

REFUGEES

**Protection Gaps
Framework for Analysis
Enhancing Protection of Refugees**

Strengthening Protection Capacity Project (SPCP)

2nd EDITION



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Enhancing Protection of Refugees**

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2008



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<http://www.unhcr.org/spcp>

Cover photo: New arrivals from the Darfur region of Sudan endure the sandstorms familiar to the region. UNHCR/H. Caux

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Foreword

Two goals of the Agenda for Protection, jointly adopted by UNHCR and States in 2002, are to strengthen implementation of the international refugee instruments and improve State capacities to receive and protect refugees. Their importance is underscored by the fact that over 50 years after the explicit recognition of the protection rights to be accorded to refugees in the 1951 Convention and 1967 Protocol, in many places around the world, the treatment of refugees falls short of those internationally recognized standards.

As pointed out in the first edition of this analytical Framework, protection gaps are the result of many factors, not only the unwillingness of States to ensure that the rights of refugees and asylum-seekers are respected but also the lack of sufficient capacity of many States to provide the protection that is necessary. UNHCR and partners can contribute to bettering the protection States are unwilling or cannot provide. However, while this work helps to improve the lives of many, it is not, nor cannot be, a substitute for State responsibility and action.

One effort to more systematically address the goals of the Agenda and help to remedy the gaps, is UNHCR's Strengthening Protection Capacity Project (SPCP). This project is a new way of thinking about capacity building. Its strength lies in the clear articulation of protection gaps, for which this Framework was developed, and a focus on remedying them. Proceeding from consensus among refugees, host States UNHCR and partners, the SPCP develops concrete interventions to improve the protection environment in ways that strengthen both State and community capacities.

Since this Framework was originally introduced over two years ago, it and the SPCP process of which it is a part, have been widely embraced as an effective means to focus on gaps and strengthen protection capacities. We hope to replicate this achievement for initiatives benefiting internally displaced persons and stateless persons, in relation to whom the methodology is being extended.

The Framework itself has benefited from field use. In this second edition the main chapters have been slightly reorganized to further streamline gaps analyses. The number of issues has been expanded to ensure comprehensive coverage. We believe these changes will further enhance the use of this Framework for protection gaps assessments.



Erika Feller
Assistant High Commissioner-Protection
United Nations High Commissioner for Refugees

Introduction

This Framework is intended to help improve the capacity of States to protect refugees and asylum-seekers through a systematic analysis of gaps in protection and the identification of existing capacities to remedy those gaps. It is designed to provide a comprehensive view of the situation of refugees, asylum-seekers and hosting communities, highlighting the main protection risks they face and pointing to areas where the capacities of all stakeholders need to be reinforced to improve the protection environment.

A similar framework for internal displacement situations has been developed by the Inter-Agency Standing Committee Protection Cluster Working Group: *Protection for Conflict Induced Refugees and Asylum-Seekers: Assessment for Action*; UNHCR is also developing a similar protection assessment framework for situations of statelessness.

When to use the Framework

The experience of UNHCR and its partners shows that protection gaps analysis is most constructive when linked to a clear process of planning and programme development. Moreover, this Framework should be used in conjunction with participatory assessment with asylum-seekers and refugees to generate a comprehensive picture of their protection situation. The findings should form the basis of consultations with national partners on protection challenges and capacities.

Using gap analysis as part of a comprehensive and collaborative approach will help to ensure that programme interventions are appropriately designed to address and reduce protection risks and to strengthen protection capacities. These benefits are expanded when assessment and monitoring of the protection situation of refugees and asylum-seekers is a continuous process for which this Framework is regularly used.

How to use the Framework

The Framework is organized in eight different chapters, each of which reflects a core protection component, as recognized in the 1951 Convention and 1967 Protocol, other human rights instruments, as well as in the Conclusions of the Executive Committee of the High Commissioner's Programme. The questions in each chapter are designed to help determine how host countries meet protection requirements and standards and illustrate circumstances when the reality falls short.

The questions posed in this Framework are not meant to be answered in a yes/no manner. Rather, the Framework is meant to prompt the writer to seek out available information in order to give a concise narrative on the identified gaps in the country.

Review of existing documentary information

The Framework is not intended to be an exercise to gather statistics, nor is it a substitute for UNHCR protection-related and sectoral standards, indicators and monitoring guides. It is intended as a tool to draw together available documentary information, such as annual reports, monitoring reports and results of self-reliance

assessments. On the basis of that material a draft analysis or a summary of the gaps can be prepared.

Participatory assessments with refugees and asylum-seekers

Importantly, a gaps analysis must include findings of participatory assessment with refugees and asylum-seekers. The results of focused discussions with groups of refugees and asylum-seekers (women, men, elderly, adolescents, and those with specific protection risks) ensures full and complete coverage, and contributes to the identification of appropriate solutions to remedy the gaps identified. UNHCR's guide to conducting participatory assessments is included in the CD-ROM accompanying this Framework.

Interviews with relevant authorities, NGOs and local communities

Since the Framework and resulting analysis are intended to highlight the views and capacities of relevant authorities, other partners and local communities, their contributions are also important to ensure a holistic approach.

Presentation of the analysis

The gaps analysis report should be written using the chapter headings and sub-headings in the Framework to guide the presentation. Short sentences, plain language and concise paragraphs, and a recommended length of no more than 40 pages will enhance the readability of the report and will serve the aim of the report: namely to ensure that it becomes a central reference document for prioritizing gaps and developing strategies to remedy these gaps.

It is recommended that each gaps analysis report contain an Executive Summary at the beginning that sets out the main findings.

Gaps analysis and strengthening protection capacities

Identifying gaps in protection is a necessary first step to prioritizing and developing measures to strengthen protection capacity. The gaps analysis report produced using this Framework should spur the collaborative development of initiatives and long-term strategies that afford better protection to refugees and asylum-seekers and support to States in providing it. To that end, a template is available on the accompanying CD-ROM to assist in the development and execution of a long term comprehensive plan.

CD-ROM

The CD-ROM accompanying this Framework includes:

- ▶ An Annex with references to relevant legal authority, standards and guidance, organized according the Chapter headings and sub-headings in the Framework.
- ▶ A report template formatted in MS Word to write the analysis, including a template for listing the international and regional instruments to which the country is a party.
- ▶ A comprehensive planning matrix template for recording identified gaps, projects to remedy them, implementation period, cost, funding source and implementing agency.

List of Abbreviations

1951 Refugee Convention	Convention relating to the Status of Refugees, 1951
1967 Protocol	Protocol to the Convention relating to the Status of Refugees, 1967
AfP	Agenda for Protection, UNHCR, 2003
Cartagena Declaration	Cartagena Declaration on Refugees, 1984
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women, 1979
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination, 1965
CRC	Convention on the Rights of the Child, 1989
ExCom	Executive Committee of the High Commissioner's Programme
ICCPR	International Covenant on Civil and Political Rights, 1966
ICESCR	International Covenant on Economic, Social and Cultural Rights, 1966
OAU Convention	Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969
UDHR	Universal Declaration of Human Rights, 1948
UNHCR Statute	Statute of the Office of the United Nations High Commissioner for Refugees, 1950

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1. Favourable Protection Environment



Colombian refugee children play football on the main place of Boca de Cupe village, Panama.

A favourable protection environment is one in which: refugees and asylum-seekers are admitted and protected against refoulement; the causes and demographics of displacement are well known; the rights of refugees and other asylum-seekers are recognized in national law; the administrative capacity to oversee affairs regarding refugees and asylum-seekers is adequate; protection issues are addressed by all relevant stakeholders; local populations are receptive to refugees and asylum-seekers; the environmental impact is limited; and the needs and potential contributions of refugees and asylum-seekers are acknowledged and form part of national and regional development strategies.

1.1 Demographic profile

- ▶ Briefly describe the refugee and asylum-seeker population. Include information on:
 - Reasons for displacement and whether ongoing;
 - Their demographic socio-economic profile (including professional or vocational backgrounds) disaggregated by age, gender, ethnicity and religion, including groups with specific needs;
 - Their location within the country and areas of possible return.
- ▶ Do national censuses and other demographic surveys include refugees?
 - If so, are they reliable?
 - If not, are there any other sources of reliable data and if not, why?

1.2 International and regional instruments

- ▶ Have the 1951 Convention relating to the Status of Refugees and/or its 1967 Protocol been ratified?
 - If not, explain why.
 - If yes, note any reservations.
- ▶ Have other international and/or regional refugee, human rights and humanitarian law instruments been ratified? (List them in the Template for International and Regional Instruments)
 - Explain any relevant reservations or derogations;
 - Have ratified conventions been incorporated into national law?
- ▶ Are women's and children's rights reflected in national legislation?
 - If yes, describe which rights.

“2. Recognizing the enduring importance of the 1951 Convention, as the primary refugee protection instrument which, as amended by its 1967 Protocol, sets out rights, including human rights, and minimum standards of treatment that apply to persons falling within its scope,

3. Recognizing the importance of other human rights and regional refugee protection instruments...”

Agenda for Protection (AfP) Declaration of State Parties, Preamble

1.3 National legal framework

- ▶ Briefly describe the major statutes and policy declarations that have a bearing on the protection of refugees and asylum-seekers.
- ▶ Is UNHCR's supervisory role officially recognized in law and practice?

1.4 National administrative framework

- ▶ Identify the administrative institutions with significant responsibilities over issues affecting refugees and asylum-seekers.
 - Briefly describe any existing shortcomings in their protection capacity.

1.5 National and regional migration policy

- ▶ Is irregular migration perceived as a problem for the host country and if so why?
 - Is data on migratory movements systematically collected and analysed?
 - Are asylum flows positively or negatively impacted by the presence or absence of laws permitting legal migration?
 - Do measures exist to combat smuggling and trafficking that have a negative impact on asylum-seekers and refugees?
 - Is there a need to enhance the capacity of national authorities to manage migration in a protection sensitive manner?
- ▶ Describe any existing regional coordination mechanisms to exchange information on migration flows.
 - If such mechanisms exist, identify the areas for cooperation and response, as well as the participants;
 - How can the capacity of national and regional actors to track and respond to mixed migratory flows be supported?
- ▶ What is the general practice regarding persons, including unaccompanied and separated children, found not to need international protection?
 - Has the State concluded any readmission agreements for third party nationals?
 - If yes, with which countries?
 - Do readmission agreements contain safeguard provisions for asylum-seekers?
 - In the absence of readmission agreements, does the State return rejected asylum-seekers to third countries?

1.6 Partnerships

- ▶ Do strong partnerships exist between host countries, donor countries, UNHCR, other UN agencies, NGOs, civil society and refugees and asylum-seekers to strengthen protection capacity?
 - To what extent are they actively engaged in joint assessments, planning, field monitoring and evaluation exercises?

1.7 National and regional development policies

- ▶ Are refugees and asylum-seekers included in, or impacted by, national poverty reduction and development strategies?
- ▶ Do existing development strategies include refugee communities?

1.8 Public attitudes towards refugees

- ▶ How are refugees and asylum-seekers perceived by local communities? Are they seen to:
 - Place a strain on natural resources and existing services?
 - Contribute to environmental degradation?
 - Receive preferential treatment from humanitarian agencies or other actors?
 - Contribute to or causing insecurity in the local area?
- ▶ Are certain groups of refugees and asylum-seekers treated or perceived differently (i.e. for reasons touching on their gender, age, religion or ethnicity)?
- ▶ Are conflict conciliation mechanisms in place to reduce tensions between refugee and host populations?
- ▶ Is the general population well informed on protection issues?
 - Are there public awareness programmes in place which focus on positive contributions of refugees and asylum-seekers (e.g. in schools and in the media)?

“States to develop public awareness programmes, with the participation of refugees, which focus on the positive social and cultural contributions that refugees can make, building into these programmes greater use of educational tools such as public service announcements, sports, music and entertainment, in a way which promotes positive messages about tolerance, pluralism and common values, as well as bridge-building.”

AfP Goal 1, Objective 8

1.9 Access to the territory

- ▶ Which government authority controls access to the territory?
- ▶ Are all persons arriving at the frontier seeking protection admitted into the territory?
 - Does the government use extraterritorial zones to restrict access (e.g. at land border crossing points, airports or seaports)?
- ▶ Are border officials provided with guidelines or instructions regarding refugees and asylum-seekers?
 - Are asylum-seekers referred to the responsible asylum authority? Is there a mechanism to do so?
 - Do existing guidelines or instructions specify appropriate standards for treatment of asylum-seekers?
 - Are female border officials available to interview women?
- ▶ Does UNHCR have unimpeded access to all refugees and asylum-seekers? If not, why?
- ▶ Does the UNHCR or other agency, undertake systematic and independent border monitoring (airports, land border crossings and seaports)?

1.10 Non-refoulement

- ▶ Are there instances of direct or indirect refoulement, either at the point of entry or elsewhere?
 - If so, under what circumstances?
 - Are asylum-seekers and refugees able to adequately argue against their removal?
 - Are public records kept of such cases and are they perceived as accurate?
 - Is UNHCR systematically informed and able to effectively respond?
- ▶ Are there advocacy campaigns to promote respect for the principle of non-refoulement?

