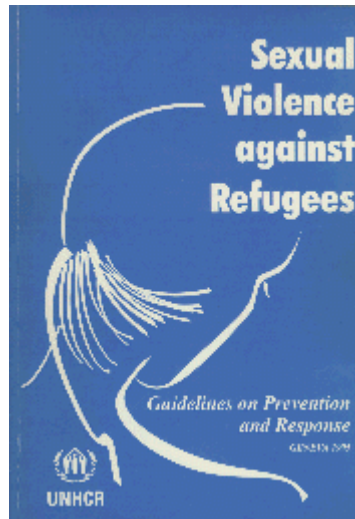


Sexual Violence Against Refugees



*Guidelines on Prevention and Response
Geneva 1995*

Foreword

Sexual violence against refugees is a global problem. It constitutes a violation of basic human rights, instilling fear in the lives of victims already profoundly affected by their displacement. Refugees from Bosnia and Herzegovina, Rwanda, Somalia and Vietnam have brought with them harrowing stories of abuse and suffering.

How can the international community prevent sexual violence? How should we respond if a woman becomes pregnant as a result of being raped? What should we do if a child has been sexually attacked? There are no simple answers to these questions.

An understanding of the ways in which sexual violence affects victims will assist those working with them to help alleviate their suffering. The UNHCR Guidelines on Preventing and Responding to Sexual Violence Against Refugees provide a primer on when and how sexual violence can occur in the refugee context and the physical, psychological and social effects it can have on those exposed.

These Guidelines highlight the fact that many, and perhaps most, incidents of sexual violence remain unreported for reasons including shame, social stigma and fear of reprisal or the case going to trial.

The Guidelines address ways to combat the occurrence of sexual violence and how to respond when incidents occur. They emphasize the need for education, training and information campaigns. The Guidelines underline the need for refugees, and in particular refugee women, to receive legal awareness training, leadership and skills training, and education.

I recommend the use of these UNHCR Guidelines on Preventing and Responding to Sexual Violence Against Refugees to field workers and others who come into contact with refugees. I hope they will serve as a useful guide and lead to a greater understanding of this widespread and very sensitive issue.



Radhika Coomaraswamy

Special Rapporteur on violence against women

Commission on Human Rights

Colombo, 8 March 1995

Preface

Sexual violence against refugees is widespread. Women and young girls - and, less frequently, men and boys - are vulnerable to attack, both during their flight and while in exile. They are vulnerable from many quarters and in every case, the physical and psychological trauma that results can only add to the pain of displacement and the bitterness of exile.

UNHCR, which has been mandated to protect and assist refugees worldwide, is acutely aware of the dimensions of the problem. The following guidelines for preventing and responding to sexual violence against refugees are intended to promote more effective ways for all concerned parties to act and react. The intention is to provide UNHCR, non-governmental organizations and other field workers with basic practical advice in areas of medical treatment, psychological support and legal intervention.

I wish to thank all those who shared valuable comments during the production of these Guidelines. I hope they will make an important contribution to strengthening the efforts of UNHCR, our implementing partners and host governments to prevent sexual violence and provide more sympathetic and effective responses to this global outrage.



Sadako Ogata

United Nations High Commissioner for Refugees

Geneva, 8 March 1995

Introduction

Background

Refugee workers assisting victims of sexual violence have long needed guidelines. Initially, guidelines were drawn up for use in asylum camps in South-East Asia. Subsequent events in the former Yugoslavia, Kenya and Rwanda have renewed attention to this need. The Guidelines begin by defining sexual violence, where it may occur, its causes and effects, and outlining reasons why many incidents remain unreported.

The second chapter suggests a range of preventive measures that can and should be taken involving the refugees themselves, as well as those responsible for their care.

The third and fourth chapters deal respectively with practical measures to be taken in response to incidents of sexual violence, and with the legal aspects. The final chapter offers guidance on media interest, female genital mutilation and staff trauma.

A checklist of the practical measures suggested is included in Annex 1. A Sexual Violence Needs Assessment and Programme Framework tool is provided in Annex 5.

The Guidelines are intended to assist all staff, particularly in the field, who are concerned with providing protection and assistance to refugees. Addressing protection is the responsibility of all UNHCR staff members. While some staff have professional skills which make them particularly qualified to deal with protection matters, the extent of the problem requires all staff to understand, and to master basic skills in addressing it. UNHCR hopes that the Guidelines will be useful not only to our own staff, but also to the staff of other United Nations bodies, intergovernmental and non-governmental organizations and national governmental agencies working with refugees. These Guidelines have been drafted for use in a broad range of cultural and political contexts.

Aim

The Guidelines provide basic advice on appropriate action, particularly preventive, and are also intended to encourage active reflection and discussion between colleagues. They seek to promote attitudinal changes in relation to sexual violence where these are an obstacle, to improve or initiate services that address psychosocial as well as health needs, and, overall, to create an awareness and sensitivity to the special needs and concerns of refugees who have been subjected to sexual violence. While they indicate the type of referral or action required, they are not a do-it-yourself handbook for areas in which specialized care is needed.

Terminology

Focus on females

The pronouns in these Guidelines in relation to victims of sexual violence are phrased in the feminine voice and the pronouns in relation to perpetrators of sexual violence are phrased in the masculine voice. This is in recognition of the fact that the majority of reported cases of sexual violence among refugees involve female victims and male perpetrators. Since women and girls appear to be the ones most often subjected to sexual violence, these Guidelines focus on sexual violence against female refugees. Very little is known about the true incidence of sexual violence against male refugees other than in the context of detention and torture.

"Refugees" and "refugee camps"

For the sake of convenience, "refugees" refers also to asylum seekers, returnees and to internally displaced persons ("IDPs") protected or assisted by UNHCR.

Similarly, "refugee camps" refers also to reception centres or places of detention for asylum-seekers, or centres for IDPs.

The Guidelines apply with the necessary changes being made to asylum-seekers, returnees and IDPs.

The term "victim"

Although the term "victim" is used in these Guidelines, the stigmatization and perceived powerlessness associated with being a "victim" should be avoided by all concerned parties. While victims require compassion and sensitivity, their strength and resilience should also be recognized and borne in mind.

Applicability

Certain guidance will not apply or may be difficult to implement due to the limited capacity and resources available. Nonetheless, use of these Guidelines to the greatest extent possible is encouraged.

Each refugee situation is different and the manner and extent to which these Guidelines apply may differ depending on:

- the cultural context
- whether camp or urban
- the caseload
- available resources
- the legal system.

Chapter 1: Sexual Violence In The Context Of Refugees

1.1 Definition and Nature of Sexual Violence

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

Not[es] with grave concern the widespread occurrence of sexual violence in violation of the fundamental right to personal security as recognized in international human rights and humanitarian law, which inflicts serious harm and injury to the victims, their families and communities, and which has been a cause of coerced displacement including refugee movements in some areas of the world,...

Executive Committee Conclusion No. 73 (XLIV) (1993), Preamble
Refugee Protection and Sexual Violence

There are various forms of sexual violence, rape being the one most commonly referred to. The legal definition of rape varies from country to country. In many societies it is defined as sexual intercourse with another person without their consent. Rape is committed when the victim's resistance is overcome by force or fear or under other coercive conditions. In certain countries "statutory rape" exists as an offense. This is sexual intercourse with someone under a specified age, which is deemed to be unlawful. The victim is presumed by law to be unable to give consent by reason of his or her tender age.

However, many forms of sexual violence do not fall under the strict definition of rape, such as insertion of objects into genital openings, oral and anal coitus, attempted rape and the infliction of other sexually abusive acts. Sexual violence can also involve the use or threat of force in order to have sexual acts performed by third persons.

The term "sexual violence" is used in these Guidelines to cover all forms of sexual threat, assault, interference and exploitation, including "statutory rape" and molestation without physical harm or penetration.

Perpetrators of sexual violence are often motivated by a desire for power and domination. Given these motivating forces, rape is common in situations of armed conflict and internal strife. An act of forced sexual behaviour can be life-threatening. Like other forms of torture, it is often meant to hurt, control and humiliate, violating a person's innermost physical and mental integrity.

Perpetrators of sexual violence can include family members, for example where a parent is sexually abusing a child. Domestic violence often escalates in refugee situations due to the enormous pressures of refugee life, for example, having to live in closed camps.

1.2 Persons Most Vulnerable to Sexual Violence

Experience shows that unaccompanied women and lone female heads of household are at the greatest risk of being subjected to sexual violence. Children are particularly vulnerable to sexual abuse given their

high level of trust. Unaccompanied children and children in foster families also are especially at risk. Furthermore, refugees of all ages and both genders face a significantly increased risk of sexual violence when in detention or detention-like situations. Refugee workers should be aware that the very old, the infirm, and the physically and mentally disabled may also be vulnerable to attack.

Refugees most at risk of being subjected to sexual violence:

- unaccompanied women
- lone female heads of household
- unaccompanied children
- children in foster care arrangements
- those in detention or detention-like situations.

1.3 Situations Where Sexual Violence May Occur

Not[es] also distressing reports that refugees and asylum-seekers, including children, in many instances have been subjected to rape or other forms of sexual violence during their flight or following their arrival in countries where they sought asylum, including sexual extortion in connection with the granting of basic necessities, personal documentation or refugee status,...

Executive Committee Conclusion No. 73 (XLIV) (1993), Preamble
Refugee Protection and Sexual Violence

The following are some situations in which sexual violence against refugees has been known to occur:

a) Prior to flight

Men, women and children may be targeted for abuse by the police, the military or other officials in the country of origin. Individuals may be detained, which heightens the risk of sexual violence and torture. Sexual violence may also occur at the hands of irregular forces in situations of internal conflict. Sexual violence may even occur with the complicity of male leaders, in the form of bartering women or girls for arms and ammunition or other benefits.

b) During flight

Refugees may be sexually attacked by pirates, bandits, members of the security forces, smugglers or other refugees. Border guards may detain and abuse women and girls, sometimes for extended periods; pirates may capture women as they travel by boat and extort sex in exchange for their safety and onward passage. Smugglers may assist female refugees across the border in exchange for sex and/or money and valuables.

c) In the country of asylum

The country of asylum does not necessarily provide sanctuary from sexual violence. Whether refugees live in camps or in urban situations, they may be subjected to sexual attacks by persons in authority or otherwise in a position to take advantage of their particularly vulnerable situation. In a variety of asylum situations, officials who determine the refugee status of the applicant may extort sex in exchange for a positive determination. Refugee women and girls may be approached for sexual favours in exchange for assistance, such as during food distribution. Unaccompanied children, in particular girls, placed in foster care may suffer sexual abuse by the foster family members.

Refugees may be sexually attacked by members of the local population, by officials, including those responsible for their protection such as border guards, police or military personnel, by international refugee workers, or by fellow refugees. Forms of domestic violence often escalate in direct proportion to

the pressures of refugee life.

Sexual attacks may occur while women go about daily chores, particularly if these involve visiting isolated areas. Attacks can take place at night in the homes of victims and in front of family members or an individual may be abducted and sexually violated away from her home. Armed assailants may attack in groups, converging on a camp. In extreme situations, some refugees, who initially fled their country of origin due to internal conflict, have been known to return home in order to seek relief from the general insecurity existing in the country of asylum.

In addition, coercive prostitution, or the exploitation of the prostitution of women and girls by camp officials in collaboration with local prostitution rings may also occur.

d) During repatriation operations

Where large population movements may separate women and girls from their usual support systems, crowding and other changes may make normal control and protection measures difficult to implement. The same dangers found during flight and exile may be faced once again on the return journey or upon return in the country of origin.

e) During reintegration phases

Returned refugees may be targeted by the Government, military or others in retribution for having fled. Women in particular may be susceptible to sexual extortion in exchange for material assistance or for identification cards or other forms of documentation required by government officials.

1.4 Under-Reporting of Sexual Violence

The true scale of sexual violence against refugees is unknown because numerous incidents are never reported.

There is a risk that refugee workers and officials will deny the existence of sexual violence because incidents are not reported. It is essential to be aware that the problem may exist, and to adapt reporting and interviewing techniques to encourage people to report incidents. (More guidance on this is given below). Reporting and follow-up must be done in a highly sensitive and confidential manner, in order not to cause further suffering or further danger to lives.

Reasons for under-reporting may include the following:

Negative consequences of reporting

- In most cultures and communities, sexual attacks are perceived as shameful, and the victims are stigmatized. In some societies, the chastity and virginity of women reflect on the honour of the family.
- The experience of sexual violence in such a cultural context is therefore not only devastating physically, emotionally, intellectually, and psychologically, but may lead to the woman - and her family - being ostracized by the community. She may be unable to marry or to stay married. In certain societies, a woman who has been raped may be perceived as the culprit, and consequently may be liable to punishment.

Where the negative consequences of reporting sexual violence can include ostracism the disintegration of a family, detention and trial, stigmatization, or further attacks by the perpetrators, there is a strong likelihood of under-reporting of sexual violence.

Male victims' reluctance to report

- When men or boys are victims of sexual violence, some of these problems can be compounded. While at least some legal and social networks, however rudimentary, often

exist for women and girls who have been sexually attacked, there is rarely anything comparable for male victims.

- Men may experience profound humiliation, taking the assault as a slur on their virility or manhood.
- In many societies men are discouraged from talking about their emotions and may find it very difficult to acknowledge and describe what has happened to them.

For these reasons, it is suspected that the reported cases of sexual violence against males are a fraction of the true number of cases.

Personal discomfort of refugee workers or officials

- Refugee workers, community leaders or officials may avoid confronting, remedying and preventing acts of sexual violence because of their personal discomfort with the subject. They may also fear that raising the issue with the Government could damage relations or their own image. While it is hoped that these Guidelines and/or receiving training may help dispel the personal discomfort of refugee workers, sexual violence is an intrinsically disturbing subject which often provokes strong emotional responses. It is essential to overcome the resistance, whether of ourselves or our counterparts, to discuss the problem frankly and openly.

Dismissal by refugee workers or officials as a private matter

- The discomfort which refugee workers or officials may feel about sexual violence can be aggravated by a tendency to dismiss it as a purely private matter, or as an inevitable by-product of the situation. This shows a lack of awareness. It is important to understand that sexual violence is a serious violation of an individual's personal security and integrity. It is UNHCR's responsibility to ensure protection and assistance.

Additional reasons for non-reporting

- Reluctance of the authorities in many countries to identify and prosecute the assailants.
- Inability of the refugee to speak the local language, or to report to officers of the same gender.
- Fear of reprisals in circumstances when the violence was perpetrated by someone in authority, such as a camp guard; anonymity in refugee situations may, to some, offer greater protection.

1.5 Effects of Sexual Violence

Sexual violence can have serious physical, social, intellectual and psychological consequences. Professional medical, legal and psychosocial care is required. Reactions are likely to vary considerably depending on the victim's age, gender, personality, prior sexual experience, cultural background, and the availability of a support network.

Physical consequences

- The physical consequences of sexual violence may include HIV infection, sexually transmitted diseases, mutilated genitalia, pregnancy, miscarriage of an existing foetus, abortion, menstrual disorder, severe abdominal pain and self-mutilation as a result of psychological trauma.
- Where women and girls have undergone extreme forms of female genital mutilation, they may suffer extensive injuries if their genitalia are reopened by a sharp instrument or by the

force of penetration itself.

