that the needs for resettlement remain compelling.

When UNHCR withdraws a case with the intention to resubmit it to another State, the case is still subject to a review to ensure that the resubmission will be current, accurate, and complete. When a State has rejected the case, staff should first assess the grounds for rejection to determine if an in-depth review is warranted after the initial review.

Assessing the Grounds for Rejection

All rejections should first be examined to establish if the decision is prejudicial or non-prejudicial. Where reasons are not provided with the notice that a submission has been rejected, UNHCR staff should seek a more detailed explanation (preferably in writing) from the resettlement State. This information is a key element in evaluating whether to resubmit a case and the extent of review required for resubmission.

NON-PREJUDICIAL DECISIONS/NO REASON GIVEN

A State’s rejection is considered non-prejudicial if:

- no reason or justification is provided;
- the rejection is due to reasons specific to its particular immigration laws, which are not relevant to UNHCR’s resettlement considerations. For example, a State may deny resettlement based on restrictive domestic legislation such as “integration potential”, HIV status, or family size;
- the State refuses to consider the case or returns the case to UNHCR with no decision taken and indicates that this refusal or return is related to country-specific criteria.

³³ UNHCR, *Guidelines on the Resubmission of Resettlement Cases*, June 2012, <http://www.refworld.org/docid/4ff165b12.html>

PREJUDICIAL DECISIONS

A State's rejection is considered prejudicial if:

- the reasons for rejection call into question UNHCR's determination of resettlement need and/or eligibility, such as inter alia concerns relating to credibility, the RSD assessment or eligibility for refugee status, or the family composition;
- the reasons for rejection relate to security concerns by States;
- UNHCR is requested to withdraw a case under similar circumstances, for instance if the State indicates that the case will likely be rejected on prejudicial grounds;
- the State refuses to consider the case or returns the case to UNHCR with no decision taken, with indications that this refusal or return is on prejudicial grounds.

The following steps should be taken prior to resubmission of cases that were rejected or withdrawn:

1. conduct an initial review to evaluate the viability and appropriateness of resettlement;
2. where circumstances warrant, conduct an in-depth review (including an interview);
3. select a resettlement country for resubmission; and
4. resubmit the case.

UNHCR will resubmit the case only when it is satisfied that a case has gone through an appropriate reviewing process, that any concerns raised in previous rejections have been investigated and addressed, and that the needs for resettlement remain compelling. In the spirit of mutual trust and transparency, UNHCR now systematically shares the case submission history with resettlement States to assist in providing a prompt resettlement solution for the case.

Pre-departure arrangements and monitoring

UNHCR's specific responsibilities with respect to pre-departure processing may vary considerably depending on:

- the presence of other resettlement partners in a given country, especially an International Organization for Migration (IOM) office;
- the resettlement State's presence and arrangements with IOM and/or other resettlement partners;
- UNHCR's own partnerships with IOM and/or other resettlement partners.

The importance of UNHCR oversight

Regardless of the particular field contexts, refugees remain under the mandate of the UNHCR until they benefit from the effective protection of the resettlement State. In real terms, this means that UNHCR must ensure that any protection-related concerns are taken into account during pre-departure preparations.

Pre-departure arrangements

After a refugee is accepted for resettlement, a number of formalities usually have to be undertaken prior to departure. These may involve the following activities:

- cultural and pre-departure counselling and orientation;
- medical screening and follow-up;
- exit visa and travel arrangements;
- escort and transit arrangements (particularly for medical cases).

Each resettlement State sets their own specific pre-departure requirements, and is responsible for covering their costs. Each State also determines which pre-departure orientation services they will offer refugees and whether they will contract a partner organization, or deliver these services directly. All States are encouraged to provide refugees they have accepted with orientation materials prior to departure to help establish realistic expectations.

States set their own requirements and are responsible for covering the costs

Countries set their own requirements for medical screening, which may include mandatory screening before acceptance, testing post-treatment, and immediate pre-departure screening. In many countries, IOM is responsible for medical screening, processing and treatment of refugees prior to resettlement.

Medical Screening



Some resettlement countries require mandatory medical screening of refugees considered for resettlement and exclude refugees deemed to have health problems that pose a financial burden on the State. UNHCR stresses that the need for asylum overrides concerns about potential costs associated with the treatment and care of any medical condition.

Importance of monitoring and expediting

UNHCR offices and partners must take exceptional measure to expedite the departure arrangements for **emergency** and **urgent** cases. The focal point must monitor these cases.

UNHCR should also monitor the protection situation of vulnerable individuals, including women and girls at risk,³⁴ within “normal” priority cases, and ensure their speedy processing.

All partners to be notified of departures

The length of time taken between acceptance and departure may vary considerably according to where the refugee is located, the pre-departure requirements of the resettlement State, as well as any domestic preparations required by the individual State. Once the refugees have departed, all relevant UNHCR partners, the Regional Resettlement Hub / Regional Office as applicable and Headquarters, where appropriate, should be informed; *proGres* and the physical files should be updated and closed.

³⁴ Paragraph p ii. of UNHCR, *Conclusion on Women and Girls at Risk*, 6 October 2006, No. 105 (LVII) - 2006, calls for “establishing measures to enable the speedier departure of refugee women at risk and their dependants”, <http://www.unhcr.org/refworld/docid/45339d922.html>

Group Resettlement Methodology

Identifying groups in need of resettlement through UNHCR's group methodology supplements individual identification and serves as an additional component of UNHCR's resettlement and durable solution activities. Group resettlement can be an important component of a comprehensive approach to solutions for a specific population, often with respect to a protracted refugee situation. Although similar safeguards apply to the group methodology as to individual identification and assessment in principle, processing differs considerably for the two, and is subject to context-specific adaptation.

Group processing differs considerably from individual processing, although the same safeguards apply

Proposals to apply the group methodology must be discussed with the Regional Resettlement Hub / Regional Office if applicable, as well as both the Resettlement Service and the relevant Bureau at Headquarters. Their clearance is required prior to finalization and consultations should begin with the Regional / Country Operations Planning exercises. Detailed steps are included in the Baseline SOPs, and Chapter 7 of the *Resettlement Handbook*, which should be consulted wherever this methodology is to be applied.

Application of the group methodology requires extensive consultation

In Unit 4, we examined the common characteristics that a 'group' should ideally have for application of the group methodology.

Should the Head of Office feel that initiation of a preliminary proposal for group processing is warranted, the concerned Field Office completes a preliminary group proposal (Step 1 of the Group Profile and Proposal Document).³⁵ This short document should include:

Preliminary proposal

- a basic description of the potential group (including estimated size);
- the protection rationale for proposing group resettlement;
- identification of the group members' common characteristics;
- possible constraints to successful resettlement;
- preliminary resource implications for UNHCR and resettlement countries;
- recommended processing modality (e.g. a verification exercise to determine membership and obtain consent from members of the group, proposed timeline for implementation, etc.);
- suggested country(ies) of submission.

This preliminary proposal should be submitted to the Regional Resettlement Hub / Regional Office if applicable and both the Resettlement Service and the relevant Bureau at Headquarters for clearance.

³⁵ A sample is annexed to the Baseline SOPs. See UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html>

The Resettlement Service will provide a substantive and consolidated response from Headquarters within one month proposing one of the following four possible responses to the field:

1. The concerned refugee population should be pursued as a “group” (proceed to feasibility stage).
2. Additional information about the proposed group is required before its feasibility can be determined. This may include field, Regional Resettlement Hubs/Regional Offices, Resettlement Service or inter-agency exploratory missions, or gathering of additional information as requested by Headquarters.
3. The proposal is not appropriate to be processed under group methodology, but the refugee population should be processed for resettlement on an individual basis. Staff are encouraged to explore the use of the abridged RRF for individual submission in order to streamline resettlement processing.
4. The proposal is not appropriate for further action and resettlement of the proposed refugee population should not be pursued.

The Group Profile and Proposal Document

Following a response by the Resettlement Service, and provided indications are positive about the proposal, the Field Office should prepare a full and complete Step 2 of the Group Profile and Proposal Document (GPPD). The Field Office should submit this complete document to UNHCR Headquarters (Resettlement Service and relevant Bureau) through Regional Resettlement Hubs/Regional Offices for final clearance.

Depending on the resettlement country, the group profile document serves in lieu of individual RRFs, or replaces the refugee claim and resettlement need on abridged RRFs. It should address the general issues and questions resettlement country officials typically must examine in the context of resettlement selection.

Submitting the Group Proposal to Resettlement Countries

Once Headquarters has accepted the group proposal, the Field Office should coordinate with the Resettlement Service for submission of the group proposal to one or more resettlement States.

Normally only the Group Profile and Proposal Document (GPPD) will be shared, but in limited situations the Resettlement Service may also include an indicative list of the individuals belonging to the group – provided the group verification is completed, and the refugees have individually provided consent to have their details shared with a resettlement State for resettlement consideration.