2. Registration and Status Determination



Asylum seeker attending a RSD hearing in a refugee camp in Debrecen, Hungary.

A person is a refugee the moment he or she meets the criteria of the 1951 Convention or other relevant national, regional or international instrument. Although the person's refugee status exists independently of formal recognition, governments have procedures to distinguish between refugees whom they have an obligation to protect, and other persons who do not need international protection. Fair protection processes are those which receive, register and determine refugee claims in a timely manner and in accordance with international and regional protection standards. Documents confirming protected and civil status also have an important protection dimension.

2.1 Reception conditions

- ▶ Have reception centres or other reception facilities for asylum-seekers been established? If so, do they provide for:
 - Basic material assistance (food, sanitary and health facilities)?
 - Psychosocial and legal assistance?
 - Family unity and privacy?
 - Primary education for children?
 - The needs of persons with specific requirements (e.g. children, women and the older persons)?
- ▶ Who runs the reception centres?
 - Are they provided with protection training?
 - Do they have male and female personnel?
 - Are residents active in managing and providing services?
- ▶ Are restrictions on movement imposed on residents?
 - Describe the restrictions and assess whether they are necessary, reasonable and proportionate to legitimate aims.
 - What are the consequences for asylum-seekers and refugees?
 - Are any calls made for these restrictions to be lifted or replaced?
- ▶ In the absence of reception facilities for asylum-seekers and refugees, what other arrangements are in place?

2.2 Registration and profiling

- ▶ Who registers refugees and asylum-seekers?
 - If the government is not involved in registration, why not?
 - Are persons conducting registration adequately trained and is there a sufficient number of female personnel, including female interpreters?
- ▶ How is registration undertaken?
 - Are all refugees and asylum-seekers systematically and individually identified and registered?
 - Are dependants aged between 16-18 years and women informed that they can be registered individually?
 - How soon after their arrival are refugees and asylum-seekers registered?
 - Is registration carried out electronically? If so, is the software compatible with other agencies that rely on registration data?
 - Does registration data include minimum data requirements, e.g. name, date of birth, gender, country of origin, marital status, and in the case of children whether they are accompanied, unaccompanied and/or separated?
 - Is registration continuously updated; documenting new arrivals, births, deaths, marriages and departures?
- ▶ Are data protection measures in place?
 - Is the principle of confidentiality respected?
 - Does registration take place in an accessible and safe location?
 - Is there coordination among operational partners to avoid duplication and breaches of confidentiality?
- ▶ Are there obstacles to effective registration?
- ▶ Are refugees and asylum-seekers regularly informed on the registration process?
- ▶ Is registration used to facilitate family unity?

“In keeping with the Conclusion on Registration of Refugees and Asylum-Seekers (No. 91 (LII) (2001)), and bearing in mind confidentiality requirements regarding the use of data, States to register and document female and male refugees and asylum-seekers on their territory on an individual basis as quickly as possible on their arrival, in a manner which contributes to improving their security, their access to essential services and their freedom of movement”

AiP Goal 1, Objective 11

2.3 Access to asylum procedures

“States to grant access to asylum procedures and to ensure that their asylum systems provide for effective and fair decision-making, done promptly and with enforceable results, including as regards the return and readmission of those found not to be in need of international protection. Return is important to counter misuse of asylum procedures and maintain the integrity of asylum systems.”

AfP Goal 1, Objective 2

- ▶ Is the concept of 'prima facie refugees' recognized in law and administrative practice?
 - If so, how is it applied?
 - Are there limitations on its application (e.g. expiry after a certain length of time).
- ▶ Do asylum-seekers have access to national individual Refugee Status Determination (RSD) procedures and if so, under what legislative or administrative framework?
 - Are some asylum-seekers not admissible (due to time limits, status elsewhere, safe country of origin)?
 - Are certain groups found to be disproportionately inadmissible for a specific reason, such as their age, gender or ethnic background?
- ▶ In the absence of national asylum procedures is RSD conducted by UNHCR?

2.4 Refugee definition

- ▶ Is a full and inclusive interpretation of the 1951 Convention definition used, including recognition of gender-related persecution?
- ▶ Are exclusion and cessation applied in a manner that is consistent with the 1951 Convention?
- ▶ Is UNHCR's advice on the interpretation of the 1951 Convention definition reflected in official decisions?

2.5 Other forms of protected status

- ▶ Are complementary and temporary forms of protection provided for in law and applied in practice?
 - If so, under what basis and according to what procedure?
 - Does the protection status of a refugee or asylum-seekers expire after a certain lapse of time?
 - Is the status applied to those who would otherwise qualify for refugee status?
- ▶ What rights are associated with such status?
 - Do they differ from those who have refugee status and if so, in what way?
- ▶ Can persons granted temporary protection submit an asylum application when temporary protection has expired?

2.6 Fair and efficient status determination

- ▶ Do RSD procedures provide:
 - An effective opportunity to present a claim (with advance notice on procedure in a language the applicant understands) ?
 - Determination by an independent decision-maker?
 - Legal advice?
 - Confidential process?
 - Impartial and qualified interpreter?
 - Written reasons for a negative decision?
 - The right to appeal a decision to an independent authority (with notice of this right provided in a timely manner) ?
 - Right to remain pending a final determination of the asylum claim?
- ▶ Are there provisions to meet specific needs of women, older persons, girls and boys?
 - Are appropriate questioning techniques used?
 - Are female decision-makers and interpreters employed?
 - Are guardians appointed for children and for those with mental disabilities, and if so, under what procedure?
- ▶ Are decisions rendered in a timely manner?
- ▶ Does UNHCR have an advisory, observer or operational role?
- ▶ Are family members of recognized refugees accorded the same status?
 - If not, what are the consequences for family members?
- ▶ Is training provided to decision makers, lawyers, legal counsellors and guardians?
 - If so, by whom and how can their capacity be further supported?

2.7 Country of origin and legal information

- ▶ Is legal and country of origin information available and does it include:
 - Background information, guidelines and position papers?
 - Jurisprudence, expert studies, and amicus briefs for precedent-setting cases?
 - Country information reflecting protection risks of different groups (i.e. age, gender and diversity analysis) ?
- ▶ Is the information regularly updated and available to authorities involved in RSD and to partners?
 - Is this information provided on paper or electronically, e.g. web or CD ROM?
 - Has training been given on how to access and use such information?
- ▶ Is there an identified need for more information?

2.8 Family reunification

- ▶ Are standard procedures for family reunification established and facilitated by the government?
 - If so, who is eligible for family reunification and do conditions apply?
 - How are family relations verified?
 - Are best interest determinations made for children?
- ▶ Is there any coordination on family reunification among concerned agencies, such as ICRC and other key actors?

3. Individual and Civil Documentation



Refugees from Myanmar in Tham Hin Camp show off their new government-issued identification cards, which will improve their protection. Thailand.

The provision of documents to refugees and asylum-seekers confirming their protected status helps to safeguard against measures that may be imposed on others for illegal presence, such as arrest, detention and possible deportation. Documents confirming civil status such as birth, marriage and death certificates also have an important protection dimension.

3.1 Individual documentation for asylum-seekers

- ▶ Are all asylum-seekers (including women, accompanied, unaccompanied and/or separated children) provided with individual identity documents confirming their status?
 - Who issues these identity documents and under what procedures?
 - Do they have security features to prevent them from being forged?
 - Are identity documents recognized by other government agencies (e.g. police, housing authorities, health-care providers)?
 - Are they valid until a final asylum decision is rendered?

3.2 Individual documentation confirming protected status

- ▶ Are all refugees provided with individual identity documents confirming their status as protected persons?
 - Who issues them and under what procedures?
 - Do they have security features to prevent them from being forged?
 - Are they recognized by other government agencies (e.g. police, housing authorities, health-care providers)?
- ▶ What is the proportion of refugees that has been issued individual documentation?

3.3 Civil documentation

- ▶ Is the birth of newborns registered and are they issued birth certificates?
 - Who issues them and under what procedure?
- ▶ Are married couples issued marriage certificates?
 - Who issues them and under what procedure?
- ▶ Do refugees and asylum-seekers who marry a national acquire the same rights as their spouse?
 - Are common law marriages recognized? If not, does this affect family unity?
- ▶ Are death certificates issued and, if so, by whom?

- ▶ Do refugees and asylum-seekers face obstacles in receiving civil documentation?
 - If so, describe these obstacles and how they can be overcome?
- ▶ What are the protection risks that may occur due to the lack of documentation?
- ▶ Does the government assist refugees in obtaining documents that their country of origin would normally issue?

“States to provide necessary documents relating to civil status (e.g. birth, marriage, divorce, death), benefiting from the support and cooperation of UNHCR, where appropriate.”

AfP Goal 1, Objective 11

3.4 Travel documents

- ▶ Are national travel documents taken away from asylum-seekers after their claim to asylum is received?
- ▶ Are refugees issued 1951 Convention travel documents or other travel documents?
 - Who issues such documents?
 - Are these documents recognized by other government departments in the host country and by foreign embassies?
 - Do they have security features to safeguard them from forgery?
- ▶ Are there obstacles or constraints to obtaining these documents?
 - Is there a fee for obtaining them?
 - Do they have a time and/or geographic limitation?
 - Can they be extended or renewed abroad?
- ▶ Are refugees required to apply for an exit visa to leave, and a re-entry visa to return to the host country?
- ▶ Do national institutions need support in issuing identification and travel documents? If so, what kind of support?

4. Security from Violence and Exploitation



Congolese refugees (DRC) playing in Kala Camp, Kawambwa, Zambia.

Protection includes being safe from acts of violence, abuse and exploitation. A secure environment is one where risks associated with armed conflict are limited, adequate law enforcement mechanisms are accessible, community security management systems are in place, and action is taken to prevent and respond to instances of violence and exploitation of women and children.

4.1 Effect of armed conflict

- ▶ Are all camps/settlements located at a safe distance from borders (e.g. at least 50km away)?
 - Are there risks of infiltration by armed factions and cross-border attacks?
- ▶ Are combatants disarmed and separated from the population of concern?
 - Are officials trained to correctly identify such persons at the point of entry (e.g. from clothing or statements made)?
 - Does UNHCR turn over armed persons to local authorities, and if so under what agreement?
- ▶ Are there reports of forced recruitment, solicitation of funds, appropriation of relief goods, and other forms of support for armed groups?
 - If so, what groups are involved (e.g. rebels, government) and what members of the refugee and or asylum-seeker population are targeted (e.g. gender and age groups)?
 - Are these groups supported by the people they approach?
 - How does this support manifest itself?
 - How are reports of such support verified and dealt with?
 - Are there reasons (other than forced recruitment) why girls and boys would join armed groups?
- ▶ Are there any special programmes in place to disarm, demobilize and reintegrate or rehabilitate children associated with armed forces and groups?
 - Are they equally available to girls and boys and address their specific needs?
- ▶ Are there mines or explosive remnants of war (EWR) in the territory of concern?
 - If so, are specific groups of refugees (e.g. women collecting firewood) particularly affected?
 - Are actions being undertaken to prevent mine or EWR-related incidents (e.g. survey conducted, marking of risk areas, removal of mines or EWRs)?
 - Are mine risk education sessions being conducted for refugees? Do they include the host community?

“States to take concrete measures to reduce the risk of and, to the extent possible, prevent the forcible recruitment of refugees, in particular refugee children, including by ensuring access to education and vocational training.”

AfP Goal 4, Objective 3

4.2 Law enforcement

- ▶ Is security in hosting areas integrated into the national security apparatus?
- ▶ Are there government law enforcement mechanisms in place in areas hosting refugee settlements and camps? If so, describe them.
 - Are law enforcement personnel trained in fundamental protection principles, including in women's and children's rights and sexual and gender-based violence prevention and response?
 - Do they wear badges to enable community members to identify them individually and report any problems?
 - Can they be easily alerted to security concerns/incidents? If not, why not?
 - What proportion of law enforcement personnel are women?
- ▶ Are there any security patrols?
 - Do they provide effective protection to women and children?
- ▶ Is there reliable data on the number of known incidents of persons of concern killed and/or wounded (excluding those from natural causes or from physical deprivation)?
 - What are the reasons behind such events?
 - Who are the main perpetrators of violence?
- ▶ Is there any reason why refugees and asylum-seekers may be unwilling to approach law enforcement personnel?
 - Are they perceived as being corrupt or unwilling to protect?
 - Are there any risks involved?
 - Is protection and prosecution for crimes against some groups less than for others (e.g. depending on ethnicity, religion, age, gender, political opinion)?
- ▶ How do refugees perceive law enforcement agents?
- ▶ How can law enforcement capacities be improved?

4.3 Community security management system

- ▶ Are there community-based security arrangements (e.g. neighbourhood watch schemes, self-defence units, patrols)?
 - If yes, are they organized as part of the camp management system?
 - What role do women play in them?
- ▶ Have security considerations been taken into account in the design of the centres (e.g. lighting; housing; placement of communal centres/services)?
- ▶ Are refugees and asylum-seekers exposed to risks as they seek access to food, water or other items?
 - Are these risks elevated for those with specific needs (children, women, older persons, and persons with disabilities)?

