

MODULE 2

REFUGEES AND DISPLACEMENT



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Summary

This module explores **what compels a person to flee, why they have a right to cross an international border to seek protection, what the obligations are of host states to offer them protection until a more durable solution can be found, and what the responsibility of the international community is to refugees.**

It also differentiates between those who flee across an international border and those who are internally displaced in their own country. (Note: **internally displaced persons (IDPs)** are covered in a separate **optional module**).

Participants are asked to think about **what rights a refugee has at each stage of their displacement** from the time they leave home to the time that they return home voluntarily, integrate within the host country, or are resettled in another country. (Note: **durable solutions** are covered in **Module 9**.)

The last part of this module includes **an overview of the variations in the definition of refugees** amongst international and regional standards. It asks participants to identify why these differences exist and what the effect might be in terms of who gets protection as a refugee, depending on the refugee definition relevant to their region.

Finally, participants are asked to review a number of **case studies** to identify who might qualify for protection as a refugee and who might not.

Learning Objectives

By the end of the session, participants will be able to:

- State some of the reasons why people flee;
- Describe the different phases of the refugee experience;
- Discuss why refugees are of international concern and why they are entitled to international protection;
- Describe the differences in the refugee definition in international and regional standards.

Key Messages

- In order to qualify as a refugee and to receive protection, a person needs to cross an international border;
- Refugees are forced to flee because it is no longer safe for them to stay at home. They may flee for any number of reasons, including persecution, oppression, severe human rights violations, or war or other type of conflict;
- Refugees need international protection because their own government is unwilling or unable to protect them and may in fact be responsible for violating their human rights;
- States, as part of the international community, have agreed to protect those who come to their borders seeking asylum, and they have an obligation to allow refugees to enter their territory and not to turn them back. This obligation is known as the principle of *non-refoulement*, which is an important part of the international system for refugee protection because it is only in very rare and extreme cases that a state can ever justify closing its borders to refugees who seek haven;
- At each displacement stage, refugees are vulnerable to different human rights abuses, and it is important to recognise these patterns and to develop suitable protection responses;
- A *refugee status determination* is used to see if a person needs international protection. The granting of asylum is to be regarded as a friendly act by a state and must be honoured until a more durable solution can be found;
- If a person is forced to flee and stays within the borders of his or her own country, then that person is considered an internally displaced person (IDP). IDPs often have needs very similar to refugees and are of increasing concern to the international community;
- Some asylum-seekers do not qualify for protection as Convention refugees because they have committed serious crimes or other acts. The basis for excluding them is strictly defined in the 1951 Refugee Convention.

Preparation

- **Research which legal standards apply within the country** where the workshop is being held. For example, has the 1951 Refugee Convention been ratified? Would the 1969 OAU Convention/Cartagena Declaration apply? Are there national legal standards governing the protection of refugees?
- If you are not using the slides provided, **write the questions** for **Activity 3** and **Activity 4** on a flip chart;
- **Print “Handout 1 - Case Studies on Refugee Status” and paste it onto cards.**

| Module 2 Breakdown | | | |
|------------------------------------------------------------|-----|----------------------------|-----------------------------------------------------------------|
| Timing | | Method | Resources needed |
| Activity 1 - The Borderline | 10' | Energiser | Module2.ppt |
| Activity 2 - Overview of Who Is a Refugee | 30' | Presentation | Masking tape |
| Activity 3 - Refugee Status Determination | 50' | Group work on case studies | Handout 1 - Case Studies on Refugee Status |
| Optional Activity 4 - The Phases of the Refugee Experience | 20' | Group work on case studies | Trainer Guidance 1 - Analysis of Case Studies on Refugee Status |
| Total: 90 minutes (without optional activity 4) | | | |

Sources

- *Refugees: Human Rights have no borders*, Amnesty International, 1997 (www.amnesty.org).
- James Darcy, *Human Rights and International Legal Standards: What do Relief Workers Need to Know?*, Relief and Rehabilitation Network Paper No. 19 (www.odihpn.org).
- Hans-Peter Gasser, *International Humanitarian Law: An Introduction*, Henry Dunant Institute, Haupt 1993
- *Protecting Refugees: A Field Guide for NGOs*, Office of the United Nations High Commissioner for Refugees, Geneva 1999.

