

UNHCR

Gender Training Kit on Refugee Protection
and Resource Handbook

A Joint Project of the
Regional Bureau for Europe and the
Senior Co-ordinator for Refugee Women/ Gender Equality

UNHCR
Gender Training Kit on Refugee Protection
and Resource Handbook

Chief Author and Editor: Rosa Da Costa

Contributing Writer: Sue Elliot

Contributing Editors: Nemia Temporal, Sue Elliot, Lawrence Bottinick.

Development and
Production Team: Rosa Da Costa, Nemia Temporal, Sue Elliot, Erna Deviaene, Nezhir Tavlas, Lawrence Bottinick, Metin Ozhayat, Jennifer Fellay-Martin.

With the support
and assistance of : UNHCR Senior Regional Advisor on Refugee Women and Gender Equality for Europe and Central Asia; UNHCR Office of the Senior Co-ordinator for Refugee Women and Gender Equality; UNHCR Regional Bureau for Europe (RBE); Division of Operational Support (DOS); and Division of International Protection (DIP).

Design and Layout of Kit : GIYOTIN – Ankara, Nezhir Tavlas, Erna Deviaene

Cover Design: Erna Deviaene

Gender Logo Design: Erna Deviaene

© Printed by: GIYOTIN, Ankara, Turkey.
Date: First edition, in English, December 2002.

This UNHCR Gender Training Kit on Refugee Protection may be freely reproduced provided that UNHCR is credited and authorship acknowledged.

The views expressed herein by individual authors do not necessarily represent or express those of the UNHCR.

Acknowledgements

In addition to all the persons cited in the previous page, we would also like to thank the following persons and organisations:

For their kind permission to reproduce materials for the purposes of this Kit:

UNICEF, Innocenti Research Centre, for: "Domestic Violence against Women and Girls", *Innocenti Digest* 6, June 2000. Web-site: www.unicef-icdc.org

UNDP, for *Gender Mainstreaming in Practice: a Handbook*, prepared by Astrida Neimanis for UNDP (RBEC), version in use as of March 2002.

CIDA (Canadian International Development Agency), for: "Questions about culture, gender equality and development co-operation", February 2001.

The International Women's Tribune Centre for excerpts from: *Rights of Women: A Guide to the Most Important United Nations on Women's Human Rights*, New York, 1998.

Andres Ramirez, for: power point presentation slides for the training session on male involvement.

For their contributions and comments to previous drafts of this Gender Training Kit, as well as the (TOT) training sessions which field-tested this Kit (in alphabetical order):

Academy International (web-site: www.academy.gen.tr, Ankara, Turkey.

Andres Ramirez, Head of Mission / Gender Coordinator, UNHCR office, San Jose Costa Rica

Christoph Bierwirth, UNHCR Regional Refugee Law Training Co-ordinator, RO Ankara.

Claire Hamlisch, Senior Desk Officer for RBE Desk 3, UNHCR Geneva.

UNHCR Branch Office, Ankara, Turkey.

Participants and facilitators at the UNHCR "Workshop on Developing Gender Training Modules on Protection", held in Antalya, Turkey, 2000.

Participants and facilitators at the two pilot UNHCR TOT trainings "Training of Trainers on Gender and Protection" held in Ankara, Turkey, on 11-15 June 2001 and in December 2001 respectively.

And protection officers, both in the region and at headquarters, who provided feedback during the initial stages of this project.

For their special support throughout the writing and development of this Kit:

Lawrence Bottinick, Erna Deviaene, Nezh Tavlak, and Monalisa Clemente, without whose steadfast support this project would not have been possible.



FOREWORD

As part of UNHCR's contributions to the promotion of gender equality and our ongoing efforts to meet the specific needs of both women and men in refugee situations, the Bureau for Europe and the Office of the Senior Co-ordinator for Refugee Women and Gender Equality, are pleased to introduce the Gender Training Kit on Refugee Protection and Resource Handbook.

The Gender Training Kit on Refugee Protection is a pilot initiative, the first of its kind both in the region and UNHCR world-wide. It supports the endeavours to integrate a gender perspective into all aspects of operations, and particularly, in protection training. Continued efforts in the area of gender training are especially critical in view of the difficulties in addressing gender issues and changing deeply imbedded stereotyped gender roles and values, often at the root of gender inequalities.

Training is one of the most effective means to build our organisational capacity and empower our colleagues, implementing partners and interlocutors to deal with and respond to gender issues effectively. The use and application of knowledge and skills gained through gender training will, undoubtedly, make a difference in the lives of refugees.

This training kit highlights five important gender themes relating to protection, namely, women's human rights, gender-based violence, gender sensitive refugee status determination procedures, interviewing and interpreting, and emergencies. In addition, there is an introductory chapter on training and a chapter which in three separate themes introduces key gender concepts and organisational policies and strategies, including gender mainstreaming and male involvement. Chapter two thus lays the fundamental groundwork for the remainder of the Kit. For example, it describes the use of 'gender teams', an inter-disciplinary team structure introduced in the region and which has proven very useful for increasing an office's capacity to address effectively different types of gender issues which by their nature are often multi-faceted and require an integrated approach.

The Gender Training Kit and Resource Handbook has been designed so that it can be used both in well-equipped offices and more challenging field settings. Hence, it comes with a Handbook intended for trainers as well as others using it as a resource and learning tool, a CD-ROM for those having access to this technology and wishing to make power point presentations, and also a hard copy of the Training Materials which may be used as handouts or overhead projections for those who only have the capacity for making photocopies.

We would like to sincerely thank all those whose creative involvement made this project a reality. It would not have been possible without the hard work and valuable advice of experts and colleagues experienced in and committed to the subject.

We trust that this Gender Training Kit and Resource Handbook will be a source of inspiration as we face the hurdles and challenges of achieving gender sensitive operations.

For the benefit of possible revisions or updates to the training kit, we would appreciate receiving any comments or ideas you may have. A self-addressed Feedback Questionnaire is enclosed for your convenience.

A handwritten signature in black ink, appearing to read 'Anne Willem Bijleveld'.

Anne Willem Bijleveld
Director
Bureau for Europe
UNHCR

A handwritten signature in black ink, appearing to read 'Joyce Mends-Cole'.

Joyce Mends-Cole
Senior Coordinator for
Refugee Women/Gender Equity
UNHCR

Components of this Kit

The Gender Training Kit on Refugee Protection and Resource Handbook

Includes:

- Gender Handbook
- Gender Training Materials
- Gender CD-ROM

Gender Handbook

Table of Contents

Introduction	X
How to Use This Kit	XIII
Chapter 1: Gender Training as a Tool for Change	1
Introduction	5
Gender Training as a Tool for Change	6
Chapter 2: Gender Concepts and Strategies	19
Introduction	23
Theme 1: An Introduction to Gender Concepts and Policies	25
Part I: Background Readings	27
Part II: Training Sessions	51
Theme 2: Gender Mainstreaming	59
Part I: Background Readings	61
Part II: Training Sessions	91
Theme 3: Male Involvement on Gender Issues	109
Part I: Background Readings	111
Part II: Training Sessions	125
Chapter 3: Women’s Human Rights	131
Introduction	135
Part I: Background Readings	137
Part II: Training Sessions	181
Chapter 4: Sexual and Gender-Based Violence	213
Introduction	217
Part I: Background Readings	219
Part II: Training Sessions	285
Chapter 5: Refugee Status Determination	311
Introduction	315
Part I: Background Readings	317
Part II: Training Sessions	375
Chapter 6: Interviewing and Interpreting	395
Introduction	399
Theme 1: Interviewing	401
Part I: Background Readings	403
Theme 2: Interpreting	435
Part I: Background Readings	437
Part II: Training Sessions for Themes 1 & 2.....	447
Chapter 7: Gender Issues in Emergencies	461
Introduction	465
Part I: Background Readings	467
Reference Section	491
Reference Documents.....	492
Bibliography.....	514
Other Useful References	519
Useful Web-sites	521
Feedback Questionnaire: on The Gender Training Kit and Resource Handbook.....	523

Gender Training Materials

Table of Contents

- I. How to Use These Training Materials
- II. List of Training Materials by Number (TM no.)
- III. Text of Training Materials
- IV. Additional Materials
- V. New Policies and Reference Documents

A more detailed list of the training materials contained in this Kit is provided in the Training Materials section (the loose-leaf pages in the binder).

Gender CD-ROM

Table of Contents

- I. Welcome Site
- II. Gender Training Kit on Refugee Protection and Resource Handbook (includes)
 - Full text of Gender Handbook
 - Full text of Training Materials
 - All power point presentation slides
- III. Selected UNHCR Policies and Documents
- IV. Selected Documents of Other UN Agencies
- V. Selected Individual Country Guidelines on Gender-Related Persecution
- VI. Miscellaneous and Related Papers
- VII. Relevant Conventions
- VIII. Useful Web-Sites

A more detailed table of contents is provided in the Gender CD-ROM.

List of Training Sessions

- Training Session 1: An Introduction to Gender Concepts: sex or gender?
- Training Session 2: Gender Awareness
- Training Session 3: Understanding and Planning for Gender Mainstreaming
- Training Session 4: Establishing Gender Teams & a Gender Mainstreaming Strategy
- Training Session 5: Implementing and Monitoring Gender Mainstreaming
- Training Session 6: Male Involvement in Gender Equality and Gender Mainstreaming
- Training Session 7: Women's Human Rights: session A for refugee women
- Training Session 8: Women's Human Rights: session B for refugee men
- Training Session 9: Workshop / Follow-up Meeting on Protecting and Monitoring the Rights of Refugee Women (mixed women and men)
- Training Session 10: International Human Rights & Refugee Protection: the gender dimension
- Training Session 11: Rights and Protection of Refugee Women
- Training Session 12: An Introduction to SGBV: concepts and approaches
- Training Session / Workshop 13: Defining and Addressing SGBV in Refugee Settings
- Training Session / Workshop 14: Designing and Implementing an Integrated Strategy and Action Plan for Addressing SGBV in Refugee Situations
- Training Session 15: Linking Women's Rights and Refugee Protection: An introduction
- Training Session 16: Gender Sensitive Refugee Status Determination and Procedures
- Training Session 17: Advanced Training on Gender-Related Asylum Claims
- Training Session 18: Conducting Gender Sensitive RSD Interviews
- Training Session 19: Addressing Gender Needs in the Context of RSD Interviews

List of Case Studies Simulation Exercises and Role-Plays

Case Studies

TM no. 63: Case Study 1: Rights of Refugee Women in their Country of Asylum
TM no. 64: Case Study 2: Domestic Violence
TM no. 65: Case Study 3: Honour Killings
TM no. 66: Case Study 4: Travel
TM no. 67: Case Study 5: Marriage/ Divorce/ Obedience
TM no. 68: Case Study 6: Adultery / State Sanctions
TM no. 69: Case Study 7: Ordinance on Women's Rights and Duties
TM no. 70: Case Study 8: Gender-Based Persecution: for UNHCR Protection Staff

TM no. 98: Case Study 9: Sexual Violence: Prevention and Response
TM no. 99: Case Study 10: Gender-Based Violence and Mental Health Issues
TM no. 100: Case Study 11: Gender-Based Violence and Resettlement Issues
TM no. 101: Selected Supplementary Cases (nos. 12-17) for SGBV Trainings

TM no. 140: Case Study 18: Honour Crimes and Family Violence
TM no. 141: Case Study 19: Imputed Political Opinion / SGBV / Membership
in a Particular Social Group
TM no. 142: Case Study 20: Political Opinion / Social Group
TM no. 143: Case Study 21: Sexual Abuse within the Family
TM no. 144: Case Study 22: Homosexuality
TM no. 145: Case Study 23: Political Opinion / Discriminatory Laws and Practices
TM no. 146: Case Study 24: Forced Prostitution
TM no. 147: Case Study 25: Discrimination/ Adultery/ Contravening Social Mores
TM no. 148: Case Study 26: Adultery
TM no. 149 Case Study 27: Forced Marriage / Domestic Violence
TM no. 150: Case Study 28: Female Genital Mutilation
TM no. 151: Model Legal Brief to Case Study 28: Female Genital Mutilation
TM no. 152: Supplementary Case Studies: (include)
Case Study 29: Domestic Violence / Discriminatory Laws on Custody
Case Study 30: Transsexuals
Case Study 31: Forced Marriage

Simulation Exercises

TM no.18 A: Simulation Exercise: making your case that gender matters
TM no.18 B: Answer Sheet: making your case that gender matters
TM no. 139: Simulation Exercise: A Refugee Status Determination Hearing of a Gender-Related Asylum Claim

Role-Plays

TM no. 172: Role-play 1: A Case Involving a Husband and Wife
TM no. 173: Role-play 2: Dealing with Silence and Trauma
TM no. 174: Role-play 3 A: Gender Sensitive Interpreting and Interviewing
TM no. 175: Role-play 3 B: Gender Sensitive Interpreting and Interviewing
TM no. 176: Role-play 4: Gender Sensitive Interpreting and Interviewing
TM no. 177: Supplementary Role-plays: Interviewing and Interpreting in a Refugee Context
Include:
Role-play 5: Domestic Violence
Role-play 6: Coping with Silence
Role-play 7: Dealing with the Threat of Suicide
Role-play 8: Threat of Forced Marriage

List of Annexes, Charts and Questionnaires

The following tools are located in Part I (Background Readings) of each chapter in the Gender Handbook. Many more such tools can also be found in the Training Materials (TM) section in the binder (loose-leaf pages) of this Kit, and are listed in the table of contents of that section.

Chapter 1:

- Resistance: roles members play and how to respond (chart)
- Matching training methods and objectives (chart)
- Matching methods with learning objectives (chart)
- Sample questionnaire: pre-training needs assessment on gender policies and issues
- Sample evaluation: gender training evaluation form

Chapter 2:

- Gender concepts and related terms: a glossary
- Making your case that gender matters: in a refugee context
- Resistance: to gender equality and gender mainstreaming
- Models and responses in organisational change processes (chart)
- Institutional analysis from a gender equality perspective

Chapter 3:

- Glossary: legal terms, principles and institutions in international human rights law
- Conventions with established treaty bodies (chart)
- Measuring progress: gender mainstreaming in legislation (chart)
- Measuring progress: gender mainstreaming in monitoring and reporting of international obligations
- Measuring progress: gender mainstreaming with regard to protection and complaints mechanisms

Chapter 4:

- Sexual violence during the refugee cycle (chart)
- Violence throughout the life cycle (chart)
- Multi-sectoral and functional approach to sexual violence: prevention and response (diagram)
- Checklist for sexual violence programme: prevention and response
- Guidelines for community-based response and prevention activities - SGBV
- Sexual violence incident report form
- Model for counselling victims of sexual assault (chart)
- Emotional care: for survivors of sexual assault
- Physical shock symptoms of PTSD (list)

Chapter 5:

- Minimum standards for gender sensitive asylum procedures: a checklist
- A framework of analysis: women refugee claimants fearing gender-related persecution
- Determining the nature and the grounds of the persecution: women refugee claimants fearing gender-related persecution (framework of analysis)

Chapter 6:

- Guide for interviewers: working with an interpreter in the RSD interview

Chapter 7:

- Community service checklists: for the three phases of community services in emergencies
- Health information system: safe motherhood (table)
- Assessment and planning on gender issues: checklists for different refugee situations

List of Abbreviations

UAM	Unaccompanied minor
AV	Audio-visuals
CIS	Commonwealth of Independent States (a grouping of some of the states formerly constituting the former Soviet Union)
CMS	UNHCR's career management system
Docs.	Documents
ECOSOC	Economic and Social Council of the United Nations
ExCom Conclusions	Conclusions of the Executive Committee of the UNHCR Programme
FGM	Female genital mutilation
FV	Facilitator's version (of TM)
GAD	Gender and development
GE	Gender equality
GM	Gender mainstreaming
ICRC	International Committee of the Red Cross
IDP	Internally displaced person
Mins	Minutes
M&E	Monitoring and evaluation
MISP	Minimum initial service package (a range of core reproductive health activities to be conducted from start of an emergency)
NGO	Non-governmental organisation
OHT	Overhead transparencies for overhead projectors
POP	People-oriented planning (method for assessment & planning used by UNHCR)
PPP	Power point presentation
PTSD	Post-traumatic stress disorder
SGBV	Sexual and gender-based violence
TM	Training materials (e.g., OHT, PPP, handouts, etc.)
RSD	Refugee status determination
STD	Sexually transmitted diseases
SWOT Analysis	Method of organisational analysis assessing strengths, weaknesses, opportunities, and threats.
TBA	Traditional birth attendant
TOR	Terms of reference
UNDP	United Nations Development Programme
UNFPA	United Nations Fund for Population Activities
UNICEF	United Nations Children's Fund
WHO	World Health Organisation
WID	Women in development

Abbreviations of International Human Rights and Refugee Instruments

ICCPR	International Covenant on Civil and Political Rights
OPICCPR	Optional Protocol to International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OPCEDAW	Optional Protocol to CEDAW
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CDE	Convention against Discrimination in Education
ERC	Equal Remuneration Convention
MPC	Maternity Protection Convention
DC	Discrimination (Employment and Occupation) Convention
WFRC	Workers with Family Responsibilities Convention
HWC	Home Work Convention (not yet entered into force)
CNMW	Convention on the Nationality of Married Women
CCM	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage
CSTPEP	Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others
SCAS	Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CRSR or 1951 Geneva Convention	Convention relating to the Status of Refugees / Protocol relating to the Status of Refugees
CSSP	Convention relating to the Status of Stateless Persons
CRS	Convention on the Reduction of Statelessness

Regional Instruments

ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ACHR	American Convention on Human Rights
ACHPP	African Charter on Human and Peoples' Rights
OAUC	OAU Convention governing specific aspects of refugee problems in Africa
CD	Cartagena Declaration on Refugees

Gender Training Kit on Refugee Protection and Resource Handbook

Introduction

The Evolution of Women's Human Rights and Refugee Law and Practice

In principle, women's human rights are protected alongside those of others in the major international human rights instruments, and as refugees, they are to benefit equally from the regime of international protection.

Indeed, the principle of non-discrimination, including on the basis of sex, is fundamental to the concept of human rights. It is reflected in the United Nations Charter, the Universal Declaration of Human Rights and subsequent international and regional human rights instruments, receiving ultimate expression in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), in 1979. However, despite this established principle of equality and prohibition of discrimination, human rights and refugee law have only in the last decade began the process in earnest of deconstructing the masculine worldview which has dominated our common understanding of human rights and even the refugee experience. As acknowledged during the Global Consultations on International Protection (which took place in 2001, in the context of the 50th anniversary of the 1951 Convention relating to the Status of Refugees): "It has not always been recognised that women and the girl-child enjoy the equal protection of the Refugee Convention."

The concept of gender has been key to this evolution, which in the refugee context is visible in relevant case law and literature in this area, as well as in UNHCR and individual country guidelines on gender-related asylum claims. This is producing a fundamental shift in consciousness; one which includes the experience and perspective of women, a group of persons historically rendered "invisible" in the political and public spheres as their relationship to the state has been largely mediated by men. Women have traditionally been relegated to the "private" sphere with regard to which governments, international organisations and the broader world community have generally been hesitant to intervene, even to offer protection.

Significantly, developments related to gender in refugee law have been assisted by, and also run parallel to, broader developments in international human rights, humanitarian and criminal law. Of particular note are the jurisprudence of the International Criminal Tribunal for the Former Yugoslavia and that for Rwanda, as well as the Rome Statute of the International Criminal Court which explicitly recognises sexual violence as a crime against humanity and as a war crime.¹ In this same vein, the coming into force of the Optional Protocol to CEDAW in 2000, which allows for an individual communications (complaints) procedure and an inquiry procedure into situations of grave or systematic violations of women's rights, was also an important development in the field of women's human rights.

Our deepening understanding of gender, women's human rights, and gender-related persecution are not only inter-linked, but together provide a framework with which we can now more fairly and objectively extend protection. By this, we mean not only a fair process for extending protection to refugee women, but to all cases of gender-related persecution. And not only the traditional concept of protection (related to the application of the 1951 Convention definition of a refugee), but also in the broader sense of 'protection' understood in the context of women's international human rights, which includes protection from sexual and gender-based violence and other human rights violations at the different stages of the refugee cycle and in different refugee settings.

The Evolution within UNHCR

The need to mainstream a gender perspective into all aspects of UNHCR's operations was recognised in the mid-1980's and has since been formulated in a variety of UNHCR policies and other documents. These include, the Policy on Refugee Women (1989), the Guidelines on the Protection of Refugee Women (1991), as well as several ExCom Conclusions, and theme-specific guidelines on a variety of refugee women or gender-related issues such as,

¹ Haines, Rodger, "Gender related Persecution", a UNHCR background paper, prepared in the context of the Global Consultations, San Remo Roundtable, 10 August 2001.

the UNHCR Sexual Violence Guidelines (1995), the Policy on Harmful Traditional Practices (1997), and the newly updated Guidelines on Gender-Related Persecution (2002). These are only some of the tools promoted in order to enhance the protection of women in a refugee context.

Most recently, in keeping with the more current thinking in this field, efforts have been made to refocus UNHCR's orientation from women-specific programmes to a gender equality framework - which was the real intention and the spirit behind the institutional policies from the very beginning. Moreover, as gender equality issues became visible, it also became apparent that solutions to these issues could no longer be confined within the social services programmes or through segregated "women's" projects as had been the predominate tendency. The nature and complexity of gender issues, which cut across all sectors, call for a comprehensive response, and the most critical of which is the protection response. It also calls for increased male involvement (by staff and refugee populations) and the integration of a gender perspective and analysis at all stages and in all sectors of our operations. This simply means that we must never make or operate under the assumption of gender neutrality, but must instead systematically and automatically inquire into how our interventions or policies may impact differently on women and men, and design our programmes in consequence.

Why This Gender Kit Now: Context and Background

This Gender Training Kit and Resource Handbook was developed in response to the request, by both UNHCR and our counterparts, for assistance and tools to enable them to better address the protection concerns of women and persons with gender concerns more generally. We hope that it also addresses, both in its content and purpose, some of the issues and recommendations expressed over the last several years by a variety of actors, including in the context of the Global Consultations.

As already noted, gender considerations in refugee law have been subject to considerable evolution as articulated in numerous guidelines, policies and other tools in the past decade. This Gender Training Kit and Resource Handbook aims to consolidate many of these developments into a single source for easy reference and usage, and to complement achievements in policy with trainings which aim to disseminate and translate these into practice.

The development of this Gender Kit began in 2000 with the UNHCR pilot "Workshop on Developing Gender Training Modules on Protection" held in Antalya, Turkey. The workshop, initiated by the UNHCR Senior Regional Advisor for Refugee Women and Gender Equality in Europe and Central Asia, was attended by experienced Protection Officers from the region. An external facilitator who also attended compiled a write-up of the results of that workshop which became the first draft of the Gender Kit.

Subsequent to this, the first as well as the second drafts of the Gender Kit were circulated for comments and field-testing. In addition to these, the experience and feedback gained from two UNHCR pilot trainings for trainers, namely, the "Training of Trainers on Gender and Protection" (held in Ankara, Turkey, on 11-15 June 2001 and in December 2001 respectively), were also significant to the final production of this Kit. These pilot trainings had the dual objective of providing participants with basic training skills enabling them to function as trainers on gender issues within their respective organisations and domestic or regional contexts, and also of field-testing the draft versions of the Gender Training Kit. These trainings were conducted jointly by the UNHCR Senior Regional Advisor for Refugee Women and Gender Equality (for Europe and Central Asia) and Academy International, with the support of UNHCR Headquarters, the UNHCR Senior Co-ordinator for Refugee Women and Gender Equality, and the encouragement of the Division of International Protection (DIP).

The present Gender Training Kit and Resource Handbook has benefited from the feedback of those who gave of their time and energy throughout its development process, and also from the experience gained during the field-testing.

What is the Gender Training Kit and Resource Handbook?

This Gender Training Kit and Resource Handbook is an all inclusive package consisting of three major components:

- (1) a Gender Handbook which contains essential background readings and UNHCR policies, generally consisting of UNHCR public documents (Part I), as well as related training

- session modules (Part II), and may be used both as a training manual and as a reference book on a variety of gender issues in a refugee context;
- (2) a Training Materials section, which contains materials to be used during trainings such as handouts, case studies, role-plays, exercises, overhead transparencies and power point presentations;
 - (3) and a Gender CD-ROM which contains all of the components of the Gender Training Kit, ready-made power point presentations (in electronic form), the full texts of selected UNHCR and other UN documents, as well as selected individual country guidelines on gender-related persecution.

More details on the structure of this Kit, its contents and how to use it, are provided in “How to Use this Kit”, below.

What Topics Does This Kit Cover?

The seven chapters included in this Gender Kit cover the following: gender training, gender concepts and strategies, women’s human rights, sexual and gender-based violence, refugee status determination, interpreting and interviewing, and gender considerations in emergencies.

The Kit therefore covers a range of topics critical to addressing the broad protection and assistance concerns of refugee women, and other gender-related issues. Given that gender issues cut across all sectors of refugee operations, it was felt necessary to be comprehensive and to include the major topics which represent the different aspects of refugee protection and assistance in relation to refugee women and gender. Wherever possible, we have also endeavoured to draw links between these different sectors and issues.

Who is This Kit Intended For?

This Kit is intended principally for UNHCR staff as well as NGO and government counterparts, although other actors in the refugee field, including research institutes, legal clinics, human rights organisations, universities with relevant programmes, and even refugee groups, may also find it useful. In the case of all these actors, they may choose to use the Kit either as a resource handbook to assist them in their operations or as a training tool for conducting their own trainings.

While this Gender Training Kit and Resource Handbook began as a regional initiative for Europe and Central Asia, considerable efforts have been made to ensure that this Gender Kit is useful globally and in a wide range of refugee settings.

It is hoped that the Gender Training Kit and Resource Handbook will prove to be a valuable tool in further closing the gap between gender policy and practice and thus result in more efficient and equitable refugee-assisting operations.

How to Use This KIT

1. General Structure: what does this kit include?

Three Different Components

- Gender Handbook
- Gender Training Materials
- Gender CD-ROM

Gender Handbook

The Gender Handbook contains seven chapters, with each chapter divided into two parts. Part I contains essential background readings, consisting mostly of UNHCR public documents and policies to be used for reference purposes or for the preparation of training events. Part II consists in the corresponding training session modules on the specific topic of that chapter. In addition, certain chapters, such as chapters 2 and 6 are further organised into different sub-themes. You should note that each chapter contains its own detailed table of contents, in which the background readings are listed, as well as the corresponding training sessions and "Links" to other relevant parts of the Gender Kit.

Gender Training Materials (TM)

The Training Material section, found in the loose-leaf pages in the binder of this Kit, is principally intended to assist facilitators during their training sessions. These training materials, which are all numbered on the left hand corner (TM no) of the page for easy reference, include overhead transparencies (OHT), case studies, role-plays and other exercises, handouts for participants, and power point presentations (PPP). The outline of each training session (in Part II of the Handbook) thus contains the TM no. of the training material corresponding to a particular activity. At the end of each training module is also a cumulative list of all the training materials which may be used for that entire session. Although the power point presentations are provided in proper electronic form on the CD-ROM, we have included a hard copy in the binder to allow trainers to quickly review the content of these presentations. More details are also provided on how to use these training materials, in the Training Material section in this binder.

Gender CD-ROM

The Gender CD-ROM may be used to access electronically all of the contents and different components of this Gender Training Kit, and as noted above, it also contains a ready made electronic version of the power point presentations. Having an electronic version of the Kit's contents is useful as it allows one to print out parts of the Kit, should you wish to provide certain readings as handouts during trainings or for meetings, or in the event you lose some of the training materials, for example. As described below, you may also download the training session modules from the CD-ROM and easily alter them to suit your particular training needs.

In addition, the Gender CD-ROM offers reference materials and documents which we could not include in the hardcopy of the Handbook such as, the full text of many UNHCR and UN documents and publications, as well as selected individual country guidelines on gender-related persecution. While much of this material is available through the internet, it was included on the CD-ROM for the sake of easy reference, but also because many offices may still have no, or only restricted internet access.

2. How to Use This Kit:

This Gender Training Kit and Resource Handbook may, as the title suggests, be used in these two ways: either as a gender resource / reference handbook to inform the operations of each office and provide a self-learning tool for use by its staff, or as a training tool for persons organising training sessions on gender issues.

A. Using the Kit as a Gender Resource Handbook

The Gender Handbook, one of the three components of this Kit, may be used as a gender resource or reference handbook to assist UNHCR and its counterparts in making their operations more gender inclusive and gender sensitive. In particular, Part I of this Handbook contains essential policies, guidelines and other tools and background readings on a variety of gender issues in a refugee context. In this way, the Gender Handbook represents a valuable and practical compilation of materials in this field, including of the more important UNHCR documents and policies.

B. Using the Kit as a Training Tool

The three components of this Kit, namely the Gender Handbook, the Training Materials and the CD-ROM, constitute an all inclusive package designed to provide facilitators with all the essential elements necessary for preparing and conducting a training. These elements include:

In the Gender Handbook:

- basic background reading materials, including essential policies and guidelines, enabling the facilitator to prepare for the training;
- training session modules, which include the objectives of the training, a detailed session outline, and a list of all the corresponding training materials (TMs);
- and a reference section providing the full text of some of the most relevant international instruments and documents (e.g. CEDAW, ExCom Conclusions), as well as a bibliography, and other references and web-sites which facilitators may find useful should they require more information for their preparation.

In the Training Materials section:

All the training materials (e.g., handouts, OHTs, PPPs, case studies) necessary for conducting the training sessions are provided. It should be noted that frequently facilitators have the option of deciding in what form they wish to use the training materials, as many can be used alternatively as overhead transparencies or power point presentation slides, for example. The various ways in which each training material can be used are noted in the top left hand corner as such: TM no. OHT/PPP/ Handout. This is further explained in "How To Use the Training Materials" in the Training Materials section in the binder of this Kit.

In the CD-ROM:

Facilitators can use the CD-ROM to:

- read or print out information in the Kit. As noted above, this may be useful in order to provide readings which are in the bound Handbook, (as handouts to participants), or for printing training materials which may have been lost (as they are loose pages).
- adapt the training session modules to their particular training needs and context by downloading the electronic version and then altering it as required;
- access the electronic copy of power point presentations;
- access additional readings and documents not included in the Gender Handbook.

3. About Using the Training Sessions

The need to tailor the training sessions to your particular context and needs:

The training sessions provided in this Gender Training Kit represent examples of possible trainings and must, of course, be tailored to your specific context and needs. In addition, they do not detail all of the elements necessary for a successful training; elements such as the use of appropriate icebreakers and all of the details relating to pre-training preparation. However, they do provide the essential information and materials required for conducting each of the trainings.

All mainstream training events should include a gender-related component:

As a general rule, we recommend that the gender-related training sessions in this Kit be provided as part of a broader training programme and regular training events. For example, a three-day training on refugee status determination (RSD) could include some sessions on gender-related RSD issues and gender sensitive interviewing. This approach whereby gender considerations are mainstreamed into all regular training events and the training programme in general, is preferable to providing gender trainings as stand alone events. Chapter 1 in this Gender Handbook also provides other recommendations and strategies on conducting gender trainings.