Plan of Action

Following a resettlement State's clear indication of interest in processing a particular group, the Field Office should prepare a Group Resettlement Plan of Action on the basis of consultations with the Regional Resettlement Hub / Regional Office and Headquarters (Resettlement Service and relevant Bureau), resettlement countries, and local and implementing partners. Although plans will widely vary depending on local circumstances, they should include:

- processing modalities (an agreement concerning the contents of individual files and an agreement with resettlement countries concerning the definition and process for dealing with dependency issues);
- procedures to mitigate risks (e.g. fraud) and to manage refugee expectations;
- a detailed description of the type and form of documentation to be provided in the submission;
- respective roles and responsibilities;
- timelines and work plan for a verification and consent exercise;
- resources needed (number and nature of personnel, logistical support including transportation and other arrangements, costing and budget);
- problem resolution mechanisms (including a strategy for handling declined cases, strategies for ensuring the best interests of children and integration issues specific to the group); and
- basic assumptions upon which processing will proceed.

In all cases, the Plan of Action should give special attention to the best interests of unaccompanied, separated and other children at risk. Similarly, possible reception and integration issues peculiar to the group should, where possible, be flagged for the attention of the resettlement State(s).

Verification and Consent

Verifying who qualifies for inclusion in the group, and obtaining the consent of the refugees involved is an important phase of the group resettlement process. Care must be taken to ensure that only those cases that meet the definition of the group are presented for consideration to a resettlement country. The timing of this exercise will depend on the circumstances of the refugees, the existing data, and the definition and resettlement needs of the group.

Special attention must be paid to obtaining informed and voluntary consent from the refugees concerned

The sophistication of the verification exercise is also likely to vary depending on how recently registration was conducted and the commonalities of the refugee claims. Where comprehensive, accurate, recent registration has taken place and group members can be identified through this information, verification exercises may not have to be elaborate. Care should be given to ensure that only those cases that meet the definition of the group are presented for consideration to a resettlement country. Specific SOPs for this stage must be developed to ensure that all necessary steps are completed. Any such process will likely need to be preceded by mass information campaigns that provide general information on eligibility, the resettlement country, the proposed resettlement and verification process, information-sharing, and other important information that allows the refugees to prepare as well.

Following verification, the field office should inform the Resettlement Service of the final number of persons to be submitted for resettlement, and forward the materials constituting the case files for each individual/case in the group to the resettlement State(s) in accordance with the **submission procedures** that have been implemented.

Refugees should be informed of any decision concerning their case only once all decisions have been made about:

- eligibility;
- case composition;
- BIDs for children, if applicable;
- identification of cases for priority consideration; and
- resettlement country.

Continued monitoring and follow-up will be required, including for any complicated cases.

Once the processing is completed, a post-submission analysis should be prepared

Following the transfer of case files to resettlement countries, field offices should remain involved in monitoring the results of the processing, and should handle issues associated with rejected or complicated cases involving issues that could not be resolved immediately. This may require setting up special follow-up interviews with the concerned refugees. As with individual processing, regular counselling and information sessions with refugees may also be required. A **post-submission analysis** of the operation should also be undertaken.

Unit 5 - Resources

Essential Reading:

- UNHCR, *Resettlement Registration Form (RRF) for proGres Users: User Guide*, revised 2011, (Internal), <http://swigea56.hcrnet.ch/refworld/docid/4ad303552.html>
- UNHCR, *Operational Guidance Note on Resettlement Case Composition*, June 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4dc7aa0d2.html>
- UNHCR, *Operational Guidance Note: Preparing Abridged Resettlement Registration Forms (RRFs) for Expedited Resettlement Processing*, 2011, <http://www.unhcr.org/refworld/docid/4ddde4702.html>
- UNHCR, *UNHCR Guidelines on the Resubmission of Resettlement Cases*, June 2012, <http://www.unhcr.org/refworld/docid/4ff165b12.html>
- UNHCR, *Operational Guidance Note: Effective Writing in Resettlement Registration Forms*, 2013, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/5253f6cd4.html>

Supplementary Reading:

- UNHCR, *Guidance Note on Emergency Transit Facilities: Timisoara, Romania / Manila, Philippines / Humenné, the Slovak Republic*, May 4, 2011, <http://www.unhcr.org/refworld/docid/4dddec3a2.html>

Reference Documents:

- Chapter 7 and Country Chapters, UNHCR, *UNHCR Resettlement Handbook*, 2011, www.unhcr.org/resettlementhandbook
- UNHCR, *Self-Study Module 3: Interpreting in a Refugee Context*, 1 January 2009, <http://www.unhcr.org/refworld/docid/49b6314d2.html>
- UNHCR, *RLD4 - Interviewing Applicants for Refugee Status*, 1995, RLD4, <http://www.unhcr.org/refworld/docid/3ccea3304.html>
- UNHCR, *Pre-Mission Checklist for Resettlement Interview Missions*, 5 January 2009, <http://www.unhcr.org/refworld/docid/49631d2e2.html>
- UNHCR, *Pre-Mission Questionnaire for Resettlement Interview Missions*, 5 January 2009, <http://www.unhcr.org/refworld/docid/49631d782.html>
- UNHCR, *Post-Mission Questionnaire for Resettlement Interview Missions*, 5 January 2009, <http://www.unhcr.org/refworld/docid/49631dcb2.html>
- UNHCR, *Operational Guidance Note: Best Interests Assessments For Children being Resettled with Only One Parent*, April 2013, <http://www.refworld.org/docid/5163f4ff4.html>

Unit 6

A well-managed resettlement operation

Learning Objectives

This Unit examines issues such as the reception of persons of concern and handling enquiries, file management, confidentiality issues, security and anti-fraud measures, as well as the concept of accountability in relation to resettlement.

At the end of this Unit, you should be able to:

- understand the responsibility of each staff member, including but not limited to senior managers, to contribute to a well-managed resettlement operation;
- outline the principles of accountability and authorization and how these can be ensured;
- explain how related factors, such as reception facilities for persons of concern, contribute to a well-managed resettlement operation;
- describe how enquiries by persons of concern should be handled;
- explain the principle of transparency and outline important principles related to file management and maintenance of confidentiality of information;
- explain how fraud can occur; outline what preventive actions and post-fraud responses can be taken.

Contents

Responsibility for a well-managed resettlement operation	252
Integrated approach to resettlement	254
Reception facilities	255
Handling resettlement enquiries.....	256
Managing expectations and security risks	257
Triggers for potential security risks	257
Physical standards of premises	259
File management	260
Individual case files	260
Ensuring file security	261
File tracking.....	262
Authorization and accountability	263
Transparency.....	263
Designated officer accountable for resettlement	263
Job descriptions and terms of reference	264
Standard Operating Procedures (SOPs)	264
Respecting confidentiality of information.....	264
Fraud and anti-fraud measures	266
Types of resettlement fraud.....	267
Preventing fraud	269
Dealing with fraud and allegations of fraud.....	273
Stress management	276
Unit 6 - Resources	278

Responsibility for a well-managed resettlement operation

Responsibility for a well-managed resettlement operation lies with all staff members, who should carry out their functions with integrity and to the highest standard

Senior managers have an important role to play

It is important to recognize that a well-managed resettlement operation is not solely the responsibility of senior managers, although some aspects will clearly require their involvement and leadership. The functions outlined in this and previous units contribute to a well-managed resettlement operation and are the responsibility of different staff. All persons involved with resettlement, regardless of status, must contribute to a well-functioning operation. Each staff member is, individually and collectively, responsible for ensuring that protection, including resettlement, is conducted with the highest possible standards by properly discharging his or her respective functions. This is reflected in the *UN Staff Regulations*¹ and the *UNHCR Code of Conduct*² and is part of official policy with respect to management of protection activities in general.³

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

- ensuring that all functions and operations – such as assistance, registration, RSD and resettlement – are carried out appropriately to the highest standards (Representatives are accountable to Headquarters for this);
- ensuring that the office as a whole recognizes the links between resettlement and other functions and makes resettlement an integral part of the overall office strategy on protection, not only in the context of the operations planning process but also in everyday teamwork;
- encouraging close cooperation and communication between different units;
- ensuring, to the extent possible, that appropriate resources are made available to maximize the efficiency of each activity, such as when more detailed registration or follow-up verification is required to support RSD and resettlement; this may include reliance on affiliate workforce, such as under the deployment schemes introduced in Unit 2;

¹ See UN Staff Regulations 1.2 and 1.3. *Staff Regulations of the United Nations and Provisional Staff Rules*, ST/SGB/2009/6, 2009, <http://www.un.org/Docs/journal/asp/ws.asp?m=ST/SGB/2009/6>

² UNHCR, *UNHCR Code of Conduct and Explanatory Notes*, June 2004, <http://www.unhcr.org/422dbc89a.html>

³ See also: *UNHCR, Management of Protection Activities - Responsibilities of UNHCR Staff*, 15 March 2002, IOM/025/2002 - FOM/024/2002, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/3d4524a52.html>



- ensuring appropriate reporting and transparency in all actions;
- providing an appropriate accountability framework;
- maintaining healthy staff relations and appropriate stress management;
- ensuring that measures to maintain security and safeguard against fraud and abuse are high on the agenda; and
- leading by example.