4.4 Sexual and gender-based violence


- ▶ Are refugee or asylum-seeker women, girls, men and boys subject to sexual and gender-based violence (SGBV)? If so,
 - Which types of incidents and who are the alleged perpetrators?
 - Where do most SGBV incidents take place and who is most targeted?
 - Do refugees or asylum-seekers face more or different risks compared to the rest of the population?
- ▶ What is the minimum age of sexual consent?
- ▶ Are the following recognized in law as criminal offences:
 - Rape, sexual abuse and exploitation, sexual harassment, trafficking, forced prostitution and domestic violence (regardless of the victim's gender)?
 - Forced marriage, female genital mutilation and other harmful traditional practices?
- ▶ Describe any existing national or regional programmes to prevent and combat SGBV and how effective they are.

“States, UNHCR and other partners to put in place or mobilize community-based systems and networks, including in particular for the protection of women and children, at the outset of the emergency phase through to the attainment of durable solutions.”

AfP Goal 3, Objective 4

“States, UNHCR and other relevant actors to adopt measures to ensure that gender and age-sensitive prevention and response mechanisms, including remedial actions, to sexual and gender-based violence and exploitation, including a complaints mechanism and an appropriate staff accountability framework, are an integral part of all programmes in all refugee contexts, and include relevant educational and awareness-building programmes targeting men, women and children.”

AfP Goal 4, Objective 4

- 
- ▶ Are training and awareness-raising exercises on SGBV provided to women and men, boys and girls?
 - Are government officials and humanitarian personnel provided with similar training?
 - How effective are these training courses?
 - ▶ What mechanisms are in place to identify and monitor persons at particular risk to SGBV?
 - ▶ What support is provided to SGBV survivors, particularly with respect to:
 - Physical safety?
 - Medical support?
 - Psychosocial support?
 - Legal counselling and access to justice?
 - ▶ Are there obstacles in accessing this support? If so, what are they?
 - Are they related to traditional or cultural norms and practices?
 - Are some groups disproportionately affected because of their gender, ethnic background, nationality, etc.?
 - ▶ What longer-term solutions are available to SGBV survivors?
 - ▶ What could be done to improve SGBV prevention and response at the local authority and community level?

4.5 Protection of children

- ▶ Briefly describe the legal framework to protect children, including:
 - The age when majority is attained (including for military recruitment and civic rights);
 - Any major shortcomings of the legal framework.
- ▶ What government and community mechanisms are in place for the welfare of refugee boys and girls? Are they sufficient to:
 - Monitor security and well-being of refugee boys and girls?
 - Effectively respond to child protection risks and incidents?
 - Provide appropriate follow-up and support to children and families?
 - Include assistance to children with mental and/or physical disabilities?
- ▶ Where contested, how is the age of a child who claims to be under 18 years of age determined?
- ▶ What other forms of violence (not covered in previous chapters) are refugee boys and girls subject to?

- Are they exposed to more or different forms of violence than other children?
- ▶ Do workers dealing with refugee children have the necessary knowledge and skills to deal with child protection issues?
 - Are they required to sign a code of conduct to help ensure appropriate behaviour and prevent abuse?
- ▶ Are there effective channels for children to report abuse?
 - Are children made aware of their rights and the means that are available to report abuse?

Unaccompanied and separated children

- ▶ What proportion of refugee and asylum-seeking boys and girls are unaccompanied and/or separated?
- ▶ What measures are in place to cater to the specific needs of unaccompanied and separated children including for:
 - Identification, registration and documentation?
 - Guardianship?
 - Care and monitoring?
 - Tracing, verification of family relationship and family reunification?
 - Best interests determinations to identify appropriate durable solutions?

Child labour

- ▶ What is the minimum age children are allowed to work?
- ▶ Are boys and girls compelled to carry out work that is hazardous, interferes with their education, or is otherwise harmful to their health or development?
 - What measures are in place to minimize and address these risks?
 - What role do central and local authorities play in reducing these risks?
 - What support does the community say it needs to address the problem of child labour?
- ▶ Do displaced children enjoy the right to rest and leisure?
 - Do they have access to recreational activities and sport facilities?
 - Are boys and girls involved in the development of child-friendly programmes?

5. Freedom of Movement and Access to Legal Remedies



UNHCR officers, in order to provide proper information to the refugees considering repatriation, visit all the legal infrastructures in the area (here talking with court lawyers and judge) and check with them the reality of reintegration once they are back. Foya, Liberia.

Protection includes the freedom to move freely within the host territory and not being arbitrarily deprived of liberty. A just environment is one which provides access to fair and timely legal remedies without discrimination.

5.1 Freedom of movement

- ▶ What law or regulation governs the movement of refugees and asylum-seekers?
 - Which authority administers it?
- ▶ Are there restrictions on the freedom to move within the territory and/or to choose the place of residence? If so;
 - What are the restrictions?
 - Do they apply to other non-nationals?
 - Are these restrictions necessary to protect national security or public order?
- ▶ If refugees and/or asylum-seekers are confined to restricted areas:
 - Where are these located?
 - Is such confinement time-limited or indefinite?
 - What is the rationale?
 - Must permission be granted to leave such areas? Are there obstacles to obtaining it?
- ▶ What are the consequences of restricted movement (e.g. access to employment, land, markets), and do they impact differently on women, men and/or different age groups?
 - Are efforts made to advocate for the freedom of movement of refugees and asylum-seekers?

5.2 Non-arbitrary detention

- ▶ Are refugees and asylum-seekers arbitrarily arrested and detained for entry-related offences (such as lack of papers or visas, or irregular border crossing), or for other criminal offences?
 - By whom?
 - Is there reliable data available on the number of people being detained and why they are in detention? Is this data disaggregated by gender and age?
 - Are efforts made to report these detentions? If so, how and to whom?

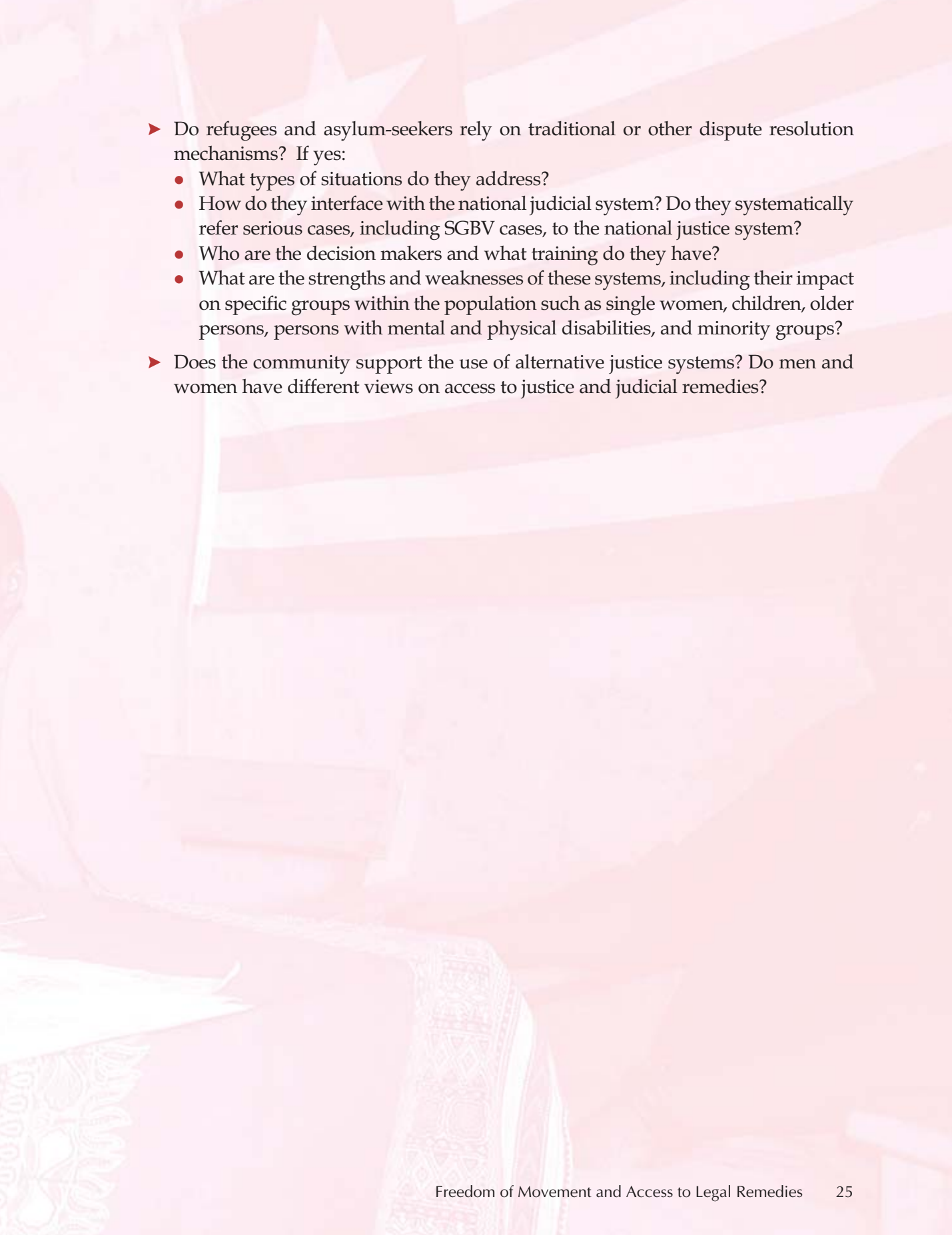
“States more concerted to explore appropriate alternatives to the detention of asylum-seekers and refugees, and to abstain, in principle, from detaining children.”

AfP Goal 1, Objective 9

- ▶ Are refugees and asylum-seekers who are detained promptly:
 - Informed of reason of arrest in a language they understand?
 - Brought before a judicial authority for review ?
 - Allowed to correspond and receive visits?
 - Provided access to a lawyer and given free legal assistance?
- ▶ Are detention facilities (including those in camps/ settlements) able to ensure that:
 - Detainees are not subject to torture, inhuman or degrading treatment?
 - Women and children are detained separately from men (except for families) ?
 - Those suspected of entry-related offences are separated from criminal offenders?
 - Necessary assistance and services are provided (e.g. food, sanitary and health services)?
- ▶ What support is needed to improve detention conditions?
- ▶ Are children exempt from detention for entry-related offences and are they detained for criminal offences as a last resort?
 - Are viable alternatives to detention available or used for children?
- ▶ Is the detention of refugees and asylum-seekers monitored?
 - If so, by whom?
 - Is access to detainees by UNHCR and NGOs assured?

5.3 Access to legal remedies

- ▶ Are refugees and asylum-seekers equal before the law and are they entitled without discrimination to equal legal protection?
- ▶ In practice, do they have effective remedies by the competent national tribunals for acts violating their rights including:
 - Free access to justice and the courts?
 - Legal aid?
 - Hearings before impartial and trained decision-makers?
 - Procedures explained and interpretation in a language they understand?
- ▶ Where these protections are not available, explain why:
 - How has the absence of legal protections impacted refugees and asylum-seekers?
 - Is there any difference in the ability of women, children, older persons, ethnic, or other groups to access effective remedies?

- 
- ▶ Do refugees and asylum-seekers rely on traditional or other dispute resolution mechanisms? If yes:
 - What types of situations do they address?
 - How do they interface with the national judicial system? Do they systematically refer serious cases, including SGBV cases, to the national justice system?
 - Who are the decision makers and what training do they have?
 - What are the strengths and weaknesses of these systems, including their impact on specific groups within the population such as single women, children, older persons, persons with mental and physical disabilities, and minority groups?
 - ▶ Does the community support the use of alternative justice systems? Do men and women have different views on access to justice and judicial remedies?

6. Basic Needs and Essential Services



Iraqi refugee children being read stories at UNHCR funded community center in Sayyida Zeinab district of Damascus, Syria.

In addition to security from violence, protection also involves safeguarding other fundamental rights. This includes ensuring the availability of adequate shelter, clean water and sanitation, sufficient food to maintain good health, primary health care and education.

6.1 Food security

- ▶ Is there accurate information on key food security indicators such as:
 - Malnutrition rates, micronutrient deficiencies, and the percentage of the population with fewer than the standard number of meals per day?
- ▶ Is assistance provided to all refugees and asylum-seekers who cannot earn a living by their own means?
 - What mechanisms are in place to ensure equal access to food (i.e. outreach distributions, delivery system monitoring, post-distribution monitoring)?
 - Is special attention paid to those with specific needs, (i.e. children aged under 5, single women, nursing women, women heads of household, older single persons, grandparents and persons with disabilities)?
- ▶ What problems do communities report related to access to food and essential services?
 - What do they propose to overcome these problems?
- ▶ Is food provided in a way that does not adversely affect local producers and markets?