Providing gender trainings as part of broader organisational commitment to gender mainstreaming:

One such recommendation is not to provide gender trainings in isolation, but to ensure that these are part of a wider organisational agenda for gender mainstreaming. Gender trainings which are provided without the proper organisational commitment and support (including from the management level in the field), and are in addition, implemented as stand alone activities, will only have minimal impact.

Combining the different training sessions in this Kit:

Many of the training sessions in this Kit may be used in combination with each other. We have indicated which training sessions best complement each other, and which may easily be combined, under “Links” in the table of contents provided at the beginning of each chapter.

Using a team when conducting training sessions:

It is recommended when conducting a training session that one use a team of facilitators (i.e. two or more trainers) rather than only a single facilitator. This is especially important in the context of gender trainings, which generally speaking, are best conducted with a team of at least one female and one male facilitator. More details on this topic are provided in chapter 1.

Trainings for refugee participants only:

With regard to trainings aimed at refugee participants only, we have provided some guidelines for conducting such trainings in chapter 3 on Women’s Human Rights, which is the only chapter containing training sessions explicitly designed for this target group. However, other training sessions, such as some of those included in chapter 2 (theme 3 on male involvement) and chapter 4 on sexual and gender-based violence, may be usefully adapted to this audience.

4. About the Links

Each chapter contains its own table of contents, which includes a section on “Links”. These links are simply references to other parts of the Gender Training Kit which complement the contents of that chapter. More specifically, it provides suggestions on related background readings, training sessions, and training materials in other chapters, which complement those of the present chapter. This will allow the reader to more easily make connections between the content of the different chapters, which is particularly important with regard to gender issues as they often cut across different sectors and fields.

5. How to Adapt the Training Materials in the Kit to your Particular Needs and Context

The training materials in this Kit may be adapted to your particular needs by inserting any new materials which you develop into the binder of this Kit, (in the Training Materials section, under “Additional Materials”) for use in future training sessions. This may be particularly useful for case studies or certain exercises, which in order to be effective, should be both appropriate and relevant to each context.

6. How to Update the Kit

In a similar fashion, this Kit may also be updated, particularly in relation to new policies and other significant documents, by inserting these into the binder of the Kit (i.e., in the Training Materials section, under “New Policies and Reference Documents”). Please see the table of contents provided in the Training Materials section, which consists in the loose-leaf pages in this binder.

Note: Please note that due to technical reasons, the footnote numbers in documents that have been reproduced in this Kit, do not correspond to the numbering in the original documents.

Chapter 1



Gender Training as a Tool for Change

In this Chapter:

Introduction

Gender Training as a Tool for Change

Gender Training: Part of a Broader Gender Strategy

The Role of the Trainer

Training in Teams

Making your Training Successful

Dealing with Resistance

Chart: Resistance: the roles members play and how to respond

Training Methods and Techniques

Using Interpreters in Training

Using Audio-Visual Equipment in Training

Preparing and Selecting Training Methods

Chart: Matching Training Methods and Objectives

Chart: Matching Methods with Learning Objectives

Monitoring and Evaluating Training

Sample Questionnaire: Pre-training Needs Assessment: on Gender Policies and Issues

Sample Evaluation: Gender Training Evaluation Form

Links

References for further readings on training and gender training specifically, may be found in the Reference Section of this Gender Handbook under “Other Useful References”.



Introduction

This chapter is about using gender training as a tool for change, but it also provides brief descriptions of training methods and techniques which are generic to any training. It is especially useful as a refresher or basic introduction to training since it provides guidance and an overview of some of the main issues which facilitators using this Kit should keep in mind, highlighting in particular some of the aspects which distinguish gender trainings from other types of trainings.

Of special importance is the strategy for implementing gender-related trainings. It is recommended that gender trainings, including the training sessions included in this Kit, not be provided in isolation. Gender trainings will only be successful if they are implemented in the context of broader agency-wide measures and capacity-building initiatives, of which training is only one aspect. This is of particular significance given that many of the difficulties faced by staff when trying to integrate a gender perspective cannot be successfully or wholly overcome by training alone. On the other hand, these broader agency-wide measures are also necessary to ensure the success of training programmes. For example, failure to gain support for gender training from senior managers and peer groups prior to the training event will often be detrimental to its success or ultimate impact. In this respect, the discussion and chart in this chapter on resistance during trainings and how to respond to such situations may also be useful to review before conducting your training.

Another strategy critical to the long term success, impact and sustainability of gender-related trainings is that they be integrated into the regular training programme and events of the organisation. Rather than providing gender-related trainings as stand alone events, training programmes should instead automatically include coverage of the gender dimensions of that particular topic or theme. A two-day training on human rights or refugee status determination could, for example, also be used to introduce gender concepts, women's human rights and their impact on refugee law, or even the UNHCR Guidelines on Gender-Related Persecution, with some related case studies. Further guidance is provided in this respect in "How to Use this Kit" in the introduction to the Kit.

Also useful is the strategy of tailoring training methods to match training objectives. While it is a very basic strategy which should be applied to all trainings, it is crucial for effective gender trainings where achieving positive attitudinal changes is often the primary objective of the training (especially for introductory and intermediate levels) and a pre-requisite for many of the other aims of gender training, such as gaining relevant knowledge and applied skills. Two practical charts are provided in this chapter to assist you in determining which training methods and activities should be used in order to achieve your training objectives.

A sample gender training questionnaire and evaluation form are also provided in order to help improve the quality, relevance, and impact of gender trainings.

Given that this is not a publication on training *per se*, we recommend that facilitators consult the references on this topic provided in the Reference Section in this Gender Handbook, under Bibliography, and Other Useful References. Similarly, the training session modules provided in this Kit, while trying to use a variety of training methods, techniques and even basic warm-up exercises cannot provide all the details necessary to make your training successful. Facilitators will therefore have to adapt each training to their personal style, their target group, and the particular context in which they are working.

As mentioned in the introduction to the Kit, UNHCR has initiated a pilot training programme entitled "Training of Trainers (TOT) on Gender Protection", the aim of which is to provide participants with basic training skills enabling them to then function as trainers on gender issues within their respective organisations and domestic or regional contexts. The training programme focuses on gaining both substantive knowledge of gender issues in a refugee context and applied training skills. Two of these three-day TOT trainings have been conducted to date in the Europe and Central Asia region, and have been used to field-test earlier drafts of this Gender Training Kit.

Gender Training as a Tool for Change¹

1. Gender Training: Part of a Broader Gender Strategy

Training on gender issues is one amongst several other types of interventions which can be used to change awareness, knowledge, skills and behaviour in relation to gender. The use of gender training as a tool for change has increased in the last decade. UNHCR, and other refugee-assisting organisations (both governmental and NGOs) have also been using gender training programmes, such as those presented in this Kit, in order to:

- generate support for gender policies in a sustainable fashion;
- provide a common framework and vocabulary to facilitate discussion and policy implementation;
- provide agency staff with specific skills to use in programme design and implementation.

As an agency-wide measure, training is an important first step in promoting change. However, training alone is not enough. Many of the obstacles staff face when they try to mainstream gender or put gender equality measures in place cannot be overcome by training alone. It needs to be followed by more tailored initiatives to develop the capacity of staff and address their specific issues and needs. Strategies such as obtaining support from senior management and peer groups prior to the training must also be employed. Training is most effective when it is part of a broader strategy for institutional change.

In line with the goal of mainstreaming gender equality, UNHCR and relevant agencies should systematically integrate a gender analysis and gender specific topics into all their training events. For example, trainings on human rights should include international human rights instruments and issues specific to women. The advantage of such a strategy being that a gender perspective is mainstreamed and treated as an integral feature of regular training events, and not as a separate event or stand alone training session.

2. The Role of the Trainer

As a trainer and facilitator, you will play a number of roles during your gender training. You will be in the position to be influential, an agent for change and a leader. It is not possible in this training Kit, to explore all of these roles and all of the activities which will ensure that your training is successful. Nonetheless, we have included some key suggestions below. Before you commence your training using the modules contained in this Kit, you will first need to identify the participants' needs and design the training programme accordingly. A sample "Pre-Training Needs Assessment Questionnaire", designed precisely to analyse the training needs of the prospective participants prior to the event, has been provided at the end of this chapter. It is also strongly suggested that facilitators read the following UNHCR publications as part of their preparation:

- UNHCR, *Learning to Train: An Introduction to Training Skills*, TRS 1, Training with UNHCR series, Geneva, 1990.
- UNHCR, *Basic Training Skills: Trainer's Guide*, Geneva, 1990.
- UNHCR, *Making Effective Presentations*, TRS 2, Training with UNHCR series, Geneva, 1990.
- UNHCR, *Chairing and Facilitating Meetings*, TRS 3, Training with UNHCR series, Geneva, 1990.
- UNHCR, *How to Organise a Training Workshop*, TRS 5 (Second Edition), Training with UNHCR series, Geneva, 1993.
- UNHCR, *Competency-Based Catalogue of Training Materials*, Training with UNHCR series, Geneva, undated.

For further readings on training, including training on gender, see the Reference Section in this Gender Handbook.

¹. Prepared by Sue Elliot, for the purposes of this publication. This text was adapted from OECD, *DAC Source Book on Concepts and Approaches Linked to Gender Equality*, OECD, Paris, 1998 (available also at: <http://www.Oecd.org/dac>).

3. Training in Teams²

Sometimes, trainers have to work alone organising and running training programmes. However, there are many benefits for both participants and facilitators, of having trainers work in teams, even if this requires more attention to preparation. For gender training especially, teams of men and women working together can be particularly effective.

Training effectively as a team also requires that the training plan be designed together as a team, and that the role of each trainer be clear with regard to each session. Debriefing during breaks, such as lunch time, and in the evening is also essential.

4. Making Your Training Successful

The success of gender training often depends on a thorough preparation but also on factors external to the workshop. As noted above, gender training needs to be part of an overall institutional gender strategy. Therefore, other activities, even if not directly related to the workshop, may be a very important part of the preparation for the training. The following suggestions will help increase the success of your gender-related training:

- Get the open support of senior management in the organisation (or your particular office). Ensure this support is made explicit to all units of the organisation and that the issues are shown to be pertinent to everyone;
- Ensure that respected staff members are engaged in gender issues and are involved in gender training;
- Ensure your training is reinforced by and linked to other training courses in the organisation;
- When gender issues are first being introduced to an organisation, it is best if the same people lead the training throughout the initial phase. This enables a relationship of trust to be established;
- In situations where there is a need to enlist the assistance of colleagues or other competent persons as resource persons or as co-facilitators for specific topics, ensure they have a clear perspective on where and how to make the linkage with other sessions during the training event;
- If possible, try to include a series of practical workshops as part of your training event, so that participants can apply their learning and experience the progress they are making after the different sessions;
- Ensure you have enough time to conduct the training and that your budget is sufficient. Gender issues are sometimes segregated from the rest of an organisation's 'mainstream' operations and treated as secondary to 'core' activities such as protection; a sign that the interconnectedness of these issues has not been properly grasped. As such, training on gender issues may be marginalised and its quality compromised by being slotted at inconvenient times (e.g. the end of a long day of other trainings), being given too little time (either for delivery or preparation), or too few funds or resources, including human resources. Since gender training is as much about changing fundamental attitudes as it is about transferring knowledge, it is vital that the right conditions be present for the training. Trainers and organisers must therefore ensure that they are not operating under constraints that will seriously hamper the quality of their performance and delivery, or the ability of the participants to receive and digest the message and knowledge;
- Conduct a pre-training needs analysis (a sample questionnaire is provided in this chapter) which includes a profile of potential participants, and allow yourself sufficient time to digest the information and have it reflected in the training programme;
- Ensure that, in addition to being knowledgeable and well prepared on the specific subject matter of the training, you have also mastered the specialised terms and concepts related to gender. A glossary of key terms is provided in chapters 2 and 3 in this Handbook.

². For further particulars on training in teams, also see UNHCR, *Learning to Train*, at 6.

5. Dealing With Resistance

Building more equal gender relations and designing gender-tailored services is a slow process which may not always go smoothly. Everyone working in this area needs to come to terms with the various forms resistance to such change can take. Gender issues especially, can be a sensitive or contentious subject matter to deal with in training. Therefore, when tackling these issues it is essential to first decide whether training is the best method to affect change. If you decide on training, getting the climate or atmosphere right is essential for creating an environment of openness and encouraging full participation. You will need to tread a fine line between welcoming all contributions to debates on the one hand, and challenging discriminatory and intolerant remarks on the other. Choose how you respond and challenge carefully. Challenges can be interpreted differently by men and women, and are received differently according to who is doing the challenging. For this reason, it is desirable to have both men and women in the training team. The status and role of the person who is being challenging, and the context in which comments and responses are made are also important factors.

No matter how well prepared you are, all trainers meet resistance from participants from time to time. As mentioned, your style, position (level or seniority) in the organisation, and the cultural setting in which you are operating will often determine your response. However, the following suggestions can help you deal with many situations:³

- Don't over-react and certainly never lose your temper.
- Don't get into an argument. Criticise "neutrally" and offer to discuss the issues later on.
- Never get co-opted by a faction or an individual. Present and maintain yourself as the neutral facilitator/trainer.
- Resolve conflict as quickly as possible.
- Always anticipate problems and try to prevent them before they occur.
- Deflect challenges (i.e. get other individuals or the group as a whole to deal with the problem).
- Get the group to deal with difficult participants (trust the group).
- If necessary, talk to the offending participant privately (for example, during a break).
- If necessary, set up an informal committee representing the participants. The committee should meet with you each evening and you can then refer complaints to that committee.

Below is a more detailed chart which may be helpful for understanding the role participants may play during a training and guide you on how to respond.

³. These suggestions have been adapted from UNHCR, *Learning to Train*, at 25. You might also find useful suggestions in UNHCR, *Chairing and Facilitating Meetings*, (the section on "difficult participants", or 'Preparation for Success', at 7). Equally useful, see 'Dealing with Resistance and Hostility', at 16-21 and 32-34 respectively, in Williams S. et al, *The Oxfam Gender Training Manual*, Oxfam, UK and Ireland, 1994. For a more general discussion of resistance to gender equality issues and strategies to deal with them see also, OECD, *DAC Source Book*.

Resistance: roles members play and how to respond⁴

Team members can take on behaviours that hinder the group process. The following chart identifies several of these behaviours, explains why team members may behave that way, and tells you what you can do about it.

Roles	Why It Happens	What To Do
Heckler	Probably good-natured most of the time but is distracted by job or personal problems.	<ul style="list-style-type: none"> - Keep your temper under control. - Honestly agree with one idea, then move on to something else. - Toss a misstatement of fact to the group to turn down. - Talk privately with the person as a last resort to determine what's bothering him or her.
Rambler	One idea leads to another and takes this person miles away from the original point.	<ul style="list-style-type: none"> - When there is a pause for breath, thank him or her, refocus attention, and move on. - In a friendly manner, indicate that "We are a little off the subject." - As a last resort, use your meeting timetable. - Glance at your watch and say, "Time is limited."
Ready Answer	Really wants to help, but makes it difficult by keeping others from participating.	<ul style="list-style-type: none"> - Cut him or her off tactfully by questioning others. - Suggest that "we put others to work." - Ask this person to summarise. It keeps him or her attentive and capitalises on his or her enthusiasm.
Conversationalist	Side chatter is usually personal in nature but may be related to the topic.	<ul style="list-style-type: none"> - Call by name and ask an easy question. - Call by name, restate the last opinion expressed, and ask his or her opinion of it. - Include in the discussion.
Personality problems	Two or more individuals clash, dividing your people into factions and endangering the success of the meeting.	<ul style="list-style-type: none"> - Maximise points of agreement; minimise disagreements. Draw attention to the objective at hand. - Pose a direct question to an uninvolved member on the topic. - As a last resort, frankly state that personalities should be left out of the discussion.
Wrong Track	Brings up ideas that are obviously incorrect.	<ul style="list-style-type: none"> - Say, "That's one way of looking at it," and tactfully make any corrections. - Say, "I see your point, but can we reconcile that with our current situation?" - Handle this tactfully, since you will be contradicting him or her. <i>Remember, all members of the group will hear how you respond to each individual, and you can encourage or discourage further participation.</i>
Quiet one	<ul style="list-style-type: none"> - Bored - Indifferent - Timid - Superior 	<ul style="list-style-type: none"> - Gain interest by asking for opinion. - Question the person next to him or her. Then, ask the quiet one to comment on the view expressed. - Compliment this person the first time he or she contributes. Be sincere. - Indicate respect for this person's experience, then ask for ideas.
Bungler	Lacks the ability to put good ideas into proper order; has ideas, but can't convey them and needs help.	<ul style="list-style-type: none"> - Don't call attention to the problem. Say, "Let me see if we are saying the same thing." Then, repeat the idea more clearly.
Mule	Can't or won't see the other side; supports own viewpoint no matter what.	<ul style="list-style-type: none"> - Ask other members of the group to comment on the ideas. They'll straighten him or her out. - Remind him or her that time is short, and suggest that he or she accepts the group consensus presently. - Indicate your willingness to talk with him or her later. Then, follow up.
Talker	<ul style="list-style-type: none"> - Highly motivated - Show-off - Well informed - Just plain talkative 	<ul style="list-style-type: none"> - Slow this person down with some difficult questions. - Say, "That's an interesting point. Now, let's see what the rest think of it." - Draw upon his or her knowledge, but relay to the group. - In general, for all overly talkative folks, let the group take care of them as much as possible.
Griper	Has a pet peeve, gripes for the sake of complaining, or has a legitimate complaint.	<ul style="list-style-type: none"> - Point out that the objective at hand is to operate as efficiently and cooperatively as possible under the present circumstances. - Indicate that you'll discuss his or her personal problem privately at a later date. - Have another member of the group respond to his or her complaint.

⁴. Source: Carr D.A., *How to Facilitate*, American Society for Training and Development, Issue 9406, June 1994.

6. Training Methods and Techniques

This Kit suggests a variety of training techniques which can be used during your training session. In selecting these techniques, a number of considerations were taken into account. In general, techniques which encourage participants to learn from each other and develop new skills, knowledge and attitudes through the application of new concepts were preferred. Also, given the variety of possible settings for these trainings, a selection of methods and techniques have been included which would make it possible to conduct trainings with or without the aid of hi-tech audio-visual equipment.

Training Methods Used in this Kit

The following is a list and brief description of the types of exercises and methods used in the training modules in this Kit, as well as the process for implementing them. The most commonly known methods have been listed first, and similar methods have been grouped together. It is important to note that the order in which they have been listed below does not in any way reflect their degree of importance or recommended usage.

- Icebreakers (or warm-up activities)
- Presentations
- Plenary or large group discussions
- Small group work
- Panel discussions
- Force field analysis
- Brainstorming
- Case studies
- Role-plays
- Checklists
- Action Plans
- Videos

Icebreakers (and warm-up activities) : are short activities at the beginning of a training course or between sessions. They can help set the tone of the training and help to establish trust between you and the participants, as well as among the participants. They help participants relax, allow them to get to know each other, and gain confidence to speak. Icebreakers need to be selected to suit the length of the course, the cultural background, as well as the seniority and role of the participants. Whenever possible, icebreakers should also be related to the training topic.

Presentations⁵: for maximum effectiveness, presentations must be well prepared and should not last more than 20 minutes or cover more than four or five main points. Ensure your language is clear, and explain any jargon that may be used. Try to use visual aids to support your verbal message and scan the audience to see if they are following you. Be especially cautious about overusing presentations, or relying on this method to get your message across and meeting your training objectives; in relation to gender training it may arguably be one of the least effective methods, and should be used in combination with other more participatory methods.

Plenary or large group discussions⁶: have a number of uses. They can be used to do the following: check participants' understanding; correct misunderstandings; allow facilitators insight into knowledge gaps which require attention; check the extent to which the training is meeting participants' needs; provide the chance for participants to apply what they have learnt; serve as a summary or provide a link between sessions or topics. While it is important not to embarrass any participants by insisting on their participation in a discussion, facilitators should try to ensure everyone takes part.

⁵. On presentations, see also: UNHCR, *Making Effective Presentations*; UNHCR, *Learning to Train*; and, if available to you, the materials distributed by Academy International at the UNHCR *Training of Trainers on Gender and Protection*, 11-15 June 2001, or the session of December 2001, held in Ankara, Turkey, and organised by Academy International (Ankara) and the UNHCR Senior Regional Advisor for Refugee Women and Gender Equality for Europe and Central Asia. Academy International web-site : www.academy.gen.tr

⁶. On plenary or large group discussions, see also: UNHCR, *Making Effective Presentations*, at 20; and UNHCR, *Learning to Train*, at 12.

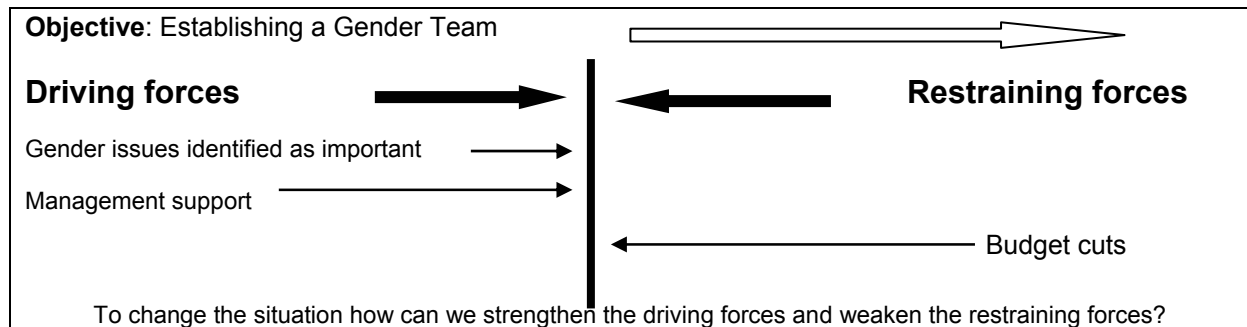
Small working groups⁷: is the basic unit of participative training. Most of the training modules in this Kit require participants to work in small groups. When there are more than 8-10 participants at a training event, it is often necessary to divide them into small groups in order to facilitate discussion, problem-solving, or team activities and tasks. Tasks and activities may be the same or different for each group. The facilitator must clearly explain the purpose of the task, as well as how the results of the group work are to be shared with or fed back to the whole group. It is often useful to have a rapporteur for each group, and to provide the group with written instructions for their group exercise, both in order to keep participants focused and to refer to in case there are questions or there is some confusion about what is expected from the activity. After all the groups have made presentations on their group work in plenary, the facilitator leads a discussion during which questions are answered and the objectives of the activity are addressed again. It is important that the facilitator allows enough time to properly discuss and process the information generated from the groups. It must be borne in mind that the time which is allotted for discussing the findings of this exercise increases with each additional group.

Panel discussions: can sometimes be a good alternative to presentations. Panels are usually made up of three or four people with expertise in a particular field. Participants benefit from the interaction between panellists and themselves. They are a useful way of presenting differing opinions or providing information on different facets of a topic. The facilitator can act as a moderator by asking initial basic questions of panel members, encouraging participants to ask their own questions, and providing a summary of discussions or conclusions at the end. If participants have expertise on a specific topic, they can be used as panellists or as resident experts. This gives participants greater ownership of the event.

Force field analysis: is a tool for diagnosing a situation and planning how it can be altered. The usual steps involved in this exercise include:

- a) Identifying the objective, or desired change;
- b) Listing the forces both supporting (driving forces) or hindering (restraining forces) the change;
- c) Analysing the strength of each force;
- d) Listing ways in which hindrances or resistance to change can be weakened, and supporting factors strengthened.

The following diagram provides an example of how a force field analysis may be used when considering the creation of a gender team within a given organisation, for example.



Brainstorming; encourages active participation. It works best with a group of 6-12 people. The facilitator's role is to ask a clear question, encourage all participants to say the first thing that comes to their minds, and to keep ideas flowing quickly. After all ideas are recorded, the group analyses the information collected with the help of the facilitator. Brainstorming is particularly useful to help focus or clarify activities, or to generate information that can help introduce a topic or direct discussion on it. It can be used informally throughout the training as the need arises.

Case studies⁸: should ideally be short pieces, which are based on real situations and are relevant to the topic and context of participants. They should not be overly complex. Each case should focus on one or two main issues. It is usually preferable to have a series of short case studies rather than a long complex one. Case studies encourage groups to work together on difficult issues, and apply their newly acquired knowledge and skills.

⁷ For more information on this training method, see also UNHCR, *Learning to Train*, at 15.

⁸ For more information on this method, you may refer to UNHCR, *Learning to Train*, at 21.

Role-plays: can take different forms and allow participants to act out or experience real life situations in a protected environment. Facilitators must emphasise the learning objective of the role-play to keep the activity focused. Participants acting in the role-play should be given some time to prepare. Following the role-play, the facilitator leads a discussion and analysis of what was seen or felt by observers. "Actors" are given a chance to describe their roles and what they were doing to see if it matches with what participants observed. Participants then discuss the parallels with their own work situation.

Checklists: have two functions. They prevent important issues from being overlooked and they enable participants to diagnose a situation by identifying the key issues which need to be addressed. They can also save time when one is trying to identify a problem. Participants often appreciate having them provided as handouts during the training since they are practical tools which can easily be used in their daily work.

Action plans: can help ensure that the impact of a training workshop does not end as soon as the workshop is over. An action plan can assist participants plan how they will apply what they have learnt during the training in their daily work. It is important that action plans be completed during the workshop so that participants have the time and opportunity to benefit from the advice or opinions of their fellow participants and resource people. They also give participants the opportunity to think about potential pitfalls and obstacles to their plans. Participants should break up into small working groups appropriate for developing an action plan on a respective topic or for their particular country or organisation. Action plans can take a number of forms, from simple hand written notes on actions to be taken and an accompanying timetable (e.g., short, medium and long-term), to special forms that facilitators have developed for participants to fill in.

Videos⁹ : provide a quick way to reinforce or get a point across. Facilitators should ensure that participants know the objective of the exercise when watching a video. They should not be used simply to fill time. As videos are a one-way form of communication, the real training benefit is in the interactive activities which follow or precede them.

7. Using Interpreters in Training

Although it is best to avoid using interpreters during trainings, this is sometimes unavoidable. If an interpreter must be used, it is important that he or she have sufficient time to become familiar with the training materials and any specialised vocabulary beforehand. Training on certain gender issues does require one to be knowledgeable about and comfortable with a set of specialised terms and concepts. Some chapters in this Gender Handbook include a glossary of relevant terms which you may wish to provide to interpreters. You should also ensure that all training materials are translated before the workshop. When using simultaneous interpretation, test the system before the session begins.

8. Using Audio-visual Equipment in Training¹⁰

The use of appropriate audio-visuals (AV) reinforces learning in any training workshop. Facilitators should choose the most appropriate AV equipment to support their training objectives. In many situations, sophisticated audio-visual equipment may not be available, may be unreliable, or electricity supplies may be erratic. It is important therefore, that you always check and acquaint yourself with the operation of the equipment beforehand, and that you always have access to flipcharts in case equipment fails.

9. Preparing and Selecting Training Methods

Before beginning your training programme you should read the relevant training session modules in this Kit carefully and plan your sessions well. It should be noted that while these modules do provide a variety of training tools and techniques, they do not mention every aspect of the training that you must prepare. For example, some of the following additional activities and techniques are also important:

⁹ On this topic, see also UNHCR, *Learning to Train*, at 26.

¹⁰ On this topic, see also UNHCR, *Learning to Train*, at 25-27.

trainers should introduce themselves at the beginning of the session; use icebreakers at appropriate times; employ a mix of 'amateur' and professional attitudes in order to connect with the participants; provide little summaries and repetitions when required; motivate participants for the future; and occasionally insert a surprise element into their training which grabs the attention of participants (it can be in the form of story or unusual activity).¹¹ These are elements of the training which each trainer must prepare for her or himself and which are also very context specific.

Some sessions may also need considerable adaptation to the particular situation you are working in. Gender training is most successful when it is made relevant to participants' lives and work, when it raises awareness of the issues, and when it builds participants' skills. You will need to use a range of methods to achieve this. Facilitators may want to substitute other training techniques and methodologies to those offered in the modules in the Kit, or develop more appropriate materials in support of the themes covered (e.g. more relevant case studies, readings, or role-plays). When doing this, it is important to match appropriate methods with learning objectives. Don't choose a training session simply because the activity appeals to you. It is important to adapt the activities to the session's learning objectives and the participants' needs. You will also need to pace the content of the course so that you are able to sustain and motivate participants throughout. Training workshops need to follow a coherent process, with each session or activity building on the previous one. The chart below will support you in selecting appropriate training methods in relation to your objectives.

Matching Training Methods and Objectives¹²

Method	Information/ Knowledge Acquisition	Knowledge Retention	Practice/Problem Solving Skills	Strategic Skills	Changing Attitudes
Lecture/oral presentation with questions	0	X			
Question and Answer discussion	0	X	X	X	X
Panel Discussion	X	X			
Brainstorming				X	X
Group Discussion		0		X	0
Problem Solving Exercise		X	X	0	X
Role-play	X	X	X	0	0
Simulation Exercise			0	0	0
Case study	X	0		0	X
Programmed Instruction	0	0		X	
Videos (with discussion)	X	X			

Key: 0 = valuable x = can be useful.

Matching Methods with Learning Objectives¹³

¹¹. These are some of the techniques for successful trainings provided in : Academy International, *Training of Trainers: on Gender and Protection Programme*, (as well as other accompanying materials), provided for the UNHCR training by the same name, December 2001, in Ankara, Turkey.

¹². Adapted from Eitington, J., *The Winning Trainer: Winning Ways to Involve People in Learning*, Gulf Publishing Company, Texas, 1996.

¹³. Ibid.

When your objective is to teach a skill , choose from:	When your objective is to impart knowledge , choose from:	When your objective is to change attitudes , choose from:
<ul style="list-style-type: none"> • Case studies • Role-plays • Simulation games • Lesson-demonstration 	<ul style="list-style-type: none"> • Case study • Discussion • Lectures (with questions and discussion) • Role-plays 	<ul style="list-style-type: none"> • Case study • Discussion • Role-play • Simulation

10. Monitoring and Evaluating Training

Monitoring and evaluating training is essential, and needs to be planned for during the preparation stage of any training session. Monitoring is done throughout the training, whereas evaluations are usually conducted at the end of the session. Training events are generally monitored and evaluated at four levels, using different methods for each. These methods are listed below according to their varying degree of complexity.

(1) Participant reactions and feelings: what were participants' feelings and attitudes? Were they satisfied or dissatisfied?

(2) Participant learning during the training: was there an observable/measurable change in performance, level of understanding and application of new ideas during the training?

(3) Participant application: was there a change in the participants' performance at work after the training?

(4) Impact results: did the training have a visible impact on the organisation or situation regarding gender equality and gender mainstreaming?

The results are most useful when more complex evaluation methods are used. However, it is easier to measure training effectiveness at the simpler levels.

Description of Evaluation Methods:

(1) Participant reactions and feelings can be measured by interactive group methods or questionnaires. It is best to begin with group methods and finish with a questionnaire. An example of an evaluation questionnaire has been provided at the end of this chapter. This level of evaluation is useful because it:

- Is economical and easy to carry out;
- Provides trainers quick feedback on their performance;
- Can provide feedback to the organisation's management, whether it be UNHCR, an NGO or government;
- Can guide changes and improvements to future training programmes.