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

Integrated approach to resettlement

As we have seen already, a well-managed resettlement operation does not stand alone, but rather is integrated into the overall protection and durable solutions strategy of the office and the region. Indeed, as we have emphasized in Units 3 through 5, successful resettlement is dependent on good cooperation with colleagues involved in other areas of activity (e.g. RSD, protection and community services) and field staff dealing with registration, voluntary repatriation or local integration, as applicable, and also relies on a number of important external partners. It is also in the interest of the office to incorporate resettlement in the overall protection strategy, since resettlement may have an important impact, both positive and negative, on other activities. The strategic use of resettlement will ideally maximize any positive impact, whereas effective planning and risk management can help avoid negative impacts as much as possible.

Appropriate coordination and cooperation with the Regional Hubs / Offices, as applicable, and the Resettlement Service and Bureaus in Headquarters is equally important. This cooperation goes not only to general policy and practice, but often also includes operational follow-up in individual cases. Good cooperation also allows sharing of good practices and lessons learned with other offices.

This integrated approach should be reflected not only in the context of the operations planning process, but also in the regular daily work of the office. The importance of regular resettlement meetings to coordinate resettlement activities cannot be over-emphasized. These should involve internal as well as external partners, and may at times include resettlement States and the host country, depending on the nature of issues to be discussed. Regular updating on practical and operational aspects of protection delivery and assistance is also required of all relevant partners. It is also important to involve protection colleagues closely in all resettlement activities.

In addition to general coordination, the officer accountable for resettlement must ensure that regular reports on resettlement activities are shared appropriately. This includes reporting on the number of assessment interviews conducted, the number of cases approved for submission, a breakdown of submissions by resettlement countries and departures, and other issues including fraud.

A well-integrated approach to resettlement will also use reception facilities for refugees and handle enquiries effectively, ensure the security of the facilities and staff, and properly manage files.

Reception facilities

Throughout Units 4 and 5, we have highlighted the importance of managing expectations and appropriately counseling and informing refugees on resettlement and on the status of their particular case. While such communications can take various forms – such as mass information campaigns, meetings with refugee leaders, communities and refugee women, as well as individual letters and notifications – depending on the specific message, it is important always to have a receptive environment to allow enquiries by refugees at UNHCR premises.

All persons of concern, especially vulnerable persons such as women and children, should have access to UNHCR. In terms of physical access to UNHCR premises, there must be appropriate reception facilities, including a waiting area that provides protection against natural elements, access to drinking water and toilets, appropriate security procedures, and fair and efficient reception procedures. UNHCR reception, registration and security staff should be trained on how to respond to persons of concern seeking access to UNHCR colleagues, and, on how to identify individuals with priority needs.

All persons of concern, especially vulnerable persons, should be able to access UNHCR premises

Standard Operating Procedures (SOPs) should govern the access of persons of concern, including how enquiries are handled and to whom they should be referred. To the extent possible, persons of concern should make appointments to see relevant UNHCR staff, but there should be fixed times for persons of concern to arrive without a prior appointment. Provisions should also be made outside of these time periods for drop-in visits of an urgent nature, or those that concern persons with specific vulnerabilities.

The SOPs should include effective and age, gender and diversity sensitive mechanisms that ensure that women, whether alone or accompanied by their families, receive information on UNHCR and the resettlement process and have the opportunity for a separate and confidential interview with UNHCR staff. Children who are separated from parents or primary caregivers should receive priority in reception and should be referred without delay to the appropriate staff member.

Information on how and when to access UNHCR, including after hours in an emergency, should be widely disseminated to persons of concern. They should be informed that access to UNHCR premises and all services are free of charge.

Information on how to access UNHCR should be widely publicized

A confidential complaint mechanism should also be established so that persons of concern can report problems in accessing UNHCR and protection, whether these complaints concern UNHCR staff, implementing partners or other actors. Means to submit complaints need to be easily accessible to persons of concern. Paper and writing utensils and a writing platform need to be made available in addition to a box for complaints. Complaints boxes should be locked, with only designated persons having access to the key, which should be kept in a secure place. The mechanism may also involve telephone hotlines and confidential e-mail addresses. Information on this mechanism needs to be publicized widely.

An easily accessible complaints mechanism should as well be established and widely publicized

Details of these procedures are incorporated into the Baseline SOPs.⁴

⁴ UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised 2011, (Internal), <http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html>

Handling resettlement enquiries

Procedures for enquiries in person

Ideally, staff should maintain a logbook of all counseling sessions, which records the name, file number, date and time, nature of the enquiry and the response provided, as well as any follow-up action to be taken. Where needs of a social, medical or financial nature, which would be better dealt with by community services or protection staff, are raised, the enquiry should be recorded and referred as appropriate. A copy of this record should be kept in the individual's physical file.

Procedures for enquiries by telephone

Where enquiries are made by **telephone** or **email**, it is particularly important to honor the principles of confidentiality, as it is more difficult to confirm the identity of the person through these media. In principle, no case-specific or sensitive information should be given over the telephone or by email, although procedural advice and general information may be provided if this does not breach confidentiality. Otherwise, the officer must be convinced that the telephone or email enquirer is the concerned individual.

For telephone enquiries, one way of confirming the identity of the inquirer might include a series of questions that only the concerned individual could answer correctly (e.g. case file number, name and birth place of parents, date and nature of last correspondence with UNHCR). Interpreters, untrained or junior staff should not handle such enquiries. Another option is to make an appointment for the individual to discuss the matter at the UNHCR office.

UNHCR may wish to invite the enquirer to provide additional information in writing, by letter or email. If relevant information is passed by telephone, a record of the conversation should include the date and time of the call, the names of all involved, the file number, the main points of the conversation and any action that was agreed or recommended. This record should be included in the appropriate case file.

Procedures for enquiries in writing

Enquiries in **writing** should be reviewed by the officer accountable for resettlement before being passed to the appropriate resettlement officer for further action. Some documents may require translation before being passed on. In all cases, the case officer should check the letter against information in the case file.

Managing expectations and security risks

With the expansion of resettlement activities in recent years, managing refugees' expectations has become a critical part of effective resettlement delivery. The protracted nature of some refugee situations, where local integration and voluntary repatriation are not foreseeable options, makes resettlement opportunities highly sought-after, which can escalate the risk of fraud, corruption, violence among refugees and concerns for staff security.

Problems can be minimized if resettlement is properly conceived and managed. A 'resettlement only' approach to durable solutions, regardless of the resettlement processing location, may have a concomitant negative impact (e.g. secondary movements and pull-factors from countries of origin) that can be difficult to manage. Indeed, in many protracted refugee situations around the world, resettlement is the only viable durable solution, or is perceived as such, which can create enormous and often unrealizable expectations within the refugee community. These expectations, combined with frustration and possible trauma from prior experiences, can be a source of anxiety and tension that may ultimately lead refugees to extreme measures, such as organized protests or violence.

Since UNHCR is instrumental in determining resettlement interventions by States, it is understandable that refugees direct their resettlement-related concerns and frustrations toward the Office. However, the source of such concerns is not necessarily 'resettlement' per se, but rather how refugee situations and solutions are managed, the extent to which refugees are able to participate in the process of making decisions that affect their lives, and their access to information about resettlement and other possible solutions. Indeed, resettlement often serves to alleviate concerns of refugees because it is a protection tool and a durable solution. Whether or not resettlement is viewed favorably by refugees, the challenge for UNHCR and the international community is to manage its use in a way that can be understood and supported by the refugees without giving rise to conflict.