6.2 Water and sanitation

- ▶ Do refugees and asylum-seekers have access to sufficient quantities of potable water for drinking, cooking, sanitation and health services?
- ▶ Is scarcity of water, or access to water a concern for the refugee community and/or the host community?
 - If so, what is being done to resolve the problems?
 - Are the opinions and concerns of the refugee and asylum-seeker community, particularly women and groups with specific needs, taken into account in the design, location, and management of water and sanitation systems? If so how?
- ▶ Do camps or settlements have adequate sanitary systems? (e.g. latrines per family, waste control management, vector control)?
 - Do sanitation management committees include refugees (men and women of different ages and circumstances)?
 - Are awareness-raising campaigns carried out to promote hygiene, sanitation, and water conservation?
 - Is technical training provided to maintain water and sanitation systems?

6.3 Shelter

- ▶ Do refugees and asylum-seekers have housing that provides:
 - Protection against the elements, including adequate heating?
 - Sufficient space for basic household activities?
 - Essential non-food items, including fuel for cooking?
 - Family unity and privacy?
 - Reasonable proximity to essential services?
 - Accommodation that takes into account the asylum-seekers' and/or refugees' circumstances (e.g. single women, women heads of household, older single persons, grandparents and persons with disabilities); recreational space available for children?
- ▶ Do refugees and asylum-seekers face obstacles in securing adequate housing?
 - Are these obstacles greater than those faced by local populations?
 - What solutions do they also propose to overcome these obstacles?
- ▶ Are refugees and asylum-seekers subject to forced evictions?
 - If so, are these unlawful, arbitrary or otherwise discriminatory?

6.4 Basic domestic and hygiene items

- ▶ Do refugees and asylum-seekers have adequate clothing and other non-food items (e.g. cooking fuel, blankets, soap, mosquito nets and sanitary materials)?
 - Does the lack of adequate clothing and/or other personal items lead to protection risks (e.g. harassment, access to education, access to health services)?
- ▶ How are basic domestic and personal needs assessed and how often?
 - Does assessment of basic needs take into account specific circumstances (e.g. single women, women heads of household, older single persons, grandparents and persons with disabilities)?

6.5 Health care

- ▶ Do refugees and asylum-seekers have access to primary curative and preventative health-care services?
 - Are local authorities involved in provision and delivery of services?
 - Are non-governmental health services for refugees available to host communities?
- ▶ Do public health services provide:
 - Emergency services?
 - Psychological services?
 - Reproductive health services and family planning?
 - Immunizations and vaccinations?

- Treatment for chronic medical conditions?
- Post-rape medical care and treatment (e.g. prophylaxis for sexually-transmitted infections, emergency contraceptives within 120 hours of incident and HIV post exposure prophylaxis within 72 hours after incident)?
- ▶ Are there obstacles to accessing health services (e.g. insufficient number of care providers overall and insufficient numbers of female staff, sub-standard care, charges for health-care services, language barriers)?
 - Are health services equally available to women and men?
- ▶ What are the main health problems affecting the population of concern?
 - Are they different from those in host communities?
 - How are these known and recorded?
 - What is/are their principal cause(s)?
- ▶ What impact do the available health services have on reducing these problems?
- ▶ Are there health education services for refugee men, women and children? If yes do these include training to:
 - Prevent and control major diseases such as malaria, tuberculosis, cholera, etc.?
 - Improve hygiene and sanitation?
 - Raise awareness of reproductive health?
- ▶ Can refugees be employed as health workers and their skills capitalized on?

6.6 HIV / AIDS

- ▶ Do refugees and asylum-seekers living with or concerned about HIV/AIDS have access to:
 - Voluntary HIV/AIDS testing and counselling programmes on a non-discriminatory basis?
 - National health care services and treatment protocols (including anti-retroviral treatment; provision of condoms and training) on an equal basis with nationals?
- ▶ What care is provided to children living with HIV/AIDS and is it sufficient?
- ▶ Are those living with, or suspected of living with HIV/AIDS discriminated against in the enjoyment of their rights (including refoulement, expulsion, denial of access to asylum, employment, housing, other civil disabilities)?
 - Are refugees and asylum-seekers arbitrarily subjected to compulsory HIV/AIDS tests?

6.7 Primary and secondary education

“States to accord importance to primary and secondary education for refugees, including by providing funding to host States and UNHCR, in recognition that education is an important tool of protection.”

AfP Goal 6, Objective 2

- ▶ Do the national laws and education institutions address the education rights and needs of refugees and asylum-seekers?
- ▶ Do refugee and asylum-seeking children have equal access to free primary education?
 - Is it compulsory?
 - Is the quality the same as that provided to the local population?
 - Are there fees for enrolment, school books, materials and uniforms?
- ▶ Are there pre-school or day-care centres provided for refugee and asylum-seeker boys and girls?
- ▶ Is secondary education, including technical and vocational education, generally available and accessible to refugees and asylum-seekers?
 - If not, why not?
- ▶ What is the percentage of children of concern aged between 5-17 years old that are enrolled in primary and lower secondary education?
 - What percentage of children successfully completed the school year?
 - Are girls disproportionately represented in drop-out rates?
- ▶ Are there any formal or practical obstacles to school enrolment and/or completion? Do they relate to:
 - Lack of materials, fees; uniforms, clothing, school supplies?
 - Risks en route to school and/or risks of harassment and violence in the schools by staff or other students?
 - Documentation that is difficult for refugees and asylum-seekers to obtain,
 - Language?
 - Quality of teaching, class size? and/or
 - Lack of community support for education?
- ▶ How do these obstacles impact on girls and boys?

- ▶ In cases where refugees and asylum-seekers attend separate schools:
 - Are they part of the national system and is the diploma officially recognized by the State?
 - Are community members represented in the school management?
 - Are teachers qualified and well-trained and how is the quality of instruction monitored?
 - Are class sizes reasonable and are there sufficient textbooks and school supplies?
- ▶ Are the educational needs of children with specific needs addressed (e.g. boys and girls with disabilities, former child soldiers, children formerly associated with armed forces and groups)?
 - If so, by whom?
 - What are the remaining gaps?

6.8 Higher education, language and vocational training

- ▶ Do refugees have access to higher education, language and vocational training?
 - Are such opportunities equitably available to men, women and youth?
- ▶ What vocational training is currently available?
 - Who provides it?
 - How effective is it in enhancing self-reliance?
 - Does it equip refugees with marketable skills needed in the host community?
- ▶ Do refugees participate in the design and development of vocational training programmes?
- ▶ Is there a demonstrable need for language training of refugees and asylum-seekers to enable them to communicate in the language of the host country?
 - Are language courses offered at the earliest opportunity?
 - Who offers such courses?
 - What are the obstacles to accessing language training?

“States to consider expanding possibilities for education, vocational training, and agricultural and other incomegenerating programmes, benefiting men and women equitably.”

AfP Goal 5, Objective 7

7. Community Participation, Self-Management and Self-Reliance



A small Rohingya-run shop in Cox's Bazar district, Bangladesh.

Community participation is an important protection tool as it helps to enable refugees and asylum-seekers to live constructive and dignified lives, while at the same time enhancing the sustainability of any future durable solution, and reducing their overall vulnerability to protection risks.

7.1 Rights and responsibilities

- ▶ Are refugees and asylum-seekers provided information on their rights and responsibilities in a language they understand?
 - If so, who provides it and how is it disseminated?
 - Are there measures to ensure it is received by women, children and the most marginalized?
- ▶ Do refugees and asylum-seekers take part in developing and communicating the information?
- ▶ Are they informed of changes in the quantity, type or method of services and assistance affecting them?

7.2 Participatory assessment and community mobilisation

- ▶ Are women, girls, boys and men of diverse ages and backgrounds engaged in regular, structured dialogues to hear their views and their proposed solutions?
 - How are these dialogues conducted, by whom, how often, and who takes part?
 - Are the findings incorporated into the planning processes? If so how?
- ▶ Are refugees, asylum-seekers, relevant government authorities and humanitarian workers trained in participatory mechanisms and assessments?
- ▶ Are community-based committees involved in managing refugee affairs? If so;
 - How are members selected to these committees (i.e. is it through frequent and fair elections, appointments, traditional or other mechanisms)?
 - Is gender parity, ethnic and age diversity reflected in these committees? If not, why not?
- ▶ Are leaders and committees recognized by the refugee community, local authorities and other partners as legitimate interlocutors?

- ▶ How do refugees participate in the planning and management of services in refugee camps and settlements?
 - Are the roles of the camp management and coordination defined and agreed in consultation with the refugee community and their representatives?
 - Are women and men (including adolescent girls and boys) equally involved in decision-making?
- ▶ Do communities report insufficient participation?
 - If so, what solutions do they propose to overcome these problems?
- ▶ Are adequate facilities provided to meet the recreational and cultural needs of refugees and asylum-seekers?
- ▶ Do national laws allow refugees and asylum-seekers to freely practice their own religion and cultural practices without fear of discrimination?
 - Are they able to establish places of worship, or access facilities where they can freely practice their religion?
- ▶ Do refugees and asylum-seekers have the right to form and join non-political and non-profit making organizations on the same level as other non-nationals?

7.3 Self-reliance and livelihoods

- ▶ Have any studies been carried out on the:
 - Socio-economic profile of refugees and asylum-seekers?
 - Their economic and social impact on local communities?
 - The types of work and employment opportunities that exist for them?
 - The skills training needed to seize such opportunities?
- ▶ Have livelihood strategies been developed?
 - If so:
 - By whom?
 - Have they been done in collaboration with persons of concern and partners?
 - Do they take into account age, gender and diversity? (e.g. address the needs of specific groups such as single women, women heads of household, older single persons, youth, and persons with disabilities?)
- ▶ What problems do communities report regarding developing and sustaining livelihood/self reliance strategies?
 - What do they suggest to overcome these problems?

“UNHCR and States to ensure that, from the outset, assistance programmes for refugees integrate strategies for self-reliance and empowerment. In this regard, UNHCR to act as a catalyst in mobilizing financial and technical support for such measures.”

AfP Goal 5, Objective 7

7.4 Trade and self-employment

- ▶ Are refugees and asylum-seekers able to lawfully engage in trade and self-employment?
 - If not, why not?
 - What restrictions are applicable and do they apply to other non-nationals?
 - What are the consequences of such restrictions?
- ▶ Do refugees and asylum-seekers have access to programmes to support them to start small businesses (e.g. grants, loans, business development services, technical assistance)? If not, why not?
 - If such programmes exist, do they benefit women and men equally?
 - Who administers and funds such programmes?
 - Have they been evaluated for their success?
- ▶ For those living in camps/settlements, do they have access to productive arable land and markets?
 - If not, why not?
 - If there is access to productive arable land, is there also access to essentials such as tools, seeds and fertilizer?
 - Does the local community accept the presence of refugees or asylum-seekers in the market place? If not, what impact does this have on the ability of refugees and asylum-seekers to engage in trade?

7.5 Wage-earning employment

- ▶ Are refugees and asylum-seekers entitled to wage-earning employment (in the formal and informal sectors)?
 - If restrictions are applied, what are they and what are the reasons for their imposition?
 - Are they imposed on other non-nationals?
 - Are they waived for recognized refugees who have completed 3 years of residence or who are the spouse or parent of a national?
 - Are there other barriers that prevent refugees and asylum-seekers from enjoying employment rights (e.g. work permits, identity/residence cards, quotas, freedom of movement)?
- ▶ What are the consequences for refugees and asylum-seekers of such restrictions?

7.6 Social security and just and favourable conditions of work

- ▶ Do refugees and asylum-seekers benefit from laws and/or regulations governing social security (e.g. unemployment insurance, old age and disability benefits) and employment standards (e.g. remuneration, hours of work, health and safety)?
 - If so, do they receive the same treatment as nationals?
 - If not, what are the consequences for them? Is the impact different for certain groups on the basis of age, gender, or other category?

7.7 Recognition of foreign diplomas

- ▶ Are procedures in place whereby refugees and asylum-seekers can apply to have their educational and professional diplomas recognized?
 - Are decisions on qualifications made by an impartial and competent authority according to set criteria?
 - Are qualifications reviewed on the same basis as other non-nationals?
 - Do refugees and asylum-seekers face obstacles in having their qualifications recognized?

7.8 Right to own property

- ▶ Do refugees and asylum-seekers have the right to acquire and to own movable and immovable property?
 - If restrictions apply are they the same as those for other non-nationals?
 - What are the consequences of such restrictions?
 - Are women, older persons, or other groups disproportionately impacted?
- ▶ Do refugees and asylum-seekers have to pay higher property taxes or charges than nationals?

8. Opportunities for Durable Solutions



Over two hundred families have set up base in a returnee settlement in Mazar-i-Sharif northern Afghanistan.

Durable solutions enable those who have been displaced to lead safe and productive lives once again. Achieving them requires resolute and sustained international cooperation and support, and is best approached in a comprehensive manner that promotes the most appropriate mix of solutions in a given situation.

8.1 Durable solutions strategy

- ▶ Are different durable solutions engaged in a comprehensive and complementary manner?
- ▶ Are profiling exercises undertaken to determine the most appropriate durable solution? By whom and of whom? Does profiling include:
 - Demographic and socio-economic profiles of the refugee population (including gender, age and ethnic group)?
 - Areas of origin and preferred destinations in case of eventual return?
 - Vocational background?
 - Groups with specific needs?
 - A best interest determination for unaccompanied and separated children?
- ▶ What does such profiling reveal?
- ▶ Is a comprehensive strategy being applied to a particular refugee or asylum-seeker group or area?
 - If not, why not?
- ▶ Are donor countries, resettlement countries and countries in the region involved in efforts to find durable solutions?
- ▶ Are there mechanisms established with the local authorities to assist refugees who may have difficulties in establishing their identity and/or nationality?

