

REFUGEES

**Protection Gaps  
Framework for Analysis  
Enhancing Protection of Refugees**  
Strengthening Protection Capacity Project (SPCP)



EUROPEAN COMMISSION



**UNHCR**  
The UN  
Refugee Agency

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Framework for Analysis  
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**2006**



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Edited by Ninette Kelley

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

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## Forward

The foundation principles for ensuring protection of refugees and asylum-seekers have been in place for over 60 years, beginning with the 1951 Convention and strengthened and reinforced by the 1967 Protocol and many other refugee law and human rights regional and international human rights instruments. In spite of this far reaching protection regime, the reality is that the needs of millions of refugees and asylum-seekers are unaddressed and they remain unable to exercise the basic rights to which they are entitled.

There are many reasons for weaknesses in the global protection regime. At one end of the spectrum there are States that refuse to respect the internationally guaranteed rights. At the other end are States that, in spite of the best will, cannot. Many States, while recognizing the importance of the international protection regime either are not clear on the application of these principles or how to realize them, and/or do not have the capacity or resources to implement them.

UNHCR has long been aware of the gap between theory and practice and throughout the years in cooperation with others has developed tools to strengthen the protection capacities of States. However, the Office has lacked a comprehensive framework for analysing where gaps in State capacity exist. This Framework, which draws on the direct experience of UNHCR staff in the field as well as on the many protection related guidelines and monitoring tools developed by UNHCR and partners, should meet the need for a more systemic and comprehensive approach to protection gaps analyses.

Identifying gaps is the precursor to filling them. This Framework is a key tool for targeted project identification and programme delivery. It should initially assist UNHCR and partners in working with States to fill the gaps and progressively ensure the availability of quality protection to all who need it.



Erika Feller

Assistant High Commissioner-Protection  
United Nations High Commissioner for Refugees

# Introduction

This Framework for analysing gaps in protection capacity was developed in the context of the Strengthening Protection Capacity Project (SPCP). Initially funded by the European Commission and three co-funding States, the SPCP seeks to strengthen the capacity of States to protect refugees and others of concern. It uses a comprehensive and collaborative approach to capacity building that involves all concerned stakeholders in the identification of protection gaps and the development of projects to remedy them.

The SPCP starts with the identification and analysis of protection gaps which are published in a report. National consultations with all concerned stakeholders are then held to discuss protection gaps highlighted in the report and to recommend measures to remedy them. Specific project interventions are subsequently developed collaboratively and form part of an agreed upon multi-year plan of action for strengthening protection capacity in the country concerned. The multi-year plan of action, and the projects that are developed within it, are important planning and advocacy tools.

## **Focus on the analysis**

This publication is intended to help in the analysis of protection gaps. It is designed to indicate where State capacities need strengthening as well as point to areas where the capacities of international organisations, national agencies and civil society need to be reinforced in their protection activities. Equally important is the role of refugees and asylum-seekers in both identifying protection deficits and contributing to improve them. The analysis, therefore, is intended to capture their involvement and capacities as well.

Although the Framework focuses on the protection situation of refugees and asylum-seekers, it can be adapted for use in other contexts (e.g. in the context of other forms of displacement and return).

## **Using the Framework**

The Framework is not meant to be a statistics-gathering instrument, 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.

## **Gaps analyses and participatory assessments**

Importantly, the gaps analysis is also meant to be used following a 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) must be included in the gaps analysis report to ensure full

and complete coverage and the identification of appropriate solutions to remedy the gaps identified. UNHCR's Participatory Assessment Tool is included on the CD-ROM accompanying this publication.

### **Organization of the analysis**

The Framework is organized into 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 Conclusions of the Executive Committee of the High Commissioner's Programme. The questions in each chapter are designed to help determine to what extent the reality in the host country meets protection requirements and standards. Where the reality falls short, that constitutes a gap.

The questions that are posed in the 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 complete a concise narrative on the identified gaps in the country.

To assist the writer in analyzing the content of the protection component, there is an Annex at the end of the Framework with references to relevant legal authority, standards and guidance. The CD-ROM also includes the full text of the sources referred to in the Annex.

### **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 are means to ensure that the report will be read, understood and relied upon as the central reference document for prioritizing gaps and developing strategies to remedy them.

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

The CD-ROM includes a report template formatted in MS Word.

### **Gaps analysis and strengthening protection capacities**

Identifying gaps in protection is a necessary initial step to prioritizing and developing measures to strengthen protection capacity. The gaps analysis report produced using this Framework should spur the development of initiatives and long-term strategies that afford better protection to refugees and asylum-seekers and support to States in providing it.

To assist in tracking such developments, a matrix template is included on the CD-ROM for recording identified gaps, projects to remedy them, implementation period, cost, funding source and implementing agency.

## List of Abbreviations

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

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## 1. Favourable Protection Environment



Children playing at a day home for internally displaced persons (IDPs) in Chicorado, Oraba, Colombia.

*A favourable protection environment is one where the causes and demographics of displacement are well known, the rights of refugees and other asylum-seekers are recognized in national law, there is adequate administrative capacity to oversee affairs regarding refugees and asylum-seekers, protection issues are jointly addressed by all relevant stakeholders, local populations are receptive to refugees and asylum-seekers, and where 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 why persons have been displaced;
  - Demographic and socio-economic profile disaggregated by age, sex and ethnic group;
  - Vocational background;
  - Identification of groups with specific needs;
  - Location;
  - Areas of possible return.
- ▶ If accurate figures are unavailable, indicate why. Do census and other demographic surveys include refugees?

## 1.2 Major international and regional protection instruments

- ▶ Indicate whether all the major international and regional protection instruments have been ratified and explain any reservations for doing so. (Attach a list of all instruments that have been ratified or to which important declarations have been declared in Annex I of the Gaps Analysis Report.)
- ▶ Indicate whether all the instruments that have been ratified have been incorporated into national law.
- ▶ Are women and children's rights reflected in national legislation and respected in practice?

## 1.3 Legal and administrative protection framework in the host country

- ▶ Briefly describe the major statutes and policy declarations that have a bearing on the protection of refugees and asylum-seekers.
- ▶ Briefly describe significant administrative institutions that have a responsibility for refugees and asylum-seekers.
- ▶ Is UNHCR's supervisory role recognized in law or otherwise recognized by the authorities?

*“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 States Parties, Preamble*

#### **1.4 Partnerships to strengthen protection capacity**

- ▶ 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?

#### **1.5 Migration policies and refugee protection principles**

- ▶ Do legal migration possibilities (or lack thereof) impact on asylum flows?
- ▶ Are there measures to combat smuggling and trafficking that have a negative impact on asylum-seekers and refugees?
- ▶ What is the general practice of the State concerning persons, including unaccompanied and separated children, not found in need of international protection?
- ▶ Has the State concluded any readmission agreements for persons not found in need of international protection?
  - If yes, with which countries?
- ▶ Do readmission agreements contain safeguard provisions for refugees?
- ▶ Is readmission applied consistently with international standards?
- ▶ In the absence of readmission agreements, does the State return rejected asylum-seekers to third countries?

#### **1.6 Local population receptivity towards refugees**

- ▶ How informed is the population on protection issues?
- ▶ What are the local attitudes towards refugees and asylum-seekers?
  - Do refugees and/or asylum-seekers place a strain on resources (e.g. water, food, fuel) and services?
  - Do refugees and asylum-seekers have an adverse impact on the environment? If yes, is this an issue for the local population?
- ▶ Are public awareness programmes in place to focus on positive contributions of refugees and asylum-seekers (e.g. for schools and for media)?
- ▶ Are certain groups of refugees and asylum-seekers treated, or perceived, differently (e.g. based on their sex, age or ethnicity)?

#### **1.7 Refugee and national, regional and development agendas**

- ▶ Are refugees and asylum-seekers included in, or impacted by, national poverty reduction and development strategies?
- ▶ How are refugees and/or asylum-seekers viewed in regard to local or national economies (i.e. are they perceived as contributing to the economy)?

## 2. Admission in Safety and Registration



Registration of Kosovar refugees arriving in Macedonia.