With the expansion of resettlement activities in recent years, the management of refugees' expectations has become a critical part of effective resettlement delivery

Problems will be kept to a minimum if resettlement is properly conceived and managed

Resettlement needs to be managed with the understanding and support of refugees

Triggers for potential security risks

The presence of tension-inducing factors – such as a wide disparity between perceptions of resettlement and of other alternatives, or when needs for resettlement exceed opportunities – may make refugees more susceptible to anxiety, frustration and violence, especially when catalyzed by certain 'triggering factors'. Such factors, which often underlie aggressive behavior in different operational contexts, are not the only ones associated with resettlement, but include:

Management has a responsibility to ensure regular oversight and proactive intervention, where necessary, in a timely fashion

- **PERCEPTIONS OF ABUSE OF POWER, CORRUPTION OR UNETHICAL BEHAVIOR EXIST.** Research by UNHCR's Emergency and Security Service (ESS) suggests that these perceptions exist in a high number of cases in which refugees have resorted to violent or aggressive behavior. Sadly, UNHCR's experience illustrates that it is not always just a matter of perception. The desperation of many refugees and the limited availability of resettlement opportunities can provide an environment for exploitation and unethical behavior by refugees and those who interact with them. This fact emphasizes the managerial responsibility to ensure regular oversight and timely proactive intervention where necessary.
- **POLICIES ARE NOT CLEAR OR FULLY UNDERSTOOD OR PERCEPTIONS OF UNEVEN OR UNFAIR POLICY APPLICATIONS EXIST.** Problems often result from a combination of these (e.g. lack of participatory assessment mechanisms or similar methods to identify refugees for referral to resettlement).
- **REFUGEES ARE TREATED WITH INSENSITIVITY OR LACK OF RESPECT.** This is a particular concern in offices where a small number of protection staff must interface with hundreds of refugees without opportunities for breaks, risking the onset of fatigue, indifference and burnout.
- **A REFUGEE'S CASE IS ASSOCIATED TOO CLOSELY WITH ONE STAFF MEMBER.** This can invite the perception that a decision was based on personal factors rather than the impartial application of universal policies.
- **REFUGEES HAVE BEEN GIVEN REASON TO BELIEVE THAT VIOLENT OR COERCIVE BEHAVIOR WILL BE EFFECTIVE IN OBTAINING A DESIRED RESULT FROM THE OTHER PARTY (OFTEN UNHCR).** This is perhaps most commonly the trend in protracted group disturbances experienced by UNHCR, and it underscores the importance of avoiding sending mixed messages, and maintaining a position that does not tolerate violence and unlawful behavior.
- **A REFUGEE EXPECTS THAT RESETTLEMENT IS "GUARANTEED" OR "DUE" TO HIM / HER.** These perceptions may arise, for example, from seeing many others with similar protection problems in the country of asylum leave for resettlement, from undergoing a lengthy interview process or simply from misinterpreting statements or signals from officials.
- **POLICIES CHANGE ABRUPTLY OR FASTER THAN REFUGEES CAN UNDERSTAND OR ABSORB THEM.** UNHCR is particularly vulnerable in the case of resettlement because sudden and far-reaching policy changes can come from the countries of asylum and/or resettlement, where UNHCR may have little control.
- **THERE IS A SENSE THAT TIME IS RUNNING OUT.** UNHCR might experience this phenomenon where a cessation clause is implemented or due to take effect, but conditions in the country of origin remain doubtful in refugees' eyes.
- **PEOPLE ARE TIRED OF WAITING.** The actual impact of this factor on violence is debated, and strictly speaking, it is not a trigger because it is a lack of activity rather than a specific event. Nevertheless, many of UNHCR's experiences with violence from refugees have occurred among populations in protracted refugee situations where voluntary repatriation and local integration in the country of asylum remain untenable after some years.

Physical standards of premises

Where resettlement programmes constitute a large part of the workload, the security phase⁵ may not be an accurate indicator of the real risk to staff. The document “Safety Guidelines for Handling Sensitive Individual Refugee Cases in an Urban Context”⁶ examines some of the physical requirements, many of which are not considered by UN country Minimum Operational Safety Standards (MOSS) requirements, of offices facing the possibility of aggressive behavior from refugees. Given the tension factors outlined above, **UNDERTAKING RESETTLEMENT RESPONSIBILITIES ADDS URGENCY TO THE MAINTENANCE OF APPROPRIATE SAFETY STANDARDS.**

Staff should take special care in cases where a refugee has any record of violent behavior. Wherever an individual shows signs of serious distress or threatening behavior, appropriate security measures should be in place and security staff alerted.⁷

The officer accountable for resettlement should consult the designated Field Security Advisor to identify precautions against violence. Security guards, reception staff and other staff likely to have contact with refugees should be trained appropriately.

Security arrangements are particularly important for interview locations. In principle, interviews should be done by prior appointment and should be held in a specially designated interview room, not in the interviewer’s office. Considerations include:

Security measures are also important for interview locations

- separate refugee reception areas, divided from other activities by at least a wall and lockable door;
- separate entrance for refugees with appropriate access control;
- dedicated reception spaces that are appropriately outfitted;
- sufficient presence of specifically trained and sensitized guards;
- interview locations that allow privacy and that do not attract undue attention;
- interview spaces that protect confidentiality and have sufficient space for family members and an interpreter;
- interview rooms that have been cleared of breakable objects or any items that could be used as weapons (including heavy paper weights, letter openers, and electrical wires);
- seating for the interviewer and interpreter that has unhindered access to the exit;
- at camp or out-of-office interview sites, staff access to security staff, proper means of communication with the office and ground transportation that always remains on stand-by;
- constant access to a proper means of communication for staff.

It is also useful to consult the safety standards outlined for refugee status determination purposes, as contained in the *Procedural Standards for Refugee Status Determination under UNHCR’s Mandate*,⁸ because the same standards should prevail here.

⁵ Level of security and threats are determined by the office and communicated to staff.

⁶ UNHCR, *Safety Guidelines for Sensitive Individual Refugee Cases in an Urban Context*, 4 September 2002, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/3dca8ead4.html>

⁷ See also Units 2.3 and 2.4 of: UNHCR, *Procedural Standards for Refugee Status Determination Under UNHCR’s Mandate*, 20 November 2003, <http://www.unhcr.org/refworld/docid/42d66dd84.html>

⁸ Ibid.

File management

Proper file management, particularly of files related to individual refugee cases, is an essential component of a well-managed resettlement operation. Proper maintenance of UNHCR records, including the *proGres* database, is crucial to good decision-making and accountability and helps prevent fraud and breaches of confidentiality.

Individual case files

A single file that contains all information related to the individual and is appropriately signed, dated and maintained should be created for each refugee in the office

An individual case file is the central repository for all information relating to specific asylum-seekers and refugees. The filing system should be centralized and each refugee should have only one file in the office. Different functional units should avoid using multiple case files for the same individual and, ideally, protection, community services and resettlement should share the same filing system. This will ensure cohesion between units and make all relevant information to be considered in any action taken with respect to the refugee more accessible.

An individual case file should be opened as soon as possible after registration with UNHCR to ensure that all documents and developments relating to the individual are duly recorded and retained thereafter. Each individual who is registered with UNHCR will be assigned a unique identification number by *proGres*. Offices can also issue separate file reference numbers, particularly those offices without *proGres*.

All documents relating to the individual should be added to the file; including:

- an action sheet that provides a record of all actions taken in relation to the individual and the case file;
- a fully-completed registration form, if registration has occurred;
- a copy of any passports and/or other identity documents;
- if the individual has gone through RSD, a copy of the letter of recognition and of the actual claim, along with all supporting documentation, including interview notes;
- all relevant correspondence regarding the case, including referrals;
- supporting evidence or documents provided by the individual;
- any documents related to particular vulnerabilities;
- the resettlement needs assessment;
- notes for the file related to the individual; and
- any records of conversations and interviews with the individual and others related to this case.

All notes should be dated, signed and paginated, with the name and title of the staff member involved clearly marked. Records of any resettlement submissions and subsequent correspondence, including e-mails and copies of notifications to the individual, should also be included; copies of documents – and copies of copies – should be marked as such. Where photographs of individuals and family members are not digital, they should be included in a tamper-proof fashion. This may involve dry or wet seal stamps, the use of which should also be restricted and subject to specific SOPs as a safeguard against misuse. The name and registration number of the individual and the date the photograph was taken should be written on the back of each photograph. In addition, restricted information may be kept in a sealed and tamper-proof envelope within the physical file.

Ensuring file security

Ensuring individual case file security is important, not only as a safeguard against fraud and abuse, but also to protect the physical integrity and confidentiality of the information in the files.

There should be a procedure to check in and out files with appropriate safeguards

The Representative and Senior Protection Officers are responsible for ensuring that there is a clear procedure to check files in and out of the central registry. Access should be limited to designated staff members. Individual case files should not be kept in staff offices in the absence of the staff member, and should be returned to the central repository when the task is completed. The only exception is when the office of the staff member can be considered a secure location.

Individual case files should not be kept in the interviewing room unless the officer is present. Files should not normally be removed from office premises; only in special and strictly monitored circumstances, where it cannot be avoided because of, for example, an out-of-office interview or investigation, may a supervisor give written permission to remove files from the office.

A designated filing clerk should be in charge of signing files in and out, registering the file number, date and the initials or name of the staff member requesting or returning the file in a file movement log. This log should be stored electronically in *proGres*. Some offices have introduced an electronic bar-coding system to assist in monitoring file movements.