This method of evaluation (which has the advantage that it can also be used throughout the training session through interaction with the group) is also important because if participants are not satisfied with the training, there is a high probability that negative feelings towards gender mainstreaming will increase, or key issues and messages stemming from the training will be ignored.

(2) Participant learning can most easily be measured by observation. For example, have participants modified the way in which they present their views during discussions in the training? How do they approach role-plays? How has their analysis of case studies changed? What sort of

action plans do participants draw up at the end of the training programme? The nature of action plans can indicate the degree to which training has been internalised.

(3) The application of new skills and knowledge acquired during the training to the participants' work can be measured by a survey some weeks later. In such a survey, one can pose the following questions:

- a) How have training materials been used?
- b) What could have been changed in the training course?
- c) How have action plans been implemented?
- d) What do participants' managers think? This implies managers have been involved and committed to the goals of the training.

(4) The impact or concrete results of a training are more difficult to assess and can only be measured by data indicating a change over time. For example, such data may be found in the organisation's periodic (regular) records or reports and can include measures such as, changes in national legislation, the adoption of more gender sensitive record keeping practices, sex/age disaggregated data, the creation of a gender team, and better gender analysis, policies and programmes.¹⁴ Group methods are generally not suitable for measuring change at this level.

¹⁴. If organisational records and reporting standards do not already contain an appropriate method and space for including gender-related issues, activities, and indicators at all levels of its operations, these should be modified to do so.

Pre-Training Needs Assessment: on Gender Policies and Issues¹⁵

Training Title:
Date: Venue:

Name of staff member: _____
Job title and level: _____ Unit/area of specialisation: _____
Length of experience with your organisation (name): _____

1. Practical experience with gender issues

Have you ever been involved with or had to consider gender issues at work? Y/N

Have you participated in gender-related (non-training) activities/ committees at work? Y/N

If so, in what capacity, context, and for what purpose? _____

2. Previous exposure to training on gender and refugee women

Have you ever attended a training on gender policies and issues before? Y/N

If yes, please indicate the title of the training, when and where it took place: _____

Did you find this training useful? Y/N Explain why/why not: _____

3. Familiarity with organisation's gender policies and issues

a) Do you consider that you are familiar with UNHCR's policies/ issues on gender? (Please tick as appropriate)

very familiar familiar vaguely familiar not at all familiar

b) If you consider that you are only vaguely or not at all familiar with gender policies and relevant issues, please indicate the obstacles you encounter in this regard (i.e., lack of time, opportunities to be exposed to these, materials are unavailable etc.). _____

c) Do you refer to available literature on these subjects for use in your daily work? _____
If so, which of the available materials has been most useful? _____

d) Describe the areas of your work where a greater familiarity with these gender policies would be helpful: _____

4. Expectations of planned training

In which areas, concretely, would you like to receive training? _____

Do you have any suggestions as to how these issues could best be addressed in the upcoming workshop/training? _____

How would you, as an individual, expect to benefit from this training in terms of your daily work? _____

5. Resources

Have you had any particular experience in dealing with gender issues/policies that you feel would benefit other participants at the training: _____

Would you be prepared to make a presentation or otherwise act as a facilitator during the workshop? _____

¹⁵ This sample questionnaire was developed by the UNHCR Senior Regional Adviser for Refugee Women and Gender Equality for Europe and Central Asia, Regional Office, Ankara, Turkey, 2001.



Gender Training Evaluation Form¹⁶

Title of Training / Workshop:

Date:

Venue:

Country and City:

1. Did this gender-related training achieve the following:

- (a) Make you reflect and **question your assumptions** or work practices in relation to gender issues raised: Yes/ No
- (b) Increase **your knowledge base** in relation to the gender issues raised: Yes/ No
- (c) Increase your **practical skills** in relation to gender issues raised: Yes/ No

2. Do you anticipate that this gender training will be relevant to your work, and that you will apply the awareness, knowledge or skills you acquired? Yes / No

If so, please describe how: _____

3. After this training, do you feel more competent to identify, integrate (or mainstream), analyse, report and address gender issues in your work (please circle relevant verb, and extent):

- | | | | | |
|------------------|-------------|------------------|----------|----------------|
| • Identify | a) a little | b) significantly | c) a lot | more competent |
| • Integrate | a) a little | b) significantly | c) a lot | more competent |
| • Analyse | a) a little | b) significantly | c) a lot | more competent |
| • Report | a) a little | b) significantly | c) a lot | more competent |
| • Address(solve) | a) a little | b) significantly | c) a lot | more competent |

4. Do you feel that you have a better understanding of how men relate to gender and how they can be involved in gender protection and equality issues: Yes / No

5. *Before* this training, did you believe that your organisation and colleagues (circle):

- a) focused too much
 - b) too little
 - c) or just the right amount of attention
- on gender issues in the course of their work.

6. *Now*, do you feel the same way? _____

7. Have you made useful professional contacts, or learnt of new resources and materials during the training which are likely to be helpful to you in the context of your work in the future?

8. What in your opinion were the strengths of this training on gender? _____

9. What were the weakness of this training on gender? _____

10. What is your overall rating of the training (circle): Excellent; Very good; Good; Fair; Poor

11. How could this gender training be improved in the future? _____

12. On a scale of 1-5 please rate the following:

- (1) strongly disagree
- (2) disagree
- (3) neither agree nor disagree
- (4) agree
- (5) strongly agree

a) Subject matter was adequately covered _____

¹⁶ This sample evaluation form was prepared by R. Da Costa, with some adaptations from UNHCR, *Learning to Train, Annex One*.

- b) Content was suitable for my background and experience _____
 c) Programme was well paced _____
 d) Handouts were relevant _____
 e) Participants were encouraged to take an active part _____
 f) Programme met my individual objectives _____
 g) I would recommend this training to my colleagues _____

13. On a scale of 1-5 please rate the following:

(5) Excellent (3) Average (1) Poor (0) Does not apply

- a) Lecture method _____
 b) Small group sessions _____
 c) Plenary or panel discussions _____
 d) Case studies _____
 e) Role plays _____
 f) Use of checklist; action plans; force field analysis _____
 g) Film/videos _____
 h) Meeting space _____
 i) Meals / refreshments _____
 j) Overall organisation _____
 k) Other participants _____

14. Please list and rate speakers/ trainers, on a scale of 1-5

(5) Excellent (3) Average (1) Poor (0) Does not apply

Speaker	Content	Delivery of Presentations	Handouts	Visuals
<i>Speaker's name & Subject</i>	<i>(How useful will it be to you?)</i>	<i>(Was the material prepared?)</i>	<i>(Were they well prepared?)</i>	<i>(Were they well prepared?)</i>
	5 4 3 2 1 0	5 4 3 2 1 0	5 4 3 2 1 0	5 4 3 2 1 0
	5 4 3 2 1 0	5 4 3 2 1 0	5 4 3 2 1 0	5 4 3 2 1 0
	5 4 3 2 1 0	5 4 3 2 1 0	5 4 3 2 1 0	5 4 3 2 1 0

Chapter 2



Gender Concepts and Strategies

In this Chapter:

Introduction

Theme 1: An Introduction to Gender Concepts and Policies

Theme 2: Gender Mainstreaming

Theme 3: Male Involvement on Gender Issues



Introduction

A necessary pre-requisite for addressing gender issues in any context is being familiar with the basic concepts, policies and strategies related to gender and gender mainstreaming.

This chapter includes some of these essential elements, including the following: Theme 1, a glossary of gender concepts and terms, as well as UNHCR's general policy and guidelines on refugee women; in Theme 2, basic readings on gender mainstreaming in general and within the UN and UNHCR in particular; and in Theme 3, the important topic of male involvement in gender issues. Corresponding training sessions are also provided for all three themes.

In this way, this chapter lays the fundamental groundwork for the remainder of the Gender Training Kit and Resource Handbook. The background readings (Part I) in particular, are essential to the preparation of anyone conducting gender-related trainings in a refugee context, and are also recommended for others wishing to address gender considerations at the organisational, policy and operational level.

The first two training sessions in this chapter (in Theme 1) aim to provide participants with the basic concepts and vocabulary related to gender and to sensitise them to gender equality issues. They represent building blocks for further learning and training on gender issues, and are especially useful in order to prepare participants for substantive gender-related trainings in areas such as women's human rights, sexual and gender-based violence, and refugee status determination. Indeed, the recent UNHCR Guidelines on Gender-related Persecution highlight the need to understand the concepts of "sex" and "gender" in order to fully grasp the nature of gender-related persecution and take into consideration possible gender dimensions when applying the 1951 Convention. These two training sessions may therefore be conducted as is, or they may be adapted and incorporated as an introduction or refresher segment into most refugee-related trainings addressing gender issues, particularly for introductory or intermediate level audiences. The glossary of gender terms and definitions provided at the beginning of this chapter could also be a useful handout to provide to participants during any training; it is a reference document that will increase their confidence and help them quickly master the basic concepts and terminology related to gender.

The three training sessions on gender mainstreaming in Theme 2 are designed to first introduce this strategy to participants, and to walk them through the different phases and aspects of gender mainstreaming, including the planning stage, the establishment of gender teams, and the implementation and monitoring stages. Moreover, some of the preparatory reading materials (in Part I) for these trainings can also be used as practical tools to inform office practices. These include: "Best Practices: Institutionalising Gender Equality in UNHCR", with a special focus on the establishment of gender teams; the two 'advocacy' pieces for "Making Your Case that Gender Matters", which present some of the more convincing reasons for gender mainstreaming one's operations, including in a refugee context; and a chart on how to identify and address organisational resistance to gender equality and mainstreaming.

Finally, as with some of the previous training modules, the training session in Theme 3 on male involvement could be implemented as is or could complement, and be combined with other trainings in this Kit. In particular, it would be effectively combined with the training sessions on women's human rights targeting refugee women and men in chapter 3, as well as the training sessions on sexual and gender-based violence in chapter 4.



Chapter 2

Theme 1: An Introduction to Gender Concepts and Policies

Theme 1: An Introduction to Gender Concepts and Policies

In this theme:

Part I: Background Readings

- Gender Concepts and Related Terms: A Glossary
- UNHCR Policy on Refugee Women
- UNHCR Guidelines on the Protection of Refugee Women
- Refugee Women: Global Consultations on International Protection
- Overview of UNHCR Gender Equality and Refugee Women Policies

Part II: Training Sessions

- Training Session 1: An Introduction to Gender Concepts: Sex or Gender?
- Training Session 2: Gender Awareness

Links:

- Available in the **Gender CD-ROM** in this Kit:
 - Full text of UNHCR Guidelines on the Protection of Refugee Women
 - The full text of many other related UNHCR policy documents and guidelines. To ensure you are using the most recent policies and any updates, visit the UNHCR web-site: www.unhcr.org You should also include a hard copy of these in the Training Materials section of this Kit (the loose-leaf pages in the binder), under “New Policies and Reference Documents”.
- **Related Background Readings:**
 - Chapter 4: UNHCR, Code of Conduct
 - Chapter 4: In addition to the UNHCR Code of Conduct, many of the readings in chapter 4 provide concepts, terminology and background information relating to sexual and gender-based violence which are important to master for anyone addressing gender issues more generally.
 - Other UNHCR policies and guidelines specific to particular topics (e.g., gender-related asylum claims, sexual violence etc) are provided in each of the relevant chapters (Part I) in this Kit.
- **Related Training Sessions:**
 - The short training sessions in this Theme provide background knowledge essential to prepare participants for almost any other training related to gender issues. They may therefore be adapted and combined with almost any other training relating to gender if they are provided as an introductory or refresher segment. Training sessions 1 and 2 (in adapted and shortened form) are effectively combined for example, with the following:
 - The rest of the Training Sessions in chapter 2, the trainings in chapter 3 on Women’s Human Rights, in chapter 4 on Sexual and Gender-Based Violence, and chapter 5 on RSD.

Theme 1: An Introduction to Gender Concepts and Policies

Part I Background Readings

Gender Concepts and Related Terms: A Glossary¹

Sex

Refers to biologically determined differences between men and women that are universal.

Gender

Refers to the social differences between men and women that are learned, changeable over time and have wide variations both within and between cultures. Gender is a socio-economic variable to analyse roles, responsibilities, constraints, opportunities and needs of men and women in any context. The term gender generally refers to:

- The socially constructed and culturally determined characteristics associated with women and men;
- The assumptions made about the skills and abilities of women and men based on these characteristics;
- The conditions in which women and men live and work;
- The relations that exist between women and men, and how these are represented, communicated, transmitted and maintained. This includes sexual and social relations, and relations of power and control based on gender.

Gender Roles

Are socially constructed and learned behaviours in a given society/community or other social group, that condition expectations, as well as which activities, tasks and responsibilities are perceived as male and female. What constitutes what is 'masculine' and 'feminine' in any given culture. Gender roles are affected by: age, social class, race, ethnicity, religion, or other ideologies and by the geographical, economic, social and political environment. Gender roles also determine access to rights, resources and opportunities.

Gender Role Stereotyping

Refers to the portrayal, for example in the media or in books, of females and males occupying social roles according to the traditional gender division of labour in a particular society. Such gender role stereotyping works to support and reinforce the traditional gender division of labour by portraying it as normal and natural.

Gender Balance

Refers to the degree to which men and women hold the full range of positions in a society or organisation.²

Gender Gap

The disparity (measured quantitatively) between women and men, and girls and boys, in their access to resources, education, health, services or power. The reduction or expansion of gender gaps can illustrate to what extent women and men, boys and girls have benefited from project or policy interventions.

Gender Equality

By gender equality we mean that all human beings should be free to develop their personal abilities and make choices without the limitations set by strict gender roles; that the different behaviour, aspirations and needs of women and men are considered, valued and favoured equally.³

This term is also used to refer to the equal rights, responsibilities and opportunities of women and men, girls and boys. It describes the equal sharing of power between women and men, in such areas

¹. The definitions provided in this glossary have been compiled and adapted from the following sources: UNHCR, *UNHCR Middle Management Learning Program, Phase I*, Learning with UNHCR, Staff Development Section, 'Diversity and Equity' (version in use in 2001); UNHCR, "Guidelines for Mainstreaming a Gender Equality Perspective in UNHCR Reporting Mechanisms in the Field and at Headquarters" by Senior Co-ordinator for Refugee Women and Gender Equality Unit, (internal document, draft version, undated). In particular, see Annex A 'Basic Concepts', containing terms extracted from *Gender Glossary*, published by the World Food Program. Those definitions not obtained from these two sources, are otherwise noted.

². The United Nations has a goal of achieving a balance of 50-50 in all professional posts. United Nations, *Mainstreaming a Gender Perspective in Multi-dimensional Peace Operations*, United Nations, Lessons Learned Unit, Department of Peacekeeping Operations, July 2000, at 1

³. Government of Norway, *Gender Mainstreaming in Norway: Guide to Gender Impact Assessment of Government Policy*, Ministry of Children and Family Affairs, Norway, May 2000.

as their equal access to education, health, political office, and equal pay for work of equal value. It is both a human rights issue and an indicator of sustainable people-oriented development. UNHCR shares the United Nations' goal of achieving gender equality.

Gender Equity

This concept is often used in two very different ways, as follows:

- 1) In reference to the idea that one must move beyond a simplistic focus on 'equal' treatment. The concept of gender equity interpreted in this sense, highlights the importance of equality of results, rather than only formal equality of access. It calls for a differential treatment of groups in order to end inequality and foster autonomy.⁴
- 2) As referring to the fair distribution of resources and benefits between women and men, according to cultural norms and values. Interpreted in this way, the concept has different implications in different countries because it is based on different cultural standards. It is, however, usually based on the traditional perception that women and men do not necessarily have the same needs and rights. The UN system promotes gender *equality*, pushing beyond cultural definitions of gender equity.

Gender-neutral Policies

These are policies that are seen as having no significant gender dimension. However, government policies (and organisational policies in general) seldom, if ever, have the same effect on women as they do on men, even if at the first sight they may appear to exist in a context where gender is irrelevant. Thus, policies, which may appear to be 'gender-neutral', are often in fact 'gender-blind', and are biased in favour of males because they presuppose that those involved in and affected by the policy are males, with male needs and interests.⁵

Gender Perspective

A focus which introduces a framework of analysis which is used in order to assess how women and men affect, and are affected in turn by policies, programs, projects and activities in any development or relief intervention.

Gender Awareness

The recognition that the life experiences, expectations and needs of women and men are different, that many times they involve inequity, and that they are subject to change. In development and relief work, gender awareness refers to the perception and realisation of the ways in which women and men participate in the development process, how they are affected by it, and how they benefit from it. Experience has shown that without such awareness, not only will development and relief interventions fail to meet the needs and serve the interests of all the people they are intended to help, but they may further hinder the situation of women. This is also applicable to humanitarian work with refugees.

Gender Analysis

- 1) Gender analysis refers to the systematic investigation of the differential impacts of development (and humanitarian assistance) on women and men. It is a tool that should be applied throughout the project cycle (appraisal, monitoring, evaluation), as well as to any assessment of benefits, the beneficiary profiles, and the evaluation of executing agencies. It is also applied in the design and implementation of policies, in the development of human resources, and training etc.
- 2) Gender analysis also refers to the examination of a social process which considers the roles played by women and men, including issues such as the division of labour, productive and reproductive activities, access to and control over resources and benefits, and socio-environmental factors that influence women and men.

Gender Impact Assessment

Is usually conducted in order to clarify the likely consequences of a reform, policy measure or programme, for women and men respectively. It should also analyse how it affects the relationship between women and men.⁶

Gender Sensitivity

⁴. CIDA, *CIDA's Policy on Women in Development and Gender Equity*, Canadian International Development Agency (CIDA), Canada, 1995.

⁵. McGregor, E., and Fabiola Bazo, *Gender Mainstreaming in Science and Technology: a reference manual for governments and other stakeholders*, Gender Management System Series, Commonwealth Secretariat, London, June 2001, at 101

⁶. Government of Norway, *Gender Mainstreaming in Norway* at 3.

Refers to perceptiveness and responsiveness concerning differences in gender roles, responsibilities, challenges and opportunities.⁷

Strategic Gender Needs

These relate to women's empowerment and to what is required to overcome the subordinate position of women to men in society. Such needs vary according to the economic, political, social and cultural context. Most governments now acknowledge the need to create opportunities which enable women to address their strategic needs.⁸

Gender Mainstreaming

Gender mainstreaming, by definition, involves integrating a gender perspective and gender analysis into all stages of designing, implementing and evaluating projects, policies and programmes.⁹ It is a strategy whereby gender considerations are an integral part of the general analysis of any activity or policy, rather being treated as a separate issue.

ECOSOC has articulated the concept as follows:

"Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension in the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality."¹⁰

Masculinity/Masculinities

Masculinity refers to the socio-cultural experiences of manhood. The plural derives from the acknowledgement that socio-cultural contexts vary, and that accordingly, there are various ways of being a 'man'. The predominant concept of 'maleness' to which all men are expected to conform is most frequently about heterosexuality and male dominance over women; it is very much about male power and control. Contemporary literature on gender relations generally holds that it is in the interests of men to consider alternative expressions of maleness, i.e., a 're-gendering' that equalises power between men and women, increases safety for both genders and improves relationships at home, work, play and school.

Sexual Harassment

Any unwelcome, usually repeated and unreciprocated sexual advance, unsolicited sexual attention, demand for sexual access or favours, sexual innuendo or other verbal or physical conduct of a sexual nature, display of pornographic material, when it interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. In all cases it refers to conduct that is unwanted by the recipient. When behaviour of this kind is engaged in by any official who is in a position to influence career or employment conditions (including hiring, assignment, contract renewal, performance evaluation or promotion) of the recipient of such attentions, it also constitutes an abuse of power. If sexual harassment forces a recipient to leave the employment this may amount to a claim for constructive dismissal. Employers can also be held liable for employees' action if it is found in law that they have not taken all practical measures and steps to counter sex discrimination.¹¹

A Gender Equitable Environment

Is inclusive and supportive of men and women; enables optimal productivity;
Engages both men and women in decision making;
Enhances the quality of the work environment;
Harnesses women and men's diverse skills, perspectives and knowledge;
Values diverse perspectives.

⁷. McGregor, E., *Gender Mainstreaming in Science*, at 102.

⁸. *Id.*, at 103

⁹. UNDP, *Gender Mainstreaming in Practice: a Handbook*, prepared by Astrida Neimanis for UNDP (RBEC), version in use in March 2002, at 7. Also available in the Gender CD-ROM in this Kit or at the following web-site: www.rbec-surf.sk

¹⁰. Economic and Social Council (ECOSOC) Agreed Conclusions on, *Co-ordination of Policies and Activities of the Specialised Agencies and Other Bodies of the United Nations System Related to the Following Theme: Mainstreaming the Gender Perspective into all Policies and Programmes in the United Nations System*, E/ 1997/ 1.30, 14 July 1997.

¹¹. Adapted from UNHCR, *UNHCR Staff Administration & Management Manual: Procedure 1.2 and 1.2.8*, Geneva

UNITED NATIONS

A**General Assembly**Distr.
GENERAL*A/AC.96/754*
20 August 1990Original: ENGLISH
AND FRENCH

EXECUTIVE COMMITTEE OF
THE HIGH COMMISSIONER'S PROGRAMME

Forty-first session

UNHCR Policy on Refugee Women

(Submitted by the High Commissioner)

I. Introduction

1. The Executive Committee has adopted four general conclusions relating specifically to refugee women:

- During its thirty-sixth session in 1985, the Executive Committee adopted conclusion No. 39, entitled "Refugee Women and International Protection", in which it stressed the need for UNHCR and host governments to give particular attention to the international protection of refugee women.
- At its thirty-eighth session in 1987, the Executive Committee in its "General Conclusions on International Protection" noted that refugee women had protection and assistance needs which necessitated special attention in order to improve existing protection and assistance programmes, and called on all States and concerned agencies to support the efforts of the Office in this regard. It also recognised the need for reliable information and statistics about refugee women in order to increase awareness about their situation.
- In 1988, at its thirty-ninth session, the Executive Committee adopted a conclusion entitled 'Refugee Women' which elaborates further on the special vulnerability of refugee women and the particular problems that they face, notably in the area of physical security, and noted the need to promote the participation of refugee women as agents as well as beneficiaries of programmes on their behalf. The conclusion also stressed the need for 'an active senior-level steering committee' on refugee women to co-ordinate, integrate and oversee the assessment, reorientation and strengthening of existing policies and programmes in favour of refugee women, whilst ensuring that such efforts were culturally appropriate and resulted in the full integration of the women concerned. There was also emphasis on the necessity for public information on the issue of refugee women and the need for the development of training modules on the subject, in order to increase awareness of the specific needs of refugee women and the practical means of addressing these needs.
- At its fortieth session in 1989, the Executive Committee adopted a conclusion on refugee-women reiterating concern about physical safety and sexual exploitation.

It also called for a policy framework for the next stages in mainstreaming women's issues within the organisation with particular attention to the need for female field workers to facilitate the participation of refugee women. It reaffirmed the conclusions of the thirty-ninth session regarding refugee women, called for expanded training and the development of a methodology to systematically address gender issues in refugee programmes.

- In addition to the Executive Committee conclusions, UNHCR, as a United Nations agency, is obliged to implement the Nairobi Forward Looking Strategies for the Advancement of Women. Both the above noted conclusions and the strategies reflect the international community's recognition that programmes which are planned or implemented without the consultation or participation of half the target population (the women) cannot be effective and could, inadvertently, have a negative impact on their socio-

economic situation. This paper draws together the various Executive Committee conclusions and applicable United Nations resolutions into a policy framework for future action aimed at improving the situation of refugee women.

2. UNHCR's unique functions of providing protection to refugees and helping find durable solutions to their problems implies specific obligations with regard to programmes for refugee women who represent, with their dependants, over 80 per cent of the beneficiaries of UNHCR's assistance programmes. The present paper sets out the policy framework for the elaboration of an organisational work plan for the integration of refugee women into programming 1 and project activities. The Office's international protection activities on behalf of refugee women are considered in more detail in a separate paper, document *EC/SCP/59*, which also discusses in detail some of the considerations in the area of protection and assistance on which the formulations of the present paper are based. The Executive Committee's conclusions on this paper will be incorporated into the organisational work plan.
3. The present paper introduces, in Part III, the underlying principles of the policy. These are the integration of the resources and needs of refugee women into all aspects of programming, rather than creating special women's projects, and the need for each staff member to ensure that this takes place in his or her area of competence. In Part IV, the paper outlines the organisational goals for refugee women, that is, the activities which UNHCR is required to carry out in this connection under its mandate. In Part V are outlined the policy objectives, that is, the interpretation of the organisational goals at the policy level. Finally, Part VI sets out the operational objectives of the policy, that is, a series of activities at the project level to ensure the practical implementation of the policy. These objectives are based on the Nairobi Forward Looking Strategies for the Advancement of Women and the conclusions adopted by the Executive Committee since its thirty-ninth session.

II. General

4. The policy set out in this document is premised on the recognition that becoming a refugee affects men and women differently and that effective programming must recognise these differences. Furthermore, to understand fully the protection needs and assistance resources of the refugee population, and to encourage dignity and self-sufficiency, refugee women themselves must participate in planning and implementing projects. Socio-cultural and economic roles can, to a great extent, determine the pattern of such participation. Traditional roles are often disrupted and then either undermined, or reinforced by the refugee situation. It is therefore essential that organisations working with refugees recognise that special initiatives must often be taken to ensure that all refugees have the opportunity to contribute to activities planned for them.

III. The basic principle: Mainstreaming/ Integration

5. It is the intention of UNHCR to integrate the resources and needs of refugee women in all aspect of programme planning and implementation. This does not mean that separate "women's" projects are to be initiated or added on to existing general programme activities. Nor does it mean that responsibility for this process will rest with one work unit. It is the responsibility of each staff member to ensure that it takes place within his or her area of competence. The following terms and definitions are useful in understanding this concept.

What are programmes or projects which mainstream/integrate refugee women?

6. Any intervention, emergency, mid or long-term, will have a different impact on men, women and children. Protection and assistance programmes or projects which mainstream/integrate refugee women are based on an explicit recognition of this fact. In activities which mainstream refugee women, action is taken to enable refugee women to participate and make a positive contribution.
7. Planning for such projects includes more than women's social role as daughter/wife/mother. It highlights a woman's economic role as income-earner for herself and her family, producer and/or manager of food, provider of fuel and water, and her religious, cultural and political activities. These roles, and, even more importantly, the change in these roles created by the refugee situation, are frequently overlooked by planners. Consequently, interventions which do not take these factors into consideration may be inappropriate to women, tend to isolate them from mainstream project activities, further reinforce their dependency, and force them into unaccustomed social or economic roles.
8. The concept of mainstreaming refugee women arose from a better understanding of the implications of the division of labour between women and men. A programme which integrates refugee women will have taken into consideration factors influenced by the male/female roles in a society and included these in the planned activity with a view to benefiting the whole target population, not marginalising a portion of it. Refugee women are emphasised because, inadvertently, planners have often overlooked them. Until needs assessment and participation of all segments of a target group are integral to good planning, attention must be consistently drawn to refugee women. This will ensure that they are included in mainstream activities, not made peripheral to them or segregated into "women's projects".

Projects that focus on refugee women as a target group are not necessarily mainstreaming/ integrating projects

9. The provision of goods to refugee women, that is, when women are passive recipients of shelter or food aid, is not in itself integrating refugee women. Neither is the provision of services to refugee women and their families necessarily an integrating activity. However, the provision of goods and services to refugee women may be part of a project or programme which mainstreams or integrates refugee women. For example, if women as well as men are consulted on the type of shelter required and the resources available to set up and maintain this shelter, then they have been integrated in the overall project. If women are asked about traditional diet, food preparation, and participate in the distribution and allocation of food, then they have been integrated into this activity.
10. By interpreting UNHCR's policy and operational objectives, the meaning of mainstreaming in a project becomes clearer. For example, projects may:
 - identify constraints to women's participation related to project delivery procedures;
 - respond to the initiatives of refugee women to improve their own situation;
 - make available appropriate technologies that alleviate time and energy demands on refugee women;
 - collect statistics indicating the male/female breakdown of the population and prepare baseline case studies in order to identify and to eliminate unintentional discrimination in delivering goods and services and thereby improve planning of future activities.
11. In its broadest sense, a UNHCR programme or project which mainstreams refugee women should attempt to:
 - achieve greater involvement of refugee women both as participants and beneficiaries in the social and economic activities of the project;
 - increase their status and participation in the community/society;
 - provide a catalyst through which they can have access to better employment, education, services and opportunities in their society;
 - take into account the particular social relationship between the refugee women and their families.

Underlying these broad definitions is the assumption that refugee women are participating or should participate at all levels of project and programme development, from the initial identification of resources and needs to the evaluation stage.

IV. Organisational goals

12. The organisational goals of UNHCR regarding refugee women are:
 - a) to provide protection appropriate to their specific needs;
 - b) to identify an appropriate durable solution;
 - c) to provide assistance which will encourage the realisation of their full potential and encourage their participation in preparing for the durable solution.

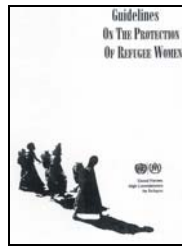
V. Policy objectives

13. The policy objectives which support the overall organisational goals are:
 - a) to recognise that refugee women represent, either as single women or with their dependants, approximately 80 per cent of UNHCR's target population and that programmes can be effective only if they are planned with an adequate understanding of, and consultation with, this group;
 - b) to ensure that the specific protection needs and the legal rights of refugee women are understood and that adequate measures are taken to respond;
 - c) to support the efforts of refugee women by recognising their needs and resources and ensuring their participation in UNHCR's protection and assistance activities;

- d) to ensure that the differing needs and resources of refugee women and refugee men are considered in programme activities and where necessary for cultural or social reasons, undertake special efforts to develop specific activities to ensure women benefit equally from programmes;
- e) to place particular emphasis on strategies to protect and assist refugee women, recognising that becoming a refugee can result not only in an unaccustomed social role such as becoming a single head of household or being without extended family support but also in substantially increased physical workload in building and maintaining the future of the entire family;
- f) to ensure that refugee women are equitably represented in resettlement programmes;
- g) to encourage each staff member and staff of implementing partners to ensure that the integration of refugee women's resources/needs takes place in his/her area of competence.

VI. Operational objectives

14. Operational objectives provide the basis for the development of appropriate activities and work plans to support implementation of UNHCR's Policy on Refugee Women. These are:
- a) to develop mechanisms to ensure that the resources and needs of refugee women are addressed in all stages of programme (protection and assistance) planning, management and evaluation systems;
 - b) to co-operate with implementing partners, other United Nations institutions, governments and development agencies with a view to benefiting from their experience in women in development activities and, where appropriate, adapting these to UNHCR's specific programming requirements, sharing with them the long-term development implications specific to the situation of refugee women and appropriate methods of incorporating their specific needs and resources into programming activities;
 - c) to develop communication strategies to call attention to the situation of refugee women of the public, NGOs, other United Nations agencies, donors, and host countries;
 - d) to develop specific plans for each organisational work unit within UNHCR which will encourage and facilitate consultation and participation of refugee women, and serve as a means of monitoring and maintaining this consultation and participation;
 - e) to develop training courses for staff of UNHCR and implementing partners to assist them in identifying opportunities for increased participation of refugee women in their areas of competence;
 - f) to improve the efficiency and effectiveness of protection and assistance programmes by ensuring that adequate attention is given to the needs and resources of all members of the target population;
 - g) to review and, where necessary, amend existing policies to ensure that they adequately take into consideration the situation and participation of all members of the target population;
 - h) to improve data collection and needs assessment in order to have a more accurate representation of the refugee population in order to target programmes more effectively to specific social groups;
 - i) to ensure that there are adequate female field staff to work with refugee women, and, accordingly, to review staffing and recruitment policies to ensure that there is an equitable representation of female staff and that this is adequately reflected in appointments, posting and promotion activities by UNHCR.
 - j) to review present operational activities and identify means of improving them in order to facilitate participation of refugee women, and achieve a greater understanding of their needs and resources.