*Protection can only be ensured if refugees are admitted to a country of refuge and are not removed while their protected status is being determined. Registration of refugees and asylum-seekers is critical to enhance their security, address specific needs, ensure access to essential services, protect the unity of the family and identify the most appropriate durable solution.*

## **2.1 Access to the territory**

- ▶ What government authority controls access to the territory?
- ▶ Are there any guidelines or instructions provided to border officials regarding refugees and asylum-seekers?
  - If so, do they specify appropriate standards of treatment of asylum-seekers?
  - Are border officials required by law to refer asylum cases to the authority responsible for asylum matters? Is there a mechanism to do so?
  - Are female border officials provided to interview women?
  - Are all persons arriving at the frontier seeking protection admitted into the territory?
- ▶ Are potential asylum-seekers pushed back at sea before reaching the territory?

## **2.2 Non-refoulement at point of entry**

- ▶ Does the government use the concept of extraterritorial zones (at borders, airports, or sea) to restrict access?
- ▶ Are persons seeking asylum returned without a proper determination of their protection needs?
  - If so, under what circumstances?
  - Are public records kept of cases of refoulement?
  - Is UNHCR systematically informed? What action is taken? What is the response of the authorities?
  - Do numbers reveal the extent of the problem?
- ▶ Are refugees sent to third countries? If so, what safeguards are in place?
- ▶ Are there instances of refoulement other than at the point of entry?
  - If so, who makes the decision? How is refoulement carried out?
  - Are asylum-seekers and refugees able to adequately argue against their removal?
  - Is UNHCR systematically informed of these cases of refoulement and is it able to take action to prevent refoulement?

## **2.3 UNHCR access to new arrivals at entry points**

- ▶ Does UNHCR (or other protection NGOs) have access to new arrivals at points of entry?
  - If not, why?

## 2.4 Individual registration of refugees and asylum-seekers

- ▶ Who registers refugees and asylum-seekers?
  - Is it a joint exercise (e.g. government and UNHCR or NGO)?
  - 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?
- ▶ Are all refugees and asylum-seekers systematically and individually registered in their own names?
  - Are dependants between 16 - 18 years of age informed that they can be registered individually?
- ▶ What mechanisms are in place to register refugees and asylum-seekers?
  - What proportion are registered individually?
  - How soon after arrival are refugees and asylum-seekers registered?
  - Are there any specific obstacles to effective registration?

*“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 upon their arrival, in a manner which contributes to improving their security, their access to essential services and their freedom of movement.”*

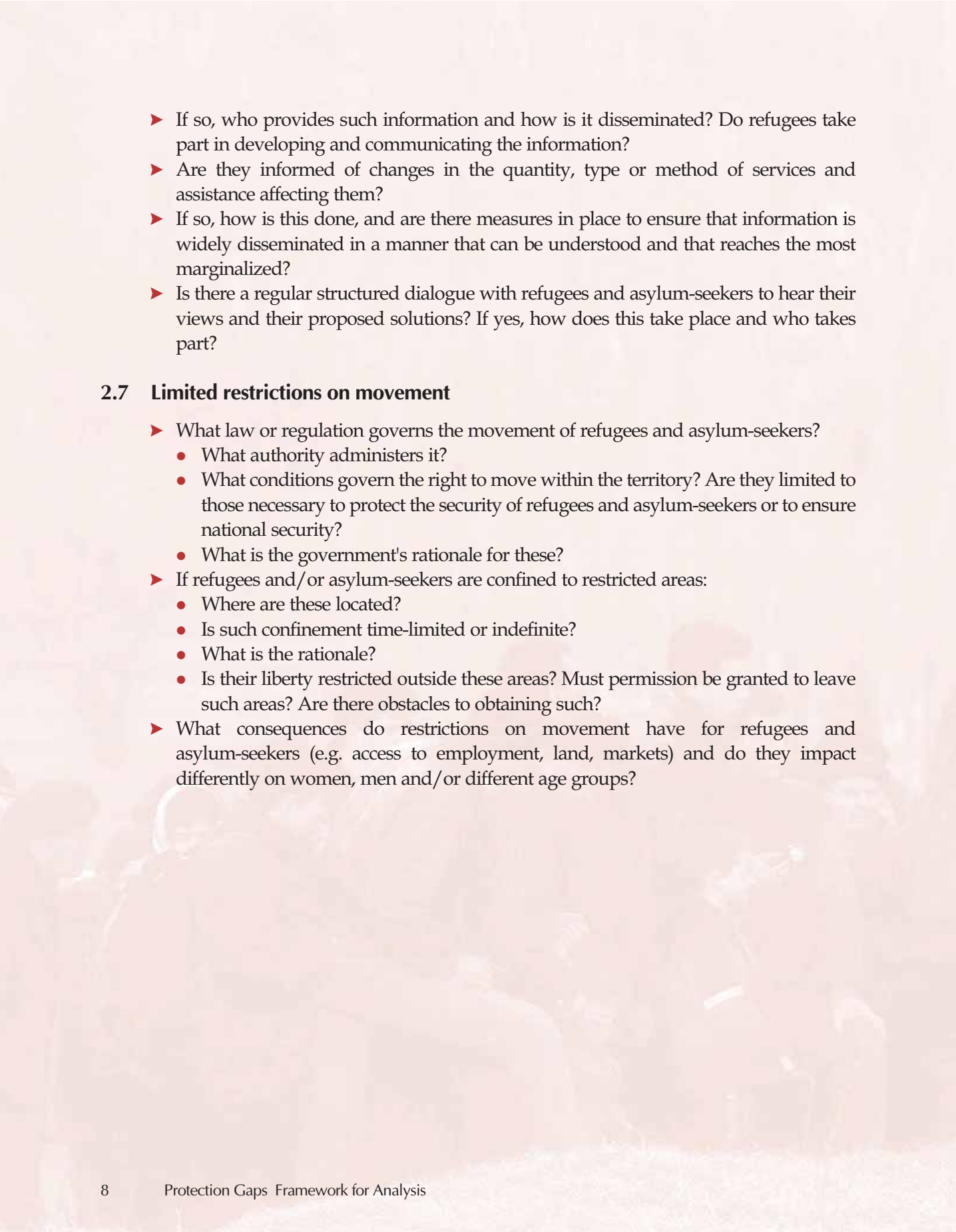
*AfP Goal 1, Objective 11*

## 2.5 International registration standards

- ▶ Does the registration process include the following minimal data: name, date of birth, sex, country of origin, marital status, children and provision for recording if the person is an unaccompanied or separated child?
- ▶ Is registration continuously updated, documenting new arrivals, births, deaths, marriages and departures?
- ▶ Is the principle of confidentiality respected in accordance with international standards? For example, does registration take place in an accessible and safe location?
- ▶ Is there coordination among operational partners to avoid duplication and breaches of confidentiality?
- ▶ Is registration used to facilitate family unity?
- ▶ Is registration done electronically? If so, is the software used compatible with other agencies that may require the registration data (subject to confidentiality requirements)?

## 2.6 Information regarding rights and responsibilities

- ▶ Is information provided to refugees and asylum-seekers on their rights and responsibilities in a language they can understand?

- 
- ▶ If so, who provides such information and how is it disseminated? Do refugees 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?
  - ▶ If so, how is this done, and are there measures in place to ensure that information is widely disseminated in a manner that can be understood and that reaches the most marginalized?
  - ▶ Is there a regular structured dialogue with refugees and asylum-seekers to hear their views and their proposed solutions? If yes, how does this take place and who takes part?

## 2.7 Limited restrictions on movement

- ▶ What law or regulation governs the movement of refugees and asylum-seekers?
  - What authority administers it?
  - What conditions govern the right to move within the territory? Are they limited to those necessary to protect the security of refugees and asylum-seekers or to ensure national security?
  - What is the government's rationale for these?
- ▶ 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?
  - Is their liberty restricted outside these areas? Must permission be granted to leave such areas? Are there obstacles to obtaining such?
- ▶ What consequences do restrictions on movement have for refugees and asylum-seekers (e.g. access to employment, land, markets) and do they impact differently on women, men and/or different age groups?

### 3. Fair and Efficient Status Determination



Receiving counselling at the UNHCR Office in Traiskirchen, Austria.



*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 independent of formal recognition, governments have procedures to distinguish between refugees whom they have an obligation to protect, and other persons not in need of international protection. These procedures must be fair and efficient to ensure that refugees receive the timely protection to which they are entitled.*

### **3.1 Group determination**

- ▶ Is the concept of prima facie refugees recognized in law and administrative practice?
  - How is it applied?
  - Are there conditions attached to its application (e.g. status expiry after certain length of time)?