| Activity 1 - The Borderline | | | |
|-----------------------------|-----|-----------|------------------|
| Timing | | Method | Resources needed |
| Introduction | 10' | Energiser | Masking tape |
| Total: 10 minutes | | | |

Energiser: The Borderline

One of the **key messages** has to do with **crossing a border from one country into another**. The act of crossing a border means that all sorts of rights are activated.

This warm-up exercise is designed to underline this essential message.

Make a borderline by **drawing a line** with tape or using a string on the floor or by drawing a line on a flip chart. If you use the floor for your border, then get the participants to gather on either side of it.

Ask the participants:

- Why would someone want to move from one side of the border to the other?
- Who is their protector, depending on what side of the border they are on?
- What is the significance of a border to refugee protection?

Gather different responses and emphasise the following points whilst summarising the feedback:

- Refugees would not abandon their homes and flee their country if their most fundamental rights were protected at home;
- **Note that** “everyone shall be free to leave any country, including his own”;
- If a person flees to the border of another country, the host country must let them enter. This is part of what we mean by respect for the principle of *non-refoulement*;
- **The crossing of a border is a defining characteristic of a refugee**, as opposed to those who are internally displaced and remain within the borders of their own state. For those forcibly displaced, crossing an international border confers upon them a different legal status;
- Refugees are of international concern because their arrival into another country engages the responsibility of the international community to protect and assist them.

An alternative for Activity 1

Ensure that all participants are out of the training room. Then put a large sign on the door saying “Immigration”.

Post yourself as a border guard and ask people why they want to enter the country. Each participant must give a reason for entering the country.

Many of the participants will give answers relating to why refugees flee, but some may also give answers such as tourism or that they are searching for a job.

This is a **fun way** to demonstrate some of the different reasons why people cross borders.

| Activity 2 - Overview of Who Is a Refugee | | | |
|-------------------------------------------|-----|-------------------------|------------------|
| Timing | | Method | Resources needed |
| Who is a refugee? | 30' | PowerPoint presentation | Module2.ppt |
| Total: 30 minutes | | | |

Note to trainer

- ✓ *Participants should be encouraged to closely review **Protecting Refugees: A Field Guide for NGOs**, as it provides a comprehensive discussion of problems that can be encountered at all stages of the asylum-seeking process and gives suggested responses for the humanitarian assistance worker.*
- ✓ *Encourage as much participation as possible throughout the presentation by asking questions and asking for examples from participants' experience to illustrate the points.*

Slide 1: Refugees and displacement

Slide 2: What compels a person to flee?

Recap the reasons for flight that participants provided in the first activity.

Ensure that the following causes are mentioned: war, conflict, breakdown of public order and resulting civil strife, and human rights violations. Inevitably, people flee because they are in danger: if their rights were adequately secured, they should not need to leave everything behind and flee (refer to “**Overview**” in *Protecting Refugees: A Field Guide for NGOs*).

Flight is always the last option to escape from threats. Leaving one's country, possessions, friends, and family behind is about the last thing anyone would choose to do.

When someone decides to flee, she or he is afraid and trying to reach a safe and secure area.

Slide 3: Refugees

Thoughts of refugees are often accompanied by thoughts of human rights violations. Refugees would not have had to flee had their basic rights been secured by their own government.

On closer analysis, it becomes apparent that respect for human rights is vitally important in every phase of the refugee experience: to be forcibly displaced is to be denied the most fundamental of our rights.

There are different rights at issue at the different phases of the refugee experience.

Slide 4: The phases of the refugee experience

Provide a comprehensive explanation of each of the following stages.

HOME: see “**Pre-flight and Flight**” in *Protecting Refugees: A Field Guide for NGOs*.