UNHCR
GUIDELINES ON THE PROTECTION OF REFUGEE WOMEN
 Geneva, July 1991

TABLE OF CONTENTS

(Excerpts. Full text available in Gender CD-ROM)

I	Introduction
√	Background
√	Legal framework
√	Beyond legal measures
	Purpose of the Guidelines
	Structure of the Guidelines
II	Assessment and Planning
	Purpose of the assessment and planning process
	Questions to be answered by assessments
	How and where to get information
	Evaluating and using information
III	Protection Needs and Responses
	Physical security
	Legal procedures and criteria for the determination of refugees status
IV	Addressing Protection through Assistance
	Introduction
	Camp design and layout
	Access to food and other distributed items
	Water and firewood
	Access to appropriate health care
	Education and skills training
	Economic activities
V	Follow-up and Reporting of Protection Problems
	Introduction
	Planning a response
	Individual cases
	Pattern of protection problems
	Reporting

UNHCR Guidelines on the Protection of Refugee Women (Excerpts)

INTRODUCTION

Background

1. Protection is at the heart of the responsibility that the international community bears towards refugees. Refugees as a group are doubly disadvantaged and thus vulnerable to actions that threaten their protection. First, refugees are victims or potential victims of human rights abuses, conflicts and other acts of aggression. Second, they are outside of their own countries and unable or unwilling to afford themselves of the protection that their own governments should provide. International protection entails taking all necessary measures to ensure that refugees are adequately protected and effectively benefit from their rights.
2. Women share the protection problems experienced by all refugees. Along with all other refugees, women need protection against forced return to their countries of origin; security against armed attacks and other forms of violence; protection from unjustified and unduly prolonged detention; a legal status that accords adequate social and economic rights; and access to such basic items as food, shelter, clothing and medical care.
3. In addition to these basic needs shared with all refugees, refugee women and girls have special protection needs that reflect their gender: they need, for example, protection against manipulation, sexual and physical abuse and exploitation, and protection against sexual discrimination in the delivery of goods and services.
4. These guidelines follow the general framework outlined in the UNHCR Policy on Refugee Women, adopted by the forty-first Session of the Executive Committee. The underlying principle of the Policy is to integrate the resources and needs of refugee women into all aspects of programming to ensure equitable protection and assistance activities. The guidelines also recognise that special efforts may be needed to resolve problems faced specifically by refugee women.

Legal framework

5. The basic structures and legal instruments to ensure the protection of refugees were established forty years ago. The Office of the UN High Commissioner for Refugees was set up as of 1 January 1951, and the UN Convention Relating to the Status of Refugees was adopted in July 1951. The essential purpose of the Convention was to provide a general definition of who was to be considered a refugee and to define his or her legal status. Paragraph 1 of the Statute of the Office of the United Nations High Commissioner for Refugees (General Assembly Resolution 428 (V) of 14 December 1950) formally mandates the High Commissioner to provide international protection to refugees falling within his or her mandate, and to seek durable solutions to their problems. Since then, in accordance with the Statute, the UN General Assembly has extended the competence of UNHCR through a series of resolutions to cover returnees and displaced persons of concern to the Office.
6. Ensuring the protection of refugee women requires adherence not only to the 1951 Convention and its 1967 Protocol but also to other relevant international instruments such as the Universal Declaration of Human Rights; the 1949 Geneva Conventions and the two Additional Protocols of 1977; the 1966 Human Rights Covenants; the Convention on the Elimination of All Forms of Discrimination Against Women; the Declaration on the Protection of Women and Children in Emergency and Armed Conflict; the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages; the Convention on the Nationality of Married Women; and the Convention on the Rights of the Child. While individual States may not be parties to all of these instruments, they do provide a framework of international human rights standards for carrying out protection and assistance activities related to refugee women.
7. From these various international instruments can be drawn principles of equity that should underlie all policies and programmes established for refugees by UNHCR. To quote from Article 1 of the UN Convention on the Elimination of All Forms of Discrimination Against Women, no distinction, exclusion or restriction is to be made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality

of men and women, of human rights and fundamental freedoms in the political, social, cultural, civil or any other field.

8. In addition to international law, the national law of the country of asylum governs the protection of refugee women. Signatories to the 1951 Convention or the 1967 Protocol agree to co-operate with UNHCR in the exercise of its functions and, in particular, its duty of supervising the application of the provisions of the Convention and Protocol (Articles 35 and II, respectively).

Further, national laws and policies determine what legal status an individual receives, where she will live, and what assistance will be provided. Also, many of the offences against women, such as rape and physical attack, are punishable by national law. A further legal framework, within the national framework, is provided by the legal codes and processes adopted for internal use in refugee camps. It is particularly important that these instruments of self-governance have provided for the protection of refugee women.

Beyond legal measures

9. International protection goes beyond adherence to legal principles. Equally important, the protection of refugee women requires planning and a great deal of common sense in establishing programmes and enforcing priorities that support their safety and well being. Thus, international protection of refugee women must be understood in its widest sense. Refugee women who are unable to feed, clothe and shelter themselves and their children will be more vulnerable to manipulation and to physical and sexual abuse in order to obtain such necessities. Refugee women who are detained among strangers and/or where traditional social protection systems no longer exist, will face greater dangers than those living among family and friends. Refugee women who must bribe guards to obtain firewood, water or other essential goods will be more susceptible to sexual harassment. Moreover, refugee women who formerly had a means of expressing their views in the community may find themselves unable to do so in the camp management committees established by assistance organisations.
10. As these examples indicate, the intrinsic relationship which exists between protection and assistance is particularly evident in relation to refugee women, female adolescents and children. Protection concerns can often be best addressed through assistance-related measures. Conversely, the planning and implementation of assistance programmes can have direct, and sometimes adverse, consequences for the protection of refugee women if they ignore their special needs.
11. To understand fully and address the protection concerns of refugee women, they themselves must participate in planning protection and assistance activities. Programmes which are not planned in consultation with the beneficiaries, nor implemented with their participation, cannot be effective. Since a large proportion of refugees are women, many solely responsible for their dependent children, it is essential that they be involved in planning and delivery of assistance activities if these are to be properly focused on their needs.
12. Participation itself promotes protection. Internal protection problems are often due as much to people's feelings of isolation, frustration, lack of belonging to a structured society and lack of control over their own future as they are to any other form of social problem. This may be particularly evident in overcrowded camp conditions. Refugee participation helps build the values and sense of community that contributes to reducing protection problems.
13. Relief officials often point to cultural constraints in involving women in decision-making, particularly where women have had a limited role in the country of origin. Looking to women as decision-makers under these circumstances, they argue, amounts to tampering with the culture of the group.
14. These relief officials may, however, have only a superficial understanding of the socio-cultural roles of women. Their concerns may reflect the cultural biases of the officials and/or inadequate understanding of both the traditional cultures and the new circumstances in which refugee women find themselves. Prior to flight, women typically have opportunities to express their concerns and needs, sometimes through their husbands and other times through traditional support networks. In refugee camps, however, many women are unable to participate through such traditional mechanisms as these have broken down. Alternative arrangements must be made to ensure that their voices are heard and the perspectives that they have to offer are included in decision-making. It is essential, therefore, that organisations working with refugees recognise that special initiatives may be needed so that refugee women have the opportunity to contribute to activities being planned.

15. In many cases, the government, personnel of other organisations and/or community leaders will need to agree formally or informally to the plans for ensuring protection of refugee women if they are to be effective. They may have objections based on traditional concepts about the role of women in the cultures of the country of origin or the country of asylum. In these situations, it is essential that they understand:

- the responsibilities of UNHCR regarding the protection of refugee women; and
- the requirement that UNHCR uphold international instruments that guarantee equity between men and women as well as the non-discriminatory use/distribution of UNHCR assistance.



GLOBAL CONSULTATIONS
ON INTERNATIONAL PROTECTION

EC/GC/02/8
25 April 2002

4 th Meeting

Original: ENGLISH

REFUGEE WOMEN

I. INTRODUCTION

1. Over the past ten years, UNHCR and its partners have made concerted efforts to address the protection concerns of refugee women, representing 51 percent¹² of persons of concern to UNHCR. Yet refugee women continue to be disproportionately affected by physical and sexual violence and abuse, have unequal access to asylum procedures and humanitarian assistance and often do not receive individual identity documents. International laws,¹³ standards and policies on this issue abound: the problem is that they are inadequately implemented.

2. This paper analyses the five most salient and sometimes inter-related protection concerns facing refugee women today: safety and security; equal access to humanitarian assistance; registration and documentation; gender-sensitive application of refugee law and procedures; and trafficking in women and girls. After briefly discussing the problems and their underlying causes, the paper proposes concrete recommendations for action. The recommendations are drawn from international human rights law, Executive Committee Conclusions, guidelines and policies, and build on a series of meetings held over the last two years within and outside the Global Consultations process¹⁴ In order to facilitate discussion and follow-up, the proposed core action identified under each of the five subject headings is framed in boxes in the text of this paper.

3. Underlying these recommendations is the principle that refugee women must be able to participate as equals in the decision-making bodies and processes that affect their lives, from camp committees to conflict resolution.¹⁵ Since women's participation in leadership roles may be rare in some social systems, it is equally important to ensure that men are involved in all attempts to achieve a more equal gender balance. Gender equality mainstreaming in projects and programmes is crucial to ensuring that activities benefit both women and men. Clearly, the protection of refugee women requires a two-pronged approach: gender equality mainstreaming and targeted, specific action.

II. SAFETY AND SECURITY

4. Displacement magnifies social problems in general and violence against women in particular. The breakdown in social and cultural structures and norms, the separation from and loss of family members and traditional support networks, and failure to prosecute perpetrators of violence all work against the safety and security of refugee women. Given their age, refugee girls are at even greater risk of abuse and so must be included in all programmes promoting gender equality and in any measures designed to protect children.¹⁶

5. While refugee women and men may face the same kinds of harm, women are often subject to specific forms of gender-related abuse and violence such as rape, abduction or an offer of protection documents or assistance in exchange for sex. Poor camp design, such as no lighting or no readily accessible cooking fuel, can turn washing or collecting firewood into a dangerous activity for women.

6. Detailed guidelines on protecting refugee women exist,¹⁷ but until they are systematically implemented, refugee women will remain at risk of violence and abuse. Some programmes designed to combat gender-related

¹² Based on available statistics as of 19 July 2001. See *Women, children, and older refugees: the sex and age distribution of refugee populations with a special emphasis of UNHCR policy priorities*, UNHCR, Geneva, 2001.

¹³ International human rights law prescribes non-discrimination as a fundamental precept. See in particular the 1979 Convention on the Elimination of All Forms of Discrimination against Women.

¹⁴ See latest *Overview of Events relating to the Protection of Refugee Women and Refugee Children* at www.unhcr.org, under Global Consultations.

¹⁵ See UN Security Council Resolution 1325 (2000), para.2 of 31 October 2000, calling for an increase in the participation of women at decision-making levels in conflict resolution and peace processes.

¹⁶ See *Refugee Children* (EC/GC/02/7)

¹⁷ *Guidelines on the Protection of Refugee Women* (UNHCR, Geneva, July 1991) and UNHCR's *Sexual Violence Against Refugees: Guidelines on Prevention and Response* (Geneva, 1995).

violence are implemented without observing the principle of confidentiality or do not engage all relevant sectors (legal, health, security, community services, and programme) in a co-ordinated response. Perpetrators of sexual violence against refugee women often act with impunity because refugee women may have no access to the legal systems in host countries, because police are either directly or indirectly involved, or because human rights violations are justified in the name of culture, religion or tradition. Women's security must be seen as integral to the security of the whole society, since refugee women are often responsible for the elderly, the disabled and children.¹⁸

7. To address these issues of safety and security, the following recommendations are made:

(i) States, UNHCR and other relevant actors should ensure that gender-sensitive prevention and response mechanisms to gender-related violence are an integral part of all programmes in all refugee contexts, using a multi-sectoral approach and co-ordinated with relevant actors, including in relation to design and location of camps, health services, community or social services, food and non-food items distribution, micro-credit and other self-reliance projects, and local integration/voluntary repatriation programmes and access to resettlement opportunities.

(ii) UNHCR needs to monitor and evaluate prevention and response mechanisms to gender related violence, applying a gender-sensitive methodology.

(iii) The Inter-Agency Lessons Learned Conference on Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations, held in Geneva, 27-29 March 2001 and the Dialogue with Refugee Women, organised in Geneva, 20-22 June 2001, by UNHCR and the Women's Commission for Refugee Women and Children, have provided valuable impetus for further action, including recommendations for:

- full implementation by all actors of UNHCR's *Guidelines on the Protection of Refugee Women* (Geneva, 1991), UNHCR's *Sexual Violence Against Refugees: Guidelines on the Prevention and Response* (Geneva, 1995) and the High Commissioner's *Commitments to Refugee Women* (12 December 2001);
- updating by UNHCR of these guidelines;
- training in human rights and refugee protection instruments, as well as gender equality mainstreaming techniques by States and UNHCR;
- identification of individual refugee women and girls with special protection needs by States and UNHCR, appropriate follow-up and tailoring of refugee programmes and responses to meet their needs, through, for example, sensitising and training refugee women leaders to these issues, ensuring their access to appropriate governmental departments and UNHCR in a confidential manner, and regular protection monitoring.

(iv) State and UNHCR should establish and/or reinforce clear and accessible complaints mechanisms by States and UNHCR for victims of gender-related violence, taking into account principles of confidentiality, and ensuring immediate and longer-term follow-up, such as referral to medical, police, or counselling services, and consideration of durable solutions such as resettlement.

(v) States should implement UNHCR's Revised Guidelines on Applicable Standards relating to the Detention of Asylum-Seekers (26 February 1999), ensuring in particular that women are never placed in dangerous proximity with unrelated men.

(vi) To end impunity, sufficient resources should be allocated to address deficiencies in national law and enforcement mechanisms (such as, the police and judiciary), requiring in most cases, an inter-agency approach involving UNHCR, its implementing partners, and other international and non-governmental organisations working in these fields. For its part, UNHCR needs to develop a code of conduct as a prevention tool, for its own staff, as well as staff of its implementing partners. States and UNHCR should provide the necessary information to refugee women and girls to enable them to assert their rights in the host country, and to allow unhindered access to the police and other authorities.

III. EQUAL ACCESS TO HUMANITARIAN ASSISTANCE AND ESSENTIAL SERVICES

8. As was recently revealed in West Africa, inequalities in access to humanitarian assistance can have grave consequences for women and girls: they may be rendered vulnerable to exploitation by those in charge of their care. In addition, gender-related barriers exclude women from full participation in society. In most cases, those barriers exist because of the failure to mainstream gender considerations into refugee programmes. Sometimes,

¹⁸ See Executive Summary of Report of International Expert Seminar, Improving the Security of Refugee and Displaced Women, 24-25 January 2002, Oslo, Norway, organised by the Norwegian Ministry of Foreign Affairs, the Norwegian Institute of International Affairs, the International Peace Research Institute, and the Norwegian Refugee Council.

those obstacles are purposely created by officials, camp guards, or husbands to exclude or minimise the interests of refugee women.

9. Women must be able to participate fully in decision-making and committee structures in refugee camps, at distribution points for food and non-food items, in self-reliance programmes, and in paid employment. This is both a right of women and a way to ensure that decisions will be beneficial to them as well. In addition, their involvement helps to provide protection for children, disabled refugees and the elderly, as women generally care for these members of society. Equally important, providing refugee women with direct access to humanitarian assistance reduces the risk of exploitation.

10. Every programme, in both camp and urban environments, should be analysed, designed and implemented according to its potential impact on refugee women and men. Implementing targeted projects for refugee women can help redress discriminatory practices or unequal treatment. A process of gender equality mainstreaming also requires that initiatives and activities are equally accessible to both women and men.

11. In order to ensure equal access to humanitarian assistance, the following recommendations are made:

(i) States, UNHCR and other relevant actors need to ensure that women participate equally in decision-making in all areas of refugee camp life as well as in the implementation of such decisions; and that protection and gender-sensitive approaches are applied at every stage of programme development, implementation, monitoring, and evaluation.

(ii) States and UNHCR should allow and encourage refugee women to use their skills and capacities in recognition that empowered women are better enabled to contribute to their own and their communities' protection.¹⁹

(iii) All actors should implement fully UNHCR's Guidelines on the Protection of Refugee Women (Geneva, 1991) and the High Commissioner's Commitments to Refugee Women, notably:

- equal involvement of refugee women in the distribution of food and other resources in order to guarantee access, and to monitor it scrupulously;
- equal and effective access of refugee women to skills-training, vocational programmes, income-generation activities, and paid employment;²⁰
- equal and effective access of refugee girls to primary, secondary and vocational education programmes, scholarships and grants;²¹
- employment of female staff in the various services, particularly health, protection and counselling services.

IV. REGISTRATION AND DOCUMENTATION

12. Accessing assistance and services and enjoying basic rights, including freedom of movement and family reunification,²² is often dependent on proof of identity. Refugee women who lack adequate registration and personal documentation, including identify cards, marriage certificates, divorce certificates, and birth certificates for their children, have sometimes been denied their freedom of movement and access to essential services. Refugee women have been unable to claim or inherit property upon return, to seek support for children from estranged husbands or partners, or have been arrested and detained by police all because they do not have proper documents²³. Registering refugee women and providing personal documents has long been considered as a right, yet refugee registration cards and other essential documents are often issued only to husbands and male relatives²⁴. Gender-sensitive registration processes are equally important in the context of voluntary repatriation.

13. To ensure access to assistance and services, and to safeguard the enjoyment of basic rights, the following recommendations are made:

¹⁹ UNHCR and Women's Commission for Refugee Women and Children: Respect our Rights: Partnership for Equality – Report on the Dialogue with Refugee Women, held in Geneva, 20-22 June 2001.

²⁰ See also Articles 10 and 11 of 1979 Convention on the Elimination of All Forms of Discrimination against Women

²¹ *Ibid.*

²² Family unity and reunification was the focus of an expert roundtable as part of Second Track of the Global Consultations on International Protection, Geneva, 8-9 November 2001. See *Summary Conclusions – Family Unity* at www.unhcr.org, Global Consultations, Second Track.

²³ See Article 27 of the 1951 Convention relating to the Status of Refugees; UNHCR's *Guidelines on the Protection of Refugee Women* (Geneva, 1991); Executive Committee Conclusions no.64 (XLI) 1990 (a) (viii); no.73 (XLIV) of 1993, (c); no.91 (LII) 2001. See also *Reception of asylum-seekers, including standards of treatment, in the context of individual asylum systems* (EC/GC/01/17), third meeting of Global Consultations on International Protection, September 2001.

²⁴ See Dialogue with Refugee Women, note 8 above.

(i) Application of Executive Committee Conclusion No.91 (LII) of 2001:

- all refugees, women and men alike, should be registered individually and receive individual documentation, so as to improve their security, freedom of movement and access to essential services;
- registration should be conducted in a non-intimidating, non-threatening and impartial manner, with due respect for the safety and dignity of refugees.

(ii) States should register the births, deaths, marriages, and divorces, of refugees and provide school certificates, without cost.

(iii) Personnel carrying out registration of camp populations or registration for voluntary repatriation should be adequately trained, including in relation to gender-sensitive interviewing techniques; and equal numbers of female officers, interviewers and interpreters should be ensured.

(iv) The participation of refugee women in any pre-registration or voluntary repatriation information sessions should be ensured and women leaders should be recruited to monitor the registration process, in particular in relation to access to registration points, and to act as focal points for related concerns of other women.

(v) The registration process should be used as an initial mechanism to identify women with any special protection concerns and to ensure appropriate follow-up.

(vi) Consideration should be given in some operations to allow women and men over the age of 18 to sign the Voluntary Repatriation Form.

V. GENDER-SENSITIVE APPLICATION OF REFUGEE LAW AND PROCEDURES

14. Over the past decade, the understanding of how gender issues can be interpreted in refugee law has advanced both in theory and in practice. The refugee definition, itself, allows for an array of valid gender-based asylum claims, including fear of female genital mutilation, severe forms of domestic violence, and fear of reprisals or retaliation from trafficking rings in the case of a trafficked woman's being returned to her home country. In addition, most countries recognise non-State actors of persecution, including husbands or partners who violate a woman's human rights, where the State is unable or unwilling to protect against persecution.

15. A growing number of States now ensure that female asylum-seekers are offered legal advice and information about the asylum process in a manner and language they can understand. Women are encouraged to make independent and confidential applications for asylum, without the presence of male family members. The number of trained female interviewers, interpreters and decision-makers has increased in many asylum systems. Without these minimum safeguards, the refugee claims of women would often not be heard.²⁵

16. Nevertheless, more could be done to protect female asylum-seekers. Given the lack of harmonised approaches and interpretations, an asylum-seeker can be denied refugee status in one jurisdiction but obtain it in another. Without information about gender-related persecution in a woman's country of origin, it is impossible to make a valid assessment of an asylum-seeker's claim for refugee status. While there has been progress in the area of gender-related persecution in general, there are still many States that have not adopted gender-sensitive interpretations of refugee law or that have not implemented appropriate procedural safeguards to ensure that women's claims are heard.

17. In order that refugee law and procedures are properly applied in a gender-sensitive manner, the following recommendations are made:

(i) States, who have not already done so, should ensure the gender-sensitive application of refugee law and procedures, in line with UNHCR's Guidelines on Gender-Related Persecution). UNHCR should offer advice and support where necessary. In this regard:

- Refugee women should be given legal advice, access to the refugee status determination process, and information about the process in a manner and language they can understand;
- Women asylum-seekers should be interviewed separately, without the presence of male family members, so that they have an opportunity to present their case, based on the clear understanding that they may have a valid claim in their own right;
- Claimants should be informed of the choice to have interviewers and interpreters of the same sex as themselves²⁶. These should be provided automatically in the case of women claimants. Immigration officials and decision-makers should be trained in gender-sensitive interviewing techniques and interpretations of the

²⁵ See also *Asylum Processes (Fair and Efficient Asylum Procedures)* (EC/GC/01/12), section VII, para. 50 (n), second meeting of Global Consultations on International Protection, June 2001.

²⁶ See also Executive Committee Conclusion no.64, (XLI) 1990, Refugee Women and International Protection, (a) (iii).

refugee definition; other relevant officials in contact with refugees should also receive gender-sensitive training;

- States, UNHCR and other actors should include information in country of origin reports on the general situation facing women and, in particular, on gender-related persecution.

VI. TRAFFICKING IN WOMEN AND GIRLS

18. Trafficking rings flourish in armed conflict and other situations of insecurity and chaos, and refugee women and girls are at particular risk of being targeted by these rings. Separated from their families, with no access to local integration or self-reliance opportunities in host communities, refugee women and girls may accept low-paid jobs only to find themselves forced into prostitution and sexual slavery.

19. Some trafficked women may be able to claim refugee status under the 1951 Convention.²⁷ The forcible or deceptive recruitment of women or minors for the purposes of forced prostitution or sexual exploitation is a form of gender-related violence or abuse that can even lead to death. It is certainly a form of torture and cruel, inhuman or degrading treatment, and can impose serious restrictions on a woman's freedom of movement. In individual cases, being trafficked could therefore be the basis for a refugee claim where the State has been unable or unwilling to provide protection against such harm or threats of harm. It is crucial to the protection of individual women for States to ensure that trafficked women and girls who wish to seek asylum also have access to asylum procedures.

20. To ensure that trafficking in women and girls is recognised as a potential issue in the refugee context, the following recommendations are made:

- (i) Trafficked women and girls seeking asylum should have access to asylum procedures;
- (ii) UNHCR should examine under which circumstances the refugee definition applies to trafficked persons;
- (iii) UNHCR, in its role as co-chair for 2002 of the Inter-Governmental Organisations Contact Group on Human Trafficking and Smuggling initiated by the Office of the High Commissioner for Human Rights, should ensure that the concerns of refugee women and girls are taken into account.

VII. CONCLUSION

21. States, UNHCR and other relevant actors must ensure that all policies and programmes contain a gender perspective to ensure that women and men benefit fully and equally from decision-making, planning and implementation. This means that women must participate in decision-making processes at all levels. Every day, refugee women challenge customs and traditions that prohibit their full participation in economic, social, cultural and political life in order to be able to provide for themselves and their families. Although displacement often results in serious protection problems for women, it could also ultimately lead to women's greater participation in their own societies.

Overview of UNHCR Gender Equality and Refugee Women Policies²⁸

Introduction

UNHCR's policies on women and gender equality have evolved as assumptions about refugee women²⁹ have changed over time. One of the assumptions at the centre of the organisation's initial protection and assistance policies was that such policies were gender neutral and that assistance reached all the relevant population regardless of age and sex. However, it became apparent that this approach did not work, particularly in emergency situations.

As of 1989 therefore, guidelines and policies specific to refugee women were adopted and the position of senior co-ordinator for refugee women was created. Some of the UNHCR policies instrumental in

²⁷ See also Executive Committee Conclusion no.64, (XLI) 1990, Refugee Women and International Protection, (a) (iii).

²⁸ This paper was presented by Nemia Temporal, UNHCR Senior Regional Adviser for Refugee Women and Gender Equality for Europe and Central Asia, at the UNHCR "Training of Trainers on Gender Protection" training workshop, held in Ankara, Turkey, June 11-15, 2001.

²⁹ The term 'refugee women' used in this text, as well as in the remainder of the Kit refers to women deserving of UNHCR assistance and protection, including (but not limited to) asylum seekers, recognised refugees and internally displaced persons.

creating change include: the *UNHCR Policy on Refugee Women* (1989)³⁰; the *Guidelines on the Protection of Refugee Women* (1991); the guidelines on *Sexual Violence Against Refugees* (1995); and the *People-Oriented Planning (POP)* framework (1992).³¹

More recently, we have seen yet a further shift in UNHCR which has been largely attributable to the influence and impact of global developments in the field of women's rights and gender mainstreaming. Some of the global developments which have had a particularly strong influence on UNHCR policy include: global meetings on the situation of women, including those held in the context of the Beijing Platform for Action; increased attention to and monitoring of the situation of women in the context of the Convention on the Elimination of Discrimination Against Women (CEDAW); and the 1997 ECOSOC Agreed Conclusions on the theme of 'Mainstreaming the Gender Perspective Into All Policies and Programs in the United Nations System'. Partly as a result of these, UNHCR now places the emphasis on a gender equality perspective and has adopted a more rights-based approach in responding to the specific needs of women.

At the same time, a number of initiatives and strategies have been developed in order to translate these policies and guidelines into concrete tools and actions, and also to facilitate gender mainstreaming efforts by country operations. In-house mechanisms to strengthen and broaden accountability for gender mainstreaming are being advocated through some of the following, for example: the formation of country gender teams; the inclusion of a gender perspective in the CMS (Career Management System) objectives and performance appraisal of staff; the systematic integration of a gender component in regular reporting mechanisms such as, the Country Operations Plan and the Annual Protection Report; and the inclusion of gender topics in the training programmes of the organisation.

In addition to the above, other practical tools and activities have been developed to assist UNHCR staff perform specific gender-related functions. These include a checklist on gender-sensitive asylum procedures³², this *Gender Training Kit on Protection*, and a training the trainers programme entitled 'Training of Trainers on Gender and Protection'.³³ While some of these strategies and tools are specific to the CIS/ Eastern Europe region, they do nonetheless reflect the changes that have taken place at the level of UNHCR's organisational policies and approach to gender.

This shift in policy and approach can be illustrated by the patterns and evolution discussed below.

Views and Assumptions about Refugee Women

When we think of refugee women some of the assumptions and associations which come to mind include:

- women are responsible for the children and as such, need to attend to the needs of their children before they can participate in other areas or activities;
- the extra tasks taken on by women implies a shift from their traditional roles;
- it is necessary to meet the most basic needs of refugees first before their educational needs are considered. Preference in education is given to boys and men;
- women and children make up the majority of the UNHCR caseload;
- women are dependent on their husbands, and it is often taken for granted that the man will be the primary asylum applicant;
- women have little access to information;
- women have different reproductive and health needs;
- they are reluctant to discuss violence against women, including domestic violence.

Approach to Assistance

How do these assumptions relate to programme assistance? Generally, they have led to women being classified as part of the vulnerable caseload. Casting women as vulnerable often means they are seen as:

³⁰ At the time of this presentation, this policy document was under revision.

³¹ . Please refer to the bibliography for the complete reference to these documents.

³² This checklist is entitled " Minimum Standards for Gender-Sensitive Asylum Procedures", and was produced for the CIS/Eastern Europe and Turkey, but has a wider application. It is available in Chapter 5 in this Kit.

³³ . This UNHCR pilot gender training program had already included the following two training sessions as of the date of publication of this Kit: the first, 'Training of Trainers on Gender', took place 11-15 June 2001, and the second, in December 2001, both held in Ankara, Turkey, organised by the UNHCR Senior Regional Adviser for Refugee Women and Gender Equality for Europe and Central Asia, RO, Turkey.

- weak and unable to cope unless assistance is provided;
- subject to additional risks;
- unable to make decisions and take action;
- being in a subordinate position

Justifying assistance to women by categorising them as vulnerable is a pattern which tends to create dependency on assistance. It also fails to take into account that where women are truly vulnerable, their vulnerability often stems from or is exacerbated by the unequal power relations between men and women. For example, the fact that women tend to be dependant asylum claimants (even when they may have a legitimate refugee claim on their own merits) and men the principal applicants, makes women more vulnerable. Moreover, of those women who are indeed vulnerable, some are vulnerable on the basis of their sex, while others are made vulnerable because of their gendered roles.

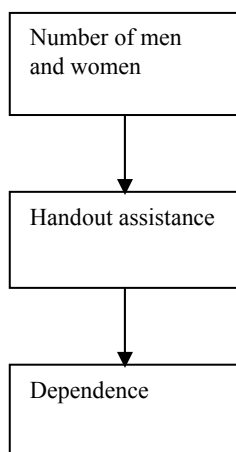
However, of course, not all refugee women are vulnerable, and experience has shown us that the situation of women can and often does change. They can take on new roles and carry out new responsibilities. For example, in some parts of the CIS, it has been found that single refugee men are generally more targeted and harassed than women, or men who are accompanied by women. Thus, it is women who go out to do the shopping, or accompany men while they go about every day tasks. This demonstrates that in each refugee situation, it is important to look at the profile of the caseload to determine what are the specific needs of men and women.