File storage should be done in secure, fire-resistant metal cabinets that should be kept locked unless files therein are being checked in or out by the designated filing clerk. The cabinets should be located in a central filing room, which should be lockable, and access to the keys should be restricted. Measures should be in place to ensure the security of the files and the filing room in case of an evacuation or disaster. The designated Field Security Advisor may suggest additional measures.

Storage should be in a safe place with restricted access

Electronic files should be password-restricted and maintained on *proGres* and/or network drives. Differentiated access should be accorded only to designated staff, depending on their functions. Information related to individuals should not be stored on personal drives but only in the designated file on the network drive.

Special procedures should be in place if UNHCR is required to store and transmit travel and identity documents as part of pre-departure preparations

Only current files should be maintained locally. Older files deemed to be closed should be forwarded to Headquarters for storage as permanent records in accordance with UNHCR Archives and Records policy, which is set out in the "*Field Guide on Identifying and Shipping Permanent Records to the UNHCR Archives*".⁹

In some cases, UNHCR may be requested to **store and transmit refugees' travel and identity documents** as part of pre-departure preparations. This is normally the responsibility of the resettlement State or IOM, where it has the authority and capacity. Special procedures governing pre-departure (e.g. visa issuance) should be established in consultation with the host country and resettlement State. All travel documents should be kept in a safe with restricted access and, as with case files, a designated staff member should maintain a central registry that records who has access to the safe and which documents have been deposited or withdrawn. Before transmitting the documents to a refugee, her / his identity must be verified as the rightful holder of the document. A copy of the document should be made, and the refugee should be requested to sign it to confirm receipt. The signed copy should then be counter-signed and dated by the staff handing over the document. As with other relevant documents, this should be added to the refugee's physical file as proof of delivery.

File tracking

A tracking system and database facilitates following up and monitoring

In addition to maintaining and storing individual case files, each office should develop and maintain a tracking system for the files to facilitate follow-up and monitoring of individual resettlement cases. Regular tracking of cases is important to ensure follow-up and deadlines are respected. Regular case tracking should also help identify bottlenecks and highlight areas where further support or improvements are needed. It can also help ensure appropriate follow-up should the responsible person be absent for any reason.

Normally, *proGres*, or another database where *proGres* is not available, should permit such tracking. It is thus important that the accuracy of *proGres* is maintained by systematically and timely recording each step and action in a particular case. Ensuring that data in *proGres* is up-to-date also helps provide systematic feedback to refugees, colleagues in the region, Headquarters, and resettlement countries. It also facilitates statistical reporting.

To help with tracking, *proGres* permits searching by a wide range of data fields, such as the applicant's name, date and place of birth, nationality, family composition, source of resettlement referral, stage in the resettlement process, most recent decision and its date, any pending action and the caseworker responsible for it. Any other system that is used in the absence of *proGres* should provide similar tracking features.

⁹ Field Guide on Identifying and Shipping Permanent Records to the UNHCR Archives: Annex 4 of UNHCR/FOM/67/2000, 17 September 2000; https://intranet.unhcr.org/intranet/unhcr/en/home/executive_direction/official_policies/iom-foms/2000iomfoms/fom_67_2000_-_field.html. You may also wish to consult the Records and Archives Section at Headquarters at: archives@unhcr.org

Authorization and accountability

Proper authorization and accountability are essential to resettlement processing and a well-managed operation overall.

Transparency

The concept of transparency has already been introduced in Unit 5. Transparency has both an internal and external dimension. Internally, it requires probity at all levels and stages of the resettlement process; that each decision with respect to refugees and others is clearly documented; that *proGres* (or other database, as applicable) is conscientiously updated with the physical file; and that it is clear on what basis each step and decision was taken. It should also be clear who authorized and undertook various actions and when they did so. Internal transparency requires clear rules and procedures as to what should be documented and included in an individual case file, such as outlined above with respect to enquiries, and how to ensure accountability. External transparency means that refugees and other partners are properly informed about UNHCR's decisions and actions, subject to appropriate policies and confidentiality guidelines.

Designation of an officer accountable for resettlement activities

Designated officer accountable for resettlement

A senior officer in each country office should be designated the officer accountable for resettlement. Where there is no Senior Resettlement Officer, this should be a Senior Protection Officer. The designation should occur in writing by the Representative, and staff within the office, the Regional Hub / Office, as applicable, the Resettlement Service, and Bureau at Headquarters should be informed of the designation and contact details. This officer will be responsible for ensuring appropriate authorization and follow-up in all cases and will be accountable that proper procedures are followed.¹⁰

Designation of an officer accountable for resettlement activities

The officer accountable for resettlement is not responsible for undertaking each step, just as the Representative, who is accountable overall for all activities of the office, is not responsible for undertaking each step. S/he should, however, undertake oversight activities, including checks on cases at different stages of the procedure. This helps ensure quality as well as respect of the standard procedures; it also allows searching for signs of fraud and abuse, as well as gaps or room for improvement. The Accountable Officer should also keep watch for signs of stress and burn-out on the part of staff members and ensure they have access to information and support to manage stress.

¹⁰ See also Annex 5 of the Baseline SOPs which provide guidance on Accountability Designation for Resettlement Officer: UN High Commissioner for Refugees, *Baseline Standard Operating Procedures on Resettlement*, revised 2011, (Internal), <http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html>

Job descriptions and terms of reference

There should be clear job descriptions and terms of reference for all staff, including guidance on limitations in authority

In effect, however, responsibility does not rest with the designated officer accountable for resettlement alone, but also with each staff member involved in resettlement. In this regard, the rapid expansion in resettlement operations will lead to the involvement of a wide variety of 'staff,' including UNHCR regular staff, temporary staff, secondees and deployees.¹¹ Each staff member's responsibilities and reporting lines should be clearly set out in their job descriptions, terms of reference and performance objectives. There should be a clear division of tasks and responsibilities, including decision-making responsibilities. All staff should, moreover, receive clear guidance on the specific procedures for which they are responsible, and limitations in their authority, and be appropriately briefed and trained. Training should also encompass security measures as well as anti-fraud safeguards, particularly measures that are directly relevant to their work.

Ideally, the job descriptions or terms of reference of staff in other units that directly affect resettlement should reflect any roles and responsibilities linked to resettlement. Such an approach will also help reinforce inter-linkages and required cooperation.

Standard Operating Procedures (SOPs)

The Baseline SOPs should not be a one-time requirement but an active tool to be implemented on a daily basis

Standardized procedures that can be verified are an important part of accountability and transparency and are thus a cornerstone of fraud prevention. SOPs not only help ensure that each staff member is aware of the specific responsibilities and steps that they should respect in all actions, but also facilitate oversight and accountability. SOPs in general, and the Baseline SOPs in particular, should thus not be seen as a one-time effort prepared to fulfill a reporting requirement, but rather as an active working tool to be adapted to reflect office-specific procedures applied on a daily basis. As noted earlier, the Baseline SOPs only represent minimum standards, and need to be supplemented by office-specific procedures in a number of areas. Their introduction represents an important opportunity to review existing office procedures, and to clarify where shortcomings that should be addressed exist. At the same time, reporting back to Headquarters on the SOPs is an important means for exchanging good practices, improving the Baseline SOPs as well as ensuring global oversight. In line with UNHCR guidelines, the SOPs should be reviewed and updated on an annual basis as part of the planning process.

Respecting confidentiality of information

Each staff member is responsible for ensuring the confidentiality of refugees' personal information

Confidentiality of information about refugees requires staff accountability and proper authorization procedures. The need to respect the UNHCR guidelines on confidentiality¹² as regards personal information related to refugees is paramount.

¹¹ As noted in Unit 2, for the purpose of this Learning Programme, unless specified otherwise, all persons are referred to as staff members, although their actual status may differ.

¹² UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html>

Personal information may include basic biodata, information about family members, origin, any RSD information and any other information that is specific to the refugee and his or her family members.

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

UNHCR staff, in the course of their work, often have privileged access to personal information that relates to refugees and other persons of concern. This is true of resettlement, where staff may enquire in considerable detail about the refugees' personal situation, and have access to medical and psychosocial assessments. The access to such information is based on UNHCR's mandate to provide international protection and find durable solutions for refugees.

UNHCR staff must ensure that any such information is used for these purposes only, and must obtain specific consent from the refugee before sharing any such information with others. UNHCR staff must also take strict measures to protect confidentiality. This means appropriate care must be taken when passing on such information, both internally within UNHCR and when sharing such information externally with third parties, including resettlement partners. All UNHCR staff – including interpreters, secondees and deployees, staff of UNHCR implementing partners, and other external experts working for UNHCR – are bound by the confidentiality guidelines, regardless of their formal status.