Psychological consequences

- Even if physical injury is minimal, all victims experience psychological trauma. They may feel paralyzed by terror, experience physical and emotional pain, intense self-disgust, powerlessness, worthlessness, apathy, denial and an inability to function in their daily lives. In the worst cases they may experience deep depression leading to chronic mental disorders, suicide, illegal termination of pregnancy, endangering their lives, or abandonment of their babies. Cases of infanticide of children born as a result of rape have also been reported.

For further discussion see 3.9 (a) Common Psychological Reactions.

Social consequences

- As noted in 1.4 above, the social consequences of sexual violence can range from rejection by the spouse and immediate family members, to stigmatization or ostracism by the community, further sexual exploitation, and/or severe punishment. They can also include deprivation of education, employment and other types of assistance and protection.

It is therefore extremely important to be aware of signs of sexual violence and to investigate discreetly if there is any suspicion that an individual may have been subjected to it. Such investigation must be done in a sensitive and sympathetic way with complete respect for confidentiality. See 3.3 Identifying Incidents of Sexual Violence.

1.6 Causes of Sexual Violence

Section 1.3 above describes situations in which incidents of sexual violence may occur. From this knowledge it is possible to extrapolate the following causes and/or circumstances which allow sexual attacks to take place.

a) Society (of refugees, and surroundings)

- Sexual violence in the country of origin may have a **political motive**, for example where mass rape of populations is used to dominate, control and/or uproot, or where sexual torture is used as a method of interrogation. Sometimes sexual violence is used as a weapon of warfare, to humiliate or cause the disintegration of another community, as a part of "ethnic cleansing".
- Attacks by neighbouring groups may occur in areas **where refugees are considered materially privileged** compared with the local population. Within camps, women who are economically successful have been targeted.
- Attacks by the local population because of the **consequences flowing from refugee presence**, such as fear of criminal activities, racism, xenophobia and other concerns including degradation of the environment and depletion of natural resources.
- **Traditional tensions and feuds** between various clans/groups may also give rise to sexual violence.
- **The collapse of traditional societal support** mechanisms (social sanctions, norms for proper behaviour, etc.) when refugees were forced to flee or to live in camp surroundings. In particular, the communal support systems for the protection of vulnerable individuals may no longer be present, for example, due to the absence of many male members from the community.
- **Male attitudes of disrespect towards women** may be instrumental in causing incidents

of sexual violence. For example, camp guards and male refugees may look upon unaccompanied women and girls in refugee camps as common sexual property. Husbands or other male family members may also abuse a victim of a previous attack because they believe she is no longer "virtuous".

- **Psychological strain on refugee men** in not being able to assume normal cultural, social and economic roles, may cause aggressive behaviour towards women. Many other aspects of refugee life can aggravate this, including idleness, anger at loss of control and power, uncertainty about the future, and frustration with living conditions.
- **Alcohol and drug abuse** can result in violent behaviour within families and communities. Such abuse is often linked to boredom, depression and stress.

b) Vulnerability

- Sexual violence during flight or in the country of asylum can occur because of the special **vulnerability** and powerlessness of refugees, including the need for "**safe**" **passage**. This is underlined by the common misconception held by people who come into contact with refugees, such as members of the military and police, that they are not legally protected outside their country of origin.
- **Females who are on their own** for whatever reason, whether they are single, widowed, abandoned, unaccompanied minors, lone heads of households, or women who have been separated from male family members by the chaos of flight or during voluntary repatriation, are all particularly at risk of sexual violence.
- **Where foster care placement of children occurs without proper screening of families or monitoring** of the child's welfare, the refugee child may be exposed to sexual abuse.
- **Incarceration in closed detention facilities** may compound the problems of sexual violence. In a number of countries, all individuals who enter illegally or without authorization are subject to detention regardless of age, sex, or their status as asylum-seekers. In some cases, asylum applicants are incarcerated with criminals, children with unrelated adults, females with males.
- **Refugee women without proper personal documentation** are susceptible to sexual exploitation and abuse. In many refugee situations, women are not routinely provided with documents showing that they are legally in the country. The male family member may have been designated as the head of household and given the relevant documents; he may not be present to produce these documents before the authorities as and when required. Similarly, refugee women may not be given individual registration cards or documents with which they collect food rations, shelter material and qualify for other forms of assistance.
- **Male responsibility for distribution** of goods and necessities may expose women to sexual exploitation. In camps where male authorities or male refugees have this responsibility, women may be coerced into sexual acts. For example sexual favours may be demanded in exchange for food rations.

c) Camp design and location

- The **geographical location** of a refugee camp may increase the likelihood of sexual violence, if the camp is located in an area which has a serious crime problem for example, or is geographically isolated from the local population.
- The **design and social structure** in many refugee camps and settlements may contribute to the likelihood of protection problems. Camps are often overcrowded. Unrelated families may need to share communal living and sleeping space. In effect, such refugees are living

among strangers. perhaps among persons who could be considered traditional enemies.

- **Poor design of services and facilities** may also contribute to security problems. Communal latrines and washing facilities may be at some distance from the living quarters, thereby increasing the potential for attacks. Many camps are not lit, or poorly lit, compounding these risks at night. Night patrols exist in some camps, but not in others. The distance refugees must travel to food, water and fuel distribution points or collection areas may also expose them to danger. Also, where refugees are housed in centres and camps, sleeping rooms and washing facilities usually cannot be locked.
- The **lack of police protection and general lawlessness** in some camps is also a factor. Police may accept bribes in exchange for not investigating complaints, or for releasing the alleged perpetrators from custody. Police officers, military personnel, camp administrators or other government officers may themselves be involved in acts of abuse or exploitation.

d) UNHCR/Other presence

- The lack of UNHCR or NGO access to, or presence in, camps, particularly at night can be a contributing factor. The absence of an independent presence in camps is thought likely to increase the risks of attacks on personal security, including sexual violence. At the same time, the security situation might not allow for this presence.

1.7 False Claims

One should not overlook the possibility, even though remote, that reports of sexual violence may be fabricated for a variety of reasons, for example, to bring undesirable repercussions to others in the course of domestic or inter-community disputes, for financial gain, or to advance resettlement prospects.

Chapter 2: Preventive Measures

Recogniz[es] the need for concrete action to detect, deter and redress instances of sexual violence to effectively protect asylum-seekers and refugees,

Recogniz[es] further that the prevention of sexual violence can contribute to averting coerced displacement including refugee situations and to facilitating solutions,...

Executive Committee Conclusion No. 73 (XLIV) (1993), Preamble
Refugee Protection and Sexual Violence

"Prevention is better than cure"

States have primary responsibility for ensuring the physical protection of refugees within their territory. UNHCR's role in providing international protection most often involves ensuring that Governments take the necessary action to protect the refugees within their territory.

All possible measures must be taken to prevent the occurrence of sexual violence. First, the nature of the risks with which the refugees may be confronted must be assessed (see 1.6 Causes of Sexual Violence above). UNHCR representatives, in collaboration with other relevant UN bodies and agencies, host Governments and NGOs, should make every effort to ensure that the following measures are implemented to prevent sexual violence from occurring.

Urges States, relevant United Nations organizations as well as non-governmental organizations, as appropriate, to... integrate considerations specific to the protection of refugee women into assistance activities from their inception, including when planning refugee camps and settlements, in order to be able to deter, detect and redress instances of physical and sexual abuse as well as other protection concerns at the earliest possible moment.

Executive Committee Conclusion No. 64 (XLI) (1990), paragraph (a) (v)

Refugee Women and International Protection

Urges States to take all measures necessary to prevent or remove threats to the personal security of refugees and asylum-seekers in border areas and elsewhere, including by affording UNHCR and, as appropriate, other organizations approved by the Governments concerned prompt and unhindered access to them, by situating refugee camps and settlements in secure locations, by ensuring the safety of vulnerable groups, by facilitating the issuance of personal documentation, and by involving the refugee community, both women and men, in the organization and administration of their camps and settlements.

Executive Committee Conclusion No. 72 (XLIV) (1993), paragraph (b)
Personal Security of Refugees

2.1 Preventive Measures involving Refugees and Refugee Workers

Refugee workers can take a number of important practical steps to reduce the risk of sexual violence. However, it is important to note that the most effective measures require the refugee community to play a prominent role, actively participating in promoting self-protection. Close liaison with the local authorities is also of paramount importance.

a) Design and location of refugee camps

Mistakes in the early phases of the creation of a camp are extremely difficult to correct satisfactorily later.

Ensure that the physical design and location of refugee camps enhances, rather than undermines, their physical security. Layout and organization of the camps and facilities are determining factors in the protection of refugees. Every effort should be made to encourage the refugee community to identify and provide the appropriate solutions to such problems.

Special measures which may need to be implemented to reduce exposure to risk:

Geographical location

- **Avoid the establishment of camps within close proximity to the border of the country of origin, or in areas that are unsafe**, e.g., subject to banditry.

Design and social structure

- **Consult with the refugees**, and other sources if possible, to understand their preferred physical and social organization, and seek to replicate it in the camp, ensuring in particular that women are involved in this process.
- **Conserve the original community**, to the extent possible, from the country of origin within the new site.
- **Provide for special accommodation** (e.g. specially secured housing) for unaccompanied women and girls and lone female heads of household in full consultation with them. For instance, accommodate single women with sufficient security personnel on guard. Remember to ensure adequate security when vulnerable individuals are grouped together, since they could become a target for attack.
- Attempt to ensure that **unrelated families do not share communal living and sleeping space**.

Services and facilities

- **Improve lighting** where possible, particularly on the paths used by women at night for access to services and facilities.
- Ensure, where practical, that women and girls are able to **lock their sleeping and washing**

facilities.

- Ensure that basic services and facilities at camps are located in such a manner that refugee women **do not become exposed to attack**. For instance, build latrines at a distance from huts which enables women to use them safely at night.

b) Security patrols

- Encourage patrols of security personnel by foot and vehicle during the day and/or at night, as appropriate.
- Form refugee security patrols or small vigilance groups, preferably by trusted members of the refugee community, to guard at night, with the protection of refugee women as a first priority. In some camps, refugees have done so by shouting and banging cooking pots and pans to draw attention to and scare away attackers.

c) Provision of protective materials

- Where appropriate, provide communities with materials which can assist them in protecting themselves, such as fencing or barbed wire. The experience in some remote refugee camps showed that night bandit attacks reduced dramatically when sections of the camps were fenced off, using thorn bushes.

d) Promote alternatives to closed camps

- Identify and promote alternatives to camps where possible, particularly alternatives to closed camps and detention centres. Prolonged stay in camps can lead to a breakdown in law and order.

e) Where incarceration occurs

Note[s] with deep concern that large numbers of refugees and asylum-seekers in different areas of the world are currently the subject of detention or similar restrictive measures by reason of their illegal entry or presence in search of asylum, pending resolution of their situation,

Express[es] the opinion that in view of the hardship which it involves, detention should normally be avoided,

Executive Committee Conclusion No. 44 (XXXVII) (1986), paragraphs (a) and (b)
Detention of Refugees and Asylum-Seekers

- UNHCR should always seek to ensure that asylum-seekers are not detained. Where individual asylum-seekers are, nonetheless, detained upon entry, insist that they are not incarcerated with criminals and that women are not with males, unless they are together with male family members.
- It is UNHCR's policy that refugee children should not be-detained. Due to the harmful effects detention may have, it must be "used only as a measure of last resort and for the shortest appropriate period of time". (Convention on the Rights of the Child, article 37(b)).

f) Camp meetings and plan of action

- Bearing in mind cultural sensitivities, hold camp meetings between UNHCR, NGOs, police, military and other relevant government officers to discuss the problem of sexual violence. Such discussions could form part of the regular interagency meetings or be addressed in security meetings where such meetings take place. In particular, possible causes should be analyzed and a strategy to address and prevent incidents formulated. An inter-agency plan of action could be developed for implementation of these Guidelines and to clarify roles and activities in addressing this issue.
- Ensure that refugees and particularly representatives from refugee women's groups participate in discussions on this issue and have the opportunity to speak about any special needs they may have. When necessary, for example where women feel inhibited or uneasy discussing matters in the presence of male refugees, separate meetings should be held for women and for men. Make use of such fora to

explain UNHCR's protection role, in particular regarding prevention of sexual violence.

g) Involvement of female refugees

- In many camps, the leadership structure is dominated by male refugees. It is important that the involvement of more female leaders be encouraged and the role and responsibilities of women be broadened and strengthened. The establishment of refugee women's committees and groups is important to represent the interests of women in the camp, and UNHCR should play an active role in promoting this.

h) Specific focus on vulnerable individuals

- Identify individuals or groups who may be particularly vulnerable to violence, e.g., lone female heads of household with disabled family members, or women who are economically successful, and develop appropriate strategies to address their particular protection and assistance problems.

i) Preempt any retaliation

- Experience has shown that retaliatory violence can erupt following an incident in which refugees, the local community, outside attackers or security personnel have been killed or injured. Where retaliation can be anticipated, increased security measures should be adopted. This may include warning refugees to take extra precautions (such as to remain indoors), requesting the deployment of additional security forces and/or securing greater UNHCR presence in the field.

j) UNHCR access to detainees

- UNHCR must have direct and unhindered access to detainees to monitor their safety and conditions. Access to police holding cells or prisons may be important to prevent sexual violence from occurring in detention. Where refugees have been placed in police custody on suspicion of or having been charged with committing a crime, it may be necessary to visit the refugees to ensure their well being and humane treatment. Where the police know that a UNHCR staff member may visit, or that following an initial visit the staff member will be returning, this may deter mistreatment. Such visits are also reassuring to the detainee and may be used to enquire whether family members are aware of the detention. Liaison with the International Committee of the Red Cross (ICRC), who have primary responsibility for detainees, is important.

k) Family reunification

- Ensure, where desired, reunification of families separated in different camps or inside the same camp, as well as between the country of origin, the country of asylum, and the country of resettlement so as to reduce the number of unaccompanied vulnerable individuals.

l) Screening and monitoring of unaccompanied children in foster care

- Where unaccompanied children are placed in foster families, the foster family should be properly screened before placement. Close monitoring should follow placement to ensure the welfare of the child, and in particular that the child is not sexually abused by members of the foster family.

m) Personal documentation

Urges States, relevant United Nations organizations, as well as non-governmental organizations, as appropriate, to...

Issue individual identification and/or registration documents to all refugee women;...

Executive Committee Conclusion No. 64 (XLI) (1990), paragraph (a) (viii)
Refugee Women and International Protection

Calls upon States and UNHCR to ensure the equal access of women and men to all forms of personal documentation relevant to refugees' freedom of movement, welfare and civil status...