Persecution, torture, harassment, sexual violence, detention, other violations of human rights and threats to a person's life or liberty **drive people to leave their homes**. These human rights violations may occur during war or armed conflict or during a time of peace.

FLIGHT: see “**Pre-flight and Flight**” in *Protecting Refugees: A Field Guide for NGOs*.

Arguably, refugees are at their most **vulnerable during the flight stage**, when they are seeking refuge. Women and children are particularly at risk at this stage, often at increased risk of violence,

sexual abuse, and exploitation in order to gain passage or access to asylum. This is also the time when families may become separated.

Refugee flows are not created in a vacuum, and humanitarian assistance workers will need to be alert to the political and social climate they are working in and refer protection problems to the relevant authorities.

ARRIVAL: see “Arrival” in *Protecting Refugees: A Field Guide for NGOs*.

Upon arrival in another country, **refugees need to be admitted to safety** and allowed to lawfully remain there until a durable solution can be found. They are entitled to a host of rights, and it needs to be emphasised, as noted in “Key Messages”, that:

- Granting protection to refugees is not an unfriendly act between states;
- Borders must not be closed;
- Refugees must not be detained;
- Respect for the principle of *non-refoulement* is paramount (this principle is explained in “Glossary of Key Protection-Related Terms” in *Protecting Refugees: A Field Guide for NGOs*).

Whilst there are many important points to be made, and close reference should be made to the *Field Guide for NGOs*, **it is important to stress that at the point of arrival**, whether as an individual or in a mass movement, **there are important rights at stake**.

You should also warn the participants that some states may argue falsely that an individual is not a refugee until he or she is formally found to be a refugee through some procedure. They will hear arguments about the difference between asylum-seekers and refugees. Whilst it would be too detailed a discussion to go into for this course, the participants should be made aware that, regardless of their formal legal status as determined by the state, when a person arrives at a border and asks for asylum, they are, for all intents and purposes, a refugee and should be granted access to the rights accorded by the 1951 Refugee Convention.

ASYLUM: see “Asylum” in *Protecting Refugees: A Field Guide for NGOs*.

The right to seek and enjoy asylum from persecution is a fundamental human right (Art. 14, 1948 Universal Declaration of Human Rights).

Asylum or refuge refers to the protection afforded by a state to people from another state who are fleeing from persecution or serious danger and seek to reach safety.

Asylum encompasses a variety of elements, including protection from forcible return to serious danger (*non-refoulement*), permission to remain on the territory of the country of asylum, and humane standards of treatment.

Note to trainer

- ✓ **Durable solutions** need to be covered only briefly, as they are explained fully in **Module 9**.

Durable solutions: integration, return, or resettlement: see “Solutions” in *Protecting Refugees: A Field Guide for NGOs*.

It must be emphasised that **the international protection afforded refugees is meant to be a temporary substitute for the normal safeguards of national protection**.

International protection includes seeking solutions to refugee problems. These are known as durable solutions and include:

- Voluntary repatriation (return) in safety and dignity to one’s country of origin;
- Integration in the host country; or
- Resettlement in another country.

Slide 5: Who is a refugee?

See “Who is a Refugee?” in *Protecting Refugees: A Field Guide for NGOs*.

It is easy to think of refugees as men, as it is often the case in individual refugee flows in the industrialised world that refugees are the “male, moneyed and mobile”. As we know, however, the majority of refugees are women and children.

Emphasise the definition in the 1951 Refugee Convention, which provides an international legal framework for refugee protection.

Slide 6: Universal refugee definition

There are three key parts to understanding the refugee definition. **Go through the points in the slide** on the 1951 Refugee Convention definition.

The universal refugee definition is a product of its time, with emphasis on the types of persecution that would arise following World War II and the desire to deal with those fleeing en masse after the war. It is typical of international human rights instruments with a strong emphasis on civil and political rights and freedoms.

More-recent human rights treaties attach importance to group rights and economic, social, and cultural rights and to those fleeing widespread civil strife.

There is no generally agreed definition of persecution, but it refers to “serious harm” caused to, or inflicted upon, a person’s identity, integrity, security, or freedom.