8.2 Voluntary return

- ▶ Has a thorough assessment been made of developments conducive to return, including absorption capacity in areas of potential return?
 - Are refugee and/or asylum-seeker communities involved in the assessment and in defining the information that they require?
 - Is information collected in a standardized manner?
 - Is the database on conditions in the country of origin regularly updated?
- ▶ Do conditions in the country of origin favour return in safety and dignity?
 - If not, what are the obstacles?
 - Are refugees nevertheless choosing to return?
 - What is their motivation for doing so?

- ▶ Is UNHCR facilitating or promoting return?
- ▶ Is there a tripartite agreement between host country/country of origin/UNHCR concerning:
 - Security en route, reception, protection without recrimination?
 - Access to documentation, appropriate amnesties, property restitution?
 - Cross-sectoral programmes, assistance, rehabilitation programmes?
 - Peace and reconciliation processes?
- ▶ Are these elements in place?
- ▶ Have appropriate commissions been established to ensure the implementation of the agreement?
 - Do they take into account the views of women?
- ▶ Are information sessions provided for refugee and/or asylum-seeker communities to increase awareness on conditions in country of origin and to their rights upon return (i.e. right to property and/or land)?
 - Have host countries established gender and age-sensitive counselling/information networks?
 - Have go-and-see assessment visits for refugee men, women and adolescent girls and boys been organized?
 - Do adult refugee women sign the Voluntary Repatriation Form separately to ensure their voluntariness, and are they provided counselling services?

“Countries of origin, working in cooperation with UNHCR and relevant partners, including OHCHR, to commit themselves to respecting the right to return and receiving back their refugees within an acceptable framework of physical, legal and material safety, achievable, for example, through amnesties, human rights guarantees, and measures to enable the restitution of property, all of which should be appropriately communicated to refugees.”

AfP Goal 5, Objective 2

Return modalities

- ▶ Are measures in place to ensure safe and dignified return travel, in particular for groups with specific needs, such as women, children and older persons?
 - Are social welfare services provided to unaccompanied and separated children? Are special measures in place for their reception?
 - Do they include measures to ensure their health, personal effects, documentation, security and transport?
- ▶ What measures are in place to sensitize and prepare the communities to which refugees will eventually be returning?
- ▶ Is returnee monitoring undertaken and are other agencies involved? Are cross-border coordination mechanisms established?
 - Is information collected in a standardized manner and dissemination provided?

- Are refugee and/or asylum-seeker communities involved in the monitoring of their own return?
- ▶ Are return packages provided? If so what do these consist of?
- ▶ Does the planning for repatriation include the early involvement of development partners?

Rehabilitation and reintegration support

- ▶ What are the obstacles to reintegration?
 - What obstacles have returnees reported, and what proposals have been presented to overcome these problems?
- ▶ Have national authorities taken measures to establish the conditions and provide the means to make reintegration and peaceful development sustainable?
 - Are there partnerships with other multilateral and bilateral actors to assist in this?
- ▶ What measures are in place to ensure that returning refugee women and children benefit equally on return?
- ▶ Do local communities and returnees benefit from community-based projects aimed at increasing absorption capacity and facilitating reconciliation?
- ▶ What remedies exist for restitution or compensation for land, housing and property of which refugees have been arbitrarily or unlawfully deprived in their country of origin?
- ▶ Can returnees access rights to civil documentation in the place of return?

8.3 Resettlement

- ▶ Is resettlement fully integrated into a comprehensive protection and durable solutions strategy? If not, why not?
 - Does resettlement impact on asylum flows, and if so, how?
- ▶ What mechanisms are in place to determine resettlement needs?
 - Are refugee and asylum-seeker communities involved in the identification of those in need of resettlement?
- ▶ Does the UNHCR Representation have a written resettlement strategy? Does it have resettlement Standard Operating Procedures?
 - Are women at risk taken into account in the strategy? If not, why not?
- ▶ Who is responsible for pre-departure and departure arrangements, such as medical examinations and follow-up, cultural orientation courses, transportation and ticketing, exit clearances with host country, visas and transit visas, transport to airport?
 - Do medical screenings and medical pre-departure preparations proceed smoothly? If not, why not?

- Is it easy to obtain necessary travel documents and visas? If not, what are the obstacles?

Capacity

- ▶ Is the UNHCR Representation able to meet identified resettlement needs?
 - If not, why not (e.g. resource constraints, restrictions imposed by host state, resettlement country admissibility criteria that exclude certain groups)?
- ▶ How many refugees are resettled annually? What proportion of the total are those with specific needs?
- ▶ Is cultural orientation and integration support provided to refugees accepted for resettlement?
- ▶ Does resettlement impact the refugee community not resettled? If so, how?
- ▶ Are information campaigns provided to refugees on the resettlement programme?
- ▶ Has a fraud prevention strategy been rolled out?

8.4 Local integration

- ▶ Does the government allow the local integration of refugees and asylum-seekers?
 - If so, on what legal or policy basis?
 - Are forms of secure and durable residency available to refugees? If so, what are the conditions and procedures applicable?
 - Are refugees who have been allowed to integrate into the local community given any additional support (e.g. induction, orientation and language courses)?
 - Is the local integration process monitored on a regular basis?
- ▶ If refugees are not allowed to integrate locally, indicate why not.
- ▶ What difficulties do communities report with regard to the local integration process?
 - What do they suggest to overcome these problems?

Naturalization and citizenship

- ▶ Does the government facilitate the naturalization of refugees?
 - What is the naturalization procedure?
 - What obstacles to the acquisition of citizenship do refugees report?

“States to examine where, when and how to promote the grant of a secure legal status and residence rights, which could include the opportunity to become naturalized citizens of the country of asylum, for refugees who have already attained a considerable degree of socio-economic integration.”

AfP Goal 5, Objective 4

Annex Selective Authoritative Sources and Guidance



School director Adam Djouma Youssef transports the black board to one of the class rooms of Djabal camp, eastern Chad.

As human rights law is constantly evolving, and this list is selective only, readers are advised to check for new developments. RefWorld, published by the UNHCR is available on the Internet at <http://www.refworld.org>. RefWorld is a valuable resource for comprehensive information on refugees and human rights.

1. Favourable Protection Environment

1.1 Demographic profile

UNHCR Manual, UNHCR, 2005, Chapter 4, sec. 3.2, (5), para. 5.4

[B]uilding upon the individual data, accurate and up-to-date statistics are made available on the number of persons per status (refugees, asylum-seekers, returnees, others of concern) of each sex and age group ... at each established location or site. Furthermore, at the field operational level, a comprehensive and up-to-date statistical profile of the population encompassing all the information gathered on individuals and households is required to be available to UNHCR and all designated partners in the operation.

See also

- CRC, General Comment No. 6, section VII(b), paras. 98-99
- 1951 Refugee Convention, Article 35
- ExCom Conclusion, No. 91 (LII) 2001 Registration of Refugees and Asylum-Seekers
- Practical Guide to the Systematic Use of Standards and Indicators in UNHCR Operations, UNHCR, 2006
- UNHCR Handbook for Registration, UNHCR, 2003
- Handbook for Emergencies, UNHCR, 2001
- Statistical Information Reports published annually by UNHCR on individual countries, available on <http://www.unhcr.org/>

1.2 International and regional instruments

International instruments

Refugees and stateless persons

- Statute of the Office of the United Nations High Commissioner for Refugees, 1950 (UNHCR Statute)
- Convention relating to the Status of Refugees, 1951 (1951 Refugee Convention)
- Protocol to the Convention relating to the Status of Refugees, 1967 (1967 Protocol)
- Convention on the Reduction of Statelessness, 1961
- Convention relating to the Status of Stateless Persons, 1954

Human rights

- Universal Declaration of Human Rights, 1948 (UDHR)
- Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962
- International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (ICERD)
- International Covenant on Civil and Political Rights, 1966 (ICCPR)
- Optional Protocol to the International Covenant on Civil and Political Rights, 1966
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the Abolition of the Death Penalty, 1989
- International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR)
- Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW)
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 1999
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 (CAT)
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2002
- Convention on the Rights of the Child, 1989 (CRC)
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 2000
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990
- Declaration on the Elimination of Violence Against Women, 1993

International humanitarian law

- Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 1949
- Protocol Additional to the Geneva Conventions of 12 August 1949 and, relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1977
- Protocol Additional to the Geneva Conventions of 12 August 1949 and, relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1977
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), 2005

International criminal law

- Rome Statute of the International Criminal Court, 1998
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol of 2003), 2003
- Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol of 2004), 2004

Regional instruments

Refugees

- Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, adopted, 1969 (OAU Convention)
- Cartagena Declaration on Refugees, 1984 (Cartagena Declaration)
- Cairo Declaration on the Protection of Refugees and Displaced Persons in the Arab World, 1992
- Bangkok Principles on the Status and Treatment of Refugees, 1966, updated 2001

Human rights

- African Charter on Human and Peoples' Rights, 1981
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003
- Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights
- African Charter on the Rights and Welfare of the Child, 1990
- American Convention on Human Rights, "Pact of San Jose, Costa Rica", 1969
- Protocol to the American Convention on Human Rights to Abolish the Death Penalty, 1998
- Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, "Protocol of San Salvador", 1988
- Andean Charter for the Promotion and Protection of Human Rights, 2002
- Arab Charter on Human Rights, 1994
- Cairo Declaration on Human Rights in Islam, 1990
- Charter of Fundamental Rights of the European Union, 2000
- European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950 and its Protocols

1.3-4 National legal and administrative framework

ExCom Conclusion, No. 81 (XLVIII) 1997 General Conclusion on International Protection

(d) [R]efugee protection is primarily the responsibility of States and ... UNHCR's mandated role in this regard cannot substitute for effective action, political will, and full cooperation on the part of States. ...

See also

- ICESCR, Article 2(1)
- CRC, Articles 2, 22, 41(b) and General Comment No. 6, paras. 12-17, 64-67
- 1951 Convention, Articles 3, 35-36
- 1967 Protocol, Article III
- ExCom Conclusions:
 - No. 103 (LVI) 2005 Provision of International Protection Including Through Complementary Protection
 - No. 92 (LIII) 2002 General Conclusion on International Protection, para. (a)
 - No. 85 (XLIX) 1998 International Protection, para. (x)
 - No. 42 (XXXVII) 1986 Accession to International Instruments and Their Implementation
- Agenda for Protection, A/AC.96/965/Add.1, 26 June 2002
Goal 1, Objective 1: Universal accession to the 1951 Convention and 1967 Protocol

1.5 National and regional migration policy

ExCom Conclusion, No. 85 (XLIX) 1998 International Protection, para. (y)-(bb)

(y) Emphasizes that outflows of people may include refugees and persons not in need of or not entitled to international protection and, therefore, notes that making a proper and careful differentiation between the two groups is of paramount importance for the identification of any protection needs which would make return inappropriate;

(z) Reaffirms the fundamental right of all people to leave and to return to their own countries, as well as the obligation of States to receive back their own nationals, and remains seriously concerned, as regards the return of persons not in need of international protection, that some countries continue to restrict the return of their nationals, either outright or through laws and practices which effectively block expeditious return. ...

See also

- 1951 Refugee Convention, Article I(A)(2)
- Cartagena Declaration, Article III(3)
- OAU Convention, Articles I(1), II(b)
- ExCom Conclusions:
 - No. 97 (LIV) 2003 Conclusion on Protection Safeguards in Interception Measures
 - No. 71 (XLIV) 1993 General Conclusion on International Protection, para. (j-1)
- Agenda for Protection Goal 2: Protecting refugees within broader migration movements
- Refugee Protection and Mixed Migration: A 10 Point Plan, UNHCR 2007

1.6 Partnerships

Charter of the United Nations, Article 1(3)

To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion. ...

See also

- CRC, Article 22(2) and General Comment No. 6
- 1951 Refugee Convention, Preamble
- ExCom Conclusion, No. 100 (LV) 2004 International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations
- Palermo Protocols, 2003 and 2004
- Agenda for Protection Goal 3: Sharing of burdens and responsibilities more equitably and building of capacities to receive and protect refugees.