### **3.2 Individual refugee status determination**

- ▶ Do asylum-seekers who are not accorded prima facie refugee status have access to individual Refugee Status Determination (RSD) procedures and if so under what legislative or administrative framework?
  - If not, explain why. What are the grounds for inadmissibility (e.g. time limits, status elsewhere, safe country of origin)?
  - Are certain groups found to be inadmissible either by law or in practice (e.g. for reasons of age, sex or ethnic group)?

### **3.3 Fair and efficient first instance procedure**

- ▶ Do asylum-seekers have an effective opportunity to present their claim to international protection before an independent decision maker?
- ▶ Is the process confidential?
- ▶ Are sufficient efforts made to ensure that asylum-seekers have adequate information on asylum procedures, presented both orally and in writing, in a manner they understand?
- ▶ Are effective counselling and legal advice services available for asylum-seekers?
- ▶ Do asylum-seekers have the benefit of an impartial and qualified interpreter in the RSD procedure?
- ▶ Are there provisions to meet specific needs of female and minor asylum applicants (e.g. appropriate questioning techniques, female decision-makers and interpreters)?
- ▶ Are separated children assisted by a guardian during the RSD procedure?
  - Are guardians authorized to decide on behalf of children in line with the best interest of the child in all matters related to the child? What are the procedures for their appointment?
- ▶ Does UNHCR have an advisory or observer role?

- ▶ Are written reasons for negative decisions provided? Is information on where and within what time frame to lodge an appeal also provided?
- ▶ Are decisions rendered in a timely manner?
- ▶ Are family members of recognized refugees accorded the same status?
  - If not, what are the consequences for the family members?

### 3.4 Appeal

- ▶ Is there a right of appeal to an independent authority?
- ▶ Does a person have a right to remain pending the decision on the appeal?

### 3.5 Full and inclusive interpretation of the refugee definition

- ▶ Is a full and inclusive interpretation of the 1951 Convention definition used, including recognition of gender-related persecution as a basis for a refugee claim?
- ▶ Is 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 the decisions of the authorities?
- ▶ What are the acceptance rates of refugee claims? What is the rate for men? What is the rate for women?

### 3.6 Country of origin and legal information

- ▶ Is legal and country of origin information, including background information, guidelines and position papers available and easily accessible to staff, government and partners?
  - Has there been training on how to access (via Internet, CD-ROM, or hard copies) and use country of origin information for government, NGO and staff?
- ▶ Do staff and authorities involved in RSD have access to Internet and country of origin information available on CD-ROMs?
  - Are there broadband or other rapid connections to the Internet?
- ▶ Is there an identified need for more information on the part of the government and NGOs?
- ▶ Does the information include an age, gender and diversity analysis (e.g. country of origin information reflects protection risks of all groups)?

*“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*

### 3.7 Complementary and temporary forms of protection

- ▶ Are complementary and temporary forms of protection provided for in law and applied in practice?
- ▶ Are decisions on complementary protection made in the same procedure as refugee claims? If not, what is the procedure for granting complementary and temporary protection?
- ▶ Are complementary forms of protection used for persons who would otherwise qualify for refugee status?
- ▶ Are the rights accorded to persons granted complementary protection the same as those granted to 1951 Convention refugees? If not, how do they differ?
- ▶ Is the time limit for temporary protected status set in law? How is it applied?
- ▶ What is the procedure and time limit for granting temporary protection? Can persons granted temporary protection submit an asylum application when the time limit for the temporary protection is over?

## 4. Security from Violence and Exploitation



African Union and Sudanese soldiers escort women in the Darfur region to collect firewood, a strategy that has proven effective in preventing rape.

*Protection includes not being arbitrarily deprived of liberty and being safe from violent acts, abuse and exploitation.*

#### **4.1 Non-arbitrary arrest and/or detention**

- ▶ Are there reports of refugees and asylum-seekers being arbitrarily arrested and detained for entry-related offences (such as lack of papers or visas, or irregular border crossing) or for other criminal offences?
  - How and to whom are these incidents reported and are they verifiable?
  - Which authorities are responsible for such acts?
- ▶ What is the number of refugees and asylum-seekers in detention?
  - Is data available by sex and by age?
  - Are there reliable figures to show what proportion of these is unwarranted?
  - Are minimum standards respected (e.g. informed of reasons, given access to free and impartial legal assistance, not unduly prolonged, subject to judicial review)?
  - Are women and children detained separately from men (except for families)?
  - 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 for children used?
  - Are asylum-seekers and refugees who are detained for entry-related offences separated from criminal offenders?
- ▶ Is the detention of refugees and asylum-seekers monitored? If so, by whom?
  - Is access to detainees by UNHCR and NGOs assured?
- ▶ Are there detention or jail facilities in the camps/settlements for offenders?
  - Who administers them?
  - Are the facilities run in accordance with international standards?

*“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*

#### **4.2 Mechanisms to prevent and respond to sexual and gender-based violence**

- ▶ Are refugees and asylum-seekers (adults and/or children) subject to harmful treatment within the family, including battering, sexual exploitation, sexual abuse, neglect, dowry-related violence, marital rape, female genital mutilation (FGM) and other harmful traditional practices?
- ▶ Are women and girls subject to sexual and gender-based violence (SGBV) within the community (including the host community) such as rape, sexual abuse, sexual harassment and intimidation, trafficking and forced prostitution?
- ▶ What reporting mechanisms are in place for SGBV cases?

- Do they include a complaints mechanism to address alleged abuse by camp workers? How effective is the complaints and reporting mechanism?
- ▶ Is training provided regarding SGBV (e.g. education and awareness building programmes targeting men, women and children and officials)?
  - If yes, what percentage of the population of refugees and asylum-seekers have participated? Similarly, what percentage of the officials dealing with them have participated?
- ▶ How is the refugee community involved in the design and implementation of prevention and response mechanisms to SGBV?
- ▶ Are there other specific measures in place to protect refugees and asylum-seekers from SGBV?
  - How is the effectiveness of these measures determined?
- ▶ What support services are available to survivors of SGBV (and their families, if required) and are services effectively accessed (e.g. psychological and legal counselling, facilitating court proceedings, medical assistance, material support)?
- ▶ Do the laws of the country recognize SGBV (such as rape, FGM and domestic violence) as a crime?
  - Do women have effective remedies in the national legal system for SGBV?
  - If not, why (e.g. is such violence recognized as criminal, are perpetrators prosecuted, are courts accessible, are remedies timely)?
- ▶ Are there other dispute resolution mechanisms in place to address SGBV crimes and if so, do they respect survivors' rights? If not, what are the problems with the mechanisms?

#### **4.3 Specific programmes to protect children**

- ▶ Are those below 18 years of age or over considered minors?
  - What is the policy regarding the "age test" for applicants who claim to be below 18 years of age?
- ▶ Are tracing mechanisms in place for unaccompanied and separated children, that include early identification, registration, documentation, tracing, verification and family reunification?
- ▶ Are unaccompanied children seeking asylum provided with a guardian and at what point in the process?
- ▶ Is a system in place that ensures temporary care arrangements for unaccompanied children? Are these care arrangements regularly monitored? Are there special reception facilities for unaccompanied children?

- ▶ Are there mechanisms in place to monitor the physical security, protection and well-being of children, including children in detention?

"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*

- If so, what are they and how effective are they? Are these mechanisms community based and part of a broader child protection system, which includes reporting, follow-up and support to families and communities?
- ▶ Are girls and boys (including those children who are heads of their families) compelled to work, and if so, why?
- ▶ Are there known cases of the sexual exploitation of girls and boys and other types of abuses and or violence against children (e.g. sexual violence, child prostitution, child soldiers)?
- What measures are in place to minimize these risks and to take action when they occur?
- ▶ Are there measures in place to assist children with mental and/or physical disabilities?
- ▶ Are workers dealing with refugee and asylum-seeker children provided with initial and ongoing training on child protection issues?