Executive Committee Conclusion No. 73 (XLIV) (1993), paragraph (c)

Refugee Protection and Sexual Violence

- Ensure that refugee women have proper personal documentation and access on an equal basis with men to whatever registration process is used to determine eligibility for assistance.

n) Choice of assistance and/or resources

- Ensure that the choice of assistance and/or resources does not expose individuals to greater risk (e.g. when collecting firewood in isolated areas is dangerous, try to provide alternative forms of fuel, provide energy-efficient stoves, and/or change the food basket, in careful consultation with nutritionists and other experts, to foods that require less cooking time). I

o) Fair distribution of food and non-food items

- Ensure that all essential items, such as food, water, shelter materials and firewood reach women by distributing the items to women directly, and/or by distribution administered by women.

p) Access to female protection and medical staff and female interpreters

Reiterates the importance of ensuring the presence of female field staff in refugee programmes, including emergency operations, and the direct access of refugee women to them;

Executive Committee Conclusion No. 73 (XLIV) (1993), paragraph (h)

Refugee Protection and Sexual Violence

- Ensure that refugee women have ready access to female protection staff and female interpreters, as well as to reproductive health facilities including female medical staff and gynecologists.

q) Establish fora for discussion and dispute resolution

- Establishing fora whereby refugees can air tensions and feuds which may have arisen between various groups or clans is important to prevent the build-up of hostile emotions which could later be manifested by acts of sexual violence.

r) Sensitization of local communities

- Providing information to the local community of the host country to give them an understanding of the refugees' situation can be important in reducing friction or tension between the two communities.

- Instigating channels of communication between refugees and the local community whereby disputes and complaints can be vented may help to prevent the build-up of tension and ill-feelings.

s) Assistance to local communities

- Assistance towards community development, such as improving local schools, airstrips or government facilities, can be instrumental in keeping the peace between the refugees and the host population. This may be particularly crucial when the arrival and presence of refugees have caused negative consequences to the local people, such as degradation of the environment and depletion of natural resources.

t) Combat frustration and boredom of male refugees

- Recognize the immense frustration, boredom and feeling of dependency which may be generated by camp life, and the relevance to physical security of developing channels for this energy, including through skills training, educational, recreational and income generating activities for males, particularly among the "long stayers" and adolescents.

u) Combat alcohol and drug abuse

- Organize an education campaign on the effects of alcohol abuse, using, *inter alia*, community structures, schools and/or posters.
- Provide counselling to alcohol and/or substance abusers, and those closely connected with

them.

- Encourage involvement in activities of collective interest, such as educational and vocational training programmes, income generating activities and cultural and sporting activities.
- In refugee camps, stop illegal wire-tapping of electricity where it is used to supply alcohol-producing equipment.
- In refugee camps, in liaison with the authorities, consider placing limits on the consumption of alcohol.

2.2 Preventive Measures involving Human Resources Management

If the deterrent measures set out above are implemented, efforts to prevent sexual violence are a relatively inexpensive exercise relying on the cost-effective and equitable distribution of goods and services, the development or reinforcement of existing protection mechanisms, and most importantly, the involvement of the refugee community itself in providing protection to its members. The following preventive steps involve recruitment and deployment of staff.

a) Recruitment of female staff

- Ensure a gender balance among recruitment of professional staff at all levels by employing greater numbers of female protection officers, field interpreters, doctors, health workers and counsellors.

b) Presence of female protection officers

- Ensure in particular the presence of at least one well-trained female protection or field officer per field office, and more in areas where refugee women are known to have particular protection problems.
- Place trained international staff, including female staff, in key field locations such as areas which are major crossing points for refugees, reception centres, camps and returnee monitoring positions.

c) Visibility in the field

- UNHCR protection and field staff should make themselves visible in the field and meet with refugee women regularly to gain first-hand information on protection problems. Their presence and interest may provide a sense of security and reassurance among the female population and thus encourage them to speak up and seek assistance when their rights are violated.
- In areas where there are no principal crossing points, or in less frequented border areas, roving protection/field officers should be deployed.

d) Close links with traditional birth attendants

- Female medical and/or protection staff should establish and maintain close links with traditional birth attendants and other refugee health workers, who can be a valuable source of information on the incidence of sexual violence as well as providing a channel for disseminating relevant information to women in the

2.3 Preventive Measures involving the Host Government

Refugee workers and their organizations should stress to the authorities their duty to investigate, prosecute and punish perpetrators of sexual violence.

Urges States to respect and ensure the fundamental right of all individuals within their territory to personal security, inter alia by enforcing relevant national laws in compliance with international legal standards and by adopting concrete measures to prevent and combat sexual violence, including

- (i) the development and implementation of training programmes aimed at promoting respect by law

enforcement officers and members of military forces of the right of every individual, at all times and under all circumstances, to security of person, including protection from sexual violence,

(ii) implementation of effective, non-discriminatory legal remedies including the facilitation of the filing and investigation of complaints against sexual abuse, the prosecution of offenders, and timely and proportional disciplinary action in cases of abuse of power resulting in sexual violence,

(iii) arrangements facilitating prompt and unhindered access to all asylum seekers, refugees and returnees for UNHCR and, as appropriate, other organizations approved by the Governments concerned, and

(iv) activities aimed at promoting the rights of refugee women, including through the dissemination of the Guidelines on the Protection of Refugee Women and their implementation, in close cooperation with refugee women, in all sectors of refugee programmes;...

Executive Committee Conclusion No. 73 (XLIV) (1993), paragraph (b)
Refugee Protection and Sexual Violence

States should be urged to adopt a firm and highly visible policy against all forms of sexual violence - including those committed by government employees - by taking the following steps:

a) Advocate enactment and enforcement of national legislation

- Advocate the enactment and/or enforcement of national laws against sexual violence in accordance with international legal standards. This will include prosecution of offenders and the implementation of legal measures for the protection of the victim, e.g. restraining orders.
- Ensure that Government policy does not exclude the applicability of national legislation to refugee camps.
- Promote the ratification of relevant international human rights instruments. Details of international legal obligations can be found in Chapter 4.

b) Liaison with national women's organizations

- National women's organizations in host countries can play a valuable role in advocating and addressing the issue of violence against women. Contacts can be established with them and discussions initiated regarding the role they can play. These can also be extended to include national health, lawyers and human rights associations.

c) Facilitate the investigation of complaints of sexual violence

- The provision of victim/witness advocate programmes could be used to assist victims. It involves one person being assigned to assist a victim as her case is processed, providing support and information about the process and education to family members if needed. This concept enhances the likelihood that cases actually proceed to court and can help to prevent the retraumatization of victims by the court system.

d) Ensure protection of the victim and any witnesses from reprisals

- Ensuring protection depends on the circumstances of the attack and must be assessed on a case-by-case basis. Factors to be taken into account include whether the perpetrator(s) are known to her, and whether the perpetrator(s) are able to locate her. For instance, an attack taking place in a refugee's home may be quite different from one which involves a group of women being attacked in the bush surrounding a camp. An assessment is necessary as to whether the victim was individually targeted or the attack happened at random.

- In a refugee camp situation this may entail the need to evacuate persons to another location.

e) Disciplinary action taken in cases involving government officials and refugee workers

- Advocate that prompt disciplinary action be taken in cases of abuse of power, corruption and

lack of discipline of officials and refugee workers resulting in sexual violence.

f) Documentation and analysis of information

- Document cases to the extent necessary so that information can be used in assessing causes of sexual violence to assist the development of preventive and remedial strategies. Respect confidentiality to ensure the safety of refugees.

g) Sufficient presence of security personnel

- Ensure that an adequate number of security personnel, police and/or military, are present in refugee camps to provide physical protection from attackers. The number and the type of security personnel required will depend on a variety of factors, including the current security situation and the ability and performance of the existing forces in coping with that situation. Requests can be made both at the camp level and at a higher level by the UNHCR Branch Office to relevant government officials.

h) Deployment of female security personnel

- Where appropriate, deploy females as part of security forces or guards to encourage refugee women to report sexual violence incidents and to seek protection.

i) UNHCR support to national security forces where needed

- Ensure the early provision of logistical and communications support to national security forces where needed. Sometimes UNHCR may need to provide support by way of vehicles, fuel, or communications equipment to the host Government.

2.4 Preventive Measures involving Information, Education and Training

Supports the High Commissioner's efforts, in coordination with other intergovernmental and non-governmental organizations competent in this area, to develop and organize training courses for authorities, including camp officials, eligibility officers, and others dealing with refugees on practical protection measures for preventing and responding to sexual violence;...

Encourages the High Commissioner to pursue actively her efforts, in cooperation with bodies and organizations dealing with human rights, to increase awareness of the rights of refugees and the specific needs and abilities of refugee women and girls and to promote the full and effective implementation of the Guidelines on the Protection of Refugee Women;

Executive Committee Conclusion No. 73 (XLIV) (1993), paragraphs (i) and (k)
Refugee Protection and Sexual Violence

a) Public information campaigns

Information campaigns are an important tool in combatting sexual violence. Public information campaigns should be launched on the issue of sexual violence, taking into account cultural sensitivities, ethics, and the particular circumstances prevailing in the country concerned.

Target groups for information activities could include:

- refugees
- UNHCR staff
- NGO staff
- government officials
- security personnel, including police officers and the military
- any others who come into contact with refugees.

Topics covered could include:

- preventive measures
- how and where to seek assistance if sexually attacked
- national and international laws prohibiting sexual violence
- sanctions and penalties associated with acts of sexual violence.

Tools which could be utilized in such campaigns include:

- pamphlets, newsletters, information bulletins, posters
- community entertainment (songs, theatre)
- verbal presentations at public or community meetings
- NGO networks, religious or other groups
- radio and other mass media
- videos.

The assistance of NGOs and refugees, particularly female refugees, may be sought in developing appropriate training programmes. Video education in public information campaigns may be particularly effective. Preparing and disseminating statistics on sexual violence in refugee situations may help others become aware of this problem.

Correct false rumours and misinformation

If it becomes known that false rumours are circulating in the refugee camps in relation to sexual violence, an immediate information campaign should be launched to dispel them. (An example might be the rumour that "rape victims will receive cash benefits or resettlement opportunities").

b) Training courses could focus on:

- how to prevent sexual violence and how to respond to incidents of sexual violence (immediate and long-term action and follow-up) using these Guidelines;
- the causes and consequences of sexual violence;
- legal awareness;
- basic human rights and responsibilities. The UNHCR Training Module *Human Rights and Refugee Protection*, 1995, is available as training material;
- the rights to personal security under national and international law, with a particular emphasis on the rights of women and girls;
- interviewing skills. The UNHCR Training Module *Interviewing Applicants for Refugee Status*, 1995, is available as training material.

c) In addition, various groups may benefit from more specialized training in specific areas, for example:

Refugees and local communities

Refugees and local communities should be provided with education and training, presented in a culturally appropriate way, preferably created with the involvement of refugee women.

Objectives include:

- modifying negative attitudes towards the victims of sexual violence;
- reinforcing and fostering concepts of community responsibility for protecting and assisting its

vulnerable members and assisting their families.

Suggestions include:

- educating the refugees as to their responsibilities under the laws of the country of asylum and in particular the penalties associated with violence, including sexual violence;
- widely disseminating information about cases resulting in conviction, and the sentence administered;
- informing the refugee population and the local population that UNHCR and the international community take a strong position against sexual violence. Ways suggested above under (a) Public information campaigns could be used.

Recognize the influence of community and religious leaders in this context and enlist their cooperation in changing attitudes towards sexual violence, both in terms of prevention and in alleviating the effect on the victims.

Refugee women

Female refugees should be made aware of their legal rights and responsibilities. In particular, they should be made aware of the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Declaration on the Elimination of Violence against Women.

Urges the High Commissioner to undertake initiatives for refugee women in the areas of leadership and skills training, legal awareness, and education; and in particular in the area of reproductive health, with full respect for the various religious and ethical values and cultural backgrounds of the refugees, in conformity with universally recognized international human rights and the UNHCR Guidelines on the Protection of Refugee Women.

Executive Committee Conclusions on the Recommendation of the Working Group: Refugee Women (1994), paragraph (b)

It is important that refugee women know in advance about the facilities and forms of assistance which are available to them should they be sexually attacked so that they can avail themselves of this help.

Refugee women should know that confidentiality will be respected and that they will be treated with sensitivity and compassion. Victims should be made comfortable about coming forward. This sort of information may encourage reporting of incidents and thereby increase the provision of assistance and protection to victims.

In particular, refugee women should be informed **in advance of "do's" and "don'ts"**, for example:

- the need to have a medical examination as early as possible following a sexual , attack;
- to avoid washing themselves immediately following an attack as this will affect the results of any medical examination which may be crucial to any later criminal prosecution;
- to keep any evidence intact, such as preserving the clothes worn at the time of the incident without cleaning them.

Refugee leaders

Refugee leaders could be trained so that they will be in a better position to assist in modifying negative attitudes towards the victims and in fostering concepts of community responsibility. Moreover, such training could facilitate the dissemination of information on sexual violence and measures for prevention.

UNHCR, other concerned UN staff, and NGO staff

UNHCR, other concerned UN staff, and NGO staff should be aware of their duty to uphold and implement UNHCR policy as contained in the Policy on Refugee Women, the Guidelines on the Protection of Refugee Women, the Policy on Refugee Children and the Guidelines on Refugee Children, as well as

these Guidelines. They should furthermore be aware of UNHCR Executive Committee Conclusions touching on this issue (in particular those relating to refugee women and sexual violence).

All UN staff members, including members of peace-keeping forces, should be reminded of their obligation to ensure that their activities conform to norms established in United Nations human rights instruments, including the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Declaration on the Elimination of Violence against Women.

UNHCR staff, particularly field and protection officers and interpreters, should be well-trained in interviewing skills and how to deal with incidents of sexual violence. NGO staff should be aware of their role in preventing and responding to sexual violence. These Guidelines and the Guidelines on the Protection of Refugee Women can be used as basic documents.

Government officials

Government officials should be informed of their responsibility and of the measures they should take to protect the rights of refugees, with particular emphasis on the national laws and the relevant international human rights instruments that they have ratified, and UNHCR's Executive Committee Conclusion No. 73 (XLIV) (1993) on Refugee Protection and Sexual Violence (contained in Annex 4).

Members of the security forces

Members of the security forces should be advised of the relevant codes of conduct aimed at preventing and redressing abuse of power, in particular that which involves the commission of acts of sexual violence. They should be made aware of the problem of sexual violence and ways of taking preventive and remedial protective action. Furthermore, they should be trained in interviewing skills and how to support the needs of victims to enable them to handle these cases appropriately.

d) Role of the media and human rights reports

The media and human rights reports can play an important role in some situations by putting pressure on States to provide physical protection to refugees.

See 5.1 Dealing with the Media.

2.5 Preventive Measures in the Context of Voluntary Repatriation

Calls upon States and UNHCR... to encourage the participation of refugee women as well as men in decisions relating to their voluntary repatriation or other durable solutions;

Executive Committee Conclusion No. 73 (XLIV) (1993), paragraph (c)
Refugee Protection and Sexual Violence

UNHCR voluntary repatriation programmes should attempt to combat the problem of sexual violence by taking the following steps:

- Promote and implement family reunification in the pre-repatriation stage.
- Ensure that families, including extended families, can travel as a unit. The same applies for groups of refugees, who have developed a social network in the camp (e.g. groups of female-headed households and unaccompanied women) who wish to return to the same destination. This could be ensured by linking together voluntary repatriation forms for joint travel.
- Ensure that refugee women, on an equal basis with refugee men, are provided with a viable opportunity to declare individually their desire to return or opt out of a voluntary repatriation, and have equal access to information on which to base their decision.
- Ensure the physical safety of areas, such as reception centres and transit camps and their facilities, by adopting relevant measures suggested under Design and location of refugee camps in

2.1(a) above.