As noted above, measures should be taken to ensure that only authorized persons have access to information such as individual case files or specific fields in *proGres*. Staff, including interpreters, who have no reason to access such information for work purposes should be prevented from gaining such access. To ensure safety of communications with other UNHCR offices, case file numbers, not specific names, should be used. Such measures are also an important safeguard against fraud and abuse because it is a useful security measure for refugees to know that some staff, such as interpreters, do not have access to case file information.

In the interest of furthering international protection and identifying durable solutions for refugees, UNHCR must share information with third parties. With respect to resettlement States, refugees are required to sign the RRF, which allows limited sharing of individual case information. Partner agreements UNHCR signs with NGOs should also contain specific provisions on handling confidential information. Resettlement States or other partners may, however, have legitimate wishes for further information. Specific guidance is contained in the UNHCR '*Confidentiality Guidelines*' with respect to information that can be provided to resettlement States, NGOs, host States and others, so they should be reviewed and followed carefully.

When personal information on refugees is shared with third parties, waivers of confidentiality are required

Fraud and anti-fraud measures

We have already highlighted that fraud and measures to prevent and address fraud have become serious concerns of resettlement States and UNHCR alike. We have also referred repeatedly throughout the Learning Programme to different safeguards against fraud. These safeguards are an important part of any framework to combat fraud. Identifying and helping prevent fraud is not only the responsibility of management, but also of all staff. In this section we will take a closer look at what fraud is and the forms it can take, as well as some additional measures to safeguard against it.

Broadly speaking, fraud is the misrepresentation of fact for personal gain.

Definition of resettlement fraud

RESETTLEMENT FRAUD is fraud committed in the context of resettlement processing, and may include ongoing fraud that was initially committed at an earlier stage of refugee processing. This can be defined for operational purposes as *'the intentional misrepresentation or concealment of facts or evidence material to the resettlement process with the intent of obtaining a resettlement or other benefit for the refugee concerned or for another individual who otherwise would not be entitled to be resettled or to obtain such a benefit'*.¹³

Fraud can occur at any time during the individual case cycle, from the first registration onwards, and is thus a crosscutting issue. It may affect the resettlement process itself or take the form of exploitation outside the formal resettlement process; and it may involve UNHCR directly or any of the resettlement partners, the host country, refugees, as well as local community. It is thus important to take a holistic approach in addressing fraud.

¹³ See page 3 of: UNHCR, *Policy and Procedural Guidelines: Addressing Resettlement Fraud Perpetrated by Refugees*, March 2008, <http://www.unhcr.org/refworld/docid/47d7d7372.html>

Types of resettlement fraud

It is useful for UNHCR to distinguish between internal resettlement fraud and external resettlement fraud, though combinations of the two may arise.

Internal resettlement fraud

Internal resettlement fraud occurs when UNHCR staff:

- draft false refugee claims or false needs assessments for resettlement;
- add, alter, substitute, or delete or remove information / documents on file; or add or remove photographs on file;
- deliberately enter incorrect information or alter information or photos in *proGres*;
- ensure preferential processing or access to the procedure;
- deliberately lose or destroy a case file;
- report a false or embellished claim based on known 'successful' claims rather than reporting / interpreting what the refugee says;
- coach refugees and others of concerns prior to the interview;
- provide false medical attestations;
- charge a fee to enter a UNHCR office or to be put on an interview list or to receive information.
- Such fraudulent actions are frequently undertaken for a fee, favor or gift. Fraud may, however, also involve preferential treatment where there is a conflict of interest (e.g., when there is a personal relationship with the beneficiary), or even in the absence of a malicious motive.¹⁴

External resettlement fraud

External resettlement fraud may be perpetrated by refugees, asylum-seekers, criminals, host government officials, resettlement government officials, NGO or IOM staff, or others and may relate to:

- Identity fraud occurs when an identity is either invented, or the identity of another real person is assumed by an impostor. Supporting documents may be missing, or fraudulent documents provided. This may occur at any stage during the process, if one refugee 'purchases' an interview slot or a departure slot and takes the place of a refugee who has been identified as in need of resettlement. Identity fraud may also take the form of a substituted medical

¹⁴ Personal relationships with refugees and other beneficiaries are problematic as they involve a relationship of unequal power and are thus easily subject to exploitation. The staff member will always be perceived as having power over the refugee, and the refugee may thus feel obliged to provide favours, including those of a sexual nature, in order to obtain certain benefits, or to avoid negative repercussions. See also the *UNHCR Code of Conduct & Explanatory Notes*, June 2004, <http://www.unhcr.org/422dbc89a.html>

assessment that is intended to hide certain conditions that are believed to delay resettlement. A more complex situation occurs when a refugee assumes multiple identities, and then sells the extra identities and places that s/he does not need. Identity fraud is always of concern, but is particularly so when it allows war criminals or other excludable and undeserving persons to benefit from resettlement.

- Family composition fraud is one of the areas where fraud is most likely to be committed. It may involve marriages of convenience; fictitious relationships, such as when distant relatives are claimed as direct sons and daughters; adding fictitious family members; substituting children, which may occur for money or under duress; or 'losing' or hiding a family member to get an improved chance at resettlement (such as when a woman hopes to qualify for the women and girls at risk category by claiming that her husband is dead or has disappeared). Family composition fraud may occur early in the process, in order to obtain increased rations of assistance; or it may occur at any later stage, to obtain recognition of refugee status or resettlement, or to take advantage of family reunification programmes outside of resettlement.
- Bribery of UNHCR staff or others involved in the resettlement process with money, favors or gifts; or
- Material misrepresentation in relation to the refugee claim or the resettlement needs either through false stories or omission of relevant facts that might, for example, raise exclusion considerations.

Perpetrators may also rely on partially or wholly fraudulent or substituted documents to support the fraud. At times the documents themselves may be legitimate but issued on a fraudulent basis.

Mixed or complex resettlement fraud

Mixed or complex resettlement fraud occurs when internal and external elements collude to commit fraud. It may also involve an entire criminal enterprise, which has the capacity to endanger the general safety of UNHCR staff.¹⁵

Resettlement exploitation schemes

There may also be exploitation schemes where persons or groups of persons, referred to as 'brokers' or 'facilitators', may falsely claim to have links to UNHCR and the ability to ensure that refugees or others obtain resettlement. Such scams may involve coaching refugees on false claims or promising them false documents, interview spots, or a place in the group of next departures.

¹⁵ See for example: UN General Assembly, *Investigation into allegations of refugee smuggling at the Nairobi Branch Office of the Office of the United Nations High Commissioner for Refugees: note / by the Secretary-General*, 21 December 2001, A/56/733, <http://www.unhcr.org/refworld/docid/3d58c61f0.html>

Such services are generally offered for considerable fees. To help convince potential victims, such persons may show photos of themselves with UNHCR staff; wear fraudulent ID tags and cards; drive vehicles with false UN plates; use false UNHCR signs and logos; or even set up false UNHCR offices. They may also falsely claim to be NGOs working with UNHCR on resettlement referrals.

Preventing fraud

Efforts to reduce fraud work best when they focus on prevention. When seeking to prevent fraud, it helps to have an understanding of the situations in which fraud is most likely to occur. Three of the elements that contribute to fraud are:

- **OPPORTUNITY:** weak systems and procedures or limited management oversight allow people to obtain major benefits with little risk;
- **MOTIVATION OR SITUATIONAL PRESSURES:** staff may face particular financial, personal or family pressures; refugees may expect considerable benefits from being recognized as a refugee or from resettlement; and other external actors may expect considerable financial gain from fraud;
- **RATIONALIZATION:** for example, the belief that the system is unfair, or that the fraudulent action is not unethical or illegal; staff may also rationalize their actions through their unhappiness with UNHCR or their supervisor.

Efforts to prevent fraud will usefully target all three elements, but interventions focusing on internal controls are easiest to implement.

Focal points for fraud, which have been established in the Resettlement Service at Headquarters as well as at the Regional Hubs, should be kept apprised of any incidents of fraud. In addition, the Representative should appoint a focal point and/or an anti-fraud committee in each office. It is, however, the responsibility of *all* staff members to address fraud and uphold the integrity of UNHCR's activities.

Internal measures

The safeguards highlighted throughout this Learning Programme, and the different elements outlined above to ensure a well-managed resettlement programme form the foundation of a strong anti-fraud plan.

This includes properly implementing the Baseline SOPs; ensuring transparent, objective resettlement procedures with appropriate accountability and authorization; clearly defining responsibilities for all staff; ensuring that there are file management and tracking systems that allow each step and action to be reconstructed, including who took which action at what time, while still ensuring respect of confidentiality of information; and having proper leadership and oversight by senior management, including through spot checks. An annual review of the practices and procedures and compliance with the different steps should be conducted in addition to periodic random checks.