The Goal of Assistance

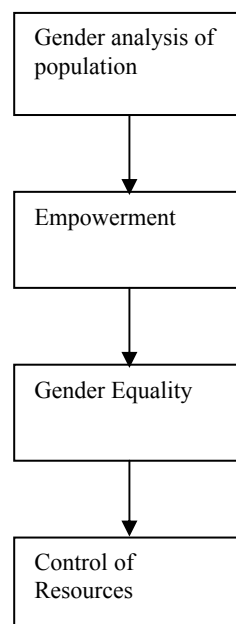
The inherent weakness of the old patterns of assistance have more recently given way to a gender analysis framework and a rights-based approach. Under a gender analysis framework, men and women are seen as “resources” and both their needs and capacities are analysed. Like the rights-based approach, a gender analysis framework emphasises the empowerment of men and women through the institutionalisation of gender mainstreaming (i.e., the integration of a gender perspective in all protection and assistance programmes or policies). It also aims to ensure an equitable division and control over resources. The goal is no longer to simply hand out assistance to women based on their categorisation as ‘vulnerable’, but rather to approach men and women as potential resources which are assessed within a gender analysis framework.

In the diagram below, the two models reflect the different approaches to assistance as follows:

Vulnerability Model



Gender Analysis Model



When conducting a gender analysis, one must be aware of the cycle of gender gaps (i.e., inequalities), which demonstrates how:

- Gender roles are socially determined from birth;
- Gender roles influence the division of labour;
- Labour is valued differently based on who does it;
- The different gender roles, work, and the value attributed to work create differential access to decision-making, services, and benefits;
- Differential access to resources and services, and the different value attributed to work by men and women, support existing power relations, which in turn reinforce gender roles.

Role of UNHCR

Under the vulnerability paradigm, it was UNHCR and its staff which were seen as the resource and the experts in terms of the situation of the refugees. A change in emphasis means a fundamental shift in thinking, and the way in which UNHCR and its implementing partners carry out their work. It leads to a rights-based approach to assistance whereby material assistance is provided in order to allow access to services, participatory processes, and resources. The role of UNHCR and its partners in this new paradigm is fundamentally to facilitate refugees' control over resources and have them share in both the responsibility and power of decision making.

Achieving a Shift in Policies: some remaining issues

A number of issues still need to be addressed in order to achieve a complete and successful shift in paradigms. The following are some examples of such issues:

Among Refugee Populations: it is necessary, for example, to take a gender sensitive approach to integration and acknowledge that there are often at least two value systems operating; the traditional values refugees bring with them, and the values of the country of asylum. However, both are often changing. For instance, most Chechen refugees are women, as men are generally absent from the community. This means women have to take on new tasks and roles generally performed by men, despite their traditional values.

Within UNHCR: it is still the case that gender issues are often understood as primarily relating to women, and being the responsibility of women. The result is threefold: men feel excluded; assistance to women is simply provided to them based on their categorisation as 'vulnerable'; and little or no gender analysis is applied, or it is applied incorrectly. Considerable efforts at changing this have already been undertaken and are continuing to take place. For example, the POP framework which was developed and promoted by UNHCR since 1992, has contributed significantly to the increased use of the gender analysis framework, and is currently being revised to even better reflect the aspect of gender. There have also been some successful initiatives at mainstreaming a gender perspective into the operations of UNHCR offices. One such initiative, which took place in the UNHCR Branch Office in Ankara, Turkey, is documented in this chapter (in Theme 2) as well as in chapter five of this Handbook.

Despite these initiatives and the experience already acquired in this area, key issues such as: how to best implement gender equality and gender mainstreaming within the organisation; how to fully involve men at all levels and consistently include them in a gender analysis framework; and how to make the shift from a model of assistance which creates dependency to one which empowers both men and women and views them as resources - continue to be discussed and further developed within UNHCR.



Theme 1: An Introduction to Gender Concepts and Policies

Part II Training Sessions

Training Session No. 1

Session Title: An Introduction to Gender Concepts³⁴: Sex or Gender ?

Target Group: up to 20 government officials, NGO and UNHCR staff working with refugees.

Time Duration: 3 ½ hours

Session Objectives:

- To explore the differences between sex and gender
- To explore gender relations in participants' own lives
- To gain awareness of gender in a refugee context

Session Outline

1. Welcome, training session objectives and/ or day's agenda. TM no.1. (15 mins)
2. Introduction of participants, and/or ice-breaker exercise. (15-20 mins)
3. Ask the group what they understand as the difference between 'gender' and 'sex' ? (10 mins)
4. Using TM nos. 2, 3, 4, 5, provide basic definitions, explain gender roles, and discuss how gender affects us in daily life. (15 mins)
5. Give out TM no. 6, Exercise: Statements about Men and Women, and ask participants in pairs to write 'G' next to those they believe refer to gender, and 'S' next to those they believe refer to sex. (15 mins)
6. Discuss the answers with the whole group. (20 mins)
Focus on these key questions and ideas:
 - a) Did any statements surprise you?
 - b) Do the statements indicate that gender is inborn or learned?
 - c) Gender roles vary greatly from society to society, between cultures and historical periods. Age, class and race are also factors which determine our gender roles.
 - d) Women in every country experience both power and persecution differently.
7. **Coffee/ Tea Break (15 mins)**
8. Group Exercise 1: Advantages and Disadvantages of Being a Man/ Women (25 mins). Divide the group into four single sex groups of 3 to 6 people. Ask each group to discuss the following two questions:
 - (1) What are the advantages and disadvantages of being a woman at home, and a woman at work?
 - (2) Ask the same question for men.
 The aim is to have the participants discuss and reflect on how gender affects their life and work.
9. Group Exercise 2: Sharing Impressions. (25 mins)
Combine a group of men with a group of women to make two mixed groups. Ask men and women to share with each other the experiences and comments from the previous discussion.
10. Ask the rapporteur from each of the two mixed groups to share in plenary some of the highlights of the above discussion. In particular focus on: (1) what were some of the findings of the single sex group exercise, and (2) how different were they from those of the mixed group? (3) What interesting points were made? (20 mins)
11. Plenary Discussion on: Gender in the Refugee Context. (20 mins)
Initiate this discussion period by asking the following:
 - (a) In your experience, can you think of ways in which gender roles are visible in the different refugee populations you work with?
 - (b) How does this manifest itself with regard to protection, assistance services or other refugee programmes? (E.g., do they have equal access, do they participate equally or are they tied up with household duties, do gender roles affect the RSD process, etc.)
 - (c) Why is this important for us to take into account? (see facilitator's notes).
12. Wrap up of discussion and session. (15 mins)

³⁴. This training session is adapted from Williams, S., *The Oxfam Gender Training Manual*, Oxfam, UK, 1998.

Suggestions on Preparation

1. The facilitator should be familiar with the glossary of gender-related terms included under this Theme, and preferably also with some of the background reading in Themes 2 and 3 of this chapter.
2. You might like to adapt “Exercise: Statements About Men and Women”, by providing examples/ statements that take into account the reality in the country or region where the training is taking place. For instance, in some countries, some women are more likely than men to be involved in certain occupations.

Facilitator’s Notes

1. This session is most useful for participants who have little, or no, understanding of gender, or who feel they need to go back to basics to be certain they have mastered the elementary concepts.
2. The session can be adapted by splitting the group into small groups of four or five to discuss their answers to the “Exercise: Statements About Men and Women”, and to suggest new and challenging sample statements.
3. Activities which require participants to split into single-sex working groups, may cause some division between men and women during the training session. For this reason, Group Exercise 1 in this session involving single sex working groups should only be done once a good group feeling has been developed. It is also advisable that this exercise be followed by a couple of quick exercises to get the participants back together again. However, If you notice early on that participants are already divided or uncomfortable, this exercise should not be organised in this way. An easy alternative is simply to conduct the same activity with a mixed group from the beginning. In this case, Group Exercise 1 will be skipped and you can immediately proceed to discussing the results of the mixed groups, in plenary with the help of the rapporteur for each group.
4. During the “Plenary Discussion on: Gender in the Refugee Context” and your wrap up for this session, you should make the link between the responses from the working groups and some of the following issues:
 - the concept of ‘gender roles’ as deeply embedded and pervasive in our own lives and in social structures;
 - how gender affects the lives of refugees, and our work with them. You may wish to point out some of the following:
 - (1) roles often change in refugee situations, as refugee women may be providing for themselves and their families without the support of male spouse or relatives;
 - (2) gender roles within particular refugee communities affect the impact of our assistance programmes. Hence, the importance of conducting a gender analysis, and involving men as well as women in programmes and solutions, as well as the goal of gender equality;
 - (3) gender is also relevant for protection and refugee status determination (RSD) purposes. For example:
 - the type of harm and persecution suffered by women is often different than that experienced by men;
 - women are often persecuted for different reasons than men, e.g., due to their transgression of social norms (i.e., what a society considers to be proper/ admissible behaviour for a woman);
 - gender roles may also affect who is the principal claimant for refugee status. Women are often dependant claimants, even when they may have grounds for a refugee claim on their own merits;
 - and women and men may have different protection and security concerns/needs when in the country of asylum.

Materials

Equipment:

Flipcharts, markers, overhead projector, and computer if you wish to make a powerpoint presentation.

Training Materials: (Handouts, OHT, PPP)

TM no. 1: Training Session 1:

An Introduction to Gender Concepts: Objectives

Handout/OHT/ PPP

TM no. 2: Sex & Gender: Basic Definitions

Handout/ OHT/PPP

TM no. 3: Key Words: Sex and Gender

Handout/OHT/ PPP

TM no. 4: Gender Roles

Handout/ OHT/PPP

TM no. 5: How does your gender affect you?

Handout/ OHT/PPP

TM no. 6: Exercise: Statements about Men and Women

Handout /OHT

Documents for Distribution:

Gender Concepts and Related Terms: A Glossary (optional, available in Part I of this Theme).

Training Session No. 2

Session Title: Gender Awareness³⁵

Target Group: up to 20 government officials, NGO and UNHCR staff working with refugees.

Time Duration: 3 ½ hours

Session Objectives:

- To explore the differences between sex and gender
- To explore gender relations in participants' own lives
- To acquire awareness of the cycle of gender gaps
- To gain awareness of the role of gender in the refugee context

Session Outline

1. Welcome, training session objectives and/ or day's agenda. TM no. 7. (15 mins)
2. Introduction of participants, and/or ice-breaker. (15-20 mins)
3. Ask the group what they understand as the difference between 'gender' and 'sex', and the meaning of gender roles? (10 mins)
4. Using TM nos. 2 and 4, explain these differences and 'gender roles'. (15 mins)
5. Initiate a group discussion on the theme: "When a Child is Born" by asking the following questions: (see facilitator's notes). (15-20 mins)
 - (a) When a child is born what is the one of the first questions we ask?
 - (b) Why do we ask this question?
 - (c) Can you think of examples which show that a different value is placed on girls and boys? Use TM no. 8 "Gender Gaps: examples", to show how this is reflected in certain gender gaps beginning in childhood.
6. Briefly introduce the "Cycle of Gender Gaps" by using TM no. 9. Then, if you wish, use TM no.10 to contrast it to the "Women's Empowerment Cycle". The diagrams are self-explanatory, so reading them out is sufficient. (10 mins)
7. Exercise: "Boys and Girls" (TM no.11 to be distributed). (25 mins)
Divide the participants into small groups of 4-5 persons to work on the following: (see facilitator's notes).
 - Ask the groups to briefly discuss the following: What messages were relayed to you as you were growing up that made you aware you were a boy or a girl? Was there a particular experience you recall when you were reminded of your gender?
 - And ask them to write up their experiences, under four columns, each entitled: 1) message; 2) context; 3) who: and 4) how you felt. They should write these on the page of a flip chart using marker pens. The four columns correspond to the specific questions below:
 - What was the message?
 - In what context did it take place?
 - Who gave you this message?
 - How did this make you feel?
8. **Coffee/ Tea Break (15 mins)**
Use the time during the coffee break to rewrite and systematise (by sex) all the responses on a central flip chart. Use one flip chart each for boys and girls. Each flip chart will have four columns representing each question. The first column will be the widest. You will present this summary after the rapporteurs have each presented their particular chart.
9. The rapporteur for each group presents their chart (5 minutes each). (20 mins)
10. In plenary ask the group: What are your observations on the responses? (10 mins)
11. Briefly use the two flip charts (one for boys and one for girls) you prepared during the coffee break and where you systematised by sex the responses of participants, in order to point out

³⁵. Some exercises in this training module, and accompanying training materials have been adapted from a draft revision of UNHCR, *A Framework for People-Oriented Planning in Refugee Situations Taking Account of Women, Men and Children*.

patterns, and other conclusions or observations noted during this exercise (see facilitator's notes). (5 mins)

12. Initiate a short discussion, in plenary, on "Gender in the Refugee Context" by asking the following questions: (see facilitator's notes). (20 mins).

Q: We have talked about how gender constructs affect each of us, but what do gender constructions have to do with refugee populations? More specifically:

- (a) In your experience, can you think of ways in which gender roles are visible in the different refugee populations you work with?
- (b) How do gender roles manifest themselves with regard to protection, assistance services or other refugee programmes? (e.g., do women have equal access, do they participate equally or are they tied up with household duties, do gender roles affect the RSD process)
- (c) Why is this important for us to take into account?

Allow participants to brainstorm, and record answers on a flip chart.

13. Briefly summarise the answers of the participants and highlight key points (see facilitator's notes). (15 mins)
14. Wrap up the session. (10 mins)

Suggestions on Preparation

The facilitator should be familiar with the readings in Part I of this Theme, and preferably also with some of the background reading in Themes 2 and 3 of this chapter.

Facilitator's Notes

1. This session is most useful for participants who have little or no gender awareness, or who feel they need a refresher on the topic.
2. This short session may be used as an introductory piece, and combined with another half-day session on a specific topic, such as the human rights of women, RSD, gender mainstreaming etc.
3. For the discussion on the theme of "When a Child is Born" :

- **When a Child is born**

What is one of the first questions that we ask when we hear that a friend or colleague has just had a baby? Answer: *Is it a boy or a girl?*

- **Why do we ask that question?**

One of the reasons we ask that question is because we are unconsciously already starting to map the social path of that child. We already have expectations for that child based on whether it is boy or a girl.

- **In some cultures, a different value is placed on boy and girl children**

Ask participants for examples.

Examples: a midwife might be paid more if a boy is born, a girl child may be killed, a girl child may be denied food as she is not as valued, birth of a girl child may be seen as "bad luck", boys grow up to support families. In some countries the birth of a boy is cause for celebration, while that of a girl may be a disappointment. Are there any cultures where the birth of a boy is a disappointment?

You can also use TM no. 8 "Gender Gaps: Examples" to show how this is reflected in certain gender gaps beginning from childhood.

Summary of expectations about characteristics, roles, interests, ability: It is important that participants bring out that even when a child is a small infant, their sex creates expectations about characteristics, roles, interests and abilities.

4. Some possible answers to the "Exercise: Boys and Girls" may include: Examples:

(1) What was the message:

Men are the breadwinners, men protect women, boys don't cry, girls can't be a jockey, girls can't climb trees, girls have dolls and boys have trucks.

(2) In what context did you receive the message?

School, family, argument, Christmas.

(3) Who gave that message?

Mother, father, siblings, teacher, church, grandparents.

It is important that the group raise the point that it is not just men telling women what they can and can't do; quite often it is women who perpetuate limitations. Men and women are equally responsible for passing messages. Sometimes the message is contradictory (i.e., men protect women but who do they protect them from - other men), sometimes it is positive, and sometimes it is negative.

(4) How did the message make you feel?

Special, brave, frustrated, excluded.

What is common about the activities girls are told to do?

Less valued?

Highlight the difference in roles and characteristics assigned to boys and girls and how these are valued differently. Often girls are praised or encouraged to do domestic activities well, while boys are encouraged to be brave.

What happens to people who do not observe the gender roles?

The benefit is that it can be liberating, but some form of punishment or sanction often follows. Example, even as children, there is name-calling, "tomboy", "sissy", "cry baby".

5. When providing a summary and your own observations on the responses to the "Exercise: Boys and Girls", you may wish to highlight the following:

This exercise illustrates:

- that gender is socially constructed. It changes from culture to culture and over time. i.e., what was true for your grandmother and mother may no longer be the case today;
- the different roles and responsibilities of men and women and the values assigned to them. Most cultures place a higher value on "productive" roles (paid labour), than on domestic/ reproductive work (unpaid labour);
- that both men and women are responsible for reproducing gender roles;
- the socialisation process is very often negative for men and women;
- the systematic messages we receive;
- limitations of gender roles;
- limits on female aspirations and male emotions.

6. For your summary and key points of the discussion on "Gender in the Refugee Context", you may wish to highlight the following:

- The concept of 'gender roles' as deeply embedded and pervasive (see the definition in the glossary provided in this chapter) in our own lives and in social structures;
- How gender affects the lives of refugees, and our work with them. In particular, how:
 - (1) refugee men and women's different positions in the family and community affect their access to protection and assistance programmes, and control over resources. This must be taken into consideration at every stage of our operations: a gender analysis can help us do that and ensure our programmes are effective and promote equality;
 - (2) roles often change in refugee situations, as refugee women may be providing for themselves and their families without the support of male spouse or relatives;
 - (3) gender constructions affect the security and protection needs/concerns of refugee women (e.g. sexual violence), often making them more vulnerable;
 - (4) gender is also relevant for protection and refugee status determination (RSD) purposes.

For example:

 - the type of harm and persecution suffered by women is often different than that experienced by men;
 - women are often persecuted for different reasons than men, e.g., due to their transgression of social norms (i.e., what a society considers to be proper/ admissible behaviour for a woman);
 - gender roles may also affect who is the principal claimant for refugee status. Women are often dependant claimants, even when they may have grounds for a refugee claim on their own merits;
 - gender roles may affect the RSD interviewing procedure (e.g., women may be reluctant to make eye contact, be interviewed by a man, be more intimidated than a man by the interviewing process etc);

- (5) refugee communities bring their own gender roles with them to the country of asylum/resettlement.

Materials

Equipment:

Flipcharts, markers, overhead projector, and computer if you wish to make a power point presentation.

Training Materials: (Handouts, OHT, PPP)

TM no. 7: Training Session 2: Gender Awareness: Objectives	Handout/OHT/ PPP
TM no. 2: Sex & Gender: Basic Definitions	Handout/ OHT/PPP
TM no. 4: Gender Roles	Handout/ OHT/PPP
TM no. 8: Gender Gaps: Examples	Handout/OHT
TM no. 9: Cycle of Gender Gaps	Handout/ OHT/PPP
TM no. 10: The Women's Empowerment Cycle	Handout/OHT/PPP
TM no. 11: Exercise: Boys and Girls	Handout

Chapter 2

Theme 2: Gender Mainstreaming

Theme 2: Gender Mainstreaming

In this theme:

Part I: Background Readings

- Gender Mainstreaming Concepts and Strategies
- Best Practices: Institutionalising Gender Equality in UNHCR
- Making Your Case that Gender Matters: In a Refugee Context
- Arguing your Case: Gender Matters (UNDP)
- Gender Mainstreaming: A 12-Step Programme for Success (UNDP)
- Resistance: To Gender Equality and Gender Mainstreaming (chart)
- Organisational Change and Equality Between Women and Men: A SIDA TIPSheet
- Participation and Equality Between Women and Men: A SIDA TIPSheet

Part II: Training Sessions

- Training Session 3: Understanding and Planning for Gender Mainstreaming
- Training Session 4: Establishing Gender Teams and a Gender Mainstreaming Strategy
- Training Session 5: Implementing and Monitoring Gender Mainstreaming

Links

- Available in the **Gender CD-ROM** in this Kit:
 - The full text of the UNDP, *Gender Mainstreaming in Practice: A Handbook*. The section, “12 step process to mainstreaming”, is a particularly valuable addition to the readings in this chapter.
 - The full text of UNHCR’s POP (People Oriented Planning) Publications.
- **Related Background Readings:**
 - Chapter 2: in Theme 1: UNHCR Policy on Refugee Women, and “Gender Concepts and Related Terms: A Glossary”
 - The Reference Section (in this Gender Handbook): see full text of all relevant UNHCR ExCom Conclusions
 - Chapter 3: “The International Human Rights Framework: the link with refugee protection and women’s rights”, in particular section 4.3. In this chapter see also three briefs on gender mainstreaming in the justice system included in “Gender Brief: on Justice and Human Rights”, which includes more specifically: I: National Legislation and Legal Rights; II: International Human Rights Obligation – Monitoring and Reporting; III: Protection and Complaints Mechanisms. The CIDA paper “Addressing Cultural Relativism in Relation to Gender Equality and Women’s Rights”, is also useful and discusses pertinent topics for gender mainstreaming-see especially points 6-12.
- **Related Training Sessions:** The following may be useful to combine with trainings on gender mainstreaming:
 - Training Sessions 1 and 2 in chapter 2 (Theme 1)

Theme 2: Gender Mainstreaming

Part I Background Readings

Gender Mainstreaming Concepts and Strategies: Within the UN and UNHCR³⁶

Introduction

The following paper is intended to provide readers with essential background information about gender mainstreaming both within the United Nations system and UNHCR specifically. It refers to the relevant ECOSOC Conclusions on the topic, to UNHCR's related policies and guidelines, and to the definition and key aspects of this concept. It also describes the essential components of gender mainstreaming and offers practical suggestions on how to implement them. This includes a discussion on strategies and institutional practices such as, *inter alia* : the use of policy or mission statements; the advantage of gender teams over focal points; ways of integrating gender into wider planning processes; accountability, monitoring and the role of senior managers; the development of tools and mechanisms for gender mainstreaming; and related capacity building activities. While principally covering gender mainstreaming from the perspective of the United Nations and its agencies, much of the material in this paper may also be useful to both governmental and non-governmental organisations interested in an introduction to this process.

Overview

At the United Nations

At the Fourth World Conference on Women (Beijing, 1995) states unanimously agreed that it was essential to put in place effective policies and programmes at all levels that would foster the empowerment and advancement of women. To this end, the United Nations endeavoured to promote an active and visible policy of mainstreaming a gender perspective in their activities. This policy gained expression in the Economic and Social Council (ECOSOC) Agreed Conclusions of 1997 relating to *Mainstreaming the Gender Perspective into all Policies and Programmes in the United Nations System* (hereinafter referred to as ECOSOC Conclusions).³⁷ This Conclusion, which is applicable to all specialised agencies and other bodies of the United Nations, including UNHCR, seeks to promote the co-ordination of their policies and activities, as well as to offer practical suggestions/guidelines on concrete steps, mechanisms and processes for institutionalising gender mainstreaming - some of which will be discussed below. This was followed up by the Secretary-General's request that all analytical reports and recommendations on policy or operational issues be presented for intergovernmental decision-making in a manner that fully accounted for gender differences and included a gender perspective.³⁸ In addition to this system-wide initiative, other gender mainstreaming efforts are also being made in specific UN sectors and agencies. Of particular relevance are the resolutions calling for the incorporation of a gender dimension into United Nations human rights activities, adopted by the Commission on Human Rights³⁹, several measures⁴⁰ directed at addressing the issue of gender imbalance within the UN system (the aim being to achieve the target of 50-50), and which have also been reflected within UNHCR.

³⁶. This paper was prepared by Rosa Da Costa, legal consultant to UNHCR Senior Regional Adviser on Refugee Women and Gender Equality for Europe and Central Asia, Regional Office Ankara., December 2001. The views expressed herein do not necessarily represent those of UNHCR.

³⁷. Economic and Social Council (ECOSOC) Agreed Conclusions, on *Co-ordination of Policies and Activities of the Specialised Agencies and Other Bodies of the United Nations System Related to the Following Theme: Mainstreaming the Gender Perspective into all Policies and Programmes in the United Nations System*, E/ 1997/ 1.30, 14 July 1997.

³⁸. This request was formulated in document A/53/376, as described in *Mainstreaming a Gender Perspective in Multidimensional Peace Operations*, United Nations-Lessons Learned Unit, Department of Peacekeeping Operations, July 2000, at 4.

³⁹ In particular see, resolutions 1993/46, 1994/45, 1995/86, 1999/41 and 200/61. OHCHR, "Special Issue on Women's Human Rights" Spring 2000, in *Human Rights: A Review of the Office of the United Nations High Commissioner for Human Rights*, OHCHR, Geneva, 2000, at 5.

⁴⁰. Such measures include: administrative instructions such as, "Special Measures for the Achievement of Gender Equality", issued by the Under-Secretary for Administration and Management (see ST/A/1/412 of 5 January 1996, and revisions published ST/ AI/ 1999/9 of 21 September 1999; the principles articulated in the above-mentioned ECOSOC Agreed Conclusions of 1997; bulletins by the Secretary-General in which he reiterates the target of 50-50 gender balance, such as in bulletin "Policies to achieve gender equality in the United Nations" (ST/SGB/282), and "Departmental focal points for women in the Secretariat" (ST/SGB/1999/ 19). Source: United Nations, *Mainstreaming a Gender perspective in Multidimensional Peace Operations*, at 6-7.

At UNHCR

Concretely, at the level of UNHCR operations and policies, the institutionalisation of gender sensitive initiatives and mainstreaming efforts date back to the late 1980's. These efforts are reflected, most notably, in the following:

- in the adoption of several important Executive Committee Conclusions (ExCom Conclusions) relating specifically to refugee women;⁴¹
- the 1989 *UNHCR Policy on Refugee Women* which identifies mainstreaming as the "basic principle" by which to integrate the resources and needs of refugee women in all aspects of programme planning and implementation;
- the inclusion of women (along with children and the environment) among the High Commissioner's three policy priorities;
- and the appointment of a Senior Co-ordinator for refugee women and gender equality.

In the sections below are highlighted some of the most important elements of these UN and UNHCR policies on gender mainstreaming. They serve to clarify the concept itself, and also to provide guidance on how to effectively mainstream a gender perspective into an organisation's programmes and activities. Since this paper is intended as an introduction to the topic, we touch only upon ten components which we considered the most critical to the process, though it is of course recommended that trainers be familiar with the wider range of issues involved in gender mainstreaming.

As a strategy, gender mainstreaming is an evolving and learning process. It requires that one remain open to new interpretations of gender concepts, adapt mechanisms and tools to new situations, and be willing to change analytical frameworks and working methods as may be necessary. Some UNHCR offices, such as the UNHCR Branch office in Turkey, have been particularly active and innovative in this field, so that it is important to share and build upon such successful practices.⁴²

1. Definition of Gender Mainstreaming

The concept of gender mainstreaming is still often misunderstood. It is useful therefore, to refer to a common definition. The ECOSOC Conclusion of 1997, has defined it as follows:

"Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension in the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality."⁴³

2. Concept of Gender Mainstreaming: about differing needs and impact on men and women

As seen from the definition above, mainstreaming a gender perspective is a process which includes both women and men. Yet, this aspect is often misunderstood and has posed difficulties at the implementation level. This is in part, the result of a past, and in some cases continuing, emphasis

⁴¹. In particular, see relevant UNHCR ExCom Conclusions No. 39 (XXXVI) 1985, No. 54 (XXXIX) 1988, No. 60 (XL) 1989, No. 64 (XLI) 1990, and No. 73 (XLIV) 1993. The full texts of these Conclusions are provided in the Reference Section of this Kit. They stress some of the following issues:

No. 39: the need for UNHCR and host governments to give particular attention to the international protection of refugee women; **No. 54:** their vulnerability, including in the area of physical security, as well as the need for an active senior-level steering committee. It also highlighted the need to promote the participation of refugee women as agents of programs, the co-ordination and strengthening of existing policies and programmes on their behalf, and the necessity for public information and the development of training modules on the subject of refugee women; **No. 60:** concern about physical safety and sexual exploitation, and the need for a policy framework for the next stage of mainstreaming women's issues within the organisation, with special attention to the need for female field workers in order to facilitate the participation of refugee women; **No.64:** the need to ensure that the needs and resources of refugee women are understood and integrated into the activities and programmes of states, UN organisations and NGOs, and to collect data which allows for the monitoring of progress in relation to the needs of refugee women; and finally **No. 73:** which focuses on refugee protection and sexual violence, condemns persecution through sexual violence as a gross violation of human rights and offence to human dignity, and supports the recognition of refugee status to persons with a well founded fear of persecution through sexual violence for reasons mentioned in the 1951 Convention.

⁴². For a detailed description of the gender mainstreaming mechanisms and process undertaken in the UNHCR Branch Office in Turkey, see "Best Practices: Institutionalising Gender Equality in UNHCR, in this chapter.

⁴³. ECOSOC Agreed Conclusions on Gender Mainstreaming, 1997, para. 4.

placed on refugee women; an emphasis which emerged as a counterbalance to the fact that previously planners had often overlooked them.

This focus on refugee women has sometimes resulted in misperceptions and misapplications of the concept leading to some or all of the following:

- (1) the conclusion that gender mainstreaming is only really about women;
- (2) a consequent fatigue and resentment of the focus seemingly always placed on refugee "women", a focus sometimes perceived as being in conflict with other priorities and concerns;⁴⁴
- (3) a simplistic implementation of the concept of mainstreaming which is consists in initiating or adding *separate women's* projects to existing programme activities, usually under the rubric of "special assistance to vulnerable persons";
- (4) a segregation of refugee women's issues from the remainder of the organisation's operations and planning; this is often results from the fact that gender issues are delegated to a single person in the office who acts as the gender focal point. This approach tends to disempower and increase segregation rather than promote the integration of a gender perspective. An additional problem is that the gender focal point is too often a staff member with little organisational influence;
- (5) weak or inappropriate analysis of gender issues, which may lead to poor planning, implementation, and impact analysis of programmes and policies. Other consequences may also include, missed opportunities and a lack of proper monitoring and accountability mechanisms;
- (6) a lack of understanding of why it is important to involve men in gender mainstreaming efforts and how to go about it (a topic which is addressed in Theme 3 of this chapter).

In order to try to avoid some of these pitfalls, both the ECOSOC Agreed Conclusions of 1997 and UNHCR policy statements provide guidance on approaches and systems for mainstreaming a gender perspective.

The ECOSOC definition of gender mainstreaming refers to a process whereby the implications for women and men of any planned action are assessed, and women's as well as men's concerns and experiences are fully integrated into all aspects of the organisation's activities. This entails the need to (1) define issues in such a way that gender differences can be diagnosed; and (2) to work from the basic premise that an assumption of gender neutrality should never be made.

The *UNHCR Policy on Refugee Women* also clarifies the concept. It notes in particular, how this principle is to be distinguished from the simple creation of separate women's projects which are added to existing programmes, and which often remain segregated and/or peripheral. Of course, special projects for women which are properly designed will still continue to be necessary in order to improve the status and living conditions of particular groups of women, as well as to correct inequities. This is also the approach recommended in the ECOSOC Agreed Conclusions, which stress that women-specific policies and programming should be seen as *complementary* rather than as a replacement for the goal of gender mainstreaming.

The UNHCR policy further explains that mainstreaming a gender perspective means:

- analysing the relationships between men and women within the family and the community, and how these affect their access to protection and assistance programmes, and control over the resources;
- recognising and analysing how the very experience of being uprooted and becoming a refugee affects men, women and children differently, and often even changes their traditional roles;⁴⁵
- analysing specifically, how UNHCR interventions (policy, programme or other) impact on men and women differently.

Based on such an analysis one can restructure programs in order to ensure that both men and women benefit from the organisation's services, and as importantly, that equality is achieved with regard to impact.

3. Policy and Mission Statements

⁴⁴. This problem is aggravated by the fact that this emphasis on women is seldom placed in a proper analytical context, i.e., an analysis of the specific needs, roles and impact of actions on women *and men*. Indeed, as mentioned above, it is often simply justified by categorising refugee women as "vulnerable" for assistance purposes, with no, or little analysis of the role of men in these situations and relatively little focus on these women as active and participating actors.