More-recent regional treaties take a broader approach to who might need protection.

Slide 7: Regional refugee definitions

In response to some of the weaknesses in the 1951 Refugee Convention’s definition of a refugee, **several regional refugee definitions have emerged**. These regional instruments include broader definitions of situations people flee from that qualify them as refugees.

The 1969 Organisation of African Unity (OAU) Convention provides a broader definition of when someone is considered a refugee. This is a legal obligation binding upon states in Africa that have ratified the Convention.

Most Central American states have incorporated the broader 1984 Cartagena Declaration definition into their national legislation, despite the fact that it is not legally binding.

In this sense, the spirit of these regional instruments is the same as for the 1951 Refugee Convention: when national protection breaks down, anyone has the right to seek international protection elsewhere.

A key difference between the regional definitions and the universal definition is that, under the universal definition, a whole group of asylum-seekers may be declared *prima facie* refugees. This means that they are considered, on a collective basis, to be refugees since they have all fled for similar reasons, for example, general violence. Good examples include Somalis and Sudanese who fled into Kenya at the height of the civil war in their respective countries, as well as Angolans who fled into Zambia at the height of the civil war in Angola. The regional refugee definitions have come into existence to respond to new forms of refugee flows that were often the result of armed conflict in the country of origin.

The OAU Convention pays specific attention to the concepts of asylum and international responsibility-sharing, calling on other states in the region to help support the country of asylum, where large refugee numbers place a strain on this state.

| Activity 3 - Refugee Status Determination (RSD) | | | |
|-------------------------------------------------|-----|----------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| Timing | | Method | Resources needed |
| RSD | 20' | Option A - Plenary discussion | Module2.ppt |
| Conclusions | 30' | Option B - Group work Feedback in plenary | Handout 1 - Case Studies on Refugee Status Trainer Guidance 1 - Analysis of Case Studies on Refugee Status |
| Total: 50 minutes | | | |

Note to trainer

- ✓ ***RSD** concerns the process through which an asylum state and/or the UNHCR apply criteria in accordance with a specific refugee definition to a person who makes a claim for refugee status (such individuals are known as refugee claimants or asylum-seekers).*
- ✓ *This exercise is designed to give participants a sense of why people flee, who is and who is not a refugee, and to recognise that in some regions the technical definition of **who is a refugee** is much broader than the international definition. It is not designed to teach them to become RSD experts.*

Option A: Plenary discussion (20 minutes)

Distribute “Handout 1 - Case Studies on Refugee Status”. Write the questions (see Slide 8) on a flip chart or use Slide 8. Select a case and pose the questions.

Slide 8: Refugee Status Determination cases

- What are the key facts in the case?
- Is this person in need of international protection?
- Does the person fit the 1951 refugee definition?
- Does the person fit any other definition?

Discuss these questions in plenary before moving on to another case.

Ask which cases the group would like to examine. **Spend** approximately 10 minutes per case. It is not necessary to cover all the cases. Use “Trainer Guidance 1 - Analysis of Case Studies on Refugee Status” to inform the discussion.

Option B: Group work (20 minutes)

Divide the participants into groups. Distribute “Handout 1 - Case Studies on Refugee Status”. Allocate two cases per group and pose the same questions as in Option A. Allow 20 minutes for discussion before taking feedback. **Ask** the groups to record their answers on a flip chart.

Options A & B - Feedback and discussion (30 minutes)

Invite one of the groups that worked on each case to present its conclusions. For each case, field reactions from the floor and wrap up the discussion by providing extra information, as needed.

You should aim to allow no more than three minutes of **wrap-up** and **discussion** per case. Use “Trainer Guidance 1 - Analysis of Case Studies on Refugee Status” to inform the discussion.

| Optional Activity 4 - The Phases of the Refugee Experience | | | |
|------------------------------------------------------------|-----|------------------------------------|--------------------------------------------------|
| Timing | | Method | Resources needed |
| The phases of the refugee experience | 15' | Build on Activity 3, Group work | Module2.ppt |
| Feedback | 5' | Feedback in plenary | Handout 1 - Case Studies on Refugee Status |
| Total: 20 minutes | | | |

Note to trainer

- ✓ *This exercise is designed to get participants to quickly identify some of the protection issues that emerge at each stage of the **refugee experience** – from flight to durable solutions. It should reinforce the points raised in the presentation.*
- ✓ *Use the **case studies on refugee status** from **Activity 3** to reinforce the points.*

Group work (15 minutes)

Divide participants into groups of three or four.