Prevention is the best way to fight fraud and is most useful if it tackles all three elements which contribute to fraud: opportunity, motivation or situational pressures, and rationalization

There should be a focal point for fraud in each office

The most effective measures to prevent fraud are to follow standardized procedures carefully, and to allow transparency, proper authorization and accountability

ProGres also has significant anti-fraud capabilities, with its capacity for digital photographs and biometric information (e.g. fingerprints), as well as the ability to track who made which changes. Access to *proGres* and any other computer-based systems should be based on the use of passwords and, as an additional safeguard, the *proGres* Data Administrator should be instructed to submit a weekly report of files to the Accountable Officer if photos and/or other key data fields have been changed or updated. Key data fields include gender, date of birth, ethnicity and nationality. The Accountable Officer may then prioritize spot-checking of these files for tampering or fraud.

The lack of active implementation of any of these factors may indicate an increased risk of fraud.

Good managers should also focus on knowing their staff and providing them with guidance and support, including in difficult personal situations, to help counteract situational pressures which may lead staff to fraudulent activities. Another important element of UNHCR's strategy is training and raising awareness, such as through this Learning Programme. Staff should know which actions are unethical and illegal, and should clearly understand the consequences of any fraudulent actions.¹⁶

Interpreters

Interpreters may be subject to particular pressures from the refugee community

As noted in Unit 5, interpreters may be subject to particular pressures by the refugee community, since they often are of the same or similar origins, may themselves be refugees (although the hiring of refugee interpreters should normally be avoided) and/or are generally paid very low wages. Some offices have recognized the particular expertise of interpreters and introduced competitive recruitment practices and salaries. In general, to avoid fraud, the following general measures should be adopted:

- assigning interpreters to different officers when scheduling interviews (this also helps with quality assurance for each interpreter);
- establishing positive professional working relationships with all interpreters;
- discouraging staff from fraternizing with interpreters (inside and outside the office);
- discouraging interpreters from fraternizing with refugees outside the office;
- making appropriate checks prior to engagement, including police, reference and educational / professional qualification checks;
- providing interpreters with orientation, training with respect to conduct and responsibilities, and monitoring;
- advising interpreters that they should report all inappropriate approaches made to them;
- preventing repeated involvement by one interpreter in the same applicant's case;

¹⁶ See: UNHCR/IOM/38/2002-FOM/36/2002 *Disciplinary Proceedings and Measures*, 30 May 2002, available from the UNHCR Intranet.

- prohibiting interpreters' access to files and the file room as well as to *proGres*;
- restricting interpreters' access to and use of mobile telephones while on duty; and
- recognizing the expertise of translators and interpreters, introducing effective and competitive recruitment policies and practices and 'professionalizing' the service by ensuring appropriate salaries and benefits are provided.

Interpreters should be subject to the same monitoring and performance checks as other staff. Interviewers should be permitted to stop any interviews if they are concerned about suspicious behavior on the part of interpreters. Staff should consult the UNHCR Guidelines for the recruitment, training, supervision and conditions of service for interpreters.¹⁷ Additional considerations were covered in Unit 5.

Security personnel

Guards may similarly be subject to particular situational pressures. They are key to accessing UNHCR premises but are generally paid relatively low salaries. Possible best practices for safeguarding against corruption and fraud include requiring guards:

Guards are key to accessing UNHCR but often are paid very low salaries

- not to fraternize with interpreters or refugees inside or outside the office;
- to report all advances made to them inside or outside the office;
- to undergo a police check prior to engagement;
- to uphold high standards of integrity and professionalism in the discharge of their duties, which includes a responsibility to protect the work of UNHCR by facilitating the safe and dignified access of refugees to the premises when they seek assistance from the office; and
- to be subject to a confidential complaints mechanism that the Office has made available.

As with staff, guards should be subject to regular monitoring, checks and observation, and security cameras may also be used.

External measures

External efforts to highlight the importance of fraud awareness, measures to prevent and combat fraud, training resettlement partners on resettlement and ensuring regular communications about resettlement-related activities are an important part of any anti-fraud plan. As we have seen in Unit 5, agreements with external resettlement partners such as NGOs should include specific measures (such as training) to safeguard against fraud, as well as clear specifications of all actors' roles.

¹⁷ See UNHCR, *Interpreting in a refugee context: Guidelines for the recruitment, training, supervision and conditions of service for interpreters*, IOM/005/2009–UNHCR/FOM/005/2009, 19 January 2009, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/497f147c2.html>

Expectations management, a strong communications strategy and regular briefings and updates with all resettlement partners are key elements for preventing fraud

Relying on a communications strategy to pass key messages about resettlement to refugees, as outlined in Unit 4 and 5, should help prevent fraud and manage expectations. In addition to general information provision, continuous and appropriate counseling of refugees is vital to addressing fraud. It is also important for the refugee community to understand the potential implications of fraud on the overall availability of resettlement activities in the country, and for the local population to know that resettlement is only available to persons of concern to UNHCR.

As we have seen in Unit 4, key messages include information on fraud, what fraud entails (e.g. falsifying family composition), the duty to abstain from fraud, and the fact that all UNHCR services are free of charge. Such messages should be clearly understandable, visible and disseminated through the various tools available for mass information campaigns. Refugees should also be warned against any fraudulent offers of assistance. Information on how and when to access UNHCR and the aforementioned complaint mechanism for refugees and other beneficiaries should also help reduce the incidence of fraud.¹⁸ UNHCR has also introduced policy and procedural guidelines on addressing resettlement fraud perpetrated by refugees.¹⁹ These guidelines seek to harmonize procedures for handling instances of suspected fraud by refugees in UNHCR's resettlement activities, including in conducting investigations and imposing sanctions.

Recognizing fraud

Types of behavior which may be linked to fraud

We have highlighted family composition as an area which may be particularly vulnerable to fraud, and have emphasized the importance of identity checks. Family composition and identity checks against registration records should be conducted at key stages from initial registration onwards, including prior to departure on resettlement. Staff should also watch for any other significant changes, for example to the refugee claim or biodata.

All staff should be aware that they may be targeted by potential perpetrators of fraud or exploitative activities, including non-refugees, when they encounter:

- excessive flattery;
- name-dropping;
- subtle bribery such as offers to pay for meals or gifts;
- confusing background stories; evasiveness and accusing others of paranoia or mistrust;
- haste and urgent requests that allow no time to think;
- attempts to assert control;
- attempts to isolate one from other staff in the Office;
- requests for physical access to the Office for unneeded personal visits, preferential access to information, or favors; and
- requests for photographs together, particularly near spots identified with the office.

¹⁸ See Section on handling enquiries.

¹⁹ See: UNHCR, *Policy and Procedural Guidelines: Addressing Resettlement Fraud Perpetrated by Refugees*, March 2008, <http://www.unhcr.org/refworld/docid/47d7d7372.html>

Additional measures to safeguard against external fraud, which UNHCR is pursuing with partners include:

- pre- and post-selection mission reports by resettlement States;
- standardized reporting forms for NGOs based in resettlement States, including reporting on post-resettlement interviews with refugees;
- joint process mapping and analysis of fraud exposure, including common definitions and lists of fraud indicators;
- joint investigations;
- joint training and information campaigns;
- fraud-specific working group with resettlement States; and
- developing additional tools to help safeguard against fraud and to identify the risk of fraud exposure.²⁰

Dealing with fraud and allegations of fraud

An important part of anti-fraud vigilance is encouraging its reporting. While procedures may differ for internal and external fraud, appropriate measures should be taken to protect individuals reporting fraud in both cases. The names of individuals who report substantiated allegations of fraud should always be kept confidential, and the details of allegations should remain confidential until a full investigation has been completed.

Internal fraud

Key indicators for which all staff should be alert include:

- files in which one staff member appears to be responsible for more than one stage of processing and decision-making without respecting the regular requirements for authorization;
- staff members enquiring about or showing an interest in files to which they have no work connection;
- files that may be delayed for excessive periods (possibly suggesting the expectation of a bribe), as well as files that move too rapidly (suggesting preferential treatment);
- files in which key information is missing or signatures are missing or illegible;
- excessive or unusual documentation on file; and
- any other procedural abnormalities.

Indicators that fraud may have occurred

²⁰ See UNHCR, *Resettlement Fraud: A Tool to Help Offices Assess Their Exposure and Vulnerability*, Annex 4 of the Baseline Standard Operating Procedures on Resettlement, revised 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html>

While these indicators alone do not confirm that fraud has been committed, they indicate that further follow-up may be warranted. Such incidents should be brought to the attention of the Accountable Officer. The complaints mechanism introduced above may also result in allegations of fraud or misconduct by UNHCR staff.

Procedures for dealing with complaints received through the complaints mechanism

Complaints that are received directly or through the complaints mechanism are subject to a special procedure. Two persons should be present whenever a complaints box is opened, which should be done on a regularly scheduled basis. The Baseline SOPs should specify how information in the boxes is handled; it may require, for example, the presence of an international staff member, often the accountable officer, while complaints are registered and recorded. The register, with information on the handling of the complaint, should be kept in a secure location with restricted access.