⁴⁵. *UNHCR Policy on Refugee Women*, at 5-6.

Policy, mission statements and directives, all of which are mentioned in the ECOSOC Agreed Conclusions as institutional requirements for gender mainstreaming, represent an expression of clear political will. They also provide a framework from which one can then develop a work plan for the integration of a gender perspective into the organisation's programmes and activities. In addition to general policy statements on the topic, it is recommended that policies and strategies specific to sectoral areas (e.g., programming, policy-making, RSD procedures, durable solutions) also be adopted, and that where necessary, institutional directives be used instead of discretionary guidelines.

Moreover, where appropriate, such as for gender teams, a charter or mission statement (or even 'terms of reference') should be formulated. The advantage of such a document is not only the moral force it bears on the organisation and members of the gender team, but also that it formalises the existence and powers of that team, including by setting its goals and the systematic procedures that will govern it.

4. Advantage of Gender Teams over Gender Focal Points: and general factors influencing the effectiveness of gender teams

4.1. The advantage of a gender team

Gender teams can play an important role in launching, sustaining and monitoring the process of gender mainstreaming. While gender teams and focal points are both mentioned as tools for institutionalising gender mainstreaming, gender teams alone or in combination with focal points, are considerably more effective than simply relying on the latter.

This is so for several reasons:

- Opportunity to work as a team

First, in contrast to focal points, who work individually within their own units or office, a gender team offers the opportunity to work as a team, so that gender issues are no longer segregated or delegated to one person or unit. The latter being a strategy which by its nature is in contradiction to the principle of mainstreaming. Moreover, a team ensures institutional memory and permits members from different units to learn from each other.

- Inter-unit approach is suitable for addressing issues in comprehensive fashion

Secondly, given that gender issues often crosscut organisational units and sectors, an inter-unit team approach has the advantage of rendering the work on gender issues enormously more effective. This is so for two reasons: (1) an inter-disciplinary or inter-unit team structure enables members to deal with complex gender issues in a more comprehensive fashion by drawing on the expertise of each unit; and (2) it improves their co-operation and synergy to solve problems or develop proactive strategies.

- Implementation of broader objectives, and greater visibility of work

Thirdly, a gender team represents a vehicle through which to implement the broader organisational objectives related to gender mainstreaming, rather than only sector-specific actions. Indeed, the fact that it functions as an inter-unit forum makes it ideal for initiating and co-ordinating gender activities and policies at all levels and operations of the office. Moreover, the existence of a gender team brings about more formal recognition and visibility of the work done on this issue, and makes possible more organised activities.

- Greater influence and capacity to affect attitudes

Finally, whereas focal points (who often work in relative isolation) are likely to have limited influence and reach, gender teams with representation from each unit will have a greater capacity to affect the attitudes and work of each unit in a much more direct and powerful way. The existence of such a team has the effect of rendering the issues more relevant for a wider range of persons in the organisation or office, thus having a positive impact on their openness and attitudes also.

4.2. Composition of gender teams

For the reasons described above, it is recommended that gender teams be structured as an inter-unit committee, composed of two persons from each of the different units in the office. The team should also adopt clear terms of reference (which could be in the form of a charter) where it states, *inter alia*, its composition, objectives, strategies, reporting requirements, tasks, procedures, and expectations (both with regard to the group itself and the expectations of the team by others, such as, management).

4.3. Suggested responsibilities of gender teams

The ECOSOC Conclusions provide some further guidance on the types of responsibilities that should be held by gender units. These include: support for the development of gender sensitive policies and programme strategies; providing advice and support to staff in the application of a gender perspective; the development of tools and methodologies for gender mainstreaming; the collection and dissemination of information and best practices; and assistance in monitoring and evaluating progress in gender mainstreaming in policy, programme, and budgetary terms.⁴⁶

4.4. Influence and support by senior managers

Critical to the process of gender mainstreaming is the role played by senior managers, including their express and active support of the work of gender units in all policy-making and programming processes. This includes ensuring that gender units have both the resources and a sufficient level of influence and authority to function effectively. The latter can be achieved by ensuring that the gender team is under the leadership of a staff member at the senior management level, such as the deputy representative. This point is clearly articulated in the ECOSOC Agreed Conclusions:

“The location, seniority level, resources and participation of gender units/ focal points in all policy-making and programming processes and support by the most senior levels of management and decision-making are also crucial in translating the gender mainstreaming mandate into practical reality.”⁴⁷

5. Implementing an Efficient Gender Mainstreaming System

5.1. The challenge of an integration process

One of the challenges of mainstreaming a gender perspective into the activities and programmes of any organisation is finding a suitable process to achieve this integration. One example of a systematic process for gender mainstreaming, which has been practised by UNHCR Branch Office Turkey, is provided below.

5.2. Merging the gender team’s work plan in the office’s overall plan of action

In order to ensure actual mainstreaming rather than continued segregation of “women’s projects”, a procedure must be put in place by which gender issues become an integral part of the office’s planning and operations. One of the ways in which this can be achieved is by having the gender team draw up its own work plan⁴⁸, and then merging this work plan into the office’s overall plan of action. In this way, gender issues are integrated into the mainstream operations and procedures of the office rather than being treated as a separate topic.⁴⁹

This process has several advantages. One is that once the Gender Team work plan is merged into the office’s overall action plan, the responsibility for implementing the gender-related activities is delegated to the relevant units responsible for the different operations of the office, such as legal, durable solutions, and programming units. Another advantage of this approach is that by integrating gender in this way into the overall planning and operations of the office, the monitoring of these activities is done ongoingly and automatically as part of whatever office procedures are already in place. Naturally, as with any other agenda items in the office’s plan of action, suggested gender issues and activities must also be approved by the relevant committee or decision-making bodies.

6. Accountability, Monitoring and the Role of Senior Managers

The role of senior managers and the importance of establishing accountability mechanisms for gender mainstreaming have been clearly articulated in the ECOSOC Conclusions of 1997, which states that the “responsibility for translating gender mainstreaming into practice is system wide [...], rests at the highest levels, [and] accountability for outcomes needs to be monitored constantly”.⁵⁰ One of the key institutional requirements for gender mainstreaming within the United Nations is therefore, that heads

⁴⁶ *Id.*, at par. 31

⁴⁷ ECOSOC Agreed Conclusions on Gender Mainstreaming, 1997, par. 30.

⁴⁸ This may include, *inter alia*, priority areas for action, trainings, special projects, strategies, monitoring activities or the implementation of new tools and procedures.

⁴⁹ It may occasionally happen that certain activities or issues which the Gender Team is elaborating have not yet been sufficiently developed to allow for delegation of specific tasks to a particular unit in the office. Some activities may also be best suited to remain within the domain of the Gender Team. These activities will remain the responsibility of the Gender Team until they can be effectively mainstreamed and delegated for implementation.

⁵⁰ ECOSOC Agreed Conclusions on Gender Mainstreaming, 1997, par. 6

of specialised agencies establish the accountability of senior managers for this process, and put in place corresponding accountability and monitoring mechanisms.⁵¹

6.1. Basis of Accountability in UNHCR

Within UNHCR's operations, the accountability of senior managers for gender mainstreaming is based upon, *inter alia*: the *UNHCR Policy on Refugee Women*, which adopts mainstreaming as its basic principle; the inclusion of women (along with children and the environment), among the High Commissioner's policy priorities; the *Guidelines on the Protection of Refugee Women*; and the relevant ExCom Conclusions. In the context of their responsibility to ensure effective implementation of organisational policy, senior managers are also responsible for promoting the inclusion of objectives related to gender mainstreaming in the CMS (career management system) objectives of their staff.

6.2. Use of the career management system: competencies and performance indicators related to gender issues

UNHCR's CMS core and managerial competencies and performance indicators were strengthened in 1998 to reflect the organisation's policy priorities; the objective being to improve awareness, performance and accountability on these issues. Some of the gender-related performance indicators include:

- management level gender sensitive behaviour;
- concrete steps taken to achieve a gender balance at all levels and ensure the professional development of female staff;
- encouraging initiatives in the area of women;
- ensuring that resources are equitably distributed and that gender needs remain a priority even in periods of limited resources;
- ensuring that managers develop their strategic directions with the specific needs of the beneficiaries in mind.

Other relevant CMS core competencies and their associated performance indicators are the following:

- taking a firm stand on principles of gender equality;
- ensuring an appropriate gender balance in the arrangements for the delivery of UNHCR's programmes and services;
- and actively seeking information about the situation of all refugees, thereby ensuring that the needs and empowerment of women are addressed and their views taken into consideration.

From an organisational standpoint, managers are therefore called upon to be both proactive and innovative in their approach to this policy priority, and the process of gender mainstreaming in general.

6.3. Suggested ways to promote mainstreaming of a gender perspective

The following is a list of suggested ways in which senior management within UNHCR can concretely assist in promoting and implementing the mainstreaming of a gender perspective in their operations:

- clear policy pronouncements by representatives;
- ensuring that all periodic reporting requirements, such as Country Operations Plans, Annual Protection Reports, include a gender analysis (including, *inter alia*, of needs, allocation of resources, concerns, impact). They should reflect an analysis of the office's programmes, operations, and other relevant areas, as well as an account of their gender mainstreaming strategies, objectives, challenges, and progress;
- including policy priorities with regard to women and gender mainstreaming in their own CMS objectives, and both promoting and facilitating the same for staff members;
- addressing gender issues, as well as the progress made on related activities and policies during appropriate office meetings, such as monthly staff/ management meetings;
- providing express political support, resources, and time to the establishment and work of the gender team, including during the implementation of their concrete activities and initiatives. Promoting the replacement of focal points by the establishment of gender teams is strongly encouraged;
- lending influence and authority to the Gender Team by ensuring that it is under the leadership of a senior management staff member, and that other members of the team effectively represent the different units within the office;

⁵¹ *Id.*, at par. 24 and 25 (d, e)

- integrating a gender perspective into other meetings, strategic planning, training events, and programmes and activities within the office.

7. Tools and Mechanisms

The development and improvement of tools for mainstreaming a gender perspective (e.g., age and sex disaggregated statistics, gender sensitive checklists, sector specific surveys or studies, and guidelines), is specifically mentioned as a necessary step to institutionalising this process. Indeed, both the ECOSOC Conclusions and the UNHCR *Policy on Refugee Women* emphasise how such tools and mechanisms are indispensable for proper planning and programming.

The ECOSOC document also points out the necessity for mechanisms for monitoring and evaluation, such as gender-analysis methodologies. It further notes that on the basis of a gender analysis, specialised UN agencies should ensure that: gender concerns are addressed in all aspects of planning (especially when setting priorities, allocating resources and identifying appropriate activities to be taken); reporting practices include an assessment of the steps taken to translate gender mainstreaming into country programmes and projects; and administrative procedures are adapted so that they include mechanisms of accountability for this process.⁵²

UNHCR's policy also supports and promotes (as an operational objective) the development of "mechanisms to ensure that the resources and needs of refugee women are addressed at all stages of programme (protection and assistance) planning, management and evaluation systems."⁵³ In *UNHCR's Policy on Refugee Women*, direct reference is made to the improvement of data collection, disaggregated statistics and needs assessments which can help target programmes more effectively to specific groups, as well as identify and eliminate unintentional discrimination in the distribution of goods and services.

Furthermore, the specific protection needs and legal rights of refugee women must be understood, strategies developed, and adequate measures taken to protect and assist refugee women. Examples of gender mainstreaming tools that have been developed to achieve this include, training manuals such as this one, the institutionalised use of disaggregated statistics and the development of various guidelines.⁵⁴

8. Adequate Human and Financial Resources

One of the basic requirements articulated in the ECOSOC Conclusions is the need for the allocation of adequate human and financial resources towards gender mainstreaming within the UN system.⁵⁵ This includes resources and other support to be provided to Gender Teams or focal points.

9. Ensuring Gender / Women's Participation at all Levels of Decision-Making

The ECOSOC Conclusions also address the need to make special efforts to "broaden women's participation at all levels of decision-making."⁵⁶ The UNHCR policy stresses this point even further, pointing out that programmes can only be effective if they are planned in consultation with refugee women, and that attempts must be made to promote their involvement, both as participants and as beneficiaries of programmes.⁵⁷ Existing policies, as well as operational activities should therefore, be reviewed with a view to ensuring and facilitating the participation of refugee women, and achieving a greater understanding of their needs and resources.⁵⁸

10. Capacity Building

⁵² ECOSOC Agreed Conclusions on Gender Mainstreaming, 1997, par 25-27.

⁵³ *UNHCR's Policy on Refugee Women*, at 8.

⁵⁴ These include, most notably: the UNHCR guidelines, *Sexual Violence Against Refugees: Guidelines on Prevention and Response*, Geneva, 1995; and the *Guidelines on the Protection of Refugee Women*, Geneva, 1991, which were designed precisely to assist in analysing and responding to the gender differentiated impact of conflict and displacement.

⁵⁵ ECOSOC Agreed Conclusions on Gender Mainstreaming, par. 10

⁵⁶ *Id.*, par. 7

⁵⁷ This includes at all levels of programme development, from identification of resources, to the evaluation stage, as well as with regard to durable solutions.

⁵⁸ *UNHCR Policy on Refugee Women*, at pp. 7-9.

Capacity building is another key component of the UN's mainstreaming policy, and is amply referred to both under the 'operational objectives' of UNHCR's policy, as well as under its own rubric in the ECOSOC Agreed Conclusions.

In particular, the ECOSOC Agreed Conclusions provide that the aims of capacity building efforts within United Nations agencies should target some of the following:

- the improvement of gender sensitivity and gender expertise through training activities⁵⁹;
- the mainstreaming of a gender perspective in inter-agency partnerships and co-operation agreements with inter-governmental organisations;
- and the launching of a system-wide effort to strengthen the capacity for co-ordination, evaluation, expertise and exchange of gender-related information and ideas. This may include using gender-disaggregated statistics and other indicators, electronic networks, public information activities, and the sharing of best practices.

Capacity building efforts may further include: encouraging inter-agency partnerships; co-operation agreements; and links between the UN, governmental and non-governmental organisations and institutions (including national commissions, and NGOs for the advancement of women).⁶⁰ Achieving a gender balance, in terms of the percentage of women at all levels throughout the UN system, is another aspect of capacity building.

Within UNHCR, capacity building objectives also include: co-operating with implementing partners, other UN institutions and governments, in order to exchange and benefit from each other's experience; the development of communication strategies which call attention to the situation of women; and the development of relevant training courses both for UNHCR staff as well as their national NGO and government counterparts.⁶¹

⁵⁹. This includes the integration of a gender perspective into all training programmes, the provision of gender training for all staff including those at the highest levels and gender experts and the evaluation of the impact of gender training.

⁶⁰. ECOSOC Agreed Conclusions on Gender Mainstreaming, par. 33-39.

⁶¹. *UNHCR Policy on Refugee Women*, at pp. 8-9

Best Practices:

Institutionalising Gender Equality in UNHCR⁶²

Turkey

Sala suffered severe physical and sexual abuse at the hands of her father since she was six years of age. When Sala's mother eventually divorced her husband and received custody of the children, Sala hoped the violence would end. However, she was later sent to Turkey with her father under the pretext of starting university. Once there, she was brutally beaten and sexually abused. At one point, the father tried to force her into prostitution. When she got pregnant, they went to Country X for an illegal abortion, after which she suffered severe complications, and was left infertile. The applicant, who had no hope of getting support from her mother, fled Country X and came to Turkey on her own. When the father discovered where she was, he threatened that he would kill her. Sala appealed to UNHCR for refugee status, and upon a positive decision of her application, was resettled to Canada.

Sera, age 16, is Sala's younger sister. Like her sister, Sera, was taken to Turkey by her father, without objections by her mother. Upon discovering that her younger sister had left to Turkey, Sala informed the UNHCR office and told them that she was concerned that Sera was also being abused. Sera was interviewed. She confirmed that her father had tried to force her into prostitution. He had started to beat her as well as make sexual advances, with the intention of removing her virginity so that she could start working.

These cases of two sisters from Country X highlight gender-related forms of persecution increasingly recognised and addressed by UNHCR and by countries extending asylum. Refugee women and girls considered 'at risk' require special assistance and protection mechanisms. In particular, there is an important need to adapt existing asylum guidelines and procedures to help protect the rights of refugee women in Turkey, to train relevant governmental and non-governmental organisations on this topic, and to build domestic capacity to assist and support refugee women and children. At the moment, the lack of state assistance to non-European refugees in that country and the meagre capacity of domestic women's organisations and services in Turkey means that refugee women and girls have had virtually no where to turn for assistance and help in times of crisis.

With this in mind, the UNHCR Branch Office (BO) in Turkey took an innovative approach to ensure gender issues were institutionalised in UNHCR protection activities and operations. The key institutional mechanisms used at BO Turkey to ensure gender sensitive operations and gender mainstreaming include the following:

- A Gender / Children Team (GCT);
- An effective gender mainstreaming mechanism (i.e., inserting the GCT work plan into the branch office action plan);
- An Inter-unit Committee for Special Cases (IUCSC);
- A UN Theme Group on Gender;
- Registration and statistical systems/ procedures which are gender-age disaggregated;
- Reporting: inclusion of policy priorities and gender issues in UNHCR periodic reports to headquarters (e.g., Country Operations Plans, and Annual Protection reports) and branch office internal reports;
- Mainstreaming of gender considerations which takes place at all levels of operations, including in the refugee status determination (RSD) and resettlement procedures.

Of special note are the two inter-disciplinary and inter-unit teams, the Gender and Children's Team (GCT) and the Inter-Unit Committee on Special Cases (IUCSC). The GCT actively integrates gender and youth issues in UNHCR policy development processes, implementation procedures, as well as project design and fundraising.⁶³ More recently, the GCT membership has also been expanded to all

⁶². This paper is an adapted and expanded version of a document prepared by UNHCR, DOS (Geneva) with the assistance of the UNHCR Senior Regional Adviser on Refugee Women and Gender Equality for Europe and Central Asia, and Branch Office Ankara, May 2001. It was submitted and subsequently published in the organisation's periodical, *Building Partnerships Through Equality: UNHCR Good Practices on Gender Mainstreaming*.

⁶³. Established within the UNHCR branch office (BO) Ankara in the early part of 2000, the GCT replaced the existing women focal points (in the legal and programme units). The team was created due to the recognition by the BO that increased efforts were needed in order to ensure proper understanding and dissemination of UNHCR policies on refugee women and children among UNHCR staff, as well as among Government officials and NGOs. The purpose of the team is to "proactively ensure the

the branch office's NGO implementing partners, thereby ensuring gender mainstreaming in partner operations, as well as their input into substantive issues and decisions.

The Inter-Unit Committee on Special Cases (IUCSC), for its part, was established for the express purpose of improving the mechanisms for dealing with particularly vulnerable (individual) cases and beneficiaries with special needs; it is intended to ensure effective and expeditious use of resources and expertise in special case circumstances.⁶⁴ It also promotes shared responsibility between different UNHCR units - Protection, Programme and Durable Solutions - in such cases. While not specifically created to address gender issues *per se*, the IUCSC has developed significant expertise in dealing with women-at-risk (e.g., victims of domestic violence, rape, forced prostitution, and other protection problems) and other issues impacting on refugee women.⁶⁵ The two teams thus complement and support each other's work, which leads to improved monitoring, better implementation of relevant guidelines and recommendations, and the development of new approaches to vulnerable cases. Moreover, a number of persons in the GCT are also part of the IUCSC. This is an advantage as the IUCSC will implement many of the decisions and recommendations made by the GCT. Communications procedures between the teams also provide that minutes and files are shared so as to ensure co-ordination and timely information sharing.

What good practice criteria were met?

The integration of a gender perspective into the various activities and policies of the UNHCR branch office and its implementing partners (IP), including in its protection work, promotes gender equality and challenges discriminatory assumptions and practices. Of particular note is the work done by the protection unit, which has paid special attention to recognising and understanding gender-related forms of persecution, as well as the obstacles women and girls sometimes encounter in the refugee status determination process. As a consequence, they have adopted procedures and acquired a degree of expertise in dealing with these issues which place them at the forefront of this field. Further details are provided below on this subject.

Moreover, the creation of a gender team which includes implementing partners, has fostered increased awareness of the importance and implications of gender issues among UNHCR, state bodies and partner organisations. It has also been instrumental in developing mechanisms, tools and procedures for gender mainstreaming at all levels and in all units of the office's operation.

What has been achieved?

- **Research and tool development.** The GCT and IUCSC have developed new tools to facilitate the identification of vulnerable cases and cases in crisis. The BO is also participating in regional projects to empower refugee women, including the development of a "Refugee Women's Legal Manual", designed to assist social and legal counsellors in providing information to refugee women on their rights in the country of asylum. A regional project instigated by the Senior Regional Advisor on Gender and Refugee Women, this legal manual addresses specific gender-related

mainstreaming of UNHCR's policies on gender and children." According to the GCT terms of reference, the team is composed of two members from each of the three units at BO Ankara and operates under the leadership of the Deputy Representative, and with the support of the Representative. As noted above though, as of late 2001, membership has been expanded to implementing partners, and the team has been placed under the leadership of the Representative as of the beginning of 2002. In addition, a focal point of each of the field offices is also a member of the team and is responsible for ensuring the implementation and follow up to the decisions made during the GCT meetings. The Regional Officers for Refugee Women and Children, which are based in Ankara, are also part of the GCT. The GCT meets once a month. Of central importance to the work and objectives of the team is the formulation of a comprehensive Work Plan, detailing activities, trainings, priorities, needs and procedures for mainstreaming UNHCR's policies on refugee women and children. This Work Plan is then merged with the BO's Action Plan, and tasks are delegated throughout the office. The GCT is also responsible for submitting both a mid year progress report and a year end evaluation of their achievements, continuing needs, and general progress.

⁶⁴. The IUCSC was established in response to the realization that certain types of cases required the expertise and co-ordination of all the different units in the branch office. Headed by the Deputy Representative, this committee is composed of two staff members from the three different branch office units (namely, legal, durable solutions and program) which meet in order to address the problems (on a case by case basis) of the very vulnerable in a systematic, speedy and effective manner. Once a case (or a suspected case) has been identified by any staff member (preferably at the registration stage), an IUCSC member is to be informed immediately. The committee member then calls for a meeting and the case is discussed. An individual plan of action is prepared, after which the IUCSC members report on the action taken in a note for the file which is copied by e-mail to all the committee members.

⁶⁵. For example, the IUCSC focuses on other types of vulnerable cases, such as persons with a mental or psychological condition who are a threat to themselves and/ or others; separated children; and custody cases.

rights and issues, such as domestic violence, sexual violence, honour crimes, reproductive rights and abortion, as well as some of the major legal issues and procedures relating to marriage and divorce.

- **Improving efficiency and access to assistance:** The integration of a gender perspective in UNHCR procedures and mechanisms has also helped to improve access to UNHCR procedures and assistance for women and girls that may not have otherwise succeeded in obtaining the necessary attention and help. In particular, the GCT and IUCSC have empowered the organisation to deal with difficult and complicated cases.
- **Gender sensitive RSD procedures:**⁶⁶ some of the mechanisms used by UNHCR Ankara to ensure a gender sensitive RSD procedure include the following:

Special procedural safeguards and other measures

- An interview questionnaire which includes specific questions intended to assess whether dependant female spouses may have grounds for a separate claim from their husbands;
- Separate and confidential interviews with female spouses, which are conducted automatically;
- Procedures for the separation of claims;
- An expedited procedure for vulnerable persons, including women considered vulnerable or at risk;
- Availability of female legal officers and interpreters;
- In-house training and other support is provided to staff on analysis of gender cases and relevant country of origin information;
- Special assistance is provided to refugee women at risk/ survivors of violence.

These procedural guarantees not only improve access of refugee women and girls to the RSD process and to UNHCR assistance programmes, but they also improve the quality and fairness of the system. This is evidenced by the careful attention to gender-specific country of origin information, the many different types of gender claims that have been recognised by the BO, and by a recognition rate which is higher for female than for male applicants. The recognition rate of female applicants is recorded, as well as the grounds for the claims. Moreover, the checks and balances used within the RSD procedure also have the indirect effect of mainstreaming and harmonising the office's position and analysis of gender claims. For example, the use of discussion officer system⁶⁷ ensures that gender issues are raised even if the interviewer may have initially missed elements in this respect. The case discussion groups, which include all the legal officers and take place every two weeks, have also been an important venue where gender claims have been raised. And finally, both appeals and re-openings may be granted based on gender-related grounds or issues.

- **Mutual co-operation and support:** The GCT brought together members of the different units in the office in order to work on gender and children issues as a team. This inter-unit teamwork has fostered an environment of mutual learning and co-operation, and made possible both strategic planning and a more comprehensive approach to these issues.
- **Awareness raising:** The creation of a gender team (with members from different units) has increased the visibility of gender issues among a wide range of persons in the office, with a positive impact on staff openness and attitudes. Trainings held with state bodies and implementing partners have also raised awareness of gender issues.

What was planned?

- **Gathering gender-sensitive information:** Gender mainstreaming efforts have also made it possible to uncover and begin to address the gender-related protection concerns of women and girls. This has been achieved through gender sensitive needs assessments (surveys), improved mechanisms for the early identification of vulnerable cases, and improved systems for documenting and recording cases related to gender issues.

⁶⁶ For a more thorough discussion of the gender sensitive aspects of the RSD Procedure in BO Ankara, please see Chapter 5.

⁶⁷ The discussion officer mechanism, which takes place during the first instance, provides that two officers (the interviewer and a randomly picked legal officer as a discussion officer) must agree on the decision.

- **Working with partners:** The GCT and the UNHCR BO have requested that their implementing partners highlight gender-related concerns in project descriptions and submissions. UNHCR constantly maintains contact with other relevant actors, including government bodies, local women's organisations, academic institutions and other UN agencies, on gender issues. An Inter-agency Caucus on Gender Issues was established at the instigation of UNHCR. This Caucus has now been replaced with the more formal UN Gender Theme Group. Training programs for government counterparts have included relevant gender issues, particularly in relation to RSD procedures and country of origin information.
- **Guidelines:** Procedural steps or protocols for addressing cases of domestic abuse were developed by the IUCSC, and distributed to relevant staff, including clerks and interpreters. More procedures (and accompanying protocols) are also being now completed on other specific gender-related problems such as forced prostitution, incest, and sexual abuse, including rape. These will be used in conjunction with the Refugee Women's Legal Manual.
- **Strategic Approach and Accountability:** GCT members developed a common strategy and work plan to mainstream a gender equality perspective throughout UNHCR and its implementing partners' protection and operational activities in Turkey. The GCT Work Plan was then merged into the branch office Plan of Action. This means that the activities proposed by the GCT, once accepted into the office's Plan of Action, were not only mainstreamed but also benefited from the automatic monitoring function of the Operation Steering Committee⁶⁸, and were delegated for implementation to relevant units and persons throughout the office. Responsibility for different gender-related tasks is given to specific staff members in different units of UNHCR, thereby promoting accountability.

What was learned?

- Mainstreaming is an ongoing process and requires creative strategies and actions. There is no one solution. Empowerment and gender mainstreaming strategies must be based on the context in which the strategy is being developed.
- Senior level commitment and participation in the GCT is required to make sure that implementation of activities and plans occur. Field level representation is also required in order to ensure adequate implementation.
- Commitment and motivation is required when dealing with gender issues. A group like the GCT needs to operate as a 'team', understood as a group of people working together to achieve a goal. The team must have a comprehensive overview of the situation and of the needs of the refugee women and children. Given the interdisciplinary nature of gender issues, the inter-unit composition of the team results in a better identification of problems, and a realisation that there is a need for more knowledge about the problems and how to deal with them.
- Women's empowerment is an important component to facilitate gender equality and gender mainstreaming. The UNHCR Turkey branch office has assisted local non-governmental organisations in the design and planning of specific projects to empower refugee women and girls, and the office continues to help to fundraise for these projects.

⁶⁸. The Operation Steering Committee is an expanded management committee which meets once a month to review the implementation of the UNHCR Turkey Branch Office Plan of Action.

Making Your Case that Gender Matters: In a Refugee Context⁶⁹

We should promote gender equality and gender mainstreaming for reasons of:

a) Justice and Human Rights:

Refugee law (as a branch of human rights) draws from and includes the human rights principles of equality and non-discrimination between women and men. Refugee women and men are therefore equally entitled to assistance and protection.

b) Credibility, Accountability, and Organisational Mandate:

UNHCR's mandate, as well as that of most NGO or government refugee-assisting organisations/ agencies, is about the protection and promotion of the rights of both refugee women and men. Therefore we can only fulfil our mandates if we are promoting gender equality. Our policies and programmes must reflect the fact that persons of concern include both men and women (and girls and boys), and indeed, the majority of the world's refugees are women and children. In addition to being accountable to our persons of concern, UNHCR is also accountable to the international community, which promotes the equal rights of women and men.

c) Efficiency, Quality of Life, and Chain Reaction:

The equal inclusion of women and men refugees capitalises on their contributions and increases the efficiency and sustainability of programmes. Moreover, increasing attention to gender equality issues has been shown not only to improve the quality of life of individual men and women, but also the general welfare of the entire family. It has the capacity to produce a chain reaction of both short and long term benefits to individuals, families and communities. This is especially important in refugee situations, where resources are often scarce and must be used to maximum efficiency.

d) Alliances/ Other Political Incentives/ Donor Demands:

This type of argument is used when progress on gender issues is seen as an important pre-requisite to achieving another goal, such as joining the European Union in the European context, or satisfying donor demands or sensitivities.

In addition, you may also use the following arguments:

e) Refugee Communities hold Different Patterns of Gender Relations:

Refugee-assisting organisations and agencies must deal with different refugee communities, each characterised by their own pattern of gender relations, which they must understand and factor into their work and operations, including through the use of gender analysis.

f) Different Access to Protection and Assistance:

Women and men's different positions in the family and community often affect their control over resources, their access to protection and assistance programmes, and even the impact of our policies and programmes. Therefore, in order to ensure that we are indeed promoting/achieving gender equality in our operations and not simply reproducing or widening this gender gap, we must conduct a gender analysis and implement a gender mainstreaming strategy.

g) Affected Differently by Refugee Experience of Being Uprooted:

Women and men are often affected differently by the experience of becoming a refugee and being uprooted from their normal family and community structures. Refugee women often take on what they previously regarded as the traditional male roles of provider and protector. On the other hand, the refugee experience often makes them more vulnerable to violence, destitution, exploitation and other forms of neglect or abuse. Gender analysis and mainstreaming ensures that the particular roles, needs and vulnerabilities of refugee women are taken into account.

⁶⁹. Inspired in part by UNDP, *Gender Mainstreaming in Practice: a Handbook*, prepared by Astrida Neimanis for UNDP (RBEC), version in use March 2002, see Step 7. Full text available in Unit 3 (CD-ROM) in this Kit or in the following web-site: www.rbec-surf.sk

ARGUING YOUR CASE: GENDER MATTERS!

Reproduced from:
UNDP Gender Mainstreaming in Practice: a Handbook⁷⁰

Perhaps the most crucial stage in gender mainstreaming involves developing arguments for gender equality: experience has shown that decision makers are reluctant to devote scarce resources to gender equality enhancing activities just because gender mainstreaming has become an institutional mandate. Rather, decision-makers (especially those who control the purse strings) need to be convinced that their investment in gender equality will pay off.