#### 4.4 Effective security systems in camps/settlements

- ▶ Is there a security force in areas hosting refugees and asylum-seekers trained in fundamental protection principles, including in women's and children's rights and SGBV prevention and response?
  - Who provides the security and what proportion of the personnel are women?
  - What role do men and women in the population of concern play in security matters?
  - Are security patrols in place that provide effective protection to women and children?
  - Are refugees and asylum-seekers able to easily alert the security authorities of security concerns/incidents in their areas?
  - Do security personnel wear badges so the community can easily individually identify them and report any problems?
- ▶ What else contributes to the security of hosting areas (e.g. lighting, neighbourhood watch, refugee security wardens, housing)?
  - Do refugees and asylum-seekers face any risks in accessing food, water or other items?

- ▶ Are the security measures sufficient?
  - If not, describe why. Include information on the number of known incidents of members of the population of concern killed and/or wounded (not of natural causes and not as a result of insufficient necessities of life).
  - What are the major motivations behind these?
  - Who are the main perpetrators of violence?
- ▶ Is security in hosting areas integrated into the national security apparatus?
  - Are there practical arrangements in place for cooperation on security issues with UNHCR, the Department of Peacekeeping Operations (DPKO) and other segments of the UN?

#### 4.5 Maintenance of civilian character of camps/settlements

- ▶ Are all camps/settlements located at a safe distance from borders (e.g. at least 50km away)?
- ▶ Is this measure sufficient to minimize the risk of infiltration by armed factions and cross-border attacks?
- ▶ Are armed persons disarmed and combatants separated from the population of concern?
  - Are border and registration officials trained to correctly identify such persons at the point of entry (e.g. from clothing or statements made)?
  - Are combatants disarmed before being allowed to join the refugee population or otherwise separated from the refugee population?
  - Are special programmes in place, where appropriate, to disarm, demobilize and reintegrate or rehabilitate child soldiers who are among the populations of concern? Are they equally available to girls and boys and address their specific needs?
  - Is there a clear agreement between UNHCR and the government regarding the hand-over of armed persons to the authorities? If so, how effective is it?
- ▶ Are there reports of forced recruitment, clandestine meetings, forcible solicitation of funds 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. sex and age)?
  - How are these reports verified and dealt with?
  - Are there reasons (other than forced recruitment) why girls and boys would join armed groups?

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

*AfP Goal 4, Objective 3*



## 5. Essential Services Assured



Schoolchildren in Kala Camp, Zambia, refugees from the Democratic Republic of Congo.

*In addition to security from violence, protection 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.*

### 5.1 Refugees and asylum-seekers participate

- ▶ Are women and men (including adolescent girls and boys) involved in making decisions on the distribution of items and services needed to live in dignity?

### 5.2 Identification of urgent protection risks

- ▶ Are mechanisms in place to help identify those with specific protection needs?
  - If so, what are they?  
How is the community involved in identifying them?
  - What types of needs are identified (e.g. medical, psychological, special accommodation)?
- ▶ Are the needs of unaccompanied and separated children identified?
  - If so, by whom? How are they identified?  
What is the follow-up on those needs?

*“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*

### 5.3 Nutritional well-being

- ▶ Is there accurate information on whether refugees and asylum-seekers have adequate food?
  - If so, what is the source of this information and what does it indicate?
  - 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? Is there consideration of those with specific needs, such as the elderly, pregnant and nursing women?
  - Is food provided in a way that does not adversely affect local producers and markets?
- ▶ Do refugees and asylum-seekers have sufficient quantity of safe water for drinking, cooking and personal and domestic hygiene?
- ▶ Are measures in place to ensure that women and underrepresented groups have equal access to food and water?

#### 5.4 Basic domestic and personal items

- ▶ Are clothing needs met?
  - If so, how? If not, why?
  - Are sufficient other non-food items provided (e.g. soap, sanitary materials)? How often are they distributed?
- ▶ What is the impact of the lack of adequate clothing and/or other personal items (e.g. on health, access to education, employment, vulnerability to sexual harassment and/or exploitation)?

#### 5.5 Adequate housing

- ▶ Do refugees and asylum-seekers have housing that provides:
  - Physical 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-seeker's and/or refugee's circumstances (e.g. single women, women heads of household, older single persons, grandparent and child-headed households);
  - Recreational space available for children.
- ▶ Are refugees and asylum-seekers subject to any housing restrictions?
- ▶ Are they disproportionately affected by substandard housing, evictions or homelessness as compared to local populations?
- ▶ Are they taken into consideration in national housing strategies?

#### 5.6 Primary curative health care and preventative health education

- ▶ Do refugees and asylum-seekers have access to primary curative and preventative health care services?
  - Who provides these services? Are local authorities involved in delivering the services?
  - Are there obstacles to accessing them (e.g. insufficient number of providers overall and an insufficient number of female providers, sub-standard care, fees for services, language barriers)?
- ▶ Are refugees and asylum-seekers granted access to health services on the same terms as nationals?
  - If so, are they able to avail themselves of such services and if not, why?
- ▶ Are health services equally available to women and men?
- ▶ Are there other health education services?


- Do they include training to prevent and control diseases of public importance to promote hygiene and sanitation awareness and training of health workers?
- ▶ Do the services available to refugees and asylum-seekers include reproductive health services and family planning, psychological services, emergency services, and immunizations?
- ▶ What are the main health problems affecting the population of concern? How are these known and recorded?
  - What is/are the principal cause(s) of these problems?
  - What impact do the available health services have on reducing these problems?
- ▶ Are refugees and asylum-seekers wrongly subjected to compulsory HIV/AIDS tests?
  - Do they have access to voluntary testing and counselling programmes on a non-discriminatory basis?
- ▶ Are those with HIV/AIDS or suspected of having HIV/AIDS discriminated against in the enjoyment of their rights (including refoulement, expulsion, denial of access to asylum, employment, housing, other civil disabilities)?
- ▶ Are those with HIV/AIDS integrated into national health care services and treatment protocols?
- ▶ Do refugees and asylum-seekers have access to essential HIV programs (e.g. availability of condoms, HIV/AIDS awareness campaigns)? How are children with HIV/AIDS provided for?
- ▶ What health services are available to those with other chronic medical conditions?

## 5.7 Primary and secondary education

- ▶ Do the laws and institutions governing the national education system also address the education rights of refugees and asylum-seekers?
- ▶ Are the refugee and/or asylum-seeker communities involved in running the education services for their community (e.g. through a local education committee)?
- ▶ Do children in the population of concern have access to free primary education?
  - Who finances such education?
- ▶ If education is only available for a fee, are there sufficient support programmes available?
  - Is secondary education in different forms, including technical and vocational, generally available and accessible to refugees and asylum-seekers?
  - If not, why not?

*“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*

- 
- ▶ What percentage of children of concern between 5-17 years old are enrolled in primary and lower secondary education?
    - What percentage of children successfully complete the school year?
    - Are girls disproportionately represented in drop-out rates?
    - What are the obstacles to greater school attendance (e.g. cultural constraints; lack of financial means to pay for uniforms, stationary or other school supplies; lack of appropriate clothing, risks on route to school and/or risks of harassment and violence in the schools by staff or other students)? How do these obstacles impact on girls and boys?
    - What is the student-teacher ratio?
    - Are teachers qualified and well trained? How is the quality of instruction monitored?
    - Do schools have sufficient textbooks and school supplies?
  - ▶ Are the educational needs of disabled children, child soldiers and other with specific needs addressed? If so by whom?

## 6. Documents Confirming Protected and Civil Status



Receiving an identity card from the Mobile Registration Unit in Ciudad Bolívar, Columbia

*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.*

## **6.1 Identity documents for asylum-seekers**

- ▶ Are all asylum-seekers (including women and children) provided with individual identity documents confirming their status as an asylum-seeker that are recognized by all government departments in the host country (e.g. police, housing authorities, health care providers)?
  - What government authority is responsible for issuing identity documents to asylum-seekers?
  - What procedures do they use?
  - Do the documents have security features which prevent them from being forged?
  - What proportion of asylum-seekers has been issued individual documentation?
  - Is this status valid until the asylum-seeker has received a final decision on his or her refugee claim?
- ▶ Are unaccompanied and separated child asylum-seekers provided with individual identity documents?

## **6.2 Identity documents for refugees (and persons granted complementary and temporary protection)**

- ▶ Are all refugees (including women and children) provided with identity documents confirming their status as a protected person that are recognized by all government departments in the host country (e.g. police, housing authorities, health care providers)? What kind of documents are provided (e.g. more than a ration card)?
  - What government authority is responsible for issuing identity documents to refugees?
  - What procedures do they use?
  - Do the documents have security features which prevent them from being forged?
  - What proportion of refugees has been issued individual documentation?
- ▶ If residence permits are granted, what is their duration? Are there any obstacles to obtaining them?
- ▶ Are unaccompanied and separated child refugees provided with individual identity documents?