Ask each group to examine a case.

Ask them to answer the following questions, **using Slide 9** or **writing** them on a flip chart.

Slide 9: Short cases on refugee status

- What phase of the refugee experience are the people in?
- What threats are these people facing?
- Who or what should protect or assist them?

Feedback (5 minutes)

Ask each group to comment on one card in plenary.

Ask if other groups have any comments to add.

Stress that the important issue is to recognise the **different vulnerabilities** that may occur at each phase of the refugee experience.

Handout 1 - Case Studies on Refugee Status**Case A**

A is a young woman who has left her country, which has been involved in a widespread violent civil war for the last decade. She belongs to the clan of the former president, who was ousted in September 1998. At that time, armed groups belonging to rival clans were terrorising the area where she and her husband lived. In October 1998, her husband was killed during shelling. In late January 1999, a gang from a rival clan broke into her house and plundered it, as well as the houses of neighbours. They stole property, but, as A had run away, she was not harmed. She went to an uncle who lived in a town near the border. Though the area was relatively more peaceful, clan rivalry was still present and increasing. The civil war was spreading, and her uncle was conscripted into the clan's armed militia. After a particularly bloody clash near the town, A decided to leave her country and crossed the border to a neighbouring country.

Case B

B is a young widow. Her husband died from AIDS, but the reasons for his death were not disclosed. According to local traditions, widows don't remain alone, so her family told her to remarry and has been putting more and more pressure on her to do so. A recent medical examination revealed that she is HIV-positive. B doesn't want to remarry because of her disease, but she can't share this concern with her family, as it would expose her to an even harsher reaction. She doesn't know how to solve this dilemma. One day, an old friend from school who has been living for some time in a foreign country invites her to visit. B travels without her family's approval. Once there, she wonders if she should try to start a new life in this country, far from family pressure, and maybe with the possibility to get medical treatment.

Case C

C is a 17-year-old boy who arrived several months ago at a refugee camp after fleeing from a vicious and bloody conflict in a neighbouring country. The camp is host to some 4,000 people, of whom about 80 per cent are women and children. He came together with about 200 armed male teenagers and young men. They said they were deserting en masse from their army, where forced conscription is commonplace. Upon receiving instructions from the host country's security forces, the deserters handed in their weapons. However, reports from women in the camp show that, since the arrival of these young men, there has been an increased incidence of violence in the camp and evidence of small arms. In addition, there have been reports that some men are using the camp as a base for cross-border military sorties. C is found to be sharing a shelter with others who have weapons, but he insists that he is not involved in military activity.

Case D

D is a middle-aged man who leads an ethnic minority striving for self-determination by peaceful means. The ruling elite consider D a dangerous political opponent. Nine months ago, he was arrested during a protest rally in the centre of a provincial town, detained without trial, and forbidden legal counsel. During interrogation sessions, he was subjected to various types of torture. Fellow activists engineered his escape from prison and took him to an isolated region in the mountainous northern part of the country. D has been hiding there ever since.

Case E

E is a young woman who was at home when armed forces from a hostile neighbouring country stormed her village. Their mission was to take control of the entire area, which had long been disputed by the two countries. At the time of the raid, the woman and her two younger brothers were present. The two brothers were tortured and hacked to death in front of her. She was gang-raped by soldiers and eventually passed out. Some neighbours brought her to the hospital after the soldiers had gone. Afraid to return to her home because of the fighting there, the woman crossed the border into a third neighbouring country.