Decision-makers need to be presented with arguments that highlight, **concretely and precisely**, why gender matters. In other words, you must illustrate what development problems gender equality contributes to solving, and what specific benefits a gender-aware perspective will bring to the government, individuals - both men and women - and the nation as whole. Once you have developed these arguments, you will have a better chance of receiving financial and moral support for any planned interventions.

WHY BOTHER?

Arguments for adapting a gendered approach and for promoting gender equality in all projects and policies can usually be slotted into one of the following 6 categories of main arguments:

- **Justice and Equality**
- **Credibility and Accountability**
- **Efficiency and Sustainability (the “macro” dimension)**
- **Quality of Life and Social Interdependence (the “micro” dimension)**
- **Alliances**
- **Chain Reaction**

Justice and Equality Arguments: These stress the value of democratic principles and basic human rights, which demand gender equality. Justice arguments can be used to argue for equal representation and participation of both genders in various contexts, premised quite simply on the notion of their shared human rights.

Most states are party to a variety of normative documents (for example, The Convention on the Elimination of All Forms of Discrimination Against Women, The European Charter of Human Rights, and global conference documents from Beijing, Copenhagen and Cairo), all of which establish gender equality as a fundamental principle. States are thus obliged to fulfil their commitments under these documents, especially as many of the basic democratic principles in them are enshrined in most states' own constitutions.

While experience has unfortunately shown that the justice argument alone is often insufficient to convince governments to mobilise adequate resources, these arguments are nonetheless useful for providing reference to specific mandates for gender equality and commitments nations have entered into. Furthermore, they remind governments that they are part of an international (or regional) community that espouses shared values - and democracy without full participation and equality of both genders is indeed no democracy.

Credibility and Accountability Arguments: Credibility arguments basically ask decision makers to do the math: because women and men each make up half of the population, any data, policy or recommendation that does not recognise and address both genders equally will be ultimately flawed, and will thus have no credibility. These arguments are useful for justifying gender impact assessments (studies that examine how men and women are, will be or have been differently affected by actions or situational factors), or calling for more gender balance in decision-making processes.

⁷⁰. UNDP, *Gender Mainstreaming in Practice: A Handbook*, see Step 7. The integral text of this handbook is available in the Gender CD-ROM in this Kit

Accountability arguments in particular are useful for reminding governments of their responsibility in ensuring social justice and sustainable human development. In democratic states, governments must be accountable to the population and must represent and further the interests of all its members - this includes both men and women. Thus a failure to address social justice or gender equality issues is also a failure of governments to be accountable to all of its citizens. Furthermore, many gender-sensitive interventions are not just gender exercises for their own sake - they are about holding governments accountable for their use of public funds and for the fulfilment of their political promises. Gender mainstreaming can offer concrete mechanisms for introducing a greater degree of accountability into governance.

Efficiency and Sustainability Arguments:⁷¹ These arguments make clear an irrefutable fact: equal inclusion of men and women in all aspects of development and society pays off for the country as a whole. Nations cannot afford to ignore the contributions and economic and social capacities of both men and women in all spheres, and the development of any country that does will ultimately suffer in the medium and long term. This is an argument that addresses “macro” aspects of development - i.e. the welfare and prosperity of a nation as a whole.

The use of these arguments is particularly effective as they address the bottom line: money. They prove that investment in gender equality now will pay off for the country as a whole in the future - and what decision-maker does not want to contribute to the prosperity of the nation? If you require resources to be diverted from national budgets for specific gender mainstreaming interventions, consider the efficiency arguments carefully, as these will be the ones that will most often make your case. Global studies have been done that prove the overall efficiency arguments⁷² - these can assist you to make your argument, as will any national research you have to substantiate your case.

Closely linked to efficiency arguments are sustainability arguments. These point out how increased gender equality, or specific gender-sensitive policy interventions, will enhance the sustainability of growth and development. Because gender mainstreaming adopts a “human development” perspective, addressing the long-term objective of creating a socially just and stable society, gender mainstreaming is inextricably about ensuring sustainability as well. Furthermore, because gender mainstreaming demands a holistic approach to policy-making where co-ordination and co-operation (both vertical and horizontal) are key, the prospects for sustainability of interventions are greatly increased.

Quality of Life and Social Interdependence Arguments: Increased attention to gender equality issues will improve the lives of individual men and women. In a democratic society based on principles of social justice, each individual member has the right to the best quality of life possible. Gender mainstreaming initiatives seek to further this objective.

Moreover, while it is commonly recognised that women stand to benefit from increased attention to gender equality, quality of life arguments also point out the benefits to be gained by men and families as well. These arguments thus stress the importance of social relationships and interdependence of social actors, claiming, for example, that if women are empowered, those closest to them stand to gain as well. The converse of this is that inequality or hardship for one gender will negatively affect other social actors as well: the negative effects of depression in men or poor employment opportunities for women affect families, children and spouses as well.

Moreover, quality of life arguments are useful as justification for adding a gender dimension to prevention programmes aimed at curbing social “pathologies”. For example, while it has long-since been recognised that domestic violence needs to be approached from a gender perspective, issues such as suicide, alcoholism, addictions and chronic stress are also strongly linked to changing gender roles and relations in society and the inability of individuals to cope and adapt. The argument here

⁷¹. Care should be taken, however, when using efficiency arguments to avoid stressing that women are an “under-utilised resource.” As Diane Elson has noted, the problem for many women is that they are in fact “over-utilised” (quoted in OECD: 1998). The focus should be placed on recognising and appropriately valuing the contributions of both genders. The goal is not burden women further, but to strive for a re-negotiation of women’s and men’s roles in society, that will ultimately result in increased levels of development and prosperity.

⁷². see specifically the World Bank Policy Research Report Working Paper Series on Gender and Development.

therefore underlines that increased attention to gender can limit these pathologies and improve the quality of life of members of society.

These arguments speak to “micro” aspects of development and gender, i.e. the ways in which individuals within a development context are affected. However, this argument has a natural link to efficiency arguments: if individuals are happier and healthier, they will also be more productive, thus contributing to a more efficient and prosperous society.

Alliance Arguments: Also sometimes referred to as the “carrot and the stick” approach, alliance arguments highlight gender equality as a prerequisite for forging formal alliances or partnerships with other nations. In the context of Eastern and Central Europe, the most salient point here is European Integration: candidate countries for EU accession are mandated to implement various instruments for the promotion of gender equality as a prerequisite for EU membership.

However, we should note that while this argument is currently a very effective one for calling governments to task, it is ultimately unsustainable unless coupled with concrete substantive reasons (such as efficiency and quality of life) as to why issues of gender equality should be addressed. Real political will and commitment of resources that address specific gender equality issues will only be forthcoming if indigenously valid arguments are presented alongside the “carrot” of EU integration. In fact, without solid substantive arguments, the EU argument may even backfire among Euro-sceptics in government or those who consider outside pressure from the EU as undermining national priorities and issues.

Chain Reaction Arguments: Lastly, all of the above arguments are strengthened when the links between them are highlighted. Gender equality can in fact produce a “chain reaction” of benefits to individuals and the nation as a whole, just as the effects of gender inequality can multiply and propagate in a similar fashion. The “chain reaction” argument highlights how sound the investment in gender equality actually is: it will bring not only short-term, localised benefits, but medium and long-term benefits that will ripple through society strengthening the nation as a whole.

For example, a simple chain reaction might illustrate how more equality in the labour force leads to more equal decision-making within the home⁷³. A more sophisticated extrapolation of this chain shows how family-friendly work environments promote male involvement in household management and childcare, thus reducing social isolation and pathological behaviour amongst men, and contributing not only to their individual quality of life but also to the quality of life of their families. Their wives in particular benefit, as they may then have more time to participate in politics, for example, which will lead to more gender-balance in decision-making and more attention to gender issues in policy and legislation in the future. At the same time, children benefit from gender balance in parenting and will be more likely to espouse gender sensitive behaviour and values as adults - thus continuing the chain even further. As a result, not only the individuals but the nation as a whole reaps the benefits.

At the same time, mainstreaming should also remain aware of “chain reactions” that might produce negative gender equality effects if not anticipated and dealt with in an integrated manner. For example, a “top down” mandate for family-friendly workplaces might bring backlash and even greater exposure to harassment against women in their place of work. Similarly, advancement of women may lead to greater depression and pathological behaviour among men. These risks highlight the crucial need to create complex strategies for gender mainstreaming, whereby a number of initiatives are mutually reinforcing. Thus a negative chain reaction argument can be used to convince decision-makers that mainstreaming must proceed in a **strategic and holistic** manner.

⁷³. World Bank research

GENDER MAINSTREAMING: A 12-STEP PROGRAMME FOR SUCCESS⁷⁴

Reproduced from:
UNDP Gender Mainstreaming in Practice: a Handbook.

Note: This Kit includes the complete text of the above UNDP Gender Mainstreaming Handbook, which has been made available, with the kind permission of UNDP, in the Gender CD-ROM attached to this Kit. For your convenience and information, we have provided below the introduction to the UNDP “12 Step Programme for Success” (Part I of that publication), and some further details on the other contents of this Mainstreaming Handbook. We encourage readers to complement the readings in this chapter with those provided in this UNDP publication.

(Excerpt)

Gender mainstreaming, by definition, involves integrating a gender perspective and gender analysis into *all* stages of designing, implementing and evaluating projects, policies and programmes.

To assist you to translate this theory into practice, [the above-mentioned] UNDP Gender Mainstreaming Handbook provides practical guidelines and advice for mainstreaming a gender perspective at 12 different but interrelated and interdependent stages in the project or policy process. [While not specific to a refugee context, it provides nonetheless a useful guide for refugee-assisting organisations wishing to gender mainstream their operations.]

Each of these 12 steps is outlined for you in Part I of the handbook. Unsurprisingly, the steps required for mainstreaming are similar to the steps required by policy making or project development more generally - this is, of course, because gender mainstreaming is not an isolated exercise, but an integral part of the project or policy cycle.

These 12 steps can be approached as a sort of checklist - this list will help you take stock of what activities you have already implemented, while also providing you with ideas and guidance for expanding your approach to gender mainstreaming. These twelve steps thus elaborate the “nuts and bolts” of how gender mainstreaming works in practice. The “Gender Briefs” in Part II [of the UNDP Handbook] provide you with an idea of the substance that fleshes this framework out, sector by sector.

Is Gender Mainstreaming really that Complicated?

Despite the detailed guidelines contained in the UNDP handbook, you should not feel overwhelmed by the task of gender mainstreaming. While it is true that in-depth gender-based analysis requires a sophisticated level of expertise, this, when required, can be outsourced to necessary experts.

For the most part, practical gender mainstreaming is about considering economies of scale. It is often simply about running through a **checklist** of questions to ensure you have not overlooked anything. It is about **asking the right questions** so that you can see where limited resources should best be diverted, for the most effective and efficient results. Because gender equality itself is often a question of **efficiency** (see Step 7), mainstreaming is the tool used for achieving this.

Contents of the UNDP Gender Mainstreaming Handbook (available in the CD-ROM):

Part I: The 12 Steps for Gender Mainstreaming:

1. A Mainstreaming Approach to Stakeholders: Who are the Decision-Makers?
2. Mainstreaming a Gender Agenda: What is the Issue?
3. Moving Towards Gender Equality: What is the Goal?
4. Mapping the Situation: What Information do we Have?
5. Refining the Issue: Research and Analysis
6. Formulating Policy or Project Interventions from a Gender Perspective

⁷⁴. Reproduced with slight adaptations for the purposes of this Kit from: UNDP, *Gender Mainstreaming in Practice: A Handbook*, Part I.

7. Arguing Your Case: Gender Matters!
8. Implementation and Accountability From a Gender Perspective
9. Monitoring: Keeping a (Gender Sensitive) Eye on Things
10. Evaluation: How Did We Do?
11. Refining the Gender Agenda: What is the Issue, Again?
12. En-gendering Communication

Part II: Gender Briefs: A Sectoral Approach to Mainstreaming

- Macro-economics and Trade
- Governance and Participation
- Labour
- Education
- Health
- Poverty
- Justice and Human Rights (reproduced in chapter 3 of this Kit)
- Science, Research and Information and Communication Technologies (ICT)
- Mass Media
- Environment and Sustainable Development
- Defence, Conflict and Peace-Building

Resistance⁷⁵ To Gender Equality and Gender Mainstreaming

Discussion

Background

Building more equal gender relations is a slow process. There is a need to understand and come to terms with the numerous forms of resistance mobilised against change. Resistance can be conscious or unconscious; it can take place at various levels (personal and bureaucratic) and can come from women as well as men.

Forms of Resistance

As part of the effort to deal with different forms of resistance and develop ways to overcome them, Sara Longwe (1990, 1995) started the process of identifying specific resistance strategies. This list of strategies builds on her work.

Denial

This strategy can be used at different levels. For example, at a broad level people argue that gender equality is not a concern for their country (or region, or community). Or the denial might be more limited, saying that a particular programme does not discriminate against women.

Selection of a Token Action

The users of this strategy acknowledge that something should be done about equality issues but they are unwilling to think about significant change. So they select a specific project (or component within a project). This project is often based on a limited assessment of gender disparities and may view women as a 'vulnerable group'. Thus when asked about what they are doing on gender equality issues, people point to this specific project to demonstrate that they are doing "something". In reality, however, equality has not been taken up in a serious fashion.

Lip Service

This familiar strategy involves acknowledging the issue at the level of rhetoric, but failing to take meaningful action.

Commissioning a Study

Instead of action, the users of this strategy hope to delay decisions by setting up a study to provide more information. They often hope that the issue will have gone away by the time the study is completed.

Speaking on behalf of "Women"

With this strategy, the user assumes that women are a homogeneous group who have one position and one set of interests. One or two experiences are generalised into a broad statement intended to cover all women.

"I met with a women's group yesterday and they told me that their primary concern was building a school for their children. Therefore this should be the major focus of our co-operation programme."

⁷⁵. Reproduced from : OECD-DAC, *Source Book: Prepared in Conjunction with the Draft Principles for Development Co-operation on Equality Between Women and Men*, Expert Group on Women in Development OECD-DAC (prepared by Johanna Schalkwyk and Beth Woroniuk), March 1997, at 59-62. Note: the sub-title *To Gender Equality and Gender Mainstreaming* has been added by the editor of this Kit for the sake of clarity.

<i>Shelving</i>	<p>With this strategy, action on equality issues is postponed or delayed pending a broader process or planning decisions.</p> <p><i>"Thank you for your comments. We are currently in the process of developing a master plan for development in this region. We will take this report into consideration, along with all the other reports on other important themes."</i></p>
<i>Compartmentalisation</i>	<p>Users of this strategy do not recognise equality issues as crosscutting and delegate all actions to the person officially responsible for 'women's development'. This, in effect, turns a concern with equality into a sector.</p>
<i>Misconstrued Mainstreaming</i>	<p>In this case, mainstreaming as a strategy is misunderstood. Instead of a focus on equality between women and men as the goal of a mainstreaming strategy, the main emphasis is on the process of involving women, often in activities and programmes in which they have had little input. Officials argue that there are no specific programmes for women as women participate (or are welcome to participate) in all the activities of the programme.</p> <p><i>"Women in this region already work very hard - in agriculture and with their family responsibilities. It would be irresponsible of us to ask them to participate in more project activities."</i></p>
<i>Tokenism</i>	<p>One or two women are appointed to committees or invited to participate in a decision-making process. Women with little interest in gender equality issues may be selected for precisely that reason or even if a woman with a commitment to equality is invited to participate, she may carry little weight in the overall process.</p>

Countering Resistance

In her work for UNICEF (1994), Longwe went on to discuss basic strategies to counter resistance:

<i>Countering Denial</i>	<p>Present sound empirical evidence (statistics, oral histories, solid research) that documents gender disparities and discriminatory practices.</p>
<i>Countering Selection</i>	<p>Ensure that equality issues are given a high profile at all stages of the planning process (not just problem identification). Ask questions about the eventual impact and results of the initiative and who will benefit (which women and which men).</p>
<i>Countering Lip Service</i>	<p>Push for systems that monitor and evaluate impacts on equality between women and men in all programmes.</p>
<i>Countering Investigatory Diversions</i>	<p>The need for further research can be acknowledged without postponing all action until the research has been completed. A pilot project could be developed to explore the issue and there are significant databases and sources of information that are currently not being used.</p>
<i>Countering 'Speaking on behalf of all women'</i>	<p>Look for research that has been done that attempts to analyse both women's common interests and diversity. Make</p>

the case that an understanding of each situation is required and urge the use of gender-sensitive participatory methods.

Countering Shelving

If this project is a priority, take it to another institution or another level in the system. Seek out allies who will argue on behalf of the project.

Countering Compartmentalisation

Push for overall attention to gender issues in programme planning, implementation and evaluation. Make a concrete case of how and why gender equality issues are relevant to the work of this specific ministry or in this specific project.

Countering Misconstrued Mainstreaming

Try to shift attention to the impact of the initiative and ask questions about who will benefit. Does the project widen gender disparities? Does it have the potential to contribute to more equal gender relations.

Countering Tokenism

Push for greater transparency of the decision-making process and, in general, more input into decisions by those affected by them. If you are the token woman, look for allies (both inside and outside the formal structure).

References

Longwe, Sara Hlupekile (1995), "The Evaporation of Policies for Women's Advancement" in Noeleen Heyzer (ed.) *A Commitment to the World's Women: Perspectives on Development for Beijing and Beyond*, New York: UNIFEM.

Longwe (1990). *From Welfare to Empowerment: The Situation of Women in Development in Africa, a Post-UN Women's Decade Update and Future Directions*, Working paper #204, Women in International Development, Michigan State University, March.

Morgan, Nicole (1988), *The Equality Game: Women in the Federal Public Service (1908-1987)*, Ottawa: Canadian Advisory Council on the Status of Women.

del Rosario, Virginia (1995). "Mainstreaming gender concerns: aspects of compliance, resistance and negotiation", *IDS Bulletin* 26(3): 102-109 (Special Issue: Getting Institutions Right for Women in Development).

Staudt, Kathleen (1990), "Gender politics in bureaucracy: theoretical issues in comparative perspective", in Kathleen Staudt (ed.), *Women, International Development and Politics. The Bureaucratic Mire*, Philadelphia: Temple University Press.

UNICEF (1994), *Gender Equality & Women's Empowerment*, (Training Package); June.

A SIDA TIPSheet⁷⁶

Organizational change & equality between women and men

Gender equality and institutions: two challenges

Organisations and institutions are crucial players in development and development co-operation. A gender lens can be applied to NGOs, government bureaucracies, UN organisations, private sector companies, and to development co-operation agencies themselves.

From a gender equality perspective, there are at least two challenges regarding institutions:

- **How can an organisation promote more equitable relations between women and men through the implementation of its mandate?**

Organisations have a profound impact on gender relations and inequalities. Given their mandates and resources, organisations decide (implicitly or overtly) who gets what resources, who benefits from a specific programme and who participates in decisions. For example, there are gender equality implications in the actions of both the Ministry of Finance setting tax policy and a community-based organisation developing a water-users' committee.

Most organisations pay little attention to the relevance of differences and inequalities between women and men to their area of work. Many people assume that organisations operate in 'gender neutral' ways, that their actions will have the same impact on women and men. Yet, it is rarely the case.

Organisations can perpetuate inequality between women and men through implementing policies that widen economic disparities (in the case of a Ministry of Finance) or that fail to support women's involvement in decision-making processes (in the case of a development co-operation agency). Institutions also have the potential to act in other ways. They can seek to ensure that policies and programmes narrow gender disparities, recognise domestic work, promote more equal decision-making authority and eliminate discrimination on the basis of sex.

- **How can women and men participate equally in the institution (in its structure, in its decision-making processes, and in the jobs it offers)?**

Analysts have argued that organisations themselves (their structures, ways of working, decision-making, and institutional 'culture') can have significant gender overtones. For example, they point out that organisational expectations imply that workers have few or no family responsibilities (that they can be away from home for significant periods of time or that they can work late into the night).

Changing organisations

Planned change, the change agent, leading change, the challenge of change, managing change... The business section of any bookstore is full of texts and studies of organisational change. Yet there are no easy solutions - organisations have proven to be complex. Reaching the goal of equitable relations between women and men will depend on multi-faceted strategies.

Attention has recently begun to focus on how development co-operation organisations can be changed to better promote equality between women and men. The initial focus was on the development of policies, but it was soon realised that the implementation of these policies, would require additional support and even organisational transformation. Key factors that can support the change process include:

- Development of a strategy that is based on the individual characteristics of the specific organisation (mandate, structure, staff...);
- Support from the leadership of the organisation;
- Clearly articulated arguments about why and how a gender equality perspective is relevant to the work of the organisation (even better if backed by strong research);
- Development of strategies to deal with resistance;
- Clear organisational targets and goals (with timelines) to hold the organisation accountable for progress;
- Adequate resources (including staff time);
- An internal catalyst that can mobilise resources and keep the issue on the organisation's agenda;
- Solid networks with gender equality advocates;
- Identification and mobilisation of allies inside an organisation; and
- An organisational strategy that holds all staff responsible for the gender equality mandate (rather than assigning implementation responsibility to a small, marginal unit).

⁷⁶ Reproduced from: SIDA, *TIPSheets for Improving Gender Equality*, "Sida Equality Prompt Sheet # 15: Organisational Change and Equality between Women and Men", (prepared by B. Woroniuk and J. Schalkwyk), December 1998, Swedish International Development Agency. Also see: www.sida.se

Continued

Models and Responses in Organisational Change Processes (Adapted from: M. Macdonald, E. Sprenger & I. Dubel (1997), <i>Gender and Organisational Change: Bridging the Gap Between Policy and Practice</i> . Amsterdam: Royal Tropical institute)				
Status of gender equality issues in the organisation	Responses of management to a gender equality agenda	Typical behaviours of other employees vis-à-vis gender equality issues	Situations and roles of change agents	Strategies used by change agents
<i>Gender-blind</i> : no recognition of gender differentials: assumptions include biases in favour of existing gender relations.	Defensive: easily accused; insulated by power.	Passive: lack awareness.	<i>The lone pioneer</i> : frequently stigmatised; needs support base; primary support often comes from outside the organisation.	Putting gender on the agenda by explaining, giving facts and figures: formal/ informal organising.
<i>Gender aware</i> : Recognition of gender differentials but often only fragmented, translation into practice. Also little recognition that gender equality is the ultimate goal.	Can feel attacked or intimidated; Can seek solutions to fulfil commitments to gender equality that do not challenge status quo; looks for 'easy solutions' that will make the issue 'go away'.	Increasingly aware but often afraid to rock the boat; Request 'tools' that will tell them what to do; Some seek to promote gender equality, but lack political/ institutional support to take risks.	<i>The fighter</i> : charismatic, fast moving; risk-taker; not afraid of conflict; has a small support base in the organisation; <i>The bureaucratic entrepreneur</i> : analyses, institutional opportunities and obstacles.	Arguments based on ideology and values; forms strategic alliances (inside and outside the organisation) Seeks to create opportunities and mobilise resources with the current organisational context.
<i>Moving toward gender-redistributive</i> : Interventions intended to transform existing distributions to create a more balanced relationship between women and men.	Cares about the organisational gender image; is interested in making alliances with change agents; needs support in policy development and implementation.	Prepared to support management; in need of skills and tools to bring policies into practice.	<i>The player</i> : plays the organisation; recognises opportunities, negotiates; is diplomatic, flexible; <i>The catalyst</i> : rather than implementing, seeks to assist others to implement.	Builds planning, monitoring and evaluation systems; mechanisms for learning and accountability; promotion of innovative practices; outside networking.

Continued

Institutional Analysis from a Gender Equality Perspective

(Adapted from OECD/DAC. (1998). *DAC Sourcebook on Concepts and Approaches Linked to Gender Equality*. Paris.

Available at: <<http://www.oecd.org/dac>>

A gender analysis of an organisation involves looking at several aspects:

- **The institution's mandate and area of work:** It is important that the relationship between the primary area of work/mandate of the organisation and equality between women and men is clearly understood. For example, if the institution is concerned with promoting environmental sustainability, are the linkages between gender inequality and differences and the environment understood and recognised throughout the organisation?
- **Organisational history and culture:** Both the informal and formal rules that guide an organisation can have gender implications. Factors that support increased attention to equality issues include: flexibility, valuing diversity and different professional specialisations (for example, are social analysis skills considered important or just a 'frill?'), recognition and support for people's family responsibilities.
- **Current personnel:** The skills and attitudes of both management and regular staff are important. Does the leadership of the organisation support the move to greater attention to gender equality issues? Does the current skill profile within the organisation support the consideration of gender equality issues or is there a need for new skills?
- **Organisational routines and procedures:** Internal procedures may offer support or hinder the consideration of gender equality issues. For example, if evaluation and monitoring are weak in general, it will *be* difficult for the organisation to monitor the impact of its programme and policies on women and men.
- **External environment and pressures:** Effective organisational change is often promoted through a combination of internal advocates and external pressure on organisations. Many organisations have moved to develop new skills or programmes at the prompting of external advocacy groups, donor agencies, or 'global opinion and consensus' (such as that established through the Beijing *Platform for Action*).

See also two 'think pieces' published by Sida's Department for Policy and Legal Services: *Gender Equality Action Plans (1996)* and *Mainstreaming: A Strategy for Achieving Equality between Women and Men (1996)*.

Prepared for Sida by B. Woroniuk and J. Schalkwyk .December 1998

Sida Equality Prompt Sheet#15: Organizational change and equality between women and men

www.sida.se

Participation & Equality between Women and Men

Participatory processes do not automatically recognise inequalities and differences between women and men⁷⁷

Experience shows that participatory processes and 'attempts to involve poor people' do not automatically include women. Attention to gender differences and inequalities is required if participatory development initiatives are to involve women as well as men.

Specific issues include:

Power imbalances in communities:

Communities are not harmonious groups with a common set of interests and priorities. There are often strong divisions along the lines of age, religion, class, and gender. These power differentials make it difficult for some people to voice opinions that contradict general views. Power differentials may even affect who participates in specific meetings. Outside officials may only invite 'community leaders' (generally men) to participate in consultations.

Intra-household and intra-family relations:

Some women may find it difficult to speak out in front of their husbands or fathers. They may also believe that discussions relating to family matters (even issues relating to workloads) are not for public forums.

Different constraints to participation: Men and women have different responsibilities and work loads, with women often having less time to devote to new activities. Attending specific meetings may raise problems for women if they are set for times of the day when women tend to be occupied. Women's responsibilities for childcare may also make it difficult for women to participate.

Different abilities to Participate: Given gender biases in education, women and men often have varying literacy levels. Men may also have more experience putting their arguments forward to outsiders and more confidence dealing with new people.

Perceived benefits of participation: Women and men may make different calculations about the costs and benefits of their involvement in participatory processes. Given the already high demands on most women's time, they do not see the extra effort required to participate as worthwhile, especially if the benefits are questionable.

Gender-sensitive participatory practices challenge development co-operation organisations

Participatory methods are only as good as the people who use them. It is now clear that there is more to participation than a series of exercises. When they are done well, gender-sensitive participatory processes challenge organisations in many ways:

- **Skills:** Organisations need to develop the skills to do this type of work. Facilitating gender sensitive participatory processes requires experience, skills and the ability to deal with conflict, if it arises.
- **Time:** Participatory processes can take a long time and may require support over years.
- **Flexibility and adaptability:** The selection and sequencing of methods should be based on the specific circumstances. Responding adequately to specific contexts requires flexibility.
- **Support:** participants (women and men) require support as they explore new issues. It is extremely irresponsible for an outside organisation to encourage people to raise issues of gender inequalities and then not support the consequences.
- **Follow-up:** Can the organisation respond to the issues raised? If development co-operation organisations are serious about participatory processes, they must be prepared to act on the priorities identified and issues that emerge.

Meeting the challenge of equitable participatory development means integrating gender awareness into practice, and not pursuing two approaches with two sets of principles and two series of methods.

This much is clear: participation, a loose term to describe a wide variety of practices that aim for more inclusive development, does not automatically include those who were previously left out of such processes. It is only as inclusive as those who are driving the process choose it to be, or as those involved demand it to be...

For those who might be tempted to say: "Why should we also be looking at gender? We're already following a participatory approach!" We hope they will reconsider.

Source: Guijt & Shah "Waking Up to Power. Conflict and Process" in Guijt & Shah (Eds.) (1998)

The Myth of Community: Gender Issues in Participatory Development, London : Intermediate Technology Publications

⁷⁷. Source: SIDA, *TIPSheets for Improving Gender Equality*, "Sida Equality Prompt Sheet # 10: Participatory Processes and Equality between Women and Men", Swedish International Development Agency, 1998.

Continued

Tools and Supportive Methodologies

GENDER-SENSITIVE PARTICIPATORY RAPID APPRAISAL (PRA): PRA methods form the basis of many other participatory 'tool kits'. One definition of PRA is "a family of approaches, methods and behaviours that enable people: to express and analyse the realities of their lives and conditions, to plan themselves what action to take, and to monitor and evaluate the results." See: *PRA: The Power of Participation, IDS Policy Briefing* Issue 7, August 1997. (<http://www.ids.susx.ac.uk/ids/publications/brief7.html>). PRA methods include mapping, seasonal calendars, flow diagrams, and matrices or grids, scored with seeds or other counters (*sic*) to compare things.

Numerous practitioners have warned that PRA methods can be gender blind. Specific efforts are needed to ensure that they take gender differences and inequalities into account. See

Guijt and M. K. Shah (eds.) (1998). **The Myth of Community: Gender Issues in Participatory Development**. London: Intermediate Technology Publications.

Questions of Difference. The Video: PRA, Gender and Environment (available in English and Portuguese (PAUNTSC), French (PAL) Prepared by I. Guijt (1995). Available from the International Institute for Environment and Development, Tel: 44 (171) 8727308 Fax: 44 (171) 3882826

L. Mayoux (1995). "Beyond Naivety: Women, Gender Inequality and Participatory Development," **Development and Change**. 26(2). pp. 235-258.

Specific methodologies are under development by various organisations. For example, the Food and Agriculture Organisation is promoting the use of **SEAGA** (Socio-economic and Gender Analysis). For handbooks, reports of applications and background information, see <http://www.fao.org/sd/seaga>.