### 6.3 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 the documents have security features which prevent them from being forged?
- ▶ Are there obstacles or constraints to obtaining these documents?
  - If the documents are not provided free of charge, how does this impact of the ability of refugees to acquire them?
  - Do they have a time and/or geographic limitation?
  - Can they be extended or renewed abroad?
- ▶ Are refugees required to apply for a re-entry visa to return to the host country? Must they apply for an exit visa to leave?

### 6.4 Documents confirming civil status

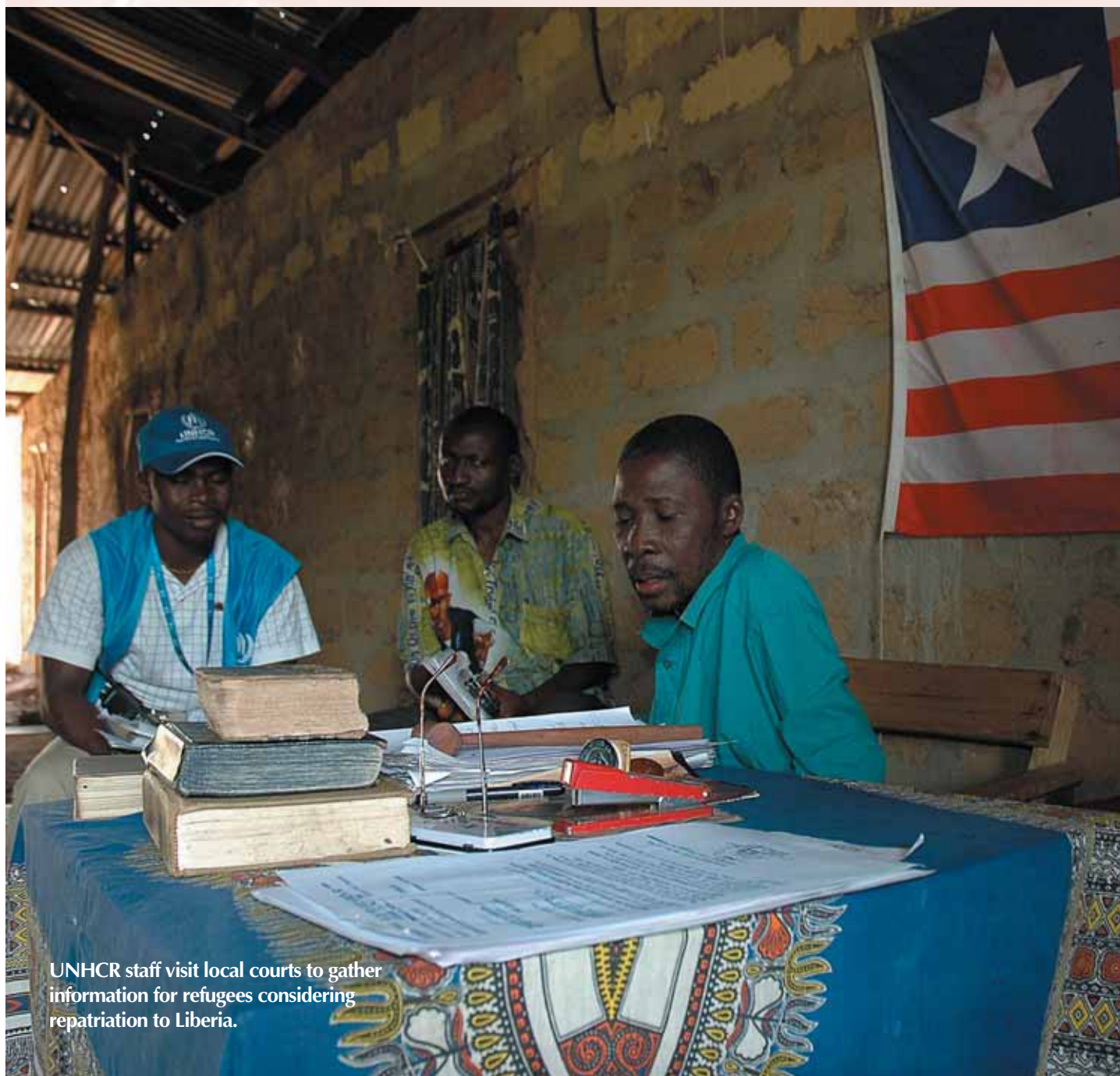
- ▶ Is the birth of newborns registered?
- ▶ Are newborns issued birth certificates?
- ▶ Are married couples issued marriage certificates?
  - If not, does the lack of documentation threaten family unity?
- ▶ Are death certificates issued and, if so, by whom?
- ▶ Do refugees and asylum-seekers who marry a national acquire the same rights as their spouse?
- ▶ Are common law marriages recognized?
  - If not, does this affect family unity?
- ▶ Does the host country assist refugees in obtaining documents that their country of origin would normally assist them to acquire?

“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*



## 7. Equal Benefit and Protection of the Law



UNHCR staff visit local courts to gather information for refugees considering repatriation to Liberia.

Equal benefit and protection of the law entails access without discrimination to effective remedies in law including access to fair dispute resolution mechanisms and access to representation and interpretation as necessary.

### **7.1 Access to effective remedies in law**

- ▶ Are refugees and asylum-seekers equal before the law and are they entitled without discrimination to equal protection of the law?
- ▶ In practice, do they have effective remedies by the competent national tribunals for acts violating their rights (e.g. free access to the courts, availability of legal aid, hearing before impartial and trained decision makers, procedures explained and interpretation in a language they understand)?
  - If not, why? (Note whether they are treated differently than nationals and/or whether the absence of such protections under the law is a reflection of the lack of national capacity or political will.)
  - How has the absence of legal protections impacted refugees and asylum-seekers?
  - Is there any difference in the ability of women, children, elderly, ethnic or other groups to get an effective remedy?

### **7.2 Other dispute resolution that respects international legal principles**

- ▶ Do refugees and asylum-seekers rely on traditional or other dispute resolution systems for legal remedies? If yes, describe the features of the mechanisms in use. What types of situations do they address?
- ▶ 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 women, children, elderly, disabled, and other minority groups?
- ▶ How do the traditional or other dispute resolution systems interface with national judicial systems?

## 8. Ability to Achieve Self-Reliance



IDP returnees fishing on the beach  
in Port Pedro, near Jaffna, Sri Lanka.

*Self-reliance is an important protection tool for it helps to enable refugees and asylum-seekers to live constructive and dignified lives while enhancing the sustainability of any future durable solution and reducing their overall vulnerability to protection risks.*

## 8.1 Wage earning employment

- ▶ Are refugees and asylum-seekers entitled to engage in 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 waived for recognized refugees who satisfy Article 17 of the 1951 Convention (completion of three years residence, spouse and/or parent of a national)?
  - Are such restrictions also imposed on other non-nationals?
- ▶ 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 on restrictions on their right to engage in wage earning employment? Include any consequences for women, children, elderly and other groups with specific needs.
- ▶ According to the government, what would be the consequences to the host community if these restrictions were not in place?
- ▶ Have studies been done on the economic and social impact of refugees and asylum-seekers on local communities?
  - If yes, are the results of such studies available?
- ▶ Have studies been conducted on the types of work and employment opportunities that exist for refugees and asylum-seekers?
- ▶ Is there a government job-placement strategy for refugees and asylum-seekers? If not, why not?

*“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*

## 8.2 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. state benefits such as unemployment insurance, old age and disability benefits) and employment standards (e.g. remuneration, hours of work, health and safety)?
  - If so, do they receive equal treatment as compared to nationals?

- If not, what are the consequences for refugees and asylum-seekers? Is the impact different for certain groups on the basis of age, sex, or other category?
- ▶ Are refugees and asylum-seekers subject to the same taxes and at the same rate as nationals?