Case F

F works as a technician at a car-assembly plant and is a sympathiser of an illegal trade union. Trade unions are generally considered to regroup outlawed opposition groups. Some of his friends from school are members of an opposition party, and they would sometimes discuss politics together. F has also delivered some pamphlets for them. Since his wife had become increasingly worried, he ended these activities three years ago. He did not renew his membership of the trade union thereafter. Last year, one of his friends was arrested and never seen again. F was never called in for questioning. He decided to leave when his great-aunt sent him information on overseas employment opportunities. His wife and two children remained whilst awaiting further developments.

Trainer Guidance 1 - Analysis of Case Studies on Refugee Status

Case A

| Key facts | Key points for analysis |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • Presence abroad; • Alternative of internal flight; • Civil war, general violence within A's country; • Persecution of family members and attacks on surrounding villages; • Imputed political opinion: A may be perceived as a supporter of the former president; • Ethnic clashes between different clans; • Lack of state authority and state protection; • Persecution carried out by non-state actors. | <ul style="list-style-type: none"> • Persecution within a context of general violence/civil war; • Under 1951 Refugee Convention, persecution for imputed political opinion and/or race; • Fear of persecution need not require demonstration of actual personal persecution; • Absence of national protection can be presumed in view of absence of effective state control over territory; • Under OAU Convention (if person is in Africa), need only demonstrate general violence in part of the country; • Severe discrimination on an ethnic basis, but not all members of A's clan have been individually attacked; • A has not been individually targeted: she is not a victim of persecution; • Death of A's husband is not in itself persecution but rather a result of civil war; • However, widespread violence was a continuous threat to A's life and security; • A was unable to live undisturbed in another part of her country; • A does not qualify as a refugee under the 1951 Refugee Convention, but she does need international protection and would qualify under the broader 1969 OAU and 1984 Cartagena refugee definitions, including under the UNHCR's mandate (see "Who is a Refugee?" in <i>Protecting Refugees: A Field Guide for NGOs</i>). |

Case B

| Key facts | Key points for analysis |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • Discrimination against women living alone or with HIV/AIDS; • Constraint coming from the family (not the authorities), but which seems accepted by society as a whole, but with what repercussions? • Unsolvable personal situation: refusing to remarry is impossible, whilst remarrying means infecting someone with HIV, as B cannot reveal her medical status; • Is there state protection against forced marriage? • Is there protection against the transmission of HIV/AIDS, e.g., are condoms socially acceptable, available? • Is medical treatment available in the country of origin? | <ul style="list-style-type: none"> • Absence of state protection is the issue rather than persecution by non-state actors; • Forced marriage may be considered gender-based violence; • Where there is no state protection against forced marriage, there are grounds for refugee recognition; • Some countries with restrictive interpretations of the 1951 Refugee Convention will offer humanitarian status to avoid sending someone back to a place where there are inadequate health facilities; • Some countries have an elaborated jurisprudence with respect to gender-based persecution (Canada, for example) and could grant her refugee status; • Other countries wouldn't deport her to a country where there is no adequate treatment for people with serious illnesses (France, in certain cases). In such countries, B could be granted asylum on humanitarian or medical bases (but not on the basis of the 1951 Refugee Convention). |