1.7 National and regional development policies

ExCom Conclusion, No. 80 (XLVII) 1996 Comprehensive and Regional Approaches within a Protection Framework

e) Encourages States, in coordination and cooperation with each other, and with international organizations, if applicable, to consider the adoption of protection-based comprehensive approaches to particular problems of displacement, and identifies, as the principal elements of such approaches:

(v) support for long-term sustainable development

(vi) integration of developmental approaches into the relief stage by strengthening national capacities

See also

- Security Council resolution 1625, S/RES/1625, 14 September 2005
- General Assembly resolution “United Nations Millennium Declaration”, A/res/55/2, 8 September 2000
- ExCom Conclusion, No. 100 (LV) 2004 International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations, para. (l)(vi-vii)
- Agenda for Protection: Goal 3, Objective 5: Refugee issues anchored within national and regional and multilateral development agendas
- Handbook for Planning and Implementing Development Assistance for Refugees (DAR) Programmes, UNHCR, 2005

1.8 Public attitudes toward refugees

UDHR, Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

See also

- ICCPR, Articles 2, 4, 20(2), 26 and General Comment No. 18 (37th session) 1989
- CEDAW, Article 2
- ICERD, Articles 2, 4
- CRC, Article 2; General Comment No. 6, para. 18
- 1951 Refugee Convention, Preamble
- ExCom Conclusions:
 - No. 93 (LIII) 2002 Reception of Asylum-Seekers in the Context of Individual Asylum Systems, para. (b)(ix), (d)
 - No. 85 (XLIX) 1998 General Conclusion on International Protection, para. (g)
 - No. 80 (XLVII) 1996 Comprehensive and Regional Approaches within a Protection Framework, para. (e)(viii)
 - No. 77 (XLVI) 1995 General Conclusion on International Protection, para. (h)
- Agenda for Protection: Goal 1, Objective 8: Enhanced respect for refugees
- UNHCR Environmental Guidelines, UNHCR, 2005

1.9 Access to the territory

UDHR, Article 14(1)

Everyone has the right to seek and to enjoy in other countries asylum from persecution.

See also

- 1967 Protocol, Article II
- ICERD, Article 5(b),(d)(ii)
- 1951 Convention, Articles 31, 33, 35
- OAU Convention, Article 8(1)
- Cartagena Declaration, Article II(e)

- ExCom Conclusions:
 - No. 97 (LIV) 2003 Protection Safeguards in Interception Measures
 - No. 93 (LIII) 2002 Reception of Asylum-Seekers in the Context of Individual Asylum Systems, para. (b)(viii)
 - No. 82 (XLVIII) 1997 Safeguarding Asylum
 - No. 38 (XXXVI) 1985 Rescue of Asylum-Seekers in Distress at Sea
 - No. 33 (XXXV) 1984 General Conclusion on International Protection
 - No. 23 (XXXII) 1981 Problems Related to the Rescue of Asylum-Seekers in Distress at Sea
 - No. 22 (XXXII) 1981 Protection of Asylum-Seekers in Situations of Large-Scale Influx, para. III
 - No. 15 (XXX) 1979 Refugees without an Asylum Country
- Agenda for Protection Declaration of States Parties, Operative Paragraphs

1.10 Non-refoulement

1951 Refugee Convention, Article 33

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

See also

- CAT, Article 3
- Fourth Geneva Convention of 1949, Article 45, para. 4
- ICCPR, Articles 2, 6-7; General Comment No. 31, para. 12
- CRC, Article 38; Optional Protocol, Articles 3-4; General Comment No. 6, paras. 26-28, 58
- Cartagena Declaration, Article III(5)
- OAU Convention, Article 2
- ExCom Conclusions:
 - No. 82 (XLVIII) 1997 Safeguarding Asylum, para. (d)(i)
 - No. 22 (XXXIII) 1981 Protection of Asylum-Seekers in Situations of Large-Scale Influx, para. (A)(2)
- Agenda for Protection: Preamble, Declaration of States Parties
- Summary Conclusions - The principle of Non-Refoulement, Global Consultations on International Protection, Expert Roundtable 9-10 July 2001

2. Registration and Status Determination

2.1 Reception conditions

ExCom Conclusion No. 93 (LIII) 2002. Conclusion on reception of asylum-seekers in the context of individual asylum systems

(b) Recommends that the reception of asylum-seekers should be guided by the following general considerations:

- (i) ...respect human dignity and applicable international human rights law and standards;*
- (ii) access to the appropriate governmental and nongovernmental entities ... so that their basic support needs, including food, clothing, accommodation, and medical care, as well as respect for their privacy, are met;*
- (iii) Gender and age-sensitivity should be reflected in reception arrangements...*
- (iv) allow for the unity of the family as present within the territory,..*
- (v) both male and female asylum-seekers should be registered and be issued appropriate documentation ...*
- (viii) UNHCR should be given access to asylum-seekers ...*

- UDHR, Article 25
- CESCR, Article 2(2) and Article 11(1)
- ICCPR, Article 2(1)

See also

- ICESCR General Comment No. 3 (E/C.12/1990/SR)
- ExCom Conclusion No. 82 (XLVIII) 1997 Safeguarding Asylum
- Reception of Asylum-Seekers, Including Standards of Treatment, in the Context of Individual Asylum Systems, Global Consultations on International Protection/Third Track EC/GC/01/17 UNHCR 2001
- UNHCR, Reception Standards for Asylum Seekers in the European Union, 1 July 2000.

2.2 Registration and profiling

ExCom Conclusion No. 91 (LII) 2001 Registration of Refugees and Asylum-Seekers

Recommends that the registration of refugees and asylum-seekers should be guided by the following basic considerations:

- (i) [b]e a continuing process to record essential information at the time of initial displacement, as well as any subsequent ... changes;*
- (ii) [s]hould abide by the fundamental principles of confidentiality;*
- (iii) [e]asily accessible, and take place in a safe and secure location;*
- (iv) [c]onducted in a non-intimidating, non-threatening and impartial manner ...;*
- (v) Personnel conducting the registration ... be adequately trained, [... and]*

include a sufficient number of female staff. ...

(b) (vi) [R]efugees should be registered on an individual basis with the following basic information being recorded: identity document and number, photograph, name, sex, date of birth (or age), marital status, special protection and assistance needs, level of education, occupation (skills), household (family) size and composition, date of arrival, current location and place of origin. ...

See also

- ExCom Conclusions:
 - No. 93 (LIII) 2002 Reception of Asylum-Seekers in the Context of Individual Asylum Systems
 - No. 85 (XLIX) 1998 International Protection, para. (m)
- Agenda for Protection Goal 1, Objective 11: Better Registration and Documentation of Refugees
- Practical Aspects of Physical and Legal Protection with regard to Registration, Global Consultations on International Protection, EC/GC/01/6, 19 February 2001
- CRC General Comment No. 6, para. 31
- UNHCR Handbook for Registration, UNHCR, 2003
- Handbook for Emergencies, UNHCR, 2001

2.3 Access to asylum procedures

ExCom Conclusion, No. 71 (XLIV) 1993 General Conclusion on International Protection

(i) Reiterates the importance of establishing and ensuring access consistent with the 1951 Convention and the 1967 Protocol for all asylum-seekers to fair and efficient procedures for the determination of refugee status in order to ensure that refugees and other persons eligible for protection under international or national law are identified and granted protection... .

Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, UNHCR, reedited 1992, para. 44

Situations have also arisen in which entire groups have been displaced under circumstances indicating that members of the group could be considered individually as refugees. In such situations the need to provide assistance is often extremely urgent and it may not be possible for purely practical reasons to carry out an individual determination of refugee status for each member of the group. Recourse has therefore been had to so-called "group determination" of refugee status, whereby each member of the group is regarded prima facie (i.e. in the absence of evidence to the contrary) as a refugee.

See also

- Guidelines on International Protection Nos. 1-7 interpreting the Handbook on Procedures and Criteria for Determining Refugee Status, UNHCR, 2002-2006
- CRC General Comment No. 6, para. 73
- 1951 Refugee Convention, Article IA(2)
- Cartagena Declaration, Article III(3)
- OAU Convention, Article 1(1)
- Agenda for Protection Goal 1, Objective 10: More effective and predictable responses to mass influx situations
- Protection of Refugees in Mass Influx situations: Overall Protection Framework, Global Consultations on International Protection, EC/GC/01/4, 19 February 2001
- No.87 (XLIX) 1999 General Conclusion on International Protection
- No. 30 (XXXIV) 1983 The Problem of Manifestly Unfounded or Abusive Applications for Refugee Status or Asylum
- No. 8 (XXVIII) 1977 Determination of Refugee Status

2.4 Refugee definition

Vienna Convention on the Law of Treaties, 1969, Article 31(1)

A treaty shall be interpreted in good faith and in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

See also

- Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, UNHCR, reedited 1992
- ExCom Conclusion No. 69 (XLIII) 1992 Cessation of Status

2.5 Other forms of protection status

ExCom Conclusion, No. 103 (LVI) 2005 Provision of International Protection Including Through Complementary Protection

(k) Affirms that measures to provide complementary protection should be implemented in a manner that strengthens, rather than undermines, the existing international refugee protection regime;

(l) Notes that temporary protection, without formally according refugee status, as a specific provisional protection response to situations of mass influx providing immediate emergency protection from refoulement, should be clearly distinguished from other forms of international protection. ...

- CRC General Comment No. 6, paras. 77-78
- OAU Convention, Article 2(5)
- ExCom Conclusions:
 - No. 87 (L) 1999 General Conclusion on International Protection, para. (f)
 - No. 22 (XXXII) 1981 Protection of Asylum-Seekers in Situations of Large-Scale Influx, para. II
 - No. 19 (XXXI) 1980 Temporary Refuge
 - No. 15 (XXX) 1979 Refugees without an Asylum Country, para. (c), (e-f)
- Agenda for Protection Goal 1, Objective 3: Provision of complementary forms of protection to those who might not fall within the scope of the 1951 Convention, but require international protection
- Complementary Forms of Protection, Global Consultations on International Protection, EC/GC/01/18, 4 September 2001

2.6 Fair and efficient status determination

ICCPR, Article 14

In the determination of ... his rights and obligations ... everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

See also

- ICCPR General Comment No. 13 to ICCPR Article 14, (21st session) 1984, paras. 1, 2, 4
- UDHR, Article 10
- CRC, Article 22(1) and General Comment No. 6, paras. 33-38, 68-75
- 1951 Refugee Convention, Article I(A)(2)
- Cartagena Declaration, Article III(3)
- OAU Convention, Article 1(1)

- ExCom Conclusions:
 - No. 69 (XLIII) 1991 Cessation of Status, para. (d)
 - No. 68 (XLIII) 1992 General Conclusion on International Protection, para. (g)
 - No. 65 (XLII) 1991 General Conclusion on International Protection
 - No. 64 (XLI) 1990 Refugee Women and International Protection
 - No. 30 (XXXIV) 1983 The Problem of Manifestly Unfounded or Abusive Applications for Refugee Status or Asylum
 - No. 15 (XXX) 1979 Refugees without an Asylum Country, para. (h)
 - No. 12 (XXIX) 1978 Extraterritorial Effect of the Determination of Refugee Status
 - No. 8 (XXVIII) 1977 on Refugee Status, para. (e)(i-vi)
- Agenda for Protection: Goal 1, Objective 2: Improved individual asylum procedures
- Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, UNHCR, reedited 1992
- Asylum Processes (Fair and Efficient Asylum Procedures), Global Consultations on International Protection, EC/GC/01/12, 31 May 2001
- Procedural Standards for Refugee Status Determination under UNHCR's Mandate, UNHCR, 2005
- UNHCR Guidelines on Formal Determination of the Best Interests of the Child, UNHCR, May 2006 (provisional release)

2.7 Country of origin and legal information

CAT, Article 3

2. For the purposes of determining whether there are [substantial grounds that a person would be in danger of being subjected to torture], the competent authorities shall take into account all the relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

See also

- Informed decision-making in protection: the role of information, EC/1993/SCP/CRP.6, 27 September 1993
- Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, UNHCR, reedited 1992, para. 42

2.8 Family reunification

ExCom Conclusion, No. 24 (XXXII), 1981 'Family Reunification'; para. 1

In application of the Principle of the unity of the family and for obvious humanitarian reasons, every effort should be made to ensure the reunification of separated refugee families.

See also

- ICCPR, Articles 17, and 23.
- CRC, Articles 3, 5, 9(1) and 10.
- ECHR, Article 8
- ExCom Conclusion No. 9 (XXVIII), 1977 'Family Reunion'
- Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, 189 U.N.T.S. 37, 1951 (Section IV B on the Principle of the Unity of the Family).
- UNHCR, 'UNHCR Guidelines on Reunification of Refugee Families', July 1983.
- UNHCR, 'Summary Conclusions on Family Unity', 8-9 November 2001.
- UN General Assembly, Resolution 61/162 Adopted by the UN General Assembly: Respect for the Right to Universal Freedom of Travel and the Vital Importance of Family Reunification, 21 February 2007
- Council of Europe Committee of Ministers, 'Recommendation No R (99)23 on Family Reunion for Refugees and Other Persons in Need of International Protection', 15 Dec. 1999.