### 8.3 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? Do other non-nationals face similar restrictions?
- ▶ What are the consequences for refugees and asylum-seekers on restrictions on their right to be self-employed?
- ▶ 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?
  - If such programmes exist, do they benefit women and men equally?
  - Who administers and funds such programmes?
  - Have they been evaluated for their success?
  - Do programmes address skills training?
- ▶ For those living in camps/settlements, do they have access to productive arable land and markets?
  - If not, why?
  - If there is access to productive arable land, is there also access to essentials such as tools, seeds and fertilizer?
- ▶ Are there markets within the refugee camp/settlement or in the local community? If in the local community, does the local community accept the presence of refugees or asylum-seekers in the marketplace? If not, what impact does this have on the ability of refugees and asylum-seekers to engage in trade?
- ▶ For those living in isolated rural areas and who do not come from farming backgrounds, do they have access to other livelihood activities? Does this create risks for them?
- ▶ Are refugee and asylum-seeker communities involved in developing livelihood strategies? Are women involved? Are there strategies to address the needs of specific groups such as grandparent- and child-headed households?

### 8.4 Recognition of foreign diplomas

- ▶ Are procedures in place whereby refugees and asylum-seekers can apply to have their diplomas recognized in the host state?
  - Do refugees and asylum-seekers have effective access to these procedures and does an impartial and competent authority consider their applications?
  - Are applications of refugees and asylum-seekers considered on the same basis as other non-nationals?

## 8.5 Right to own property

- ▶ Do refugees and asylum-seekers have the right to acquire and to own moveable and immovable property?
  - If restrictions apply, what are the consequences for refugees and asylum-seekers? Are there any specific consequences for women, elderly, or other groups?
  - Do restrictions that apply to refugees apply equally to other non-nationals in similar circumstances?
  - Are refugees and asylum-seekers subject to any duties or charges on their property that are higher than those imposed generally on nationals?

## 8.6 Educational and vocational programmes

- ▶ Do refugees and asylum-seekers, and youth in particular, have access to vocational training?
  - What government, international and/or non-governmental agencies are involved in such training?
  - Does such training benefit women and men equally? What are their relative participation rates?
  - Does vocational training equip them with marketable skills that are needed in the host community and are they able to use these skills in a timely fashion?
  - Are there vocational programmes that provide rural employment skills?
- ▶ Do refugees and asylum-seekers have the right to access higher education on the same terms as nationals?
  - If not, what are the rules governing their admission?
  - If they meet these requirements, is higher education in practice accessible to them?
  - If not, why (e.g. grades from the country of origin are not accepted by institutions of higher learning in the host country)?
- ▶ 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?
- ▶ Do opportunities exist for young asylum-seekers to gain access to apprenticeship programmes? If so, are these opportunities sensitive to the informal economic sector and its capacity to absorb workers?
- ▶ Do refugees and asylum-seekers participate in the design and development of vocational and other self-reliance programmes? If so, are women actively involved?

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

*AfP Goal 5, Objective 7*

## 9. Opportunities for Durable Solutions



Arrival home in Katanga village, Democratic Republic of Congo.

*Durable solutions enable those who have been displaced to lead safe and productive lives once more. 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 to the given situation.*

## **9.1 There is a comprehensive and coherent strategy for finding durable solutions**

- ▶ Are different durable solutions engaged in a comprehensive and complementary manner?
- ▶ Is a comprehensive strategy being applied to a particular caseload or area?
  - If not, why not?
  - Is a "best interests of the child" determination for unaccompanied and separated children done in order to determine the most appropriate durable solution?
- ▶ Are donor countries, resettlement countries, and countries in the region involved in efforts to find durable solutions?
- ▶ Do durable solution strategies (e.g. resettlement) impact on asylum flows?

## **9.2 Voluntary repatriation in safety and dignity**

- ▶ Do conditions in the country of origin favour return in safety and dignity?
  - If not, are refugees choosing to return?
  - What is their motivation for doing so?

### **Nature of voluntary repatriation**

- ▶ Is UNHCR facilitating or promoting return?
  - What are the constraints and obstacles?
- ▶ Has a framework to implement voluntary return been established?
  - Is there agreement on the establishment of tripartite commissions (i.e. host country/country of origin/UNHCR) and on fundamental issues such as reception facilities, security on route to final destinations, protection without recrimination, access to documentation, appropriate amnesties, property restitution, cross-sectoral programmes, assistance, security procedures, rehabilitation programmes and peace and reconciliation processes?
  - Have the views of women in the peace-building and repatriation process been considered in the establishment of the framework for return?
  - Are these elements in place?



- ▶ Have surveys been conducted (or planned) to provide:
  - Demographic and socio-economic profiles of the refugee population (including sex, age and ethnic group);
  - Areas of origin and preferred destinations upon eventual return;
  - Vocational background; and
  - Identification of groups with specific needs?
- ▶ Has a thorough assessment been made of developments conducive to return, including absorption capacity in areas of potential return?
  - Is information collected in a standardized manner?
  - Is the database on conditions in the country of origin regularly updated?
  - Are refugee and/or asylum-seeker communities involved in the assessment and in defining the information that they require?

### **Voluntariness**

- ▶ Is there a UNHCR-supervised and coordinated information campaign regarding repatriation?
  - Have gender and age-sensitive counselling/information networks in host countries been established?
  - Have go-and-see assessment visits for refugee men, women and adolescents 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?

### **Return modalities**

- ▶ Are measures in place to ensure safe return travel, in particular, are measures in place for groups with specific needs such as women, children and elderly?
- ▶ Are social welfare services provided to unaccompanied and separated children and special measures in place for their reception?
- ▶ What measures related to the child's health, personal effects, documentation, education, security and transport are in place to ensure safety and dignity of unaccompanied and separated children in the repatriation process?
- ▶ What measures are in place to sensitize and prepare the population, particularly in the communities to which refugees will eventually be returning?
- ▶ Is returnee monitoring undertaken, involving other agencies as appropriate?

“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*

- Are refugee and/or asylum-seeker communities involved in the monitoring of their own return?
- What are the obstacles for reintegration?
- ▶ Does the planning for repatriation include the early involvement of development partners?

### 9.3 Reintegration and Rehabilitation

- ▶ Do governments have strategies in place to address the displacement issues in order to make reintegration and peaceful development sustainable? Does UNHCR offer support to governments to develop these strategies?
- ▶ Are there partnerships with other multilateral and bilateral actors to link repatriation, reintegration, rehabilitation and reconstruction?
- ▶ Are there community-based investments in place which will benefit both returnees and the local population to increase absorption capacity and contribute to reconciliation?
- ▶ What measures are in place to ensure that returning refugee women and children benefit equally on return?

### 9.4 Local Integration

- ▶ Does the government permit the local integration of refugees and asylum-seekers?
  - If so, on what legal or policy basis? What entitlements do refugees and asylum-seekers acquire with local integration?
  - If refugees and asylum-seekers are not permitted to integrate locally, indicate why.

#### Naturalization and citizenship

- ▶ Does the government facilitate the naturalization of refugees? If so, what is the process? Are there any obstacles to acquisition?
- ▶ Is citizenship possible and, if so, after what period of time?
- ▶ Is there a mechanism for the identification and documentation of stateless persons and are there special provisions for their naturalization?
- ▶ If naturalization and/or citizenship is/are not facilitated, are there other forms of secure durable residency available?
  - If yes, do restrictions apply?

#### Integration

- ▶ Are there measures in place to facilitate the integration of refugees and asylum-seekers (e.g. induction, orientation and language courses)?

“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*

## 9.5 Resettlement

- ▶ Is resettlement fully integrated into a comprehensive protection and durable solutions strategy?

### Procedures

- ▶ 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?
  - Are women at risk taken into account in the strategy? If not, why?
- ▶ Does the UNHCR Branch Office have a written resettlement strategy? Does it have resettlement Standard Operating Procedures?
- ▶ Who is responsible for post-selection activities (e.g. pre-departure and departure arrangements such as medical examinations and furtherance, 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?
  - Are necessary travel documents and visas easily obtained? If not, what are the obstacles?

### Capacity

- ▶ Is the Branch Office able to meet identified resettlement needs? If not, why (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?
- ▶ Does resettlement impact the refugee community not resettled? If so, how?

“States to put in place policies to ensure that resettlement runs in tandem with a more vigorous integration policy, aimed at ensuring refugees having durable residence status to enjoy equality of rights and opportunities in the social, economic and cultural life of the country. ...”