- Ensure that protection activities focused on returnees give high priority to assessing the safety of returnee women. Special attention should be paid to especially vulnerable individuals, for example the disabled, pregnant women and unaccompanied minors, by identifying them early in repatriation planning and developing specific procedures to transport and receive them.
- Ensure that protection and field officers monitoring the return have a thorough knowledge of the UNHCR Guidelines on the Protection of Refugee Women and these Guidelines.

Chapter 3: Practical Guidelines On Responding To Incidents Of Sexual Violence

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

1. Protection
2. Medical
3. Psychosocial

KEY POINTS TO REMEMBER

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

Strict confidentiality is essential. Wherever possible a victim's anonymity should be maintained. Written information on the victim must be kept locked and secure from others.

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

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

Recommends that refugee victims of sexual violence and their families be provided with adequate medical and psychosocial care, including culturally appropriate counselling facilities, and generally be considered as persons of special concern to States and to UNHCR with respect to assistance and the search for durable solutions;

Executive Committee Conclusion No. 73 (XLIV) (1993), paragraph (f)
Refugee Protection and Sexual Violence

3.1 General

Acts of sexual violence violate basic human rights. Therefore, UNHCR staff have an obligation to intervene whenever cases are reported or suspected. The immediate physical and emotional consequences of sexual violence require a quick response. However, careful handling is required due to the extreme sensitivity of sexual issues in general and of sexual violence in particular. It is important to try to provide an environment in which refugees feel they can report protection problems privately, secure in the knowledge that there will be no retribution, and that confidentiality will be assured. The victim's immediate or long-term vulnerability must be taken into consideration, and the victim's own decisions

must be respected.

Problem of association

Experience has shown that a "problem of association" may result if one specific person is tasked to work only with victims of sexual violence. Anyone coming to see this person might be branded as a "rape victim" and be stigmatized. Staff should take every precaution not to draw attention to women who have been subjected to sexual violence. Similarly, separate projects for such women should be avoided.

The link of UNHCR staff and medical personnel

It is important that the community services officers, protection officers, field officers, resettlement officers and medical personnel work together as a team.

UNHCR staff dealing with a victim of sexual violence are encouraged to share their interview notes with each other in order to make a second interview unnecessary. No more information about the incident than absolutely necessary should be sought (see Obtaining relevant information in 3.4 below).

3.2 The Rights of the Accused

Where the accused is a refugee, UNHCR has a responsibility towards him also.

Fair trial and humane treatment

The accused is entitled to be treated with the rights accorded to a person whose guilt is not proven. UNHCR has an obligation to him to ensure that he has a fair trial and is subjected to humane treatment in the course of interrogation and incarceration.

Terminology

Until such time as a court of law has found an accused guilty of the sexual violence for which he is charged, the accused should be properly referred to as the "alleged perpetrator" or the "accused", rather than as "the rapist" and the like.

3.3 Identifying Incidents of Sexual Violence

- One of the most effective ways of "tapping" the refugee information network to identify cases of sexual violence is to facilitate the establishment of women's groups and associations, thereby giving individual women a channel to report attacks. Experience has shown that an effective mechanism is a women's health clinic which deals with women's physical health, and thus offers a "safe" environment for revealing attacks. (However, care should be taken not to set up such groups merely as "cover" for detecting sexual violence). Other groups could be in relation to recreational, leisure or income-generating activities. These groups have significant additional benefits such as providing a network for communication and information flow and a structure for community support in the aftermath of sexual violence, as well as reinforcing preventive action.
- Keep close contact with community members and leaders to discover whether a young girl or woman is being held in isolation or whether people talk about her in a disapproving way. This might indicate that she is a victim of sexual violence. In the case of male victims, the taboos are so strong that it is extremely unlikely that an incident will be revealed or acknowledged even to this limited extent.
- Look for signs of trauma, such as reports of pains, nightmares, loss of appetite, headaches, sadness, fear, confusion, loss of memory, attention problems, isolation and talk of suicide.
- Discreetly look for signs of physical violence.
- Collect and study background materials and refugee stories describing the circumstances of flight. Such information can indicate situations where sexual violence is likely to occur or has occurred.

Where Sexual Violence is Suspected but the Person is Reluctant to Discuss

- Where sexual violence is suspected but the person is reluctant to report the incident, it is advisable for a social worker, health worker, community services officer or protection officer to meet privately with the suspected victim either alone or with a trusted person of her choice. In such a situation it is vital that the officer, and any interpreter, be of the same gender as the person. However, there may be cases where a person requests to speak to someone of the opposite gender, e.g. male victims may prefer discussing sexual violence with females.
- There is no hard and fast rule for dealing with situations where sexual violence is suspected to have occurred but the person is unwilling to discuss the issue. Staff dealing with this should take a very delicate approach, being extremely careful not to push the person. Being forceful with the individual may cause retraumatization and further suffering.
- If the family is sympathetic towards the suspected victim, and where it is culturally appropriate to do so, it may be helpful to meet with the family to find out whether they have noticed a problem and give advice on how to handle it.

3.4 Steps to Take in Response

a) General

Once an incident of sexual violence has been revealed the following steps should be taken:

- Staff handling the victim of sexual violence must always be sympathetic yet professional. The victim should immediately be provided with privacy and be reassured about her safety. She should not be pressured to talk nor be left alone for long periods.

Medical treatment

- If the incident has occurred recently, the victim may require immediate medical care and should be escorted to the appropriate medical facilities. Post-coital contraception may be available to prevent a rape victim from becoming pregnant.

See 3.8 Medical Response below.

Contacting the police

- In addition, it may be necessary to contact the police immediately, if the victim so decides, in order that they investigate the case, particularly where there is the possibility of apprehending the perpetrator(s). The victim should be advised as to the likely course of events following police notification in order to make her decision about whether the authorities should be contacted.

See chapter 4 on Legal Aspects.

Obtaining relevant information

The staff member should seek no more information about the incident than absolutely necessary to establish what took place, where, and by whom.

- When an interview is possible, and with the consent of the victim, relevant information should be obtained about the circumstances of the incident details about the victim, the perpetrator(s); when the incident(s) occurred; where, and who, if anyone, witnessed the occurrence. See the sample sexual violence information form in Annex 2.
- The focus should be on trying to clarify the circumstances sufficiently to determine what, if any, further action should be taken. It is not a test of the victim's credibility nor should it be seen as an opportunity for building a court case against the alleged offender.
- Staff should strive to ensure that only one interview is conducted to establish the events.

See 3.6 Conducting an Interview below.

Same gender and continuity of staff involvement

- A trained staff member of the same gender must always conduct related interviews with the victim, unless the victim requests otherwise. The same staff member(s) should remain involved in the case throughout to avoid the victim being handed from one person to another and having to repeat the same painful information.

Exchange of information

- With full respect for confidentiality, UNHCR staff (field officers, protection officers, community services officers, resettlement officers) should exchange information available on cases in order to avoid retraumatizing the victim by obliging her to repeat her story.

Confidentiality

- The information must be treated as strictly confidential, unless the victim decides otherwise.

Follow-up action

- At the conclusion of the first or subsequent interview, the interviewer should determine whether the victim requires (further) medical help, legal advice and/or counselling, and make the necessary referrals.

Ensure physical safety of victim

- If the victim's living situation is unsafe, measures should be taken to ensure safety. This may include those such as removal to a safe house or an emergency room, or immediate transfer from a camp, while ensuring at all times the victim's privacy.
- If the victim is unaccompanied, it may also be helpful to house her with female friends to support and assist her during this critical time.

Where the alleged perpetrator is a member of the police or military, or another government officer

- Immediate measures are necessary where the alleged perpetrators are amongst those who are responsible for the safety of the refugees, e.g. the police guarding a refugee camp.
- Depending on the wishes of the victim, immediate measures may involve bringing the incident to the attention of high level government officials by convening a meeting to present the allegations and decide on an appropriate course of action. It may also be useful to give the government officials at the meeting, or subsequent to it, a letter written by UNHCR outlining the allegations and UNHCR's expectation of a speedy and thorough investigation. It may be particularly useful to forward a copy of the correspondence to superiors of the local officials, e.g., where refugee camps are in remote areas and there is a general breakdown of law and order, or a lack of discipline among the security personnel.
- Where appropriate, an identification parade should be arranged as soon as possible through the highest local authorities/police/military officials present. In such circumstances extreme caution should be taken to ensure the safety and protection of the victim and any refugee witnesses. For instance, in some situations, if the alleged sexual violence occurred in a refugee camp it may be necessary to evacuate the victim, refugee witnesses and any accompanying family members as soon as possible, with interim protection measures being made.
- Punishment of one official for sexual violence may deter others in authority from committing further acts.

Replacement of clothes and non-food items

- It may be necessary to replace the victim's clothes so that she does not wear those worn during the attack. If essential non-food items belonging to the victim, such as shelter or blankets, were looted, these should be replaced immediately upon verification. The community service workers may be able to

perform the necessary verification.

- Where clothes are replaced, care must be taken so that women cannot be identified as victims of sexual violence by particular clothing characteristics (e.g., do not give victims cloth of the same fabric).

Legal Action

- It is up to the victim to decide about criminal prosecution or the initiation of a civil suit, depending on the legal system. The victim should be advised of all relevant information, including possible consequences, before she makes the decision whether to bring the incident to the attention of the authorities. UNHCR, NGO or adequate legal support should be available throughout any court procedures if the victim so desires.

See 4.1 National Law.

Possible Resettlement

- Depending on the security situation and the victim's mental and - physical condition, consideration may be given to resettlement on emergency or nonemergency grounds. It is emphasized that resettlement is rarely a "solution" under these circumstances.

b) Specific Situations

- i) Where sexual violence has resulted in pregnancy (and termination of pregnancy is medically viable).

See 3.8 Medical Response.

- ii) Where sexual violence has resulted in pregnancy and the victim is unable or unwilling to legally terminate the pregnancy or the situation does not come to the attention of staff until it is too late to terminate the pregnancy.

- All options, e.g., keeping the child, foster care and adoption, should be discussed with the woman concerned, regardless of the individual beliefs of the counsellors, medical staff or other involved persons, in order to enable the woman to make an informed decision at a later stage.

- Close medical monitoring is necessary.

- Counselling and support are essential.

iii) Children Born as a Result of Rape

Children who are born as a result of rape may be mistreated, or even abandoned by their mothers and families. These children may become malnourished and may lack the necessary care and attention.

This is an extremely sensitive area with no simple answers. However, the following points are stressed:

- The situation will require very close monitoring.
- Extreme care must be taken not to stigmatize the mother or the child.
- The situation should be dealt with to the extent possible by the ordinary community support structures and existing systems of child welfare.
- Additional support to the mother, in relation to assistance and psychological help, may be needed.
- The welfare of the child may warrant consideration of options such as foster placement and, later, adoption. A cautious approach should be taken.

3.5 Sexual Violence in Domestic Situations

There are no easy responses to sexual violence against refugees when it is committed in a domestic environment. The following general guidance is provided based on a common sense approach that should be borne in mind at all times.

Extreme caution should be exercised before any intervention is made. Concerned staff should be aware of the possible difficulties that may arise following intervention. In some situations, more harm may be caused to the victim and other relatives by becoming involved than had the matter been left alone.

Awareness of repercussions and limits of UNHCR intervention

- While intentions may be good, give careful forethought to the possible repercussions of any proposed action.
- Be attentive to the fact that the victim may decide to return, or may have no alternative but to return, to reside with the abuser at the end of the day.
- Retaliation against the victim or relatives may result if the abuser learns that the victim or other family members have brought the incident to the attention of others.
- UNHCR staff should be aware of the limits of the action able to be taken by the Office in this context.

Careful Assessment

- Before any intervention is made each situation must be carefully assessed on an individual basis with due regard to the particular cultural context.

Close Liaison with Colleagues

- Before taking any action discuss possible approaches with relevant colleagues, such as the field officer, protection officer and community services officer, in order to benefit from their expertise, share strategies and points of view. They may also have additional information on the case which is not known by you.
- Following a careful assessment, and where intervention is determined as the most appropriate response, it may be useful for colleagues to act together, such as, for example, the protection officer teaming up with the community services officer.

Possible Interventions

- One approach may be to identify the possible root causes of the aggression and examine ways to redress them.
- Where appropriate, refer the matter to a disciplinary committee or other mechanism in place or, if the offence is of sufficient gravity, the authorities may have to be contacted.

Suspected Domestic Violence

- Where sexual violence is suspected in domestic situations, very discreet advice to the suspected victim on any options available to her may be appropriate.

Possible types of action to be taken in advance:

- Inform refugees of different forms of assistance that may be available to persons subjected to domestic violence (e.g., counselling services, options for safe alternative accommodation).
- Educate refugees as to their basic human rights as defined by international norms. See 2.4 Preventive Measures Involving Information, Education and Training and 4.2 International Law for more detail.

Children

- Where domestic sexual abuse of refugee children is involved, intervention may be crucial to

ensure their physical and psychosocial well-being. Remember that children are more vulnerable than adults on whom they depend for protection.

"[UNHCR] must act when the safety and liberty of refugee children is at risk, either directly or indirectly".

UNHCR Guidelines on Refugee Children at page 81.

For additional information, refer to UNHCR Guidelines on Refugee Children, chapter 4 on "Psychosocial Well-being" and chapter 7 on "Personal Liberty and Security".

3.6 Conducting an Interview

Where the victim is unable or unwilling to discuss the incident

- If the victim is unable or unwilling to discuss the matter, the staff member should ask discreet and indirect questions. If she is still unwilling to share her problem, the staff member should not force the issue, but assure the person that staff are always available to assist her once she is ready to talk about the problem. She should not be left alone but a close relative or friend should be found to keep an eye on her.

Children

- If the victim is under the age of majority of the host country (commonly 18 years) then the consent of his or her parents or legal guardian should first be obtained. A child may feel more comfortable being interviewed in the presence of his or her parent, another family member or a trusted adult. The child should be consulted on this.
- Where a child is involved, interviewing techniques should be adopted accordingly, using simpler language, spending more time establishing rapport with the child and developing a trusting relationship. In addition, if an interpreter is being used he or she should be specifically trained to work with children, e.g., a child welfare worker, or a teacher.

See also the sections on "Interviewing Skills" and "Preparing and Conducting an Interview" on pages 28-39 of the UNHCR Manual *Working with Unaccompanied Minors in the Community*.

Opening the interview

- The first step should be to establish a basic rapport with the victim. The interviewer should take the time to introduce him/herself and the interpreter, explain clearly what his or her role is and the exact purpose of the interview.
- The victim should be informed that she does not have to be interviewed, can refuse to answer any questions that she does not feel comfortable with, and can stop the interview at any time.