Case C

| Key facts | Key points for analysis |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • C is a child combatant. He is a minor under most countries' laws (but not in the United States, where an adult is anyone over 16 years of age); • C is abroad. It is unclear if he criss-crosses the border between the country of refuge and his own country; • C was a soldier, but he deserted; • C was forcibly conscripted; • C has laid down his arms. | <ul style="list-style-type: none"> • C was part of a larger group of refugees, who were collectively determined, at first glance, to be <i>prima facie</i> refugees. In situations of mass influx, individual screening is not feasible. Refugee status is, however, forfeited, when any of the exclusion clauses apply. Taking up arms is tantamount to losing international protection and benefits as refugees; • Only disarmed soldiers, i.e., non-combatants, can avail of asylum. Asylum is a civilian, non-political act and is not to be regarded as a cause of tension between states; • Recruitment of child soldiers (minors under 15 years of age) is prohibited under international law: Art. 38 of the 1989 Convention on the Rights of the Child, Art. 77 of the 1977 Additional Protocol I to the 1949 Geneva Conventions. See also the UNHCR Refugee Children Guidelines, p. 85-86; • It is the responsibility of the neutral host country, under international humanitarian law, to disarm and intern combatants in a location separate from civilian refugees. See Arts. 11-12. of the 1907 Hague Convention V: "when receiving belligerent troops, the neutral power shall intern them in places set apart, as far as possible, at a distance from the theatre of war. It shall supply food, clothing and relief to the interned"; • The best-interest principle of the 1989 Convention on the Rights of the Child is the overriding guideline to incite C to resume a civilian life. The whereabouts of his family members should be immediately traced; • C is a deserter. Desertion is a common-law offence that is punishable in most countries. Desertion in itself does not constitute individual persecution. Depending on the specific circumstances of his case, C may fall within the individual 1951 Convention definition, e.g., if he will risk life-threatening harm should he be sent back to his country (see "Frequently Asked Questions" in <i>Protecting Refugees: A Field Guide for NGOs</i>). • Unless the contrary, i.e., exclusion, is proven, C is entitled to international protection as a refugee under the 1969 OAU Convention. |

Case D

| Key facts | Key points for analysis |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none">• Arbitrary arrest;• Lack of a fair trial;• D is not allowed to have legal counsel;• A case of a leader of the political opposition using non-violent means;• Minority group;• Victim of torture. | <ul style="list-style-type: none">• D remains inside the boundaries of his country. He is internally displaced without a reasonable alternative for internal relocation. D is not able to continue to take part in public life whilst hiding in the mountains;• D has been subjected to systematic persecution: the prohibition of torture is absolute. Freedom from torture is a non-derogable human right, which means that it applies under all circumstances. The persecution is perpetrated on cumulative grounds: for political and ethnic reasons;• He is, in effect, barred from seeking asylum in another country;• If he were outside his country, he would be a refugee under both the 1951 Refugee Convention and the 1969 OAU Convention definitions. |

Case E

| Key facts | Key points for analysis |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • Armed conflict between two countries; • E and her brother are not taking part in the hostilities; they are civilians; • Repeated outrages upon E's physical integrity; • E needs specialised rehabilitation services for trauma; • Two close family members are severely mistreated and murdered; • E's government has been unable to guarantee her security; • E is abroad and has crossed an international border. | <ul style="list-style-type: none"> • E repeatedly suffered severe persecution; • Rape and similar outrages upon a person's personal integrity are prohibited under all circumstances (common Art. 3 of the 1949 Geneva Conventions), including during armed conflict. Rape is a war crime and, if perpetrated as part of an orchestrated widespread campaign targeting a segment of the population for political, religious, or racial reasons, it is a crime against humanity; • It is unclear from the facts if the persecution E suffered is specifically targeted against her for reasons of nationality, race, religion, political opinion, or membership of a particular social group; • Most asylum countries will not grant refugee status under the 1951 Refugee Convention on the sole basis of persecution suffered in the context of war, unless it is established that the refugee is part of a population group specifically targeted for not sharing the political interests of one of the warring factions; • E may not qualify as a refugee under the 1951 Refugee Convention but is in need of international protection and would qualify under the broader 1969 OAU and 1984 Cartagena refugee definitions, including under the UNHCR's mandate (see "Who is a Refugee?" in <i>Protecting Refugees: A Field Guide for NGOs</i>). |

Case F

| Key facts | Key points for analysis |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • F is befriended by political activists; • Illegal activities; • Arrest of a friend who disappeared thereafter; • Search for a better job. | <ul style="list-style-type: none"> • F's political activities were marginal. Nothing leads one to think the government was aware of F's sympathies; • He has not been persecuted, nor does he fear persecution; • He is a migrant driven primarily by reasons other than finding refuge from general violence or turmoil; • F is not forced to flee because of a threat to his life or security because of serious disturbances of public order; hence, he is not covered under the 1969 OAU Convention definition. |