*AfP Goal 5, Objective 5*

## Annex

## Selective Authoritative Sources and Guidance



UNHCR staff sharing information at the UNHCR Information Centre for Afghans in Gousabad, Quetta, Afghanistan.

*As human rights law is constantly evolving, and this list is selective only, readers are advised to check for new developments. RefWorld, published semi-annually in CD-ROM format, and available on the Internet, <http://www.unhcr.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, 2004, 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 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 Major international and regional protection and human rights instrument**

#### **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 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 (CCPR)
- International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR)
- Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 (CAT)
- Convention on the Rights of the Child (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

## **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

## 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
- African Charter on the Rights and Welfare of the Child, 1990
- American Convention on Human Rights, "Pact of San Jose, Costa Rica", 1969
  - 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 Legal and administrative protection 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. 92 (LIII) 2002 *General Conclusion on International Protection*, para. (a)
  - No. 85 (XLIX) 1998 *International Protection*, para. (x)
  - No. 103 (LVI) 2005 *Provision of International Protection Including Through Complementary Protection*
  - 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*

#### 1.4 Partnerships to strengthen protection capacity

##### **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.*

#### 1.5 Migration policies and refugee protection principles

##### **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-l)*
- Agenda for Protection Goal 2: *Protecting refugees within broader migration movements*

## 1.6 Local population receptivity towards 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

- CCPR, Articles 2, 4, 20(2), 26 and General Comment No. 18 (37th session) 1989
- CEDAW, Article 2
- ICERD, Articles 2, 4
- CRC, Article 2 and 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 *International Protection, para. (g)*  
No. 80 (XLVII) 1996 *Comprehensive and Regional Approaches within a Protection Framework, para. (e)(viii)*  
No. 77 (XLVI) 1994 on *International Protection of Refugees, para. (h)*
- Agenda for Protection Goal 1, Objective 8: *Enhanced respect for refugees*
- UNHCR Environmental Guidelines, UNHCR, 2005

## 1.7 Refugees and national, regional and development agendas

### 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. (I)(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

## 2. Admission in Safety and Registration

### 2.1 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*

- ICERD, Article 5(b),(d)(ii)
- 1951 Convention, Articles 31, 33
- ExCom Conclusions:
  - No. 97 (LIV) 2003 *Protection Safeguards in Interception Measures*
  - No. 82 (XLVIII) 1997 *Safeguarding Asylum*
  - No. 38 (XXXVI) 1985 *Rescue of Asylum-Seekers in Distress at Sea*
  - No. 23 (XXXII) 1981 *Problems Related to the Rescue of Asylum-Seekers in Distress at Sea*
  - No. 22 (XXXIII) 1981 *Protection of Asylum-Seekers in Situations of Large-Scale Influx, para. III*
  - No. 15 (XXX) 1979 *Refugees without an Asylum Country*

### 2.2 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*

- Declaration on Territorial Asylum, Article 3
- CAT, Article 3
- Fourth Geneva Convention of 1949, Article 45, para. 4
- CCPR, 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

## 2.3 UNHCR access to new arrivals at entry points

### 1967 Protocol, Article II

*The States Parties to the present Protocol undertake to co-operate with the Office of the United Nations High Commissioner for Refugees ... in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the present Protocol.*

#### *See also*

- 1951 Convention, Article 35
- OAU Convention, Article 8(1)
- Cartagena Declaration, Article II(e)
- ExCom Conclusions:
  - No. 93 (LIII) 2002 *Reception of Asylum-Seekers in the Context of Individual Asylum Systems*, para. (b)(viii)
  - No. 82 (XLVIII) 1997 *Safeguarding Asylum*, para. (d)(iv)
  - No. 33 (XXXV) 1984 *International Protection of Refugees*
  - No. 22 (XXXII) 1981 *Protection of Asylum-Seekers in Situations of Large-Scale Influx*, para. III
- Agenda for Protection *Operative Paragraphs, Declaration of States Parties*

## 2.4 Individual registration of refugees and asylum-seekers

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

## 2.5 International registration standards

**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. ...*

*See also*

- CRC General Comment No. 6, paras. 31-31
- 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
- UNHCR Handbook for Registration, UNHCR, 2003
- Handbook for Emergencies, UNHCR, 2001

## 2.6 Information regarding rights and responsibilities

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

*Pursuant to article 12 of the Convention, in determining the measures to be adopted with regard to unaccompanied or separated children, the child's views and wishes should be elicited and taken into account (art. 12(1)). To allow for a well-informed expression of such views and wishes, 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. As participation is dependent upon reliable communication, where necessary, interpreters should be made available at all stages of the procedure.*

*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

## **2.7 Limited restrictions on movement**

### **UNDR, Article 13(1)**

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

#### ***See also***

- CCPR, Article 12(1)
- ICERD, Article 5(d)(i)
- CEDAW, Article 15(4)
- CRC, Article 37 and General Comment No. 6, paras. 61-63
- 1951 Refugee Convention, Articles 26, 31
- African Charter on Human and Peoples' Rights, Article 12(1)
- OAU Convention, Article 3

### 3. Fair and Efficient Status Determination

#### 3.1 Group determination

**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
- Declaration on Territorial Asylum, Article 1(3)
- 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

#### 3.2 Individual refugee status determination

**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....*

*See also*

- Declaration on Territorial Asylum, Article 1(3)
- 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. 30 (XXXIV) 1983 *The Problem of Manifestly Unfounded or Abusive Applications for Refugee Status or Asylum*, para. (e)
  - 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 *Determination of Refugee Status*, para. (e)
- Agenda for Protection Goal 1, Objective 2: *Improved individual asylum procedures*

### 3.3 Fair and efficient first instance procedure

#### CCPR, 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

- CCPR General Comment No. 13 to ICCPR Article 14, (21st session) 1984, paras. 1, 2, 4
- UDHR, Article 10
- ExCom Conclusions:
  - No. 68 (XLIII) 1992 *General Conclusion on International Protection*, para. (g)
  - No. 65 (XLII) 1991 *General Conclusions on International Protection*, para. (n-o)
  - No. 64 (XLI) 1990 *Refugee Women and International Protection*, para. (a)(iii)
  - No. 30 (XXXIV) 1983 *The Problem of Manifestly Unfounded or Abusive Applications for Refugee Status or Asylum*, para. (f)
  - No. 8 (XXVIII) 1977 *on Refugee Status*, para. (e)(i-vi)
- 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

### 3.4 Appeal

#### 1951 Convention, Article 16

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

#### See also

- CCPR, Article 13
- European Union Procedures Directive 632, Article 38(5)



- ExCom Conclusions:  
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)

### 3.5 Full and inclusive interpretation of the 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.*

### 3.6 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

### 3.7 Complementary and temporary forms of protection

#### **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. ...*

#### **See also**

- 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

## 4. Security from Violence and Exploitation

### 4.1 Non-arbitrary arrest and/or detention

#### CCPR, 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 3, 9, 13, 14
- CRC, Articles 3, 3, 9, 27
- CAT
- CCPR, 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 *Refugee Women and 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

### 4.2 Mechanisms to prevent and respond to 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. 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

### 4.3 Specific programmes to protect 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, 37 and General Comment No. 6, paras. 23-24
- 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*
- 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

#### 4.4 Effective security systems in camps/settlements

##### UDHR, Article 3

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

##### *See also*

- CCPR, Article 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*

#### 4.5 Maintenance of civilian character of camps/settlements

##### 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 to the International Criminal Court
- 1951 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) 1994 *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*

## 5. Essential Services Assured

### 5.1 Refugees and asylum-seekers participate

**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 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*
- A Framework for People-Oriented Planning in Refugee Situations: Taking Account of Women, Men and Children, UNHCR, 1994
- Reinforcing a Community Development Approach, Division of Operations, EC/51/SC/CRC.6, 15 February 2001
- A Practical Guide to Empowerment, UNHCR, 2001

### 5.2 Identification of urgent protection risks

**CRC, Article 6(2)**

*States Parties shall ensure to the maximum extent possible the survival and development of the child.*

*See also*

- CRC, Articles 20(1), 22, 34-36 and General Comments Nos. 5 and 6, paras. 16, 23-24, 31-32, 39-40, 50-53
- CCPR, Article 6(1)
- ExCom Conclusions:
  - No. 97 (LIV) 2003 *Sexual Abuse and Exploitation*, para. (a)(5)
  - No. 89 (LI) 2000 *International Protection*
- Agenda for Protection Goal 6: *Meeting the protection needs of refugee women and children*
- Handbook for Emergencies, UNHCR, 2001

### 5.3 Nutritional well-being

#### 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
- CCPR, Article 6(1) and General Comment No. 6 (16th Session) 1982, para. 5
- 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)

### 5.4 Basic domestic and personal 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 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

### 5.5 Adequate housing

#### 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*

- 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), 16(h) and
- 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

## 5.6 Primary curative health care and preventative health care education

### 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
- CCPR, 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)

## 5.7 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 28-30, 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](mailto:HQTS01@unhcr.ch).