The Inspector General's Office (IGO) has a key role to play whenever there are allegations that staff might be involved in fraud

When allegations of fraud come to the attention of UNHCR staff, they must be documented and reported appropriately. Details of the alleged fraud, including names and dates, are required. All staff members have an obligation to respond to allegations of fraud that come to their attention, regardless of their grade and function. Possible misconduct may be reported either to their Director, Representative or Chief of Mission, or accountable officer, who should promptly inform the **INSPECTOR GENERAL'S OFFICE (IGO)** at Headquarters, as well as Resettlement Service, with:

- an initial assessment as to the credibility of the source, including the reasons or evidence for that assessment;
- the extent to which the information is specific and can be dated;
- the existence of any supporting evidence; and
- whether and the extent to which the alleged fraud has resulted in damage – material, financial, or to the credibility and image of the office.

Such allegations may be reported directly and confidentially to the IGO at Headquarters.

CONFIDENTIAL FAX: +41-22-739-7380

CONFIDENTIAL E-MAIL: inspector@unhcr.org

TELEPHONE HOTLINE: +41-22-739-8844

The IGO will then assess any information received to judge credibility and whether the complaint falls within the competence of the IGO. If the IGO decides to conduct an investigation into the matter, the staff member providing the information or the manager who reported it will be informed within 30 days. The manager may be asked to assist in the investigations.

Contact with the IGO can also be made to obtain preliminary advice. The name of the source will be kept confidential and may only be disclosed if it is required for administrative, disciplinary or judicial proceedings, with the approval of the source, and the approval of the Inspector General. If the source fears any reprisals for having reported fraud, this should also be recorded, because reprisal is misconduct in and of itself and the Inspector General can recommend immediate protective measures to the High Commissioner. If a report is made anonymously, the IGO will investigate whether the allegation is corroborated by independently established facts.

In addition to specific investigations to follow up on claims of misconduct including fraud, the IGO also carries out inspections to check how effectively established policies and guidelines are being implemented in an office. These inspections may also include specific terms of reference to address particular issues. Such investigations are an additional tool to help identify risk factors for fraud and measures to combat it.²¹

External measures

The same complaints mechanism introduced above should also serve as an important source of fraud reports by persons external to UNHCR, such as refugees, local populations or partners. Enhanced cooperation with resettlement partners, including resettlement States, IOM, NGOs and other partners will be useful in examining the characteristics of fraud. Possible fraud, how to prevent it and how to deal with it once it has arisen should be discussed regularly at resettlement meetings.

The IGO will not normally be involved in allegations that concern only persons external to UNHCR. Such allegations should, however, be reported to the Representative or Head of Office who may seek further advice from the IGO. In specific cases, UNHCR will contact the local law enforcement authorities to investigate incidents of external fraud.

As noted in Unit 5, where fraud concerns specific refugees, case processing should be suspended. Staff should also refer to UNHCR's policy and procedural guidelines on addressing resettlement fraud perpetrated by refugees, which is attached in the Annex of this Unit. In situations where an alleged fraud is likely to prejudice a UNHCR resettlement submission to a resettlement State, that State must be appropriately informed. The refugees concerned should be interviewed, both for investigative purposes and to give them a reasonable opportunity to respond to the allegations. The interview should be recorded in full, either in writing or by audio tape recording; the consent of the refugee will be required. A full investigative report, including recommendations on any sanctions, will also be required. This report should be reviewed by a Representative or his or her delegate, and should be subject to an automatic review by the Regional Hub / Office or UNHCR Headquarters staff. Any sanctions against refugees should take into account the severity of the fraud committed and the refugees' protection need. The UNHCR policy and procedural guidelines on addressing fraud by refugees should be followed.²²

In case where refugees are involved in fraud, specific investigative procedures should be followed

Where fraud is suspected of implementing partners or NGOs, the Bureau and the Legal Affairs Section (LAS) in the Department of Human Resources Management (DHRM) may provide further advice or guidance. In some cases, the incidence of fraud may lead to criminal prosecution. In such cases, LAS should always be consulted, together with the Resettlement Service and the Bureau.

²¹ For more details, see UNHCR, *The Role, Functions and Modus Operandi of the Inspector General's Office*, IOM/009/2012 - FOM/010/2012, 7 February 2012, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4f5733e62.html>

²² See UNHCR, *Policy and Procedural Guidelines: Addressing Resettlement Fraud Perpetrated by Refugees*, March 2008, <http://www.unhcr.org/refworld/docid/47d7d7372.html>

Stress management

Stress management deserves mention as an essential component of a well-managed resettlement operation. Resettlement is a very labour-intensive task and resettlement interviews and counseling sessions can be particularly demanding, as staff are exposed to the discontent and frustration of refugees, who themselves are under high stress, having been subject to persecution or indiscriminate violence, having been forced to flee and leave behind families and homes, and having to deal with the uncertainty of their status and future.

Insufficient staff and resources and/or backlogs in cases, as well as pressures to reduce backlogs, also add to stress. High stress levels not only reduce staff's capacity to listen, understand and assess the stories and testimonies of refugees, it is also more likely to lead them to take shortcuts in procedures, ignore safeguards and security measures, and miss signs of fraud. It can also lead to trauma, burnout and threats to staff security. It is thus important to catch signs of stress, ideally before more serious manifestations develop.

Recognizing symptoms of stress

All staff should be trained to recognize symptoms of stress, whether physical, psychological and emotional, or behavioral. Symptoms may include:

- physical: headaches, increased heartbeat, intense fatigue, difficulty in concentrating;
- psychological and emotional: anxiety, fear, over-preoccupation and identification with victims, sadness, anger, helplessness; and
- behavioral: hyperactivity, inability to rest or relax, periods of crying, social withdrawal, limiting contacts with others, use of drugs and/or alcohol.

Techniques for reducing stress

Being informed and aware of how to deal with stress is an important part of promoting well-being. Techniques to deal with stress include:

- recognizing that a particular task is stressful and using self-encouragement to complete it;
- ensuring sufficient and proper sleep;
- allowing time for leisure as well as exercise;
- using relaxation techniques, such as yoga;
- regularly eating a well-balanced diet;
- avoiding excessive use of alcohol, caffeine and nicotine; and
- ensuring that work is conducted effectively, efficiently and safely and priorities are set appropriately.

Representatives, officers accountable for resettlement activities and other staff should remain vigilant for signs of harmful stress in other colleagues. Measures to reduce stress at office-level include:

- creating and maintaining a pleasant working environment;
- monitoring workloads and task prioritization, and ensuring that staff take breaks and have an opportunity for proper meals;
- organizing a breakaway space or a coffee corner;
- conducting regular team meetings, possibly on a daily basis, to debrief on particularly stressful activities. Such meetings may also be used to discuss the impact of stress more generally;
- taking the time to follow up in private with staff that may be affected; and
- leading by example.

All staff should take the necessary measures to prevent and minimize stress and to watch for it in colleagues

Where lack of resources and backlogs are a source of stress, then consideration may need to be given to ensuring that appropriate resources are made available, including through the deployment schemes outlined in Unit 2.

Unit 6 - Resources

Essential reading:

- UNHCR, *UNHCR Code of Conduct and Explanatory Notes*, June 2004, <http://www.unhcr.org/422dbc89a.html>
- UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html>
- UNHCR, *The Role, Functions and Modus Operandi of the Inspector General's Office*, 7 February 2012, IOM/009/2012 -FOM/010/2012, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4f5733e62.html>
- UNHCR, *Policy and Procedural Guidelines: Addressing Resettlement Fraud Perpetrated by Refugees*, March 2008, <http://www.unhcr.org/refworld/docid/47d7d7372.html>

Supplementary readings:

- UN General Assembly, *Investigation into allegations of refugee smuggling at the Nairobi Branch Office of the Office of the United Nations High Commissioner for Refugees: note / by the Secretary-General*, 21 December 2001, A/56/733, <http://www.unhcr.org/refworld/docid/3d58c61f0.html>
- UNHCR, *Management of Protection Activities - Responsibilities of UNHCR Staff*, 15 March 2002, IOM/025/2002 - FOM/024/2002, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/3d4524a52.html>

Reference documents:

- Chapter 4 and 7, UNHCR, *UNHCR Resettlement Handbook*, 2011, <http://www.unhcr.org/resettlementhandbook>
- UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html>
- UNHCR, *Disciplinary Proceedings and Measures*, IOM/38/2002-FOM/36/2002, 30 May 2002; available from the UNHCR Intranet.
- UNHCR, *Interpreting in a refugee context: Guidelines for the recruitment, training, supervision and conditions of service for interpreters*, IOM/005/2009–UNHCR/FOM/005/2009, 19 January 2009, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/497f147c2.html>