3. Individual and Civil Documentation

3.1 Individual documentation for asylum-seekers

ExCom Conclusion No. 93 (LIII) – 2002

(v) For the purpose, inter alia, of protection against refoulement, as well as access to reception arrangements, both male and female asylum-seekers should be registered and be issued appropriate documentation reflecting their status as asylum-seeker, which should remain valid until the final decision is taken on the asylum application;

See also

- CRC, Article 7
- ICCPR, Article 24(2)
- ExCom Conclusions:
 - No. 91 (LII) 2001 Registration of Refugees and Asylum-Seekers, para. (d)
 - No. 35 (XXXV) 1984 Identity Documents for Refugees
- UNHCR Handbook for Registration: Procedures and Standards for Registration, Population Data Management and Documentation, UNHCR, 2003
- Practical Guide to the Systematic Use of Standards and Indicators in UNHCR Operations, UNHCR, 2006

3.2 Individual documentation confirming protected status

1951 Refugee Convention, Article 27

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

See also

- CRC, Article 7
- ICCPR, Article 24(2)
- ExCom Conclusions:
 - No. 91 (LII) 2001 Registration of Refugees and Asylum-Seekers, para. (d)
 - No. 35 (XXXV) 1984 Identity Documents for Refugees
- UNHCR Handbook for Registration: Procedures and Standards for Registration, Population Data Management and Documentation, UNHCR, 2003
- Practical Guide to the Systematic Use of Standards and Indicators in UNHCR Operations, UNHCR, 2006

3.3 Civil documentation

CRC, Article 7

1. *The child shall be registered immediately after birth and shall have a right from birth to a name, [and] the right to acquire a nationality ...*

2. *States parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.*

See also

- ICCPR, Article 24(2)
- ExCom Conclusions:
 - No. 90 (LII) 2001 General Conclusion on International Protection, para. (r-s)
 - No. 64 (XLI) 1990 Refugee Women and International Protection, para. (a)(viii)
 - No. 47 (XXXVIII) 1987 Refugee Children, para. (f)
- Agenda for Protection Goal 1, Objective 11: Better registration and documentation of refugees
- UNHCR Handbook for Registration: Procedures and Standards for Registration, Population Data Management and Documentation, UNHCR, 2003

3.4 Travel documents

1951 Refugee Convention, Article 28(1)

The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory. ...

See also

- ExCom Conclusions:
 - No. 65 (XLII) 1991 General Conclusion on International Protection of refugees, para. (c)
 - No. 49 (XXXVIII) 1987 Travel Documents for Refugees
 - No. 18 (XXX) 1980 Voluntary Repatriation, para. (i)
 - No. 15 (XXX) 1979 Refugees without an Asylum Country, para. (n)
 - No. 13 (XXIX) 1978 Travel Documents for Refugees
 - No. 12 (XXIX) 1978 Extraterritorial Effect of the Determination of Refugee Status, para. (e)
- UNHCR Handbook for Registration: Procedures and Standards for Registration, Population Data Management and Documentation, UNHCR, 2003

4. Security from Violence and Exploitation

4.1 Effect of Armed Conflict

ExCom Conclusion, No. 94 (LIII) 2002 Civilian and Humanitarian Character of Asylum

[H]ost States have the primary responsibility to ensure the civilian and humanitarian character of asylum. ...

See also

- CRC, Articles 38-39; Optional Protocol to the CRC on the involvement of children in armed conflict and General Comment No. 6, paras. 54-60
- Rome Statute of the International Criminal Court, 1998
- 1951 Refugee Convention, Preamble, Articles 2, 9, 31
- OAU Convention, Preamble, Article 3(2)
- ExCom Conclusions:
 - No. 85 (XLIX) 1998 International Protection, para. (t)
 - No. 82 (XLVIII) 1997 Safeguarding Asylum, para. (d)(vii)
 - No. 77 (XLVI) 1995 International Protection of Refugees, para. (q)
 - No. 48 (XXXVIII) 1987 Military or Armed Attacks on Refugee Camps and Settlements
 - No. 45 (XXXVII) 1986 Military or Armed Attacks on Refugee Camps and Settlements
- Agenda for Protection: Goal 4, Objective 3: Prevention of military recruitment of refugees, including refugee children
- Security Council resolution 1612 on children affected by armed conflict, S/res/1612, 26 July 2005

4.2-3 Law Enforcement and community security

UDHR, Article 3

Everyone has the right to life, liberty and security of person.

See also

- ICCPR, Article 6, 7, 9
- ICERD, Article 5(b)
- Cartagena Declaration, Article III(3), (6)
- OAU Convention, Article 3(2)
- ExCom Conclusions:
 - No. 94 (LIII) 2002 Civilian and Humanitarian Character of Asylum
 - No. 72 (XLIV) 1992 Personal Security of Refugees
 - No. 48 (XXXVIII) 1987 Military or Armed Attacks on Refugee Camps and Settlements

No. 22 (XXXII) 1981 Protection of Asylum-Seekers in Situations of Large-Scale Influx, para. (B)(2)(g)

- Agenda for Protection: Goal 4, Objective 1: The resourcing of States for securing the safety of refugees and for the separation of armed elements from refugee populations

4.4 Sexual and gender based violence

Declaration on the Elimination of Violence against Women, Article 4(c)

States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should:

...(c) Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. ...

See also

- CAT
- Protocol on the Rights of Women in Africa, Articles 4, 11(3)
- ExCom Conclusions:
 - No. 105 (LVII) 2006 Women at Risk
 - No. 98 (LIV) 2003 Protection from Sexual Abuse and Exploitation
 - No. 90 (LII) 2001 General Conclusion on International Protection, para. (s)
 - No. 73 (XLIV) 1993 Refugee Protection and Sexual Violence
 - No. 64 (XLI) 1990 Refugee Women and International Protection
- Agenda for Protection Goal 4, Objective 4: Prevention of age-based and sexual and gender-based violence
- Code of Conduct and Explanatory Notes, UNHCR, 2004
- Special measures for protection from sexual exploitation and sexual abuse and implementation guidelines, ST/SGB/2003/13, 9 October 2003
- Implementation Guidelines for the Field on the Secretary-General's Bulletin on special measures for protection from sexual exploitation and sexual abuse, Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse, 2004
- Observance by international forces of international humanitarian law, ST/SGB/1999/13, 6 August 1999
- Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, UNHCR, 2002
- Sexual and Gender-Based Violence Against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response, UNHCR, 2003

4.5 Protection of children

CRC, Article 22(1)

States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee ... shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance. ...

See also

- CRC, Articles 3, 6, 11, 19, 20, 32, 34-38 and General Comment No.s 5 and 6, paras. 16, 23-24, 31-32, 39-40, 50-53
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
- International Labour Organisation Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention 182)
- Rome Statute of the International Criminal Court
- ExCom Conclusion, No. 84 (XLVIII) 1997 Refugee Children and Adolescents
- Agenda for Protection Goal 4, Objective 4: Prevention of age-based and sexual and gender-based violence and Goal 6: Meeting the protection needs of refugee women and children
- UNHCR Policy on Refugee Children, EC/SCP/82, 6 August 1993
- Refugee Children: Guidelines on Protection and Care, UNHCR, 1994
- Refugee Children, Global Consultations on International Protection, EC/GC/02/9, 25 April 2002
- Inter-Agency Guiding Principles on Unaccompanied and Separated Children, International Committee of the Red Cross, UNHCR, UNICEF, International Rescue Committee, Save the Children/UK, World Vision International, 2004
- Handbook for Emergencies, UNHCR, 2001
- Security Council resolution 1612 on children affected by armed conflict, S/res/1612, 26 July 2005

5. Freedom of Movement and Access to Legal Remedies

5.1 Freedom of movement

UDHR, Article 13(1)

Everyone has the right to freedom of movement and residence within the borders of each state.

See also

- ICCPR, Article 12(1)
- ICERD, Article 5(d)(i)
- CEDAW, Article 15(4)
- 1951 Refugee Convention, Articles 26, 31
- African Charter on Human and Peoples' Rights, Article 12(1)

5.2 Non-arbitrary detention

ICCPR, Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

See also

- UDHR, Articles 9
- CRC, Articles 37
- CAT
- ICCPR, Article 10
- 1951 Refugee Convention, Article 31
- Cartagena Declaration, Article II
- ExCom Conclusions:
 - No. 85 (XLIX) 1998 International Protection, para. (cc-ee)
 - No. 65 (XLII) 1991 General Conclusion on International Protection, para. (j)
 - No. 44 (XXXVII) 1986 Detention of Refugees and Asylum-Seekers, para. (a-i)
- Agenda for Protection Goal 4: Addressing security concerns more effectively
- Detention of Asylum-Seekers and Refugees: The Framework, the Problem and Recommended Practice, EC/49/SC/CRP.13, 4 June 1999
- UNHCR Revised Guidelines on Applicable Criteria and Standards relating to Detention of Asylum-Seekers, UNHCR, 1999

5.3 Access to legal remedies

1951 Convention, Article 16

(1) A refugee shall have free access to the courts of law on the territory of all Contracting States.

UDHR, Article 8

Everyone has the right to an effective remedy in the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

See also

- UDHR, Articles 6-7, 10-11
- ICCPR, Articles 2, 13, 14, 16, 26
- CEDAW, Articles 2, 15(1) and General Recommendation No. 21, (13th session) 1994, para. 8
- CERD, Article 5(a), 6
- ExCom Conclusions:
 - No. 85 (XLIX) 1998 International Protection, para. (g)
 - No. 30 (XXXIV) 1983 The Problem of Manifestly Unfounded or Abusive Applications for Refugee Status or Asylum, para.(e)(iii)
 - No. 8 (XXVIII) 1977 Refugee Status, para. (e)(vi-vii)

Traditional and other dispute resolution mechanisms

- CEDAW, Article 5(a)
- CEDAW, Article 2 and General Recommendation No. 19, (11th session) 1992, paras. 9, 11; General Recommendation No. 21, (13th session) 1994, paras. 41-47
- ICCPR, Article 23(3)
- Declaration on the Elimination of Violence Against Women
- Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992, Article 3(2)
- Convention Concerning Indigenous and Tribal Peoples in Independent Countries (Convention 169), International Labour Conference, 1989, Articles 8-9
- Convention Concerning Indigenous and Tribal Populations (Convention 107), International Labour Conference, 1957, revised in 1989 by Convention 169 but still applied in countries where Convention 169 has not been ratified, Articles 7-8
- ExCom Conclusion, No. 39 (XXXVI) 1985 Refugee Women and International Protection, para. (k)
- Handbook for Self-Reliance, UNHCR, 2005

6. Basic Needs and Essential Services

6.1-2 Food security and water and sanitation

ICESCR, Article 11

The States Parties to the present Convention recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food. ...

See also

- UDHR, Article 25
- ICCPR, Article 6(1); General Comment No. 6 (16th Session) 1982, para. 5
- CRC, Article 27(1, 3); General Comment No. 6, paras. 44-45
- 1951 Refugee Convention, Article 20
- ExCom Conclusions:
 - No. 102 (LVI) 2005 General Conclusion on International Protection, para. (t)
 - No. 93 (LIII) 2002 Reception of Asylum-Seekers in the Context of Individual Asylum Systems, para. (b)(ii)
- UNHCR, Water Manual for Refugee Situations, 1 November 1992.
- Sphere Project, Sphere Handbook: Humanitarian Charter and Minimum Standards in Disaster Response, 2004.

6.3 Shelter

ICESCR, Article 11

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate housing.

...

See also

- CESCR, General Comments on the right to adequate housing (Article 11(1)):
 - No. 4 (6th Session) 1991, HRI/GEN/1/Rev.6
 - No. 7 (16th Session) 1997, HRI/GEN/Rev.6
- UDHR, Article 25(1)
- CEDAW, Articles 14(2) and 16(h)
- ICERD, Article 5(e)(iii)
- CRC, Article 27(3) and General Comment No. 6, paras. 44-45
- 1951 Refugee Convention, Article 21
- ExCom Conclusions:
 - No. 93 (LIII) 2002 Reception of Asylum-Seekers in the Context of Individual Asylum Systems, para. (b)(ii)

No. 22 (XXXIII) 1981 Protection of Asylum-Seekers in Situations of Large-Scale Influx, para. (B)(2)(c)

- Principles on housing and property restitution for refugees and displaced persons (Pinheiro Principles), E/CN.4/Sub.2/2005/17, 28 June 2005
- Handbook for Emergencies, UNHCR, 2001

6.4 Basic domestic and hygiene items

ICESCR, Article 11

The States Parties to the present Convention recognize the right of everyone to an adequate standard of living for himself and his family, including adequate ... clothing ... and to the continuous improvement of living conditions.

See also

- UDHR, Article 25(1)
- CRC, Article 27(1, 3) and General Comment No. 6, paras. 44-45
- 1951 Refugee Convention, Article 20
- ExCom Conclusions:
 - No. 102 (LVI) 2005 General Conclusion on International Protection, para. (t)
 - No. 93 (LIII) 2002 Reception of Asylum-Seekers in the Context of Individual Asylum Systems, para. (b)(ii)
 - No. 22 (XXXII) 1981 Protection of Asylum-Seekers in Situations of Large-Scale Influx, para. (B)(2)(c)
- Handbook for Emergencies, UNHCR, 2001

6.5-6 Healthcare and HIV/AIDS

ICESCR, Article 12

The Contracting States to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

See also

- UDHR, Article 25
- ICCPR, Article 6(1) and General Comment No. 6 (16th Session) 1982, para. 5
- CEDAW, Article 12
- ICERD, Article 5(e)(iv)
- CRC, Articles 23-24 and General Comment No. 6, paras. 46-49
- 1951 Refugee Convention, Article 23
- ExCom Conclusion, No. 93 (LIII) 2002 on Reception of Asylum-Seekers in the Context of Individual Asylum Systems, para. (b)(ii)

6.7 Primary and secondary education

ICESCR, Article 13

The Contracting States to the present Covenant recognize the right of everyone to education.