## 6. Documents Confirming Protected and Civil Status

### 6.1 Identity documents for asylum-seekers

#### 1951 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
- CCPR, Article 24(2)
- ExCom Conclusions:
  - No. 93 (LIII) 2002 *Reception of Asylum-Seekers in the Context of Individual Asylum Systems*, para. (b)(v)
  - 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

### 6.2 Identity documents for refugees (and persons granted complementary and temporary protection)

#### 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
- CCPR, Article 24(2)
- ExCom Conclusions:
  - No. 91 (LII) 2001 *Registration of Refugees and Asylum-Seekers*, para. (d)
  - No. 65 (XLII) 1991 *General Conclusions on International Protection of Refugees*, para. (c)
  - No. 64 (XLI) 1990 *Refugee Women and International Protection*, para. (a)(viii)
  - No. 35 (XXXV) 1984 *Identity Documents for Refugees*
  - No. 8 (XXVIII) 1977 *Determination of Refugee Status*, para. (v)
- 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

### 6.3 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*

- 1951 Convention Schedule
- European Agreement on Transfer of Responsibility for Refugees, 1980
- 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

### 6.4 Documents confirming civil status

#### **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*

- CCPR, Article 24(2)
- ExCom Conclusions:
  - No. 90 (LII) 2001 *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

## 7. Equal Benefit and Protection of the Law

### 7.1 Access to effective remedies in law

#### 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
- CCPR, Articles 2, 13, 14, 16, 26; General Comment No. 13
- CEDAW, Articles 2, 15(1) and General Recommendation No. 21, (13th session) 1994, para. 8
- ICERD, Article 5(a), 6
- 1951 Refugee Convention, Article 16
- ExCom Conclusion, No. 85 (XLIX) 1998 *International Protection*, para. (g)

### 7.2 Other dispute resolution that respects international legal principles

#### CEDAW, Article 5(a)

*To modify the social and cultural patterns of conduct of men and women with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. ...*

#### *See also*

- CEDAW, Article 2 and General Recommendation No. 19, (11th session) 1992, paras. 9, 11; General Recommendation No. 21, (13th session) 1994, paras. 41-47
- CCPR, Article 23(3)
- Declaration on the Elimination of Violence Against Women
- Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages
- 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)

## 8. Ability to Achieve Self-Reliance

### 8.1 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

### 8.2 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

### 8.3 Trade and self-employment

#### ICESR, 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

## 8.4 Recognition of foreign diplomas

### 1951 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

## 8.5 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 of Human and Peoples' Rights, Article 13
- European Convention on Human Rights and Fundamental Freedoms, Protocol 1, Article 1
- 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*

## 8.6 Educational and vocational programmes

### ICESR, 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 *Legal Safety Issues in the Context of Voluntary Repatriation of Refugees*, 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

## 9. Opportunities for Durable Solutions

### 9.1 There is a comprehensive and coherent strategy for finding durable solutions

#### **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 *International Protection*
- Agenda for Protection Goal 5: *Redoubling the search for durable solutions*

### 9.2 Voluntary repatriation in safety and dignity

#### **CCPR, 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, Fourth Meeting, EC/GC/02/5, 25 April 2002
- Handbook: Voluntary Repatriation: International Protection, UNHCR, 1996

### 9.3 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) 1994 *International Protection of Refugees*, para. (j)
  - No. 74 (XLV) 1994 *General Conclusion on International Protection*, para. (aa)
- Handbook for Repatriation and Reintegration Activities, UNHCR, 2004

### 9.4 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**

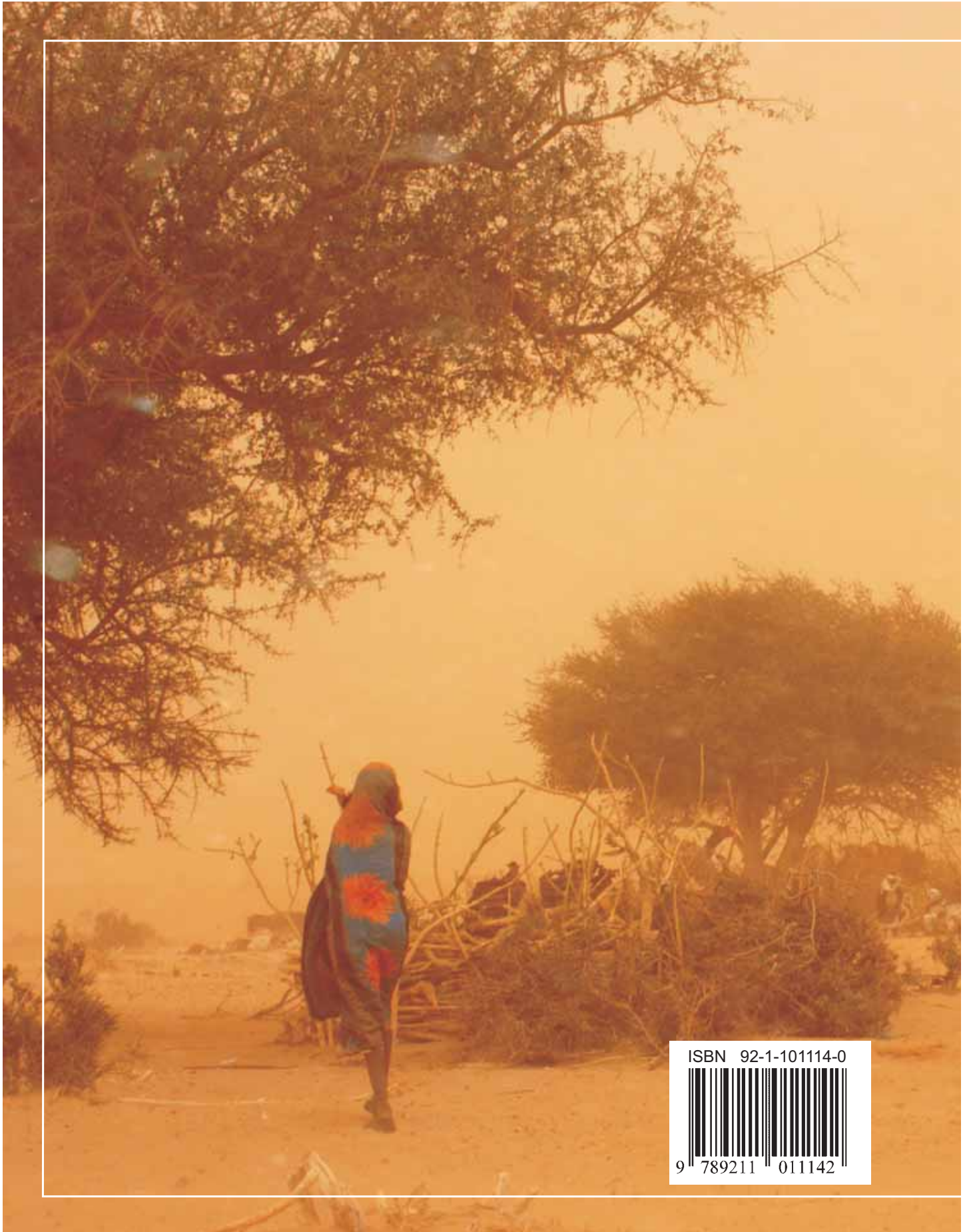
- UNHCR Statute, Articles 2, 8
- OAU Convention, Article 2(1)
- CRC Article 7; General Comment No. 6, paras. 89-90
- ExCom Conclusions:
  - No. 104 (LVI) 2005 *Local Integration*
  - No. 99 (LV) 2004 *General Conclusion on International Protection*, para. (y)
- Agenda for Protection Goal 5, Objective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

## 9.5 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 *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



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