Confidentiality

- The victim should be assured of confidentiality vis-a-vis her immediate family, the extended family, the refugee community, and, where requested by her, the camp authorities and police. Confidentiality can be TOTAL if the victim insists that nothing should be done.

Demeanour of interviewer

- It is essential that the interviewer remain neutral, compassionate, sensitive and objective during the interview.

Recording information

- With an assurance of absolute confidentiality, notes should be taken contemporaneously and in a discreet manner. The individual should know that the conversation is being documented. Post facto

notes are likely to be erroneous.

Irrelevance of previous sexual history except in relation to past sexual attacks

The previous sexual history of a victim is irrelevant for UNHCR interviewing purposes and should not be asked of the victim, except in relation to any previous sexual attacks.

Knowledge of any previous sexual (or other) attacks is relevant to both protection of the victim and her psychosocial well-being. Regarding protection, knowledge of a previous attack may suggest that the victim has been specifically targeted rather than chosen at random and may thus need more urgent and drastic protection measures to be taken. Regarding her psychosocial well-being, an individual who has already experienced sexual violence may be more psychologically vulnerable and more prone to retraumatization requiring additional efforts and sensitivity.

Retraumatization

- The interviewer should be extremely careful not to cause retraumatization. This occurs when a "triggering" event causes the victim to be overwhelmed by memory and feelings from the previous trauma. As such, questioning should be done gently and discreetly and at the victim's own pace. On no account should she be pressured to speak if she is unwilling to do so. (See Retraumatization in 3.9 for more detail).

Shock or psychic numbing

- Remember that a victim may at the time of the interview be experiencing shock or psychic numbing due to trauma with the consequence that her emotions are significantly muted. (See "Psychic Numbing" in 3.9 for more detail).

Where an interpreter is being used

- The interpreter should be the same gender as the victim.
- The interviewer and the interpreter should be aware of difficulties in interpreting. For example, words such as "rape" or "assault" may have different meanings or connotations in the victim's language.
- As with all other interviews involving an interpreter, the interviewer should ask all questions directly to the interviewee. Recall at all times that the primary role of the interpreter is to facilitate communication, and in no way should the interpreter control or direct the interview.

Concluding an interview

- At the conclusion of the interview, the victim should be reassured of her safety, and any follow-up action explained. She should also be given the opportunity to ask any questions.

Some additional practical tips:

Interview setting

- The place of interview should be in a confidential and quiet setting, one which makes the victim feel comfortable, safe and at ease and one that would not lead others to assume that she is a rape victim. In a camp, this could be at the UNHCR offices, at offices where eligibility interviews take place, or a room at the hospital. Care should be taken not to draw attention to the person being interviewed.

No interruptions

- Avoid any interruptions or distractions during the interview, such as telephone calls or others coming into the office during that time. In the same way, switch off any walkie-talkies, unless they are crucial for security purposes.

Be prepared

- Have drinking water and some tissues at hand.

For more detail refer to the UNHCR Training Module Interviewing Applicants for Refugee Status.

3.7 Reporting Requirements

Situation Reports

- General reporting on the situation of sexual violence against refugees should be done from each field office to the head UNHCR office in each country. This is usually through the weekly situation reports ("sitreps"). It is also expected that this information will form part of the regular sitreps from each head UNHCR office in the field to Headquarters.

Particularly Serious Cases

- As with any protection problem, UNHCR Headquarters intervention can be sought on cases of a particularly serious nature. Advice can also be requested from Headquarters on any case.

3.8 Medical Response

Same-gender medical personnel

- A doctor (or a health worker if a doctor is not available) of the same gender as the victim should always conduct the initial medical examination(s) and follow-up. This is considered essential for cultural, psychological and security reasons. In many cultures it is taboo or extremely embarrassing for a person to be touched or examined by a doctor of the opposite gender. This is particularly so in the case of women and could significantly add to the trauma which has already been experienced. In such instances, examination by a male doctor would be perceived as highly distressing and even threatening and is therefore to be avoided. If however, there is no option, the situation should be discussed with the victim and she should be prepared for a referral to a male doctor.

Local doctors to conduct medical examination where possible

- In refugee camps, medical practitioners from the host country, rather than international doctors, should conduct examinations and write medical reports since they will be in a better position to give evidence in any later legal proceedings if they occur. For example, by the time the case has reached the courts, a foreign doctor may have left the country and it may not be possible for him/her to return. In some situations, however, local doctors may not be prepared to testify if local agents are the alleged perpetrators.

Preparing the victim

- It is advisable that the victim be prepared for the physical examination which will follow since sometimes medical procedures themselves are traumatic. Therefore, the staff member must be familiar with the examination procedures, and be able to explain them to her in non-technical language.
- In certain situations it may be advisable for this staff member to accompany the victim to the examination.
- In-patient treatment or out-patient treatment may include: tests for sexually transmitted diseases (VDRL); analgesia; post-coital contraception; antibiotics; tetanus toxoid/immunoglobulin injection; blood investigations; hepatitis B tests.

The following medical procedures should be taken

- A counsellor, nurse or physician should document a detailed history of the attack including force or threats used, the nature of any penetration which took place, and whether ejaculation occurred. Essential elements also include whether the victim bathed, urinated, excreted or changed clothes following the attack; any symptoms following the assault, recent menstrual and contraceptive history.
- Obtaining information about the past sexual history is, generally, neither necessary nor relevant.

The mental state of the individual should be assessed and noted.

- A medical examination should be made including documentation of the witnessed examination, condition of the clothing, any foreign material adhering to the body, any evidence of trauma however minor, and results of a pelvic examination. This clinical examination should entail a complete physical examination which should not begin immediately with the sexual sphere or be limited thereto.
- Observation of external signs, such as the condition of clothes and a collection of material which might serve as evidence should be made. Material which the medical staff might collect for evidence (where forensic pathology laboratories exist), includes plucked hair, fingernail scrapings, combing from the pubic area, clothing, fluid and swabs from the vaginal and/or anal vaults for sperm, saliva and blood samples. It is necessary to obtain the consent of the victim for the collection of such evidence and its conveyance to the law enforcement authorities.

Vulnerability of pregnant women

- Women who are pregnant at the time of the sexual violence are physically and psychologically more vulnerable. In particular, they are susceptible to miscarriages, hypertension and premature births.

Post-coital contraception ("Emergency Contraception")

- In countries where the "morning-after pill" (or "day-after pill"), or other forms of post-coital contraception, are legal and available, it should be offered to a rape victim, once its effects have been fully and carefully explained to her. Trauma can be reduced by preventing a rape victim from becoming pregnant.
- The "morning-after pill" can be effective up to 72 hours post-coitally; the sooner it is used, the more effective it is likely to be. This form of contraception prevents pregnancy by stimulating the process of early menstruation before egg implantation. According to the World Health Organization it does not constitute an abortion.

Increased risk of contracting HIV

- The tearing injuries and open wounds of the women's genital tract from force used in rape increases the risk of contracting HIV from an infected man.

High risk of STD transmission in situations of armed conflict

- Army recruits have been recognized as a category tending to show higher rates of STDs (sexually transmitted diseases) than the general population. In situations of rape during armed conflict a high risk of STD transmission should be assumed. Prophylactic therapy (i.e. without making a clinical diagnosis), using appropriate antibiotics, should be considered to cover the major treatable infections, particularly gonorrhoea, chlamydia and syphilis, that could otherwise have long-term consequences.

Vulnerability of girls to the effects of STDs

- Girls who have not completed puberty are particularly vulnerable to the effects of STDs because the lining of the genital tract has yet to take on its adult character. STDs contracted at this age entail a greater risk of permanent damage such as infertility or ectopic pregnancy (where pregnancy occurs in the Fallopian tube) later in life.

Risks of HIV and other STDs and pregnancy

- The individual should be advised of the risks of contracting HIV and STDs. The risk of pregnancy should be discussed with female victims. HIV and pregnancy tests should be offered.
- UNHCR and the World Health Organization have finalized guidelines in connection with HIV. These *Guidelines for Early HIV Intervention in Emergency Settings* should be referred to, particularly in relation to counselling and maintaining confidentiality.

Where sexual violence has resulted in pregnancy

- All options. e.g., keeping the child, adoption and abortion, should be discussed with the woman concerned, regardless of the individual beliefs of the counsellors, medical staff or other involved persons, in order to enable the woman to make an informed decision.
- It should be noted that in some countries abortion is illegal or is only permitted under limited circumstances. In some countries, for example, it may be necessary to obtain special permission from the authorities, or abortion may only be permitted for medical reasons. It is noted that in many countries abortion is legal in situations where a woman is pregnant as a result of rape. The counsellor must be aware of the legal situation with regard to abortion in the country of asylum or return, and this must be explained to the woman.
- Following comprehensive counselling, if the woman decides to terminate her pregnancy, this should be carried out under appropriate medical and psychological conditions.

See also 3.4 under b) Specific Situations.

Follow-up visits

- Follow-up visits should be arranged according to the necessity of each case. Repetition of HIV test should be offered in appropriate circumstances.

Strict confidentiality

- The importance of maintaining strict confidentiality is stressed.

3.9 Psychosocial Response

This section provides an overview of psychological reactions experienced by victims of sexual violence and action required to address their psychosocial needs.

Each person will experience and cope with the traumatic incident differently. See also 1.5 Effects of Sexual Violence.

a) Common Psychological Reactions

- The victim most commonly experiences fear, helplessness and humiliation. She is likely to experience a loss of trust and a loss of sense of safety and security.
- The victim will probably feel guilt or shame from a sense that perhaps she provoked or in some other way was responsible for what happened to her (also referred to as "classic rape syndrome").
- The victim's trauma may also lead to aggressiveness or destructiveness, anger, hatred or revenge, taking an outward direction instead of being internalized or assuming the blame.
- The experience of sexual violence often makes the victim feel unclean and unworthy. Virginity, modesty and female chastity define the value of girls and women in many cultures, and consequently sexual abuse is perceived as devaluing a woman and making her 'unclean'.
- Similarly, men are defined in many cultures in terms of their manhood and virility and therefore the experience of sexual violence against a man or boy can have a devastating psychological impact.
- **"Psychic numbing"**: it is commonly thought that someone who has been sexually violated will be hysterical and cry uncontrollably, but in fact this is **not** the most common response. A victim can respond to sexual violence trauma by "psychic numbing". This is a defensive reaction that significantly mutes the person's emotions. She may feel numb, show little feeling, speak slowly and inaudibly and may appear very calm.
- Understanding this reaction is particularly important because that is how many victims appear during initial interviews and in their daily lives post-trauma. Victims of trauma commonly adopt strong defence mechanisms which include forgetting, denial and deep repression of the events during the

immediate aftermath of the trauma, when the victim is still operating in "survival mode".

- After the initial shock and trauma of the incident, the victim might go through a period of thinking frequently about the incident, about the attacker, and re-experiencing the trauma. This may occur in connection with preparations for court proceedings or in preparation for eligibility interviews and will require careful monitoring and counselling.
- From the psychological point of view the reactions can range from minor depressions, grief, anxiety, phobia, somatic problems to serious and chronic mental conditions.
- Extreme reactions to sexual violence may result in suicide, or in the case of pregnancy, physical abandonment/elimination of the child.
- **Retraumatization:** the concept of "retraumatization" is important to understand. This occurs when a "triggering" event causes the victim to be overwhelmed by memory and feelings from the previous trauma. It has been described as the psychological equivalent of having a scab torn off. It is painful, and can deplete what little emotional resources the victim has built up. The incident of sexual violence may in itself trigger retraumatization due to a previous trauma the person has experienced. Further, retraumatization may occur as a consequence of being interviewed in relation to a sexual attack.

b) Children

Children are more vulnerable to trauma and to retraumatization than adults. This is because children are developing. They grow in developmental sequences, each sequence depending on the one below it. Serious delays interrupting these sequences can severely disrupt development. All children are at developmental risk in situations of violent displacement, but sexual abuse, especially if it is ongoing, can have very harmful long-term psychological and psychosocial consequences.

The child as a direct victim

- The effects on a child resulting from personally suffering sexual violence will be mediated by age, gender and developmental level, and particularly by the capacity of the child's caregivers to give the child the necessary nurture and support.
- Who perpetrated the sexual attack will be a matter of significance: a stranger, a family member, and whether the abuse was ongoing or an isolated event. If there is an ongoing sexually exploitative relationship in a camp situation, for example, it would have very negative implications for the child's capacity to develop and maintain normal social relationships and age and gender appropriate behavior.

"Secondary" impact of sexual violence on a child

- A child may suffer as a result of sexual violence experienced by another person, most frequently the child's mother. Experiencing one traumatic event can compromise a mother's ability to care for her children. It may cause her to mediate the negative effects of sexual violence on her children's well-being and development. For example, in some cultures a woman may break a number of cultural taboos if seen naked in front of her male children, or if they witness her engage in sexual activity. Should she be sexually attacked in front of her male children, her response may be to withdraw social and emotional contact from them as a result of her feelings of guilt and shame.

c) Care of Victims

i) Children

Every child has the right to *"such protection and care as is necessary for his or her well-being"*.

Every child who is a victim of *"any form"* of abuse or neglect has the right to *"physical and psychological recovery and social reintegration"*.

The Convention of the Rights of the Child: Article 3(1) and Article 39.

UNHCR staff are required to make their best efforts both to prevent risk to refugee children and to take additional action to ensure the survival and safety of refugee children at particular risk.

UNHCR Policy on Refugee Children, paragraph 26 (g).

For specific guidance on how to help refugee children in relation to their psychosocial well-being, refer to Chapter 4: "Psychosocial Well-being" in UNHCR's Guidelines on Refugee Children (pages 37-51). This chapter explains why psychosocial well-being is important and contains guidance on how to help refugee children directly, by helping the family and by helping the community. The need for some children to receive specialized services or treatment due to having experienced damaging effects of trauma is dealt with on pages 48-49. Suggested age-appropriate activities for refugee children are also included.

ii) General

It is important to know what the response to sexual violence is according to the culture and traditions of the refugees. Victims should be treated with acceptance, care and support.

Support of family and friends

- In the long term, and in most cultural settings, the support of the victim's family and friends is likely to be the most important factor in overcoming the trauma of sexual violence. Efforts should therefore be made to encourage and maintain good relations with family and friends or to facilitate speedy family reunion where possible. For example, family and friends should be encouraged to accept a victim's apparent disorganization and/or uncustomary passivity and give support in managing daily activities and responsibilities. They may also need to provide help in making decisions.

Community support groups

- Efforts to relieve trauma suffering for the majority of cases are most appropriately handled through community-based activities which address psychosocial needs generally, rather than focusing specifically on sexual violence.
- It is important to encourage the establishment of community support groups which can counteract tendencies towards the social isolation of victims of sexual violence and problems in relation to friends, family members and the community. Clearly the form and approach of this kind of intervention will vary considerably according to the cultural context in which the violence has occurred. Where feasible, it can be helpful for such support groups to organize activities such as literacy, education, skills training, occupational therapy, music, sports, information, or any other useful daily activity.