See also

- UDHR, Article 26
- CEDAW, Article 10
- ICERD, Article 5(e)(v)
- CRC, Articles 28, 32 and General Comment No. 6, paras. 41-43
- 1951 Refugee Convention, Article 22
- ExCom Conclusion, No. 47 (XXXVIII) 1987 Refugee Children
- Agenda for Protection Goal 6, Objective 2: Measures to improve the framework for the protection of refugee children
- UNHCR Education: Field Guidelines, UNHCR, 2003

Note: The Toolkit for Technical Support (UNHCR, 2005) contains technical guidance on topics addressed in this chapter such as personal and public health (including HIV/AIDS, reproductive health and environmental health in emergencies), nutrition, shelter, water, sanitation and hygiene. It incorporates external resources such as the Minimum Standards in Shelter, Settlement and Non-food Items (Sphere, 2004), with guidance on applying standards and indicators in different settings, discussion of critical issues in indicators and gaps in current knowledge. The Toolkit is available on CD-ROM by emailing HQTS01@unhcr.ch.

6.8 Higher education, language, and vocational training

ICESCR, Article 6(2)

The steps to be taken by a State Party to the present Covenant to achieve the full realization of [the right to work] shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

See also

- UDHR, Article 26
- CEDAW, Articles 10(a), 11(1)(c), 14(2)(d)
- ICERD, Article 5(e)(v)
- CRC Article 28(1)(b), (d)
- 1951 Refugee Convention, Article 22

- ExCom Conclusion, No. 100 (LV) 2004, Conclusion on International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations, para. (l)(viii)
- Agenda for Protection Goal 3, Objective 1: Better responsibility-sharing arrangements to shoulder the burdens of first asylum countries
- Agenda for Protection Goal 3, Objective 2: More effective cooperation to strengthen protection capacities in refugee-receiving countries
- Agenda for Protection Goal 6: Meeting the protection needs of refugee women and refugee children
- UNHCR Education: Field Guidelines, UNHCR, 2003



7. Community Participation, Self Management, and Self-Reliance

7.1 Rights and responsibilities

No. 82 (XLVIII) 1997 Safeguarding Asylum

(d) Reiterates, in light of these challenges, the need for full respect to be accorded to the institution of asylum in general, and considers it timely to draw attention to the following particular aspects:

(ii) access, consistent with the 1951 Convention and the 1967 Protocol, of asylumseekers to fair and effective procedures for determining status and protection needs;

(iii) the need to admit refugees into the territories of States, which includes no rejection at frontiers without fair and effective procedures for determining status and protection needs;

CRC, Article 12(1) and General Comment No. 6, para. 25

..., it is imperative that such children be provided with all relevant information concerning, for example, their entitlements, services available including means of communication, the asylum process, family tracing and the situation in their country of origin (arts. 13, 17 and 22(2)). Such information must be provided in a manner that is appropriate to the maturity and level of understanding of each child.

See also

- ExCom Conclusions:
 - No. 101 (LV) 2004 Legal Safety Issues in the Context of Voluntary Repatriation of Refugees, para. (d)
 - No. 64 (XLI) 1990 Refugee Women and International Protection, para. (a) (iv)
 - No. 8 (XXVIII) 1977 Determination of Refugee Status, para. (e) (ii, iv, v)
- UNHCR Revised Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum-Seekers, UNHCR, 1999, Guideline 5

7.2 Participatory assessments and community mobilisation

UNHCR Tool for Participatory Assessment in Operations, UNHCR, 2005, p. 1

Refugees and other people of concern to UNHCR affected by displacement must be at the heart of decision-making concerning their protection and well-being. In order to gain a deeper understanding of the protection problems they face, it is essential to consult them directly and to listen to them. Their right to participate in decisions on matters that affect their lives is enshrined in human rights instruments and UNHCR policy and guidelines, in particular the Agenda for Protection.

See also

- CRC, Article 12
- ExCom Conclusions:
 - No. 73 (XLIV) 1993 Refugee Protection and Sexual Violence
 - No. 64 (XLI) 1990 Refugee Women and International Protection, para. (a)(i), (ix)
 - No. 39 (XXXVI) 1985 Refugee Women and International Protection, para. (h)
- Agenda for Protection: Goal 5, Objective 7: Achievement of self-reliance for refugees
- Agenda for Protection: Goal 6: Meeting the protection needs of refugee women and refugee children
- Reinforcing a Community Development Approach, Division of Operations, EC/51/SC/CRC.6, 15 February 2001
- A Practical Guide to Empowerment, UNHCR, 2001

7.3 Self-reliance & livelihoods

UDHR, Article 23

1. Everyone has the right to work [and] to free choice of employment ...3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity. ...

See also

- ICESCR, Articles 2(3), 6
- ICERD, Article 5(e)(i)
- CEDAW, Articles 11, 14
- 1951 Refugee Convention, Article 17(1)
- ExCom Conclusion No. 50 (XXXIX) 1988 General Conclusion on International Protection
- Agenda for Protection Goal 5, Objective 7: Achievement of self-reliance for refugees
- Handbook for Self-Reliance, UNHCR, 2005

7.4 Trade and self-employment

ICESCR, Article 6(1)

The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate safeguards to protect this right.

See also

- CEDAW, Articles 11, 13-14
- ICERD, Article 5(e)(i)
- 1951 Refugee Convention, Article 18

7.5 Wage earning employment

UDHR, Article 23

1. Everyone has the right to work [and] to free choice of employment ...3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity. ...

See also

- ICESCR, Articles 2(3), 6
- ICERD, Article 5(e)(i)
- CEDAW, Articles 11, 14
- 1951 Refugee Convention, Article 17(1)
- Agenda for Protection Goal 5, Objective 7: Achievement of self-reliance for refugees
- Handbook for Self-Reliance, UNHCR, 2005

7.6 Social security and just and favourable conditions of work

UDHR, Article 23

1. Everyone has the right to ... just and favourable conditions of work and to protection against unemployment.

See also

- UDHR, Article 22
- ICESCR, Articles 6-7, 9
- CEDAW, Articles 11(1)(e-f), 14(2)(c)
- ICERD, Article 5(e)(iv)
- 1951 Refugee Convention, Article 24

7.7 Recognition of foreign diplomas

1951 Refugee Convention, Article 22

The Contracting States shall accord to refugees treatment as favourable as possible, and in any event not less favourable than that accorded to aliens generally in the same circumstances with respect to ... the recognition of foreign school certificates, diplomas and degrees. ...

See also

- 1951 Refugee Convention, Article 19

7.8 Right to own property

UDHR, Article 17

1. Everyone has the right to own property alone as well as in association with others.

See also

- CEDAW, Articles 15(1-3), 16(1)(h)
- ICERD, Article 5(d)(v)
- African Charter on Human and Peoples' Rights, Article 14
- 1951 Refugee Convention, Article 13
- ExCom Conclusion, No. 101 (LV) 2004 Legal Safety Issues in the Context of Voluntary Repatriation of Refugees, para. (i-j)
- Agenda for Protection Goal 5, Objective 3: Strengthened cooperation to make repatriation sustainable

8. Opportunities for Durable Solutions

8.1 Durable solution strategy

ExCom Conclusion, No. 80 (XLVII) 1996 Comprehensive and Regional Approaches within a Protection Framework

Recognizing that the underlying causes of large-scale involuntary population displacements are complex and interrelated and encompass gross violations of human rights, including in armed conflict, poverty and economic disruption, political conflicts, ethnic and inter-communal tensions and environmental degradation, and that there is a need for the international community to address these causes in a concerted and holistic manner. ...

See also

- CRC General Comment No. 6, paras. 79-80
- ExCom Conclusions:
 - No. 85 (XLIX) 1998 International Protection, para. (ff-jj)
 - No. 64 (XLI) 1990 Refugee Women and International Protection, para. (a)(x)
 - No. 56 (XL) 1989 Durable Solutions and Refugee Protection
 - No. 62 (XLI) 1990 General Conclusion on International Protection
- Agenda for Protection Goal 5: Redoubling the search for durable solutions
- UNHCR Guidelines on Formal Determination of the Best Interests of the Child, UNHCR, May 2006 (provisional release)

8.2 Voluntary return

ICCPR, Article 12(4)

No one shall be arbitrarily deprived of the right to enter his own country.

See also

- UNHCR Statute, Articles 8-9
- Cartagena Declaration, Articles II(f-g, l, n-p), III(12)
- OAU Convention, Article 5
- UDHR, Article 13(2)
- ICERD, Article 5(d)(ii)
- CRC, Article 10(2) and General Comment No. 6, paras. 84-88
- ExCom Conclusions:
 - No. 101 (LV) 2004 Legal Safety Issues in the Context of Voluntary Repatriation
 - No. 69 (XLIII) 1991 Cessation of Status
 - No. 65 (XLII) 1991 General Conclusion on International Protection, para. (q)

No. 56 (XL) 1989 Durable Solutions and Refugee Protection

No. 40 (XXXVI) 1985 Voluntary Repatriation

No. 18 (XXX) 1980 Voluntary Repatriation

- Agenda for Protection Goal 5, Objective 2: Improved conditions for voluntary repatriation
- Agenda for Protection Goal 5, Objective 3: Strengthened cooperation to make repatriation sustainable
- Voluntary Repatriation, Global Consultations on International Protection, EC/GC/02/5, 25 April 2002
- Handbook: Voluntary Repatriation: International Protection, UNHCR, 1996

Reintegration and rehabilitation

Handbook for Repatriation and Reintegration Activities, UNHCR, 2004, Part A, sec. 1, para. 1.2

Reintegration is a process that should result in the disappearance of differences in legal rights and duties between returnees and their compatriots and the latter's equal access to services, productive assets and opportunities. Such a process assumes that refugees return to societies that are more or less stable. When this is not the case, returnees and communities in areas of return should benefit equally to improved access to productive assets and social services.

See also

- ExCom Conclusions:
 - No. 101 (LV) 2004 Legal Safety Issues in the Context of Voluntary Repatriation
 - No. 80 (XLVII) 1996 Comprehensive and Regional Approaches within a Protection Framework, para. (e)(vii)
 - No. 79 (XLVII) 1996 General Conclusion on International Protection, para. (u)
 - No. 77 (XLVI) 1995 General Conclusion on International Protection, para. (j)
 - No. 74 (XLV) 1994 General Conclusion on International Protection, para. (aa)
- Handbook for Repatriation and Reintegration Activities, UNHCR, 2004

8.3 Resettlement

ExCom Conclusion, No. 67 (XLII) 1991 Resettlement as an Instrument of Protection

Reaffirming the link between international protection and resettlement as an instrument of protection and its important role as a durable solution in specific circumstances. ...

See also

- CRC General Comment No. 6, paras. 92-94
- ExCom Conclusions:
 - No. 101 (LV) 2004 Legal Safety Issues in the Context of Voluntary Repatriation
 - No. 99 (LV) 2004 General Conclusion on International Protection, para. (x)
 - No. 90 (LII) 2001 General Conclusion on International Protection
- Agenda for Protection Goal 3, Objective 6: Resettlement used more effectively as a tool of burden-sharing
- Agenda for Protection Goal 5, Objective 6: More efficient use of resettlement both as a protection tool and as a durable solution
- Strengthening and Expanding Resettlement Today: Dilemmas, Challenges and Opportunities, Global Consultations on International Protection, EC/GC/02/7, 25 April 2002
- Resettlement Handbook, UNHCR, 2004

8.4 Local integration

1951 Refugee Convention, Article 34

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

See also

- UNHCR Statute, Articles 2, 8
- OAU Convention, Article 2(1)
- CRC Article 7; General Comment No. 6, paras. 89-90
- ExCom Conclusions:
 - No. 104 (LVI) 2005 Local Integration
 - No. 99 (LV) 2004 General Conclusion on International Protection, para. (y)
- Agenda for Protection: Goal 5, Objective 4: Local integration having its proper place as a part of a comprehensive strategy for durable solutions
- Local Integration, Global Consultations on International Protection, EC/GC/02/6, 25 April 2002

Naturalisation and citizenship

UDHR, Article 15

(1) *Everyone has the right to a nationality.*

(2) *No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.*

See also

- ICERD, Article 5
- ICCPR, Article 24
- CRC, Articles 7, and 8
- Convention on the Nationality of Married Women, Articles 1, 2 and 3
- CEDAW, Article 9
- Convention on the Reduction of Statelessness, Articles 1-9
- European Convention on Nationality, Council of Europe, 6 November 1997
- UN Commission on Human Rights, *Resolution 2005/45 on Human Rights and Arbitrary Deprivation of Nationality*, 19 April 2005
- UN General Assembly, *Nationality of natural persons in relation to the succession of States*, 16 December 2004. A/RES/59/34.



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