Formal and informal women's groups

- Facilitating the establishment of formal and informal women's groups can provide an excellent framework for both preventive and therapeutic assistance. In most situations, keeping the victims active through recreational, psychosocial and/or income generating activities is very effective psychological assistance. For example, women's groups or committees can provide a focus for establishing projects which promote useful activities, such as income generating projects, which can assist victims of sexual violence to regain control over some areas of their lives. Such activities can foster normalization of daily life and thereby contribute significantly to restoring or maintaining the mental health of refugee women, including those who have been sexually attacked.

Relocation of victim

- In some refugee camp situations, it may be helpful to discreetly transfer the victim and her family, if they desire, to another camp where refugees do not know about the incident. This may be necessary in situations where the victim would be ostracized by refugees who know about the incident.
- Where relocation occurs, extreme care and discretion should be used at the place of reception so that the transferees are not identified as being victims of sexual violence. Precautions to be taken will depend on the particular circumstances. It may also be necessary to inform the victim and any accompanying relatives not to divulge the real reason for the transfer.

d) Traumatic Effects on Family Members

- Sexual violence can have severe traumatic effects on the victim's family members or those friends who have witnessed the crime without being able to intervene, or who experience guilt for not having been present. This may be particularly the case for husbands who were present and were unable to prevent their wives from being raped, or for children who witnessed their mothers being sexually attacked.
- In such cases, individual and/or family counselling and close follow-up might be needed. In cases of family reunion where family members did not witness the incident, supportive counselling might be needed.

e) Counselling

Counselling should be provided only by trained mental health professionals. That is, a trained worker (such as a counsellor, nurse, social worker, psychologist, or psychiatrist), preferably from the same background as the victim.

In situations of continuing conflict it is particularly important to ensure that interviews with victims of sexual violence are conducted only by people with appropriate training and only if follow-up care by mental health professionals is available. Experience has shown that some women have attempted suicide after talking to the press and/or a "routine" interview with well-meaning information seekers. They need reassurance and total discretion.

Objectives of counselling

- help victims to understand what they have experienced and to develop a sense of control over their lives and to overcome their feelings of guilt;
- help victims to realize that they are not responsible for the attack, to stop blaming themselves and to understand that they are not alone, and that many other people have overcome such experiences and are leading normal lives;
- help victims to understand that feelings of anger, fear and guilt as well as unusual reactions and activities are common and natural; to encourage them to express anger towards their attacker(s) in order to alleviate feelings of self-blame;
- help in breaking the victim's social isolation and to ensure that they have access to support networks and services that meet their needs;
- help create an awareness in the community so that the victim can be provided with the necessary support, particularly within the family structure and within the larger community;
- help victims to remain or become active in daily activities.

Timely Counselling

In view of the potentially very serious and long lasting psychological effects of sexual violence, it is essential that the victim receive counselling as early as possible. Such immediate intervention can be very effective in minimizing the severity of psychological trauma in the longer term. On the other hand, if the incident remains unresolved, it may surface at any time in the future and can result in social dysfunction or, at worst, chronic mental disorder.

No Pressure

It is vital to ensure that the victim is ready for counselling. An individual who has experienced sexual violence should never be pressured into counselling as she may have built up psychological defences to deal with the experience. This is particularly important in situations of continuing conflict where the uncertainties of everyday existence may demand the maintenance of such defence mechanisms. It is

also critical in situations where provision of ongoing counselling support is not ensured.

Counselling Personnel

Where possible, counsellors should work as part of a team with trained health and welfare workers of the same gender and culture as the victim. The counsellor and refugee workers should work closely with other service providers and members of the community, so that they are able to deal sympathetically and skillfully with victims of sexual violence

In some situations, where telephone services are available, the provision of a telephone counselling and referral service may be feasible and useful, particularly in locations where victims are widely dispersed.

For detailed information on appropriate therapeutic interventions, please refer to UNHCR Guidelines on the Evaluation and Care of Victims of Trauma and Violence. See also UNHCR Community Services for Urban Refugees, in particular pages 49-59 on "Victims of Violence".

Chapter 4: Legal Aspects Of Sexual Violence

This chapter discusses remedies under national law and practical steps to be taken having regard to national and international law. The effect of sexual violence on the refugee status determination process is also examined.

4.1 National Law

The Government on whose territory the sexual attack has occurred is responsible for taking diligent remedial measures, including conducting a thorough investigation into the crime, identifying and prosecuting those responsible, and protecting victims from reprisals.

Advocacy of the Enactment and/or Enforcement of National Laws

UNHCR can help States to appreciate that serious, concerted action is needed in this regard. UNHCR should advocate the enactment and/or enforcement of national laws against sexual violence in accordance with international legal obligations. This will include prosecution of offenders and the implementation of legal measures for the protection of the victim (for example, restraining orders).

Awareness of the National Laws and Practices

National law and practice vary from country to country. A country may be based on the common law system, such as England, the civil law system, such as France, or on Islamic (Sharia) law, as in Saudi Arabia. Different issues and problems will arise according to the cultural, legislative and judicial context.

The local UNHCR legal adviser or protection officer must be familiar with the national criminal and civil law on the subject of rape and sexual violence in general. Research should include a review of the relevant legal provisions, rules of criminal procedure, role of the authorities and any medical requirements. The advice of legal counsel familiar with the domestic law and procedure should be sought.

Research should take place **before** an incident occurs in order to know, in advance, what procedural steps should be taken in the particular country and what advice should be given to refugee victims of sexual violence.

In addition to being familiar with the law and prepared to assist a refugee victim of sexual violence, it may be appropriate in some countries for a UNHCR or NGO staff member to accompany the victim in any dealings with the police. UNHCR should adopt a supportive role once a local lawyer has been appointed, but care must be taken to ensure that the legal counsel diligently represents the victim.

Examples of Relevant Information to be Researched

Defining the Applicable Legal Standards

- What is the applicable law and procedure?

- What is the legal definition of rape?
- What are the legal definitions of other forms of sexual violence?
- Does the offense of "statutory rape" exist?

Instigating Legal Proceedings

Reporting

- What are the legal requirements for reporting an incident of sexual violence?
- Is there, for example, a time limit for reporting an incident?

Legal Proceedings

- What type of legal procedure is applicable and/or appropriate?
- In criminal proceedings, is it the responsibility of the victim to press charges or is this at the discretion of the State?
- Is the option of commencing civil proceedings open to the victim, in addition or as an alternative, to criminal action?
- What are the evidentiary requirements?
- Is witness corroboration necessary?
- What is the requisite standard of proof?
- What is the likely time frame?
- Are there any special medical forms to be completed by the examining doctor in relation to possible court proceedings?
- Are there any special procedures relating to child victims of sexual abuse?
- Are there any special programmes operating, such as the victim/advocate system?
- Are there any other legal provisions that are relevant to protection, assistance and counselling?

Protection of Victims and Witnesses

- Are there any specific legal provisions that are relevant to protection of the victim and witnesses giving testimony?

Traditions and customs of the refugee community

Some refugee communities may have traditional means of responding to incidents of sexual violence within their community.

- What are these traditional procedures?
- Are they fair, just and in accordance with international human rights standards?
- In particular, do they take into account the interests and protection requirements of the victim?
- Do they take into account the protection of the refugee community?

Sentences or Punishment

- If conviction is obtained, what is the likely sentence or punishment to be given to the perpetrator?

Compensation

- Are there any procedures through which a victim can apply for compensation?

Costs

- Is the burden on the State or on the individual?
- What are the likely financial costs to the victim of any legal proceedings?
- Can a victim obtain any legal aid funding in the country of asylum?

Abortion

- What are the laws in relation to abortion?
- If abortion is generally illegal, are there any special circumstances under which it may be allowed? (For example, where a woman becomes pregnant as a result of rape, where the life of the baby or the woman is endangered, or where there are reasons in relation to the psychological welfare of the woman).
- What evidence is needed to satisfy the special circumstances, e.g. medical reports?

4.2 International Law

International law prohibits sexual violence. This prohibition is found in several international human rights instruments as well as in customary international law. Even if international law may not be applied at a national level, it may be useful in discussions with the authorities in reinforcing a point. It is therefore essential to be aware of the international norms which may be violated when sexual violence occurs.

Stress[es] the importance of international instruments relating to refugees, human rights and humanitarian law for the protection of asylum-seekers, refugees and returnees against sexual violence,

Executive Committee Conclusion No. 73 (XLIV) (1993), Preamble
Refugee Protection and Sexual Violence

a) The Declaration on the Elimination of Violence against Women (1993)

- This is the first set of international standards dealing specifically with violence against women.
- The Declaration was adopted, without a vote, by the General Assembly at its forty-eighth session in 1993. (Resolution 48/104 of 20 December 1993).
- It affirms that violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms.
- It recognizes that effective implementation of the Convention on the Elimination of All Forms of Discrimination against Women would contribute to the elimination of violence against women.
- It is noted in the preamble that refugee women are "especially vulnerable to violence."

The Declaration is reproduced in Annex 6.

b) Systematic Mass Rape as a Crime against Humanity

- A report in 1993 by the Secretary-General of the United Nations to the Security Council specifically includes within the definition of "crimes against humanity" any acts of rape which are committed "as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds". It is noteworthy that systematic mass rape is an offence covered by the International Criminal Tribunal for Former Yugoslavia and the International Criminal Tribunal for Rwanda.

c) Appointment of a Special Rapporteur on violence against women

- In 1994 the Commission on Human Rights appointed a Special Rapporteur on violence against

women for a three-year period. (Resolution 1994/45 entitled "The question of integrating the rights of women into the human rights mechanism of the United Nations and the elimination of violence against women"). The Special Rapporteur's preliminary report outlines the most basic issues with regard to violence against refugee and internally displaced women and makes preliminary recommendations, which in the most part have been incorporated in these Guidelines.

Providing information

- The Special Rapporteur is mandated, *inter alia*, to seek and receive information on any forms of violence against women. In this connection, UNHCR and NGOs can contribute significantly to the work of the Special Rapporteur by forwarding information on violence against women and by providing accurate, current data and statistics. A standard format for documenting violations of human rights of women is being developed by the Special Rapporteur and may be obtained from the Centre for Human Rights in Geneva. (Palais des Nations, 8-14 avenue de la Paix, 1211 Geneva 10, Switzerland. Fax: (41 22) 917 0212).

Promoting Awareness

- Readers of these Guidelines are encouraged to inform national and regional non-governmental organizations active in the field of women's human rights of the appointment of the Special Rapporteur to enable the establishment of a wide network for the collection and dissemination of information on this issue.

National Plans of Action

- The Special Rapporteur is calling upon all Governments to elaborate and implement a national plan of action on violence against women, as suggested in the Declaration on the Elimination of Violence against Women. UNHCR field staff should enquire about the existence of such a plan of action with the relevant authorities and ensure the inclusion of a component on violence against refugee women. UNHCR and other field staff, in cooperation with the Governments concerned, may be instrumental in the implementation of national plans of action, which, *inter alia*, call for the provision of specialized assistance for the support and rehabilitation of women victims of violence and for the initiation of strategies to develop legal and administrative mechanisms to ensure effective justice for these women.

d) Treaty monitoring bodies

Some of the human rights conventions have created treaty bodies to monitor the implementation and compliance of the conventions.

Examples are:

- **The Committee on the Rights of the Child** established under the Convention on the Rights of the Child (Article 43)
- **The Committee on the Elimination of Discrimination against Women (CEDAW)** established under the Convention on the Elimination of All Forms of Discrimination Against Women (Article 17)
- **The Committee against Torture** established under the Convention against Torture (Article 17)
- **The Human Rights Committee** established under the International Covenant on Civil and Political Rights (Article 28)
- **The Committee on Economic, Social and Cultural Rights** established by ECOSOC Resolution 1985/17

States are required to submit reports on a periodic basis to these Committees. Specifically in relation to the Committee on the Elimination of Discrimination against Women (CEDAW), in 1989 the Committee requested that States include in their reports information about violence against women and the measures taken to eliminate such violence. (General Recommendation No. 12).

e) Suggested action which UNHCR Staff and NGOs can take in the field

Awareness

- Find out what international instruments have been ratified by the State and how these have been incorporated into national law.
- Find out what international instruments have not been ratified and ascertain the reasons for not doing so. Similarly, find out whether the State has made any reservations to international instruments, and if so the reasons for these.

Lobbying

- Lobby for the ratification of instruments and withdrawal of any reservations.

Promotion

- Promote and disseminate international norms to raise awareness.
- Draw attention, as appropriate, to the nature, severity and magnitude of the problem of sexual violence against refugees.

Influence Reporting of States to Treaty Bodies

- Be involved in the preparation of country reports to the various treaty bodies by finding out which government section is writing them and provide input on any concerns.
- Lobby for fair and thorough reporting by States to the treaty bodies.

Provide Information to UNHCR Headquarters

- Reporting to UNHCR Headquarters on violations by a State of its international obligations relating to refugees will enable UNHCR to raise these concerns with the appropriate treaty bodies who can raise these issues with the State concerned.

Monitoring

- Be active in monitoring any recommendations made to the State by the treaty bodies. Such recommendations could include that the State amend its national legislation, the State improve practices, or that the State undertake special protection or assistance programmes and activities on behalf of refugees.

Training

- Include in training sessions of government officials, such as police, military and immigration officers, information on the various international obligations as undertaken by the State and their incorporation into national laws.

In Situations of Armed Conflict

- Join the International Committee of the Red Cross (ICRC), and others, in disseminating international humanitarian law and lobbying the parties to the conflict to respect these principles.

Refer to the UNHCR Training Module Human Rights and Refugee Protection, 1995, for more detailed discussion.

f) The International Instruments Relevant to Sexual Violence include the following:

The Universal Declaration of Human Rights (1948)

Article 3 Everyone has the right to life, liberty and security of person.

Article 5 No one shall be subjected to torture or to cruel, inhuman or degrading treatment or

punishment.

The International Covenant on Civil and Political Rights (1966)

Article 7 No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment

Article 9 1. Everyone has the right to liberty and security of person...

Article 10 1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

The International Covenant on Economic, Social and Cultural Rights (1966)

Article 12 The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The Convention on the Elimination of All Forms of Discrimination against Women (1979)

Article 6 States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

In 1992 the Committee on the Elimination of Discrimination against Women (CEDAW) issued a recommendation (General recommendation No. 19) dealing exclusively with violence against women. The Committee stated that gender-based violence is a form of discrimination which seriously inhibits a woman's ability to enjoy rights and freedoms on an equal basis with men. They defined gender-based violence as that which is directed against a woman because she is a woman or which affects women disproportionately. They included "sexual harm or suffering" and "threats of such acts" as constituting gender-based violence. They noted that: "Gender-based violence may breach specific provisions of the Convention, regardless whether those provisions expressly mention violence".

The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

Article 16 requires, *inter alia*, that the State "prevent... acts of cruel, inhuman or degrading treatment or punishment..., when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity...."

The Convention on the Rights of the Child (1989)

Article 19 Protection from Abuse and Neglect

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 24 Health and Health Services

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional

practices prejudicial to the health of children.

Article 34 Sexual Exploitation

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent;

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity.
- (b) The exploitative use of children in prostitution or other unlawful sexual practices.
- (c) The exploitative use of children in pornographic performances and materials.

Article 37 Torture and Deprivation of Liberty

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment
- (b) Every child deprived of liberty shall be treated with humanity and respect of the inherent dignity of the human person

Article 39 Rehabilitative Care

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

REGIONAL INSTRUMENTS

- Europe

The European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

Article 3 No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 5 1. Every one has the right to liberty and security of person

- Americas

The American Convention on Human Rights (1969) ("Pact of San José, Costa Rica")

Article 5 Right to Humane Treatment

1. Every person has the right to have his physical, mental, and moral integrity respected.
2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.

Article 7 Right to Personal Liberty

1. Every person has the right to personal liberty and security.

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Para) (1994)

Article 7 sets out State obligations in regard to the eradication of gender-based violence.

Article 8 sets out additional obligations regarding education and the development of a mass consciousness in relation to violence against women.

Article 10 obliges the States parties to include in their national reports to the Inter-American Commission of Women information on measures adopted to prevent and prohibit violence against women and to assist women affected by violence, as well as any difficulties they observe in applying those measures, and the factors that contribute to violence against women.

Article 12 provides for an individual right of petition and a right for non-governmental organizations to lodge complaints with the Inter-American Commission of Human Rights.

- Africa

The African Charter on Human and Peoples' Rights (1981)

Article 4 Human beings are inviolable. Every human being shall be entitled to respect for this life and the integrity of his person. No one may be arbitrarily deprived of this right.

Article 5 Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

Article 6 Every individual shall have the right to liberty and the security of his person

INTERNATIONAL HUMANITARIAN LAW

International Humanitarian Law is the body of law which governs situations of armed conflict, whether they be of an international or non-international character. Persons of concern to UNHCR, most particularly returnees and internally displaced persons, may be found in situations of armed conflict governed by international humanitarian law.

- International Armed Conflicts

The Geneva Convention Relative to the Protection of Civilian Persons in Time of War (The Fourth Geneva Convention) (1949)

Article 27 [Protected persons]... shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity. **Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.**

Protocol I relating to the Protection of Victims of International Armed Conflicts (1977)

Article 51.2 The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

Article 75.2 Fundamental Guarantees

The following acts are and shall remain prohibited at any time and in any place whatsoever, whether committed by civilian or by military agents:

- (a) violence to the life, health, or physical or mental well-being of persons, in particular
 - (i) murder,
 - (ii) torture of all kinds, whether physical or mental,

(iii) corporal punishment; and

(iv) mutilation;

(b) outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault;

...

(e) threats to commit any of the foregoing acts.

Article 76 Protection of women

1. Women shall be the subject of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault.

Article 77 Protection of children

1. Children shall be the object of special respect and shall be protected against any form of indecent assault.

• Non-International Armed Conflicts

The Geneva Conventions (1949)

Article 3 ... the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to [persons taking no active part in the hostilities...]:

(a) violence to life and person, in particular... mutilation, cruel treatment and torture;

(c) outrages upon personal dignity, in particular, humiliating and degrading treatment;...

Protocol II relating to the Protection of Victims of Non-International Armed Conflicts (1977)

Article 4 Fundamental guarantees

2...the following acts against [all persons who do not take a direct part in or who have ceased to take part in hostilities] are and shall remain prohibited at any time and in any place whatsoever.

(a) violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;

(e) outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;

(h) threats to commit any of the foregoing acts.

Also see the **Declaration on the Protection of Women and Children in Emergency and Armed Conflict**, General Assembly resolution 3318 (XXIX) of 14 December 1974.

The Declaration on the Elimination of Violence against Women (See 4.2(a) above and Annex 6).

4.3 Refugee Status Determination

Strongly condemns persecution through sexual violence, which not only constitutes a gross violation of human rights, as well as, when committed in the context of armed conflict, a grave breach of humanitarian law, but is also a particularly serious offense to human dignity;

Executive Conclusion No. 73 (XLIV) (1993), paragraph (a)
Refugee Protection and Sexual Violence

Calls upon States and UNHCR to ensure the equal access of women and men to refugee status

determination...

Executive Committee Conclusion No. 73 (XLIV) (1993), paragraph (c)
Refugee Protection and Sexual Violence

Acts of sexual violence may bear on the refugee status determination process both for the applicant who is a victim and for the applicant or refugee status holder who is a perpetrator.

a) The Victim

Victims of sexual violence might not be forthcoming with this information at the outset and this reluctance to report sexual violence may have significant effects on refugee status determination. Experience has clearly shown that incidents may not come to light until refugees have been resettled and seek therapy which may be months or even years later. Individuals may have contact with many refugee workers without sometimes ever disclosing their experience. Information disclosed later by the victim may be disregarded, and may even be considered to reflect negatively on the credibility of the applicant. Paragraphs 57 through 61 of UNHCR's *Guidelines on the Protection of Refugee Women* provide guidance.

Recommends that in procedures for the determination of refugee status, asylum-seekers who may have suffered sexual violence be treated with particular sensitivity;

Executive Committee Conclusion No. 73 (XLIV) (1993), paragraph (g)
Refugee Protection and Sexual Violence

Recommends the development by States of appropriate guidelines on women asylum-seekers, in recognition of the fact that women refugees often experience persecution differently from refugee men;

Executive Committee Conclusion No. 73 (XLIV) (1993), paragraph (e)
Refugee Protection and Sexual Violence

In this context, it is essential that status determination officers be conscious of possible reactions to trauma (see, for instance 3.9 a) Common Psychological Reactions) and are familiar with culturally different patterns of behaviour and language. The statement by the asylum applicant to have been "badly treated" may be an euphemism for rape. Training of the relevant officials is therefore highly recommended.

Recommends the establishment by States of training programmes designed to ensure that those involved in the refugee status determination process are adequately sensitized to issues of gender and culture;

Executive Committee Conclusion No. 73 (XLIV) (1993), paragraph (j)
Refugee Protection and Sexual Violence

When rape or other forms of sexual violence are committed for reasons of race, religion, nationality, membership of a particular social group or political opinion, it may be considered persecution under the definition of the term "refugee" in the Statute of the Office (paragraph 6.A(ii)) and the 1951 Convention relating to the Status of Refugees (Article 1A(2)) if it is perpetrated or "knowingly tolerated by the authorities, or if the authorities refuse, or prove unable, to offer effective protection". (UNHCR Handbook on Procedures and Criteria for Determining Refugee Status (1992), paragraph 65)).

Supports the recognition as refugees of persons whose claim to refugee status is based upon a well-founded fear of persecution, through sexual violence, for reasons of race, religion, nationality, membership of a particular social group or political opinion,

Executive Committee Conclusion No. 73 (XLIV) (1993), paragraph (d)
Refugee Protection and Sexual Violence

Recognize[s] that States, in the exercise of their sovereignty, are free to adopt the interpretation that women asylum-seekers who face harsh or inhuman treatment due to having transgressed the social mores of the society in which they live may be considered as a "particular social group" within the

meaning of Article 1 A(2) of the 1951 United Nations Refugee Convention,

Executive Committee Conclusion No. 39 (XXXVI) (1985), paragraph (k)
Refugee Women and International Protection

A well-founded fear of sexual violence in such circumstances can thus provide the basis for a claim to refugee status. The experience of rape or sexual torture as a form of persecution might also constitute "compelling reasons arising out of previous persecution" for not applying the cessation clauses in Article 1 C (S) and (6) of the 1951 Convention.

In certain societies, a rape victim may be killed or banished, or considered to have no alternative but to marry her attacker or become a prostitute - all additional human rights violations. Where the return to the country of origin would have one of these results, and where no other basis for her recognition has been identified, she may be considered a refugee *sur place*.

b) The Perpetrator

A particular situation may arise where the alleged perpetrator of an act of sexual violence is a recognized refugee or an asylum-seeker whose claim to refugee status has not yet been finally determined.

The mere suspicion or an accusation against such a person should have no immediate consequences as far as that person's status is concerned, nor should it affect the continuation of the eligibility procedure. However, as a refugee or asylum-seeker, he is subject to the laws of the country of asylum and may therefore be subject to detention during the investigation of the crime or pending trial.

Should he be convicted by a final judgment of the judiciary in the country of asylum of having committed sexual violence, it is only in the most extreme circumstances that such conviction, apart from the penal sanction, also should affect his status as a refugee or asylum-seeker in the country.

The relevant provisions of the 1951 Convention dealing with the question of refugees who have committed crimes are found in Article 1 F on Exclusion, Article 32 on Expulsion, and Article 33 on Non-Refoulement. Both Article 32 and Article 33 require, as a precondition for any measures involving the expulsion or refoulement of the refugee, that the crime(s) he has been convicted of are of such grave character, that the refugee constitutes a "threat to the national security or public order (of the country of asylum)" (Article 32) or "a danger to the community of that country" (Article 33).

Acts of sexual violence, while grave, are seldom in themselves sufficient basis for expelling or refouling a refugee, except, perhaps, in situations of repeated offenses after a first conviction. The same applies for asylum-seekers, as they may be refugees and therefore fall under the 1951 Convention. The status of asylum seekers convicted for acts of sexual violence should therefore be determined prior to making any decision regarding expulsion.

Article 1 F deals with the question of the exclusion of persons from refugee status on the grounds that they do not deserve international protection. For a more detailed elaboration on the applicability of the exclusion clauses, please refer to the UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status*, paragraphs 147-163.

A central point in applying the exclusion clauses, as noted in paragraph 156 of the Handbook, is the need to strike a balance between the nature of the offence allegedly committed by the asylum-seeker and the degree of persecution feared. If a person has a well-founded fear of very severe persecution, e.g. persecution endangering his life or freedom, a crime must be very grave in order to exclude him.

Chapter 5: Other Related Matters

5.1 Dealing with the Media

In situations where there is a high level of sexual violence reported there is often a corresponding level of media interest generated. Journalists, radio and television crews may wish to interview victims, and their families, and even alleged perpetrators. For most women recounting the ordeal to a stranger would entail

an additional trauma and therefore should not be encouraged. Caution must be taken since victims may not understand the full implications of being interviewed.

The following are some suggested ways of dealing with media interest:

a) Children

"In all actions concerning children, the best interests of the child shall be a primary consideration".

The Convention on the Rights of the Child: Article 3

A refugee child who has been the victim of sexual violence should not be interviewed by the media due to the psychosocial vulnerability of the child. Extreme care must be taken to protect a refugee child from any further suffering.

Refugee children have experienced ordeals during flight and exile, often including involuntary separation from family members. The additional trauma of being sexually attacked profoundly affects their psychological well-being.

Having full regard for confidentiality, the media may interview UNHCR personnel instead to obtain information regarding child victims of sexual violence.

b) Adults

No pressure

A victim should not be pressured into granting an interview, it must be at her own free will with no undue influence being exerted.

Respect wishes of the victim

The wishes of the victim and her protection and safety are paramount at all times. She should be informed that she can stop the interview at any time. If the victim changes her mind about giving an interview at any stage, this decision should be respected.

Conceal identity

In general, the true identity of a victim should not be revealed. Nor should her face, or any other identifiable feature, be filmed or photographed. This should be made clearly known to and agreed by the media prior to any interview.

Confidentiality and sensitivity

Any interview should be conducted in a highly confidential manner with extreme care being taken not to draw attention to the person being interviewed. See 3.6 Conducting an Interview. Extreme sensitivity should be shown to the victim at all times. With the victim's permission, a UNHCR staff member should be present.

Avoid overexposure

Care should be given so that victims are not overly exposed to the media. In retelling her experience, the victim could be traumatized for a second time.

Rights of alleged perpetrator

In relation to the interviewing of alleged perpetrators, they have the same rights, including to refuse an interview, as a victim.

The above considerations also apply to any other persons, such as human rights lawyers, requesting to interview sexual violence victims for purposes of research and the like.

Positive impact of media interest

In some situations media attention can play an important role by putting pressure on States to provide physical protection to refugees.

For interviews of UNHCR staff, see Public Information Guidelines on *Dealing with the Media*.

c) Research and Investigations on traumatized refugees

Informed consent must be adapted for victims of trauma as they are generally unaware of the psychological pain involved in participating in such projects; there exists the real danger of retraumatization. In addition, due to the dependent nature of the relationship between provider and receiver of aid, informed consent must be given with the knowledge that such consent has no bearing on the provision of assistance.

In no instance should the work of investigators take precedence over the well-being of the persons.

5.2 Female Genital Mutilation

In 1982 the World Health Organization (WHO) made a formal statement on its position regarding female genital mutilation (FGM) to the United Nations Commission on Human Rights. It expressed unequivocal opposition to medicalization of the practice, and strongly advised health workers not to perform female circumcision under any conditions. WHO continues to advise unequivocally that female genital mutilation must not be institutionalized, nor should any form of female genital mutilation be performed by any health professionals in any setting, including hospitals or other health establishments.

Moreover, WHO has appealed for an end to the practice, which has been condemned by the WHO annual assembly for the last two years. Specifically, in 1994 the World Health Assembly urged all Member States "to establish national policies and programmes that will effectively, and with legal instruments, abolish female genital mutilation.... and other harmful practices affecting the health of women and children".

The Special Rapporteur on violence against women appointed by the Commission on Human Rights in 1994 concludes in her preliminary report to the Commission (at page 35) that traditional practices, among which she includes female genital mutilation, "**should be construed as a definite form of violence against women which cannot be overlooked nor be justified on the grounds of tradition, culture or social conformity**".

An information kit on female genital mutilation was produced by the World Health Organization (Geneva, July 1994). The kit provides a definition of FGM, outlines the negative health consequences and includes suggested actions for eradication of FGM. This kit can be obtained from WHO in Geneva by a written request to WHO, the Division of Family Health, 20 avenue Appia, 1211 Geneva 27, Switzerland, or by Fax No. (41 22) 791 07 46 or Tel. No. (41 22) 791 21 11 or contact the WHO Representative in your country.

5.3 Staff Trauma and Burnout

Personnel who work intensively with trauma victims are also vulnerable to traumatic reactions simply by being exposed day after day to their experiences and tragedies. Burnout and exhaustion are common in situations where the demand for help is overwhelming in terms of resources. Helpers trying to provide for the often infinite needs of traumatized populations may work to the point of physical exhaustion.

Frequent symptoms:

- fatigue, sadness, depression;

- cynicism, discouragement, loss of compassion;
- hyper-arousal, sleep disturbances, intrusive nightmares related to trauma event;
- feelings of helplessness and anger.

Contributing factors:

- the relation between refugee status and political and social problems may make the helper feel hopeless about the potential impact of his/her work upon the root causes of violence and war;
- communication difficulties, both lingual and cultural;
- inadequate resources and equipment.

Prevention and care:

- supportive relationships with family and friends;
- relaxation techniques, such as meditation or listening to music:
- physical exercise;
- rotation through different types of work activity;
- opportunity to rest and recuperate by having mandatory intermittent work-free periods;
- good nutrition and adequate sleep; avoid excessive use of stimulants such as sugar and caffeine;
- support systems: support groups where refugee workers can share and work through reactions that are painful and disruptive or "buddy" relationship with colleague, monitoring one another for signs of burnout;
- psychological debriefing after crises: a forum for reviewing the experience of working with refugees and experiencing the conflicting feelings of fear and frustration that frequently accompany such work.

Refer also to UNHCR *Coping With Stress in Crisis Situations*, 1992 and the chapter on "Vicarious Trauma" in *Guidelines on Evaluation and Care of Victims of Trauma and Violence*, 1995.

Annex 1: Checklist For Responding To An Incident Of Sexual Violence

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

1. Protection
2. Medical
3. Psychosocial

See also Key Points to Remember in chapter 3.

IMMEDIATE ACTION

Assess whether immediate medical attention is required and if so ensure victim is escorted to the appropriate venue for medical attention.

Determine whether immediate notification of authorities is required according to the wishes of victim.

Assess the security of victim and take any necessary action.

INTERVIEW

Case worker conducts a confidential interview with victim. Refer to 3.6, Conducting an Interview. "Sexual Violence Information Form" (see Annex 2).

Case worker liaises with other relevant UNHCR officers, social and community workers and medical officers.

Case worker counsels victim. Annex 1

MEDICAL

Explain medical procedures to victim to minimize possibility of further traumatization.

A local, rather than an international, doctor should perform the examination and make any medical reports.

Medical (forensic) examination must be done according to local government requirements.

Post-coital contraception is discussed with victim, if available.

Medical follow-up is scheduled and patient informed of urine pregnancy test option if next menses are missed.

Victim with subsequent positive pregnancy test - see 3.4 b) Specific Situations and 3.8 "Where sexual violence has resulted in pregnancy".

Information about HIV and AIDS should be given and the HIV test offered. If the HIV test is positive, appropriate counselling, follow-up and referrals should be given with full respect for confidentiality.

Information about sexually transmitted diseases should be given and tests offered. If tests are positive, appropriate counselling, follow-up and referrals should be given with full respect for confidentiality.

LEGAL

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

FOLLOW-UP

Follow-up counselling for victim is scheduled to include:

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

Annex 2: Sample Sexual Violence Information Form

Annex 3: Other Tools And Sources To Use

UNHCR GUIDELINES, POLICY AND TRAINING MODULES

- Guidelines on the Protection of Refugee Women, 1991

- UNHCR Policy on Refugee Women, 1990
- Refugee Children: Guidelines on Protection and Care, 1994
- UNHCR Policy on Refugee Children, 1993
- Working with Unaccompanied Minors in the Community, PTSS, 1994
- Social Services in Refugee Emergencies, PTSS, 1991
- Community Services for Urban Refugees, PTSS, 1994
- Guidelines on Evaluation and Care of Victims of Trauma and Violence, 1995
- Interviewing Applicants for Refugee Status, Training Module RLD 4, 1995
- Dealing with the Media, Public Information Note
- Refugee Protection and Human Rights, Training Module, 1995
- Guidelines on Security Incidents, OMS, 1992
- Coping with Stress in Crisis Situations, OMS 3, 1992

OTHER DOCUMENTS

- Preliminary Report submitted by the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, in accordance with Commission on Human Rights resolution 1994/45. (Document E/CN.4/1995/42 of 22 November 1994)
- WHO/UNHCR Manual for Mental Health of Refugees, Geneva, 1994
- UNHCR/WHO Guidelines for Early HIV Intervention in Emergency Settings, Geneva, 1995
- Note on Certain Aspects of Sexual Violence against Refugee Women, (AIAC.96/822), UNHCR, Geneva, 1993
- Note on the Personal Security of Refugees, (EC/1993/SCP.CRP3), UNHCR, Geneva, 1993
- People Oriented Planning at Work: Using POP to Improve UNHCR Programming, 1994
- An Information Kit on Female Genital Mutilation, WHO, Geneva, July 1994

TO OBTAIN THESE DOCUMENTS

- To obtain any of the above reference material, please contact the nearest UNHCR office or contact the Centre for Documentation on Refugees, UNHCR, Geneva at the following address:

UNHCR CDR
Case postale 2500
CH-1211 Geneva, Switzerland

Telephone: (41 22) 739 81 69
Facsimile: (41 22) 739 86 82
E-mail address: "UNHCR.CDR.@OLN.COMLINK.APC.ORG"

Annex 4: UNHCR Executive Committee Conclusion NO. 73 (XLIV) (1993) on

Refugee Protection and Sexual Violence

The Executive Committee,

Noting with grave concern the widespread occurrence of sexual violence in violation of the fundamental right to personal security as recognized in international human rights and humanitarian law, which inflicts serious harm and injury to the victims, their families and communities, and which has been a cause of coerced displacement including refugee movements in some areas of the world.

Noting also distressing reports that refugees and asylum-seekers, including children, in many instances have been subjected to rape or other forms of sexual violence during their flight or following their arrival in countries where they sought asylum, including sexual extortion in connection with the granting of basic necessities, personal documentation or refugee status.

Recognizing the need for concrete action to detect, deter and redress instances of sexual violence to effectively protect asylum-seekers and refugees.

Recognizing further that the prevention of sexual violence can contribute to averting coerced displacement including refugee situations and to facilitating solutions.

Stressing the importance of international instruments relating to refugees, human rights and humanitarian law for the protection of asylum-seekers, refugees and returnees against sexual violence.

Bearing in mind the draft Declaration on the Elimination of Violence against Women adopted by the Commission on the Status of Women as well as other measures being taken by the commission on the Status of Women, the Committee on the Elimination of Discrimination against Women, the Commission on Human Rights, the Security Council and other bodies of the United Nations to prevent, investigate and, as appropriate, according to their mandates, punish sexual violence.

Reaffirming its Conclusions No. 39 (XXXVI), No. 54 (XXXIX), No. 60 (XL) and No. 64 (XLI) concerning refugee women.

- (a) *Strongly* condemns persecution through sexual violence, which not only constitutes a gross violation of human rights, as well as, when committed in the context of armed conflict, a grave breach of humanitarian law, but is also a particularly serious offense to human dignity.
- (b) *Urges* States to respect and ensure the fundamental right of all individuals within their territory to personal security, *inter alia* by enforcing relevant national laws in compliance with international legal standards and by adopting concrete measures to prevent and combat sexual violence including:
 - (i) the development and implementation of training programmes aimed at promoting respect by law enforcement officers and members of military forces of the right of every individual, at all times and under all circumstances, to security of person, including protection from sexual violence;
 - (ii) implementation of effective, non-discriminatory legal remedies including the facilitation of the filing and investigation of complaints against sexual abuse, the prosecution of offenders, and timely and proportional disciplinary action in cases of abuse of power resulting in sexual violence;
 - (iii) arrangements facilitating prompt and unhindered access to all asylum-seekers, refugees and returnees for UNHCR and, as appropriate, other organizations approved by the Governments concerned, and
 - (iv) activities aimed at promoting the rights of refugee women, including through the dissemination of the Guidelines on the Protection of Refugee Women and their implementation, in close cooperation with refugee women, in all sectors of refugee programmes.
- (c) *Calls* upon States and UNHCR to ensure the equal access of women and men to refugee status determination procedures and to all forms of personal documentation relevant to refugees' freedom of movement, welfare and civil status, and to encourage the participation of refugee women as well as men

in decisions relating to their voluntary repatriation or other durable solutions.

- (d) *Supports* the recognition as refugees of persons whose claim to refugee status is based upon a well-founded fear of persecution, through sexual violence, for reasons of race, religion, nationality, membership of a particular social group or political opinion.
- (e) *Recommends* the development by States of appropriate guidelines on women asylum-seekers, in recognition of the fact that women refugees often experience persecution differently from refugee men.
- (f) *Recommends* that refugee victims of sexual violence and their families be provided with adequate medical and psycho-social care, including culturally appropriate counselling facilities, and generally be considered as persons of special concern to States and to UNHCR with respect to assistance and the search for durable solutions.
- (g) *Recommends* that in procedures for the determination of refugee status, asylum seekers who may have suffered sexual violence be treated with particular sensitivity.
- (h) *Reiterates* the importance of ensuring the presence of female field staff in refugee programmes, including emergency operations, and the direct access of refugee women to them.
- (i) *Supports* the High Commissioner's efforts, in coordination with other intergovernmental and non-governmental organizations competent in this area, to develop and organize training courses for authorities, including camp officials, eligibility officers, and others dealing with refugees on practical protection measures for preventing and responding to sexual violence.
- (j) *Recommends* the establishment by States of training programmes designed to ensure that those involved in the refugee status determination process are adequately sensitized to issues of gender and culture.
- (k) *Encourages* the High Commissioner to pursue actively her efforts, in cooperation with bodies and organizations dealing with human rights, to increase awareness of the rights of refugees and the specific needs and abilities of refugee women and girls and to promote the full and effective implementation of the Guidelines on the Protection of Refugee Women.
- (l) *Calls* upon the High Commissioner to include the issue of sexual violence in future progress reports on the implementation of the Guidelines on the Protection of Refugee Women.
- (m) *Requests* the High Commissioner to issue as an Executive Committee document and disseminate widely the Note on Certain Aspects of Sexual Violence against Refugee Women.

Annex 5: Sexual Violence Needs Assessment and Programme Framework

Key Needs Assessment Questions

General Demographics - Community Profile - Status of Women

- What forms of sexual violence are occurring? In what circumstances do they occur?
- Who are the victims of sexual violence? Sex? Age? Married, single, female head of household? Children? Religious/ethnic background? How many?
- Who are the perpetrators? Fellow refugees? Members of staff? Members of security? Family members? Same clan village/religious/ethnic affiliation? Host country military? Other persons? How many? What factors in the refugee environment exacerbate sexual violence?
- Is Female Genital Mutilation (FGM) a practice common among the refugees in their country of origin? Is it carried out in the camp?
- What is the status of women and girls (criteria to be determined) in the place of origin and in the

host country?

- What is the social perception of sexual violence among the refugee population? Are the victims perceived as responsible? What stigmas are attached which may cause attacks to go unreported? What other reasons may cause non-reporting of incidents?
- How do women and girls themselves define the sexual violence they experience (rape, domestic violence and other forms)?
- Are women involved in decisions related to health, sanitation, maternal/child needs, reproductive health and vulnerable groups e.g. unaccompanied minors? Which women? How many? Are they representative?
- Do formal or informal women's groups or supportive networks exist? How many and what types? What is the purpose of these groups?

Security and Prevention

- What effect do the physical design and the location of the camp have on the incidence of sexual violence? What security measures are in place? How far away are water, fuel needs and latrines located? Are they isolated? How is food aid distributed? Do women have access to the channels of distribution? Is food distributed through male or female leaders? Do distribution points use the women as distributors?
- How many women have proper identification and documents? How many are reliant on male family members and thus vulnerable to sexual abuse?
- How many female protection officers are available in your camp? What is the ratio of female to male officers? Are UNHCR officers, NGOs and host government officers familiar with UNHCR protection guidelines and sexual violence guidelines?
- Has the safety of vulnerable populations (female heads of household, children, unaccompanied minors, other) been assessed? What are specific plans for the safety of each vulnerable group?

Reporting and Referral

- How many incidents of sexual violence were reported and documented this past month? Who was responsible for the documentation - medical staff (specify - doctors, nurses, other), protection officers, local leaders (specify), others? Does the documentation include the medical, legal and social actions taken? Was confidentiality respected?
- Are legal, medical and social referral channels in place for follow-up? Describe the follow-up services. What proportion of cases are referred? How many referrals/others use the channels?

Service Delivery Structure

- Are medical staff trained and equipped to provide help? Which medical staff? How many female medical staff (specify - doctors, nurses, other) are available for examinations and counselling?
- Do community health workers provide outreach to the refugee community?
- How many victims have been counselled and treated for AIDS and other STDs in the last month? Is pregnancy testing available? What is the legal status of abortion? Is on-site abortion or referral available? How many tests/referrals in the last month?
- Are there ongoing facilities for individual and family psychological counselling? How many counselling staff are appropriately trained? How many individual and family sessions were held last month?

Key Interventions and Examples of Indicators

Prevention

Policy Level

- Monitor eligibility officers and enact swift legal action in cases of sexual extortion in exchange for conferring refugee status
 - monitoring system in place
- Ensure proper documentation for women
 - # and percent of women with own papers
- In detention facility situations, ensure that vulnerable groups (female heads of household, children, unaccompanied minors, other) are placed appropriately
 - system established to determine placement
 - # of inappropriate placements
- Increase availability of female protection officers and interpreters and ensure that all officers have knowledge of UNHCR protection guidelines
 - # and percent of female protection officers
 - comprehensive training provided to all protection officers and other key personnel and refugees in interviewing skills regarding the problem of sexual violence
- Mobilize States to adopt firm and highly visible policies condemning all forms of sexual violence
 - # of offenders prosecuted
 - # and type of legal measures implemented for protection of the victims, e.g. restraining orders

Refugee Settings

- Facilitate the use of existing women's groups or promote the formation of women's groups to discuss and respond to issues of sexual violence, raise awareness, encourage networking
 - # groups formed that meet regularly
- Improve camp design for increased security for women
 - # of security criteria (to be determined by women in camp) met by camp or each sub-divisions of camp
 - # of incidents reported through informal or formal channels
- Include women in camp decision-making processes, especially in the areas of health, sanitation, maternal child care, reproductive health, food distribution, camp design location and protect them from repercussions
 - # and percent of camp decision making bodies with key women representatives (percent of women in each group)
- Direct distribution of essential items such as food, water, and fuel to women
 - # and percent of women responsible for distribution
 - # and percent of distribution points serving only women

- Promote productive and educational activities
 - # of programmes initiated and percent deemed successful based on predetermined criteria
- Promote increased awareness of the causes and consequences of sexual violence
 - types and quality of IEC materials distributed
 - percent change in attitudes about sexual violence
- Train persons at all levels - NGO, government, refugees etc. to prevent, identify and respond to acts of sexual violence
 - # of persons trained at each level

Response

Policy Level

- Develop protocols and guidelines that would limit further traumatization of victims
 - guidelines and protocols developed and used

Refugee Settings

- Engagement of socially and culturally appropriate support personnel as a first contact with people who have been subjected to sexual violence
 - # of Support personnel identified and percentage used successfully as first contact
- Provide medical follow-up immediately following an attack and for STDs, HIV infection, FGM, pregnancy (prenatal care or abortion)
 - types of medical support services available
 - # of trained female health providers per service point (specify - doctors, nurses, other)
 - # of individuals treated in last month
- Provide prompt and culturally appropriate access to psychosocial support for victims and their families
 - # and types of psychosocial support services available
 - # of individuals and/or families using each type of service
- Establish closer links between protection officers, women's groups, TBAs and religious structures to discuss issues related to level of attacks
 - # of linkages established
- Document cases while respecting confidentiality (to be defined by victims of sexual violence)
 - # of cases documented appropriately

* This framework does not address who should be held accountable for the implementation of each intervention nor how each intervention should be implemented. Specific guidelines are needed to address these issues.

** This framework is based on that developed by the Working Group on Sexual and Gender

Violence in preparation for the UNHCR/UNFPA Symposium on Reproductive Health in Refugee Situations (Geneva, 28-30 June 1995)

Annex 6: Declaration on the Elimination of Violence Against Women