Theme 2: Gender Mainstreaming

Part II Training Sessions

Training Session No. 3

Session Title: Understanding and Planning for Gender Mainstreaming⁷⁸

Target Group: up to 20 UNHCR, NGO and/or government officials

Time Duration: 5 ½ hours

Session Objectives:

- To develop an understanding of the concept and strategy of gender mainstreaming
- To increase awareness of why gender mainstreaming is relevant to refugee work
- To gain gender analysis skills
- To begin planning for gender mainstreaming within legislation, policy and programming

Session Outline

1. Welcome, training session objectives and/or day's agenda. TM no. 12. (15 mins)
2. Introduction of participants, and / or ice-breaker. (15-20 mins)
3. Ask participants to work in pairs to discuss what they understand by 'gender mainstreaming'. (10 mins)
4. Brief feedback to whole group. (20 mins)
5. Present the UN ECOSOC definition of gender mainstreaming by using TM no.13. Provide a brief explanation of it, making the link with UNHCR (see facilitator's notes). (20 mins)
6. Plenary discussion. Ask participants: Why is gender mainstreaming relevant to the refugee context and refugee-assisting organisations/ agencies? Have a participant record answers on a flip chart, and add your own ideas (see facilitator's notes for points to highlight). (15 mins)
- 7. Coffee/ Tea Break (15 mins)**
8. Have participants brainstorm on the following question: (10 mins)
Q: What are the differences between projects for women and gender mainstreaming? More specifically, what are the differences with regard to the focus, goals, solutions, and strategies of these two approaches? Record answers on a flip chart.
9. Provide a brief explanation of the differences between these two approaches, and place the issue in the UNHCR context. Then distribute TM no.14 "Women's Projects versus Gender Mainstreaming" as a handout and go over it with the participants (see facilitator's notes). (20 mins)
10. Make a brief presentation on the following two themes: (20 mins)
 - a) The 'cycle of gender gaps'. Use TM no. 9, "Cycle of Gender Gaps".
 - b) Using a gender analysis to identify and address gender gaps? (see facilitator's notes).
- 11. Lunch (1 hour)**
12. Exercise: "Applying a Gender Mainstreaming Strategy": (30 mins)
Distribute TM no.15, as a handout. Divide participants into small working groups of 3-5 persons with participants from the same organisation together. Ask each group to identify a piece of legislation, policy or programme which has recently been introduced to their organisation (if this is not possible, then use any example from their organisation) and to answer the following questions about it. (30 mins)
 - a) How were men's and women's experiences taken into account when the

⁷⁸. Some exercises in this training module, and accompanying training materials have been adapted from a draft revision of UNHCR: *A Framework for People-Oriented Planning in Refugee Situations Taking Account of Women, Men and Children*.

- legislation/policy/programme was being designed or planned?
- b) How are men's and women's concerns being taken into account during implementation?
- c) How will men's and women's experiences be taken into account during monitoring and evaluation?
13. Feedback by group rapporteurs and discussion of issues in plenary. (10 mins each, total 50 mins)
14. Provide summary of issues raised, and concluding observations (see facilitator's notes).
You may wish to distribute the papers mentioned below. (15 mins)
15. Closing of the session (5 mins)

Suggestions on Preparation

The background readings in this chapter are essential for this session. In particular you should make sure you read the materials provided in Theme 1, as well as the following papers in Theme 2 of this chapter: "Gender Mainstreaming Concepts and Strategies", and "Best Practices: Institutionalising Gender Equality in UNHCR".

Facilitator's Notes

1. You may explain the ECOSOC definition of gender mainstreaming by breaking it down in the following fashion:

Definition

"Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality." (ECOSOC Agreed Conclusions of 1997, E/ 1997/ 1.30, 14 July 1997)

This statement appears very complicated. One way to make it more easily understood is to break it down to its component parts. Write these on the board or flip chart as participants raise them (when providing feedback in plenary of the discussion in pairs at the very beginning of the session).

What are the component parts? Gender Mainstreaming is:

- a process
- to assess implications for women and men
- in any planned action: including legislation, policies or programme
- in all areas
- at all levels
- strategy
- include women's and men's concerns
- integral to design, implementation, monitoring, evaluation
- in all political, economic and societal spheres
- women and men benefit equally
- inequality is not perpetuated
- goal: achieve gender equality

Underline parts that may be especially relevant to your office.

Link with UNHCR:

The 1997 ECOSOC Conclusion on gender mainstreaming is binding on all UN bodies, including UNHCR, making them responsible for mainstreaming a gender equality perspective into all their operations.

2. For the plenary discussion on: **“Why is gender mainstreaming relevant to the refugee context and refugee-assisting organisations/ agencies?”**, the following are points that you may wish to add or highlight:
- In Brief:
 - Organisational mandate (e.g. of UNHCR): is about the protection and promotion of the rights of both refugee women and men. Therefore we can only fulfil our mandate if we are promoting gender equality and mainstreaming a gender perspective into all our operations;
 - It helps us make our programmes more effective and more efficient, both with regard to access and impact;
 - Programmes and policies are more likely to be appropriate and successful, as they take into account the different contributions, needs, and vulnerabilities of women and men. This is likely to result in interventions which are more carefully thought through.
 - For further arguments on the benefits of gender mainstreaming in a refugee context, see also the facilitator’s notes in the next Training Session no. 4., or TM no.18B: Answer Sheet: making your case that gender matters.
3. For the brainstorming session on **“What are the differences between projects for women and gender mainstreaming?”**, you can relate it to the UNHCR experience for example, in the following manner:
- Background:

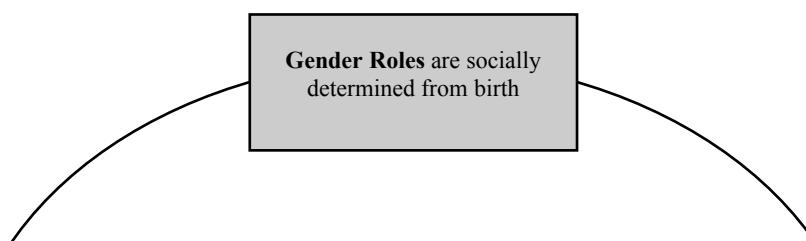
‘The experience and evolution of this issue at UNHCR reflects the pattern in many other organisations (both governmental and non-governmental) which have undertaken a gender mainstreaming strategy over the last 10 years.

In the case of UNHCR, the Senior Co-ordinator’s Office was created over ten years ago in order to ensure the inclusion and participation of refugee women in UNHCR’s assistance and protection practices, as well as equality with regard to the impact of our interventions. The Co-ordinator designed a policy, a set of guidelines and a training approach which highlighted the different needs and experiences of men, women and children.

It is now ten years later and while we have made significant progress, more efforts are still required to fully integrate a gender perspective throughout the organisation. In part, this is due to the fact that rather than being mainstreamed, gender considerations have in practice, often been simply added on as the extra and separate issue of ‘refugee women’. This approach meant that the focus was on refugee women rather than gender, which was not examined. It resulted in the production of many “women’s projects” that left men out and were simply added on to existing programmes. Moreover, in the end, these projects have not always addressed gender inequalities or discrimination against women.

It is important therefore, that we depart from our original strategies, and analyse gender relations at every stage of our work. We must mainstream a gender analysis into the planning, implementation and evaluation stages of all our assistance and protection operations. This also includes building the capacity of NGO and government counterparts to gender mainstream their refugee operations, including through training activities, for example.’
 - You could then distribute TM no. 14, “Women’s Projects versus Gender Mainstreaming”, and go over it with the participants, comparing it with their answers.
4. For the presentation on: **The cycle of gender gaps, and using a gender analysis to identify and address these gaps**, you may begin by:
- Simply describing the “cycle of gender gaps” reproduced below, (also in TM no. 9) and providing the diagram as a handout or OHT during your explanation. It is self-explanatory.
 - Then, follow this up with a brief introduction on ‘how to conduct a gender analysis’. Some of the key questions and points to make are provided below.

Cycle of Gender Gaps: (describe it)



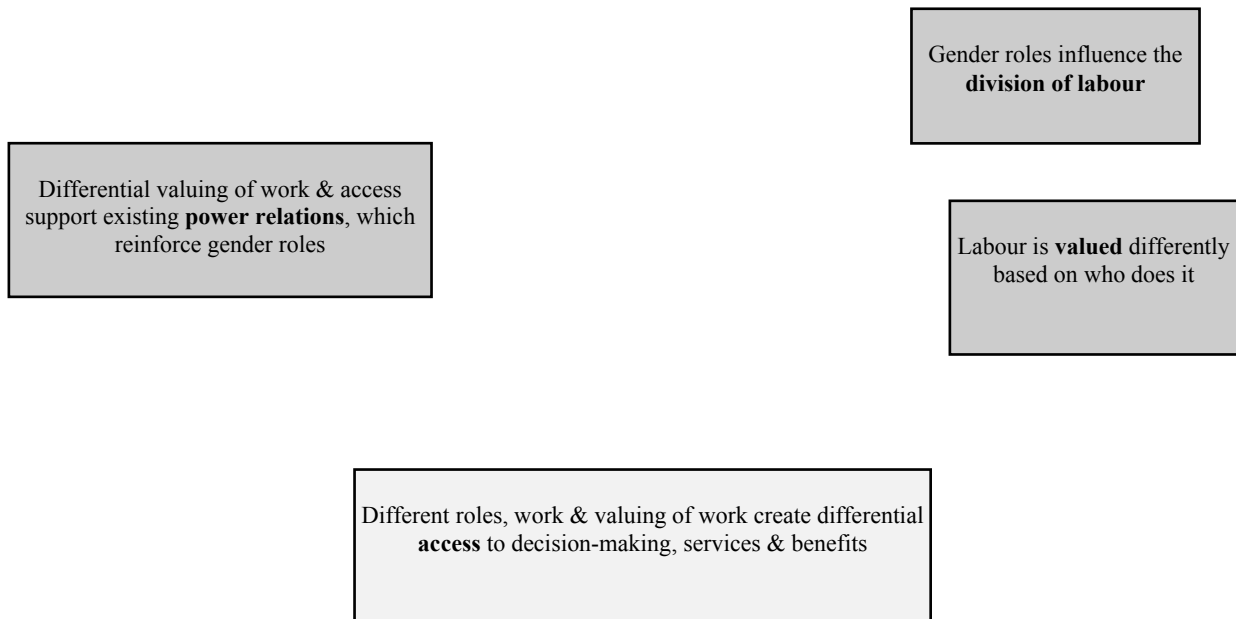


Diagram also available as TM no. 9.

Conducting a Gender Analysis:

In order to mainstream a gender perspective, it is important that one apply a gender analysis to our work. This involves asking whether or not our work reproduces, widens or narrows the gender gap. Unless we use a gender analysis, we threaten to reproduce the cycle of gender gaps.

To conduct a gender analysis of your policies, programmes or other initiatives, you need to ask the following questions:

- (1) What are the gender roles of men and women in the refugee population? (POP will help you do this)
 - (2) Based on your understanding of gender roles, what is the division of labour between men and women?
 - (3) How do different values attached to gender roles and labour affect access to decision-making, services and benefits, and control over resources (especially those provided by your organisation)?
 - (4) Does the proposed policy, programme, or other initiative reproduce, widen or narrow this gap? How so?
 - (5) What can be done to narrow the gap?
5. While doing the **Exercise: “Applying a Gender Mainstreaming Strategy”**, participants may find problems with the programme, legislation or policy they decided to analyse. This might make some organisations uncomfortable and reluctant to be open. Therefore, it is recommended that this exercise/ or training session not include a mix of different organisations at the same time (e.g. mix of government and NGO participants), unless you know that they will be comfortable with each other.
 6. For your concluding remarks at the end of the session, you may draw on responses by the working groups on their gender analysis exercise. You may also wish to close the session by highlighting some **key messages on gender mainstreaming in a refugee context**, such as the following:
 - Gender mainstreaming includes both men and women;
 - Gender mainstreaming is a process which requires:
 - (1) that one never make an assumption of gender neutrality, and
 - (2) that issues be defined in such a way that gender differences can be diagnosed;

- Gender mainstreaming is not merely about adding women's projects to existing programmes or policy;
- Gender mainstreaming requires that one apply a gender analysis to our work, which consists in analysing, *inter alia*:
 - (1) The relations between men and women within the family and the community
 - (2) How each is affected by being uprooted
 - (3) How men and women's different positions in the family and community affect their access to protection and assistance programmes and control over resources.

Materials

Equipment:

Flip charts, marker pens, overhead projector, and computer if you wish to make a power point presentation.

Training Materials: (Handouts/ OHT/ PPP)

TM no. 12: Training Session 3: Understanding and Planning for Gender Mainstreaming: Objectives	Handout/OHT/PPP
TM no. 13: Definition of Gender Mainstreaming	Handout/OHT/PPP
TM no. 14: Women's Projects vs. Gender Mainstreaming	Handout/ OHT
TM no. 9: Cycle of Gender Gaps (diagram)	Handout/OHT/PPP
TM no. 15: Exercise: Applying a Gender Mainstreaming Strategy	Handout

Documents to Distribute: Optional

- "Gender Mainstreaming Concepts and Strategies"
- "Best Practices: Institutionalising Gender Equality in UNHCR"
- SIDA TIPSheet "Organisational Change and Equality Between Women and Men"

These papers are available in Part I of this Theme, in this chapter.

Training Session No. 4

Session Title: Establishing Gender Teams and a Gender Mainstreaming Strategy.

Target Group: up to 15 UNHCR, NGO and/or government officials

Time Duration: 1 full day

Session Objectives:

- To review the concepts of gender equality and gender mainstreaming
- To increase advocacy skills with regard to gender equality and mainstreaming
- To increase understanding and begin planning for gender teams and gender mainstreaming within participants' organisations.

Session Outline

1. Welcome, training session objectives and/or day's agenda. TM no. 16. (15 mins)
2. Introduction of participants, and/or ice-breaker. (15-20 mins)
3. Provide participants with a common definition of 'gender equality' and 'gender mainstreaming' (i.e., the ECOSOC definition). See TM nos. 17, 13. Make the definitions visible and read them out loud or ask a participant to do so, and briefly explain them. (15 mins)
4. Simulation Exercise: "Making your case that gender matters" (TM no. 18 A). Introduce this exercise, for which participants will have to provide arguments for gender equality and mainstreaming, and distribute the TM containing instructions. Facilitator, together with participants, should select which of the two scenarios in this exercise is most appropriate. Divide participants into working groups of 4-5 (according to their organisation) to prepare the simulation exercise. (25 mins)
5. Each group acts out the simulation exercise in plenary, 15 minutes each. (45 mins)
6. Plenary discussion on points and arguments made during the simulation exercise. Facilitator provides additional points and highlights key messages (see facilitator's notes and also TM no.18 B, which will serve to guide you but which you may also distribute to participants if you wish). (15 mins)
- 7. Coffee/Tea Break (15 mins)**
8. In plenary ask participants: "Who, if anyone, has responsibility for gender issues in your organisation?" Record answers on a flipchart. (15 mins)
9. Briefly explain the differences between gender focal points and gender teams. Use it to introduce the next group exercise (see facilitator's notes).
10. Exercise: "Advantages/ disadvantages of a gender focal point and a gender team". Divide participants into groups of 4-5 and ask them to list the advantages and disadvantages of (a) a gender focal point and (b) a gender team. (20 mins)
11. Feedback in plenary, with each group adding only new points to those raised by previous groups. Record answers on a flip chart. Then provide your own short presentation on this issue, and highlight key points (see facilitator's notes below). (20 mins).
- 12. Lunch (1 hour)**
13. Explain the nature of a 'force field analysis', and how to do it (see facilitator's notes and use TM no. 19). Then, divide the groups according to their organisation, and ask them to do a force field analysis indicating the forces restraining or supporting the establishment of gender team in their particular organisation. (30 mins)
14. Feedback by rapporteurs for each group, in plenary. (30 mins)

15. Exercise: "Formulating TOR for Gender Teams" (TM no. 20). Returning to organisational groups, participants begin to formulate terms of reference (TOR) for a gender team in their organisation by answering the questions contained in the above TM no. 20, which should be distributed to working groups. The questions are as follows: (40 mins)
- Which departments or units of the organisation would be represented?
 - How many members would be in the team?
 - What would the three main objectives of the team be?
 - What strategies would the team use to reach its objectives?
 - Who would the team report to?
 - What tasks would the team carry out?
 - How would the team ensure gender mainstreaming throughout the overall operations of the office/ organisation?
- 16. Coffee/Tea Break (15 mins)**
17. In plenary, feedback by group rapporteurs, and discussion of issues raised. Facilitator may wish to highlight some key responsibilities for gender teams, including by using TM no. 21 which contains suggestions on this topic (see also facilitator's notes). (50 mins)
18. Exercise: "Action Plan for Establishing a Gender Team". In small organisational groups, participants develop action plans (with time-lines) to carry forward the establishment of a gender team. (20 mins)
19. In plenary, group rapporteurs present their action plan. (30 mins)
20. Brief discussion period in plenary regarding action plans. (10 mins)
21. Summary and closing of session. (10 mins)

Suggestions for Preparation

It is recommended that you be familiar with most of the readings in this chapter before you start this training. In particular, you should read the following: "Gender Mainstreaming Concepts and Strategies"; "Best Practices: Institutionalising Gender Equality in UNHCR"; and "Making Your Case that Gender Matters" (provided in Part I of this Theme).

Facilitator's Notes

- This full day session may be shortened to a half-day session by simply selecting a few of the exercises in the module. If you choose to do it as a half-day session, you may also combine it with another topic or a more introductory session such as, training session 1 or 2 in this chapter.
- To explain the ECOSOC gender mainstreaming definition, you may simply break it down into its component parts as follows: (if necessary, see training session 3 for further details)

Gender Mainstreaming is:

- a process to
- assess implications for women and men
- in any planned action: including legislation, policies or programme
- in all areas
- at all levels
- is a strategy to
- include women's and men's concerns
- integral to design, implementation, monitoring, evaluation
- in all political, economic and societal spheres
- women and men benefit equally
- inequality is not perpetuated
- Goal: achieve gender equality

Underline the parts that are most relevant to your office. The link with UNHCR should also be highlighted: the 1997 ECOSOC resolution on gender mainstreaming is binding on all UN bodies, including UNHCR, making them responsible for mainstreaming a gender equality perspective into all their operations.

3. For the “Simulation Exercise: making your case that gender matters”, you will find key points to emphasis in TM no. 18 B (Answer Sheet). Below is a summary of those points, for your convenience:

We should promote gender equality and gender mainstreaming for reasons of:

- (a) Justice and human rights: women have equal rights with men;
- (b) Organisational mandate: includes women and men;
- (c) Credibility and accountability : to persons of concern which include women and men; and to international community;
- (d) Alliances/ other political incentives/ donor demands: gender issues pre-requisite to e.g., join political alliances such as EU, or meet donor demands;
- (e) Efficiency, quality of life and chain reaction: inclusion of women and men improves efficiency of programmes and quality of life of family and community;
- (f) Refugee communities hold different patterns of gender relations: therefore important to understand these, including through the use of a gender analysis;
- (g) Women and men have different access to protection and assistance: due to their different positions in the family and community. This must be taken into account in our work in order to ensure we are respecting the principle of equality (including of outcome) and not reproducing the gender gap;
- (h) Women and men affected differently by refugee experience of being uprooted: often makes women more vulnerable to violence, and other problems, but at same time they must take on additional and new responsibilities. Hence, we must take into account their particular roles, needs, and vulnerabilities.

4. Your brief explanation of **Gender Focal Points and Gender Teams** could include the following:

Gender focal points and gender team are both mechanisms for addressing gender issues within an office or organisation. They can be important bodies or mechanisms to help set up and monitor a gender mainstreaming strategy in any organisation. Gender focal points are usually individuals who have responsibilities for addressing gender issues within their own office or unit. Gender teams, on the other hand, are usually composed of a group of persons within the office or institution, often representing different units, who work together on gender issues.

5. For your short **presentation on advantages and disadvantages of a gender focal point versus a gender team**, you may wish to highlight:

Gender teams are usually more effective than gender focal points because they:

- a) offer the opportunity to work on gender issues together as a team, and have the capacity to both promote and mainstream a gender perspective throughout the organisation. They also ensure institutional memory and offer members the opportunity to learn from each other. Focal points, on the other hand, generally work alone so that gender issues too are effectively segregated from the rest of the work of the organisation; it is generally not as conducive to gender mainstreaming;
- b) they make it possible to implement broader gender mainstreaming objectives and policies; while focal points rarely have this level of influence;
- c) make gender issues more visible in the organisation;
- d) can more easily affect the attitudes and work of each unit and the whole office, since a team has more reach than a single individual;
- e) can deal with gender issues in a more comprehensive and co-ordinated manner; an approach which is especially important for gender issues, which by their nature generally crosscut organisational units and sectors.

The following will help ensure the effectiveness of gender teams:

- a) the team should have members from all units of the organisation/ office;

- b) the formulation of clear terms of reference and/ or a mission statement will render the team's work more formal, accountable and visible;
- c) the explicit support of senior managers is crucial to the success of the gender team, as it helps ensure that they have sufficient resources, influence and authority to carry out their work; this can be achieved by having the team under the leadership of a staff member at the senior management level.
6. To explain the **Force Field Analysis**, use the diagram in TM no. 19 as a handout or OHT and mention that: it is a tool for diagnosing a situation and planning how it can be altered; it includes looking at how we can strengthen the driving forces and weaken the restraining forces.
7. Key **responsibilities for gender teams** which you may wish to highlight include: (TM no. 21)
- supporting the development of gender sensitive policies and programme strategies;
 - providing advice and support to staff in the application of a gender perspective;
 - the development of tools and methodologies for gender mainstreaming;
 - the collection and dissemination of information and best practices;
 - and assistance in monitoring and evaluating progress on specific gender issues and gender mainstreaming in general.
- (Source: ECOSOC Agreed Conclusions on Gender Mainstreaming, 1997)
8. For the Exercise: **Action Plan for Establishing Gender Teams**, you may wish to recommend to the group that they present this plan to their managers, either as part of their mission report or in a different venue, so as to formalise it as a concrete proposal for discussion and consideration in the office.

Materials

Equipment:

Flip charts, markers, overhead projector, and a computer if you wish to make a power point presentation.

Training Materials (Handouts/ OHT/ PPP):

TM no.16: Training Session 4: Establishing Gender Teams & Gender Mainstreaming Strategy: Objectives	Handout/OHT/ PPP
TM no. 17: Definition: Gender Equality	Handout/OHT/ PPP
TM no. 13: Definition of Gender Mainstreaming	Handout/ OHT/PPP
TM no.18A: Simulation Exercise: Making your case that gender matters	Handout
TM no.18B: Answer Sheet: Making your case that gender matters	Handout
TM no.19: Force Field Analysis	Handout/ OHT
TM no.20: Exercise: Formulating TOR for Gender Teams	Handout/ OHT
TM no.21: Suggested Responsibilities for Gender Teams	Handout/ OHT/PPP

Documents or Papers to Distribute: (Optional)

- “Making Your Case that Gender Matters: In a Refugee Context “ or
- “Arguing Your Case: Gender Matters” (a UNDP document)
- “Gender Mainstreaming Concepts and Strategies”
- “Best Practices: Institutionalising Gender Mainstreaming in UNHCR”

All of these papers are available in this chapter in Theme 2.

Training Session No. 5

Session Title: Implementing and Monitoring Gender Mainstreaming

Target Group: up to 20 UNHCR, NGO or government staff involved in refugee assistance and protection. A mixed group of participants from different organisations/ agencies may not always be appropriate for this training session.

Time Duration: 1 full day

Session Objectives:

- To further develop an understanding of the concept of gender mainstreaming
- To improve participants' ability to conduct a gender analysis
- To improve participants' capacity to implement a gender mainstreaming strategy, including by countering resistance
- To develop skills and mechanisms for monitoring gender mainstreaming

Session Outline

1. Welcome, outline training session objectives and/ or day's agenda (TM no. 22). (15 mins)
2. Introduction of participants, and/or ice-breaker. (15 mins)
3. Ask participants: What does gender mainstreaming mean? Have them work in pairs on this question for 10 minutes and report their answer in plenary. (20 mins)
4. Provide participants with a common definition of gender mainstreaming by using the ECOSOC definition (TM no. 13). Read the definition out loud or have a participant read it, briefly review its major components, and provide key messages on this strategy (see facilitator's notes). Ensure the definition is visible to participants by providing a hard copy of it to them or by using a visual aid such as OHT or PPP. (15 mins)
5. Group Exercise: "Gender Analysis". Gender mainstreaming also means that one must analyse all interventions from a gender perspective. Introduce the next exercise with following question: (15 mins)
 Q: If you are designing or implementing a new adult education or vocational training programme for refugees, what questions might you ask as part of your gender analysis of it? In other words, how would you ensure that it is designed and implemented in a gender sensitive manner? Divide participants into groups of 4-5 to work on this exercise. (15 mins)
- 6. Coffee/ Tea Break (15 mins)**
7. Feedback in plenary by group rapporteurs, 5 minutes each. Record answers on flip chart. (20 mins.)
8. Provide a summary: by highlighting some of the key questions to ask when conducting a gender analysis (see facilitator's notes). (10 mins)
9. Plenary Exercise: "Discussing Resistance". Ask the following questions: (20 mins)
 - (a) What are some of the forms that resistance to gender equality and gender mainstreaming can take? Record the answers on a flip chart, adding only new ones.
 - (b) Then, ask: "How can be weaken or counter this resistance?" Allow for a discussion on this question, and follow this up by distributing the following chart: "Resistance: To Gender Equality and Gender Mainstreaming", provided in Part I of this Theme (chapter 2).
- 10. Lunch (1 hour)**
11. Accountability (and reporting) mechanisms for gender mainstreaming: provide a brief introduction on this topic. Then, ask participants: (15 mins)

Q: What, if any, are the accountability and reporting mechanisms for gender mainstreaming in your organisation? Record answers on a flip chart (see facilitator's notes).

12. Introduction to Monitoring: (15 mins)

Briefly introduce this as a necessary component of gender mainstreaming, and remind participants we are all involved in monitoring activities in our daily lives. Ask one participant, what does monitoring mean? Ask two other participants, for examples of the sorts of things they monitor in their daily lives (see facilitator's notes below, and use keynotes in TM no.23 to assist you in explaining this concept).

13. Now ask the following question: (30 mins)

Q: How, if at all, do you monitor gender mainstreaming in your unit or office? Record responses on a flip chart, and sort according to the following headings, and any others that are necessary: At the level of:

- a) Organisational / Operations Plans
- b) Programming Activities
- c) Protection Activities
- d) Policy
- e) NGO/ government partners (their activities and policies, as well as in meetings with them)
- f) Trainings (for government, NGO or UNHCR staff).

14. Coffee/ Tea Break (15 mins)

15. Why is monitoring gender mainstreaming important? Explain briefly why this is important, including to UNHCR specifically, and how gender teams can be well suited to take on this monitoring activity and develop mechanisms for monitoring specific sectors of operations. (10-15 mins)

16. Group Exercise: "Gender Mainstreaming Checklist" (TM no. 24): (30 mins)

Divide participants into groups of 4-5, distribute the TM and ask them to complete the particular sections of the checklist which are relevant to them (have participants with similar functions or professional backgrounds grouped together), or if this is too complicated simply assign specific issues in the checklist to each group. This checklist can be used to either:

(1) help offices begin the process of gender mainstreaming their operations; or (2) monitor the gender mainstreaming strategy already in place. Note that if you have participants from different organisations at this training, the priority should then be that you regroup them by their respective organisations for this exercise.

17. Feedback in plenary by group rapporteurs. (30 mins)

18. Plenary discussion of issues raised, including possible follow-up to exercise above. (20 mins)

19. Summary and conclusions. (15 mins)

Suggestions on Preparation

1. The background readings provided in Theme 1 and 2 of this chapter are essential to your general preparation for this session. In particular, ensure you are very familiar with the following papers:
 - UNHCR Policy on Refugee Women
 - "Gender Mainstreaming Concepts and Strategies" (especially, points 6, 6.1)
 - "Best Practices: Institutionalising Gender Mainstreaming in UNHCR "
 - "Resistance: To Gender Equality and Gender Mainstreaming"
2. In addition, you should also be familiar with the following materials:

- UNDP, *Gender Mainstreaming in Practice: a Handbook*, see especially step 8 and 9. Available in the Gender CD-ROM attached to this Kit.
- The *UNDP Guidance Note on Gender Mainstreaming: Appendix 1*. It may be downloaded from: <http://www.undp.org/gender/policies/guidance.html>

If the training is for and by UNHCR, then also see:

- UNHCR, “*Guidelines for Mainstreaming a Gender Equality Perspective in UNHCR Reporting Mechanisms in the Field and at Headquarters*” (draft), by the UNHCR Senior Co-ordinator for Refugee Women and Gender Equality Unit, UNHCR, Geneva (Internal document). In particular, you may wish to refer to points 2.3., 3, and 10.
 - UNHCR, “*Refugee Women and Mainstreaming a Gender Equality Perspective*”, Executive Committee of the High Commissioner’s Programme, Standing Committee 21st. Meeting, EC/51/SC/CRP.17, May 20, 2001 (Restricted Distribution).
 - UNHCR, “*Progress Report on Refugee Women*”, SC/1998/INF.1, 25 May 1998. Available from following: <http://www.unhcr.org/refworld/unhcr/excom/standcom/1998/REFW.html>
 - UNHCR, *Respect our Rights: Partnership for Equality (Report on the Dialogue with Refugee Women)*, Geneva, 20-22 June 2001, especially pp. 31-36.
3. The Gender Mainstreaming Checklist (based on the *UNDP Guidance Note on Gender Mainstreaming: Appendix 1*), can be used to either:
- (1) help offices begin the process of gender mainstreaming their operations; or
 - (2) monitor the gender mainstreaming strategy already in place.

This is why we suggest using it as part of an exercise in this training session. However, you may need to adapt it to suit your participants’ needs, depending on their role and level of seniority. As noted above, for some participants, only some sections will be relevant. For example, if you were running a training course for legal officers, you would only use the part of the checklist relevant to their work. If you have a mixed group of participants, you could group them according to their functions.

Facilitator’s Notes

1. For the definition of gender mainstreaming, explain it by breaking it into its component parts:
 - it is a process of
 - assessing implications for women and men
 - in any planned action: including legislation, policies or programme
 - in all areas
 - at all levels
 - is a strategy
 - includes women’s and men’s concerns
 - integral to design, implementation, monitoring, evaluation
 - in all political, economic and societal spheres
 - women and men benefit equally
 - inequality is not perpetuated
 - Goal: achieve gender equality

Link with UNHCR:

The 1997 ECOSOC Resolution on gender mainstreaming is binding on all UN bodies, including UNHCR, making them responsible for mainstreaming a gender equality perspective into all their operations. The *UNHCR Policy on Refugee Women*, also adopts gender mainstreaming as its basic principal and main strategy. “It is the intention of UNHCR to integrate the resources and needs of refugee women in all aspects of programme planning and implementation” (section III, p. 5).

Key Messages on Gender Mainstreaming:

- It includes both men and women;
- It is a process which requires (1) that one never make an assumption of gender neutrality, and (2) that issues be defined in such a way that gender differences can be diagnosed;

- It is not merely about adding women's projects to existing programmes or policy;
 - It requires a gender analysis, which includes analysing (1) the relations between men and women within both the family and the community, (2) how these affect their access to protection and assistance programmes as well as control over resources, and (3) how each is affected by being uprooted;
 - It involves designing, implementing and evaluating projects or policies in a manner which (a) takes a gender analysis into account, and (b) tries to narrow the gender gap and achieve gender equality.
2. For the exercise on **gender analysis**, you may wish to make the following points:
- A gender analysis is about asking whether or not your work reproduces, widens or narrows the gender gap;
 - Unless we use a gender analysis/mainstream gender, we threaten to reproduce the cycle of gender gaps;
 - Some of the specific questions to ask when conducting a gender analysis are:
 - (1) What are the gender roles of men and women in the refugee population? (POP will help you do this)
 - (2) Based on your understanding of gender roles, what is the division of labour between men and women?
 - (3) How do different values attached to gender roles and labour affect access to decision-making, services and benefits and control over resources?
 - (4) Does the proposed programme, project or initiative reproduce, widen or narrow this gap? How so?
 - (5) What can be done to narrow the gap?
3. To introduce the issue of **accountability mechanisms**, you may wish to provide a brief explanation, such as the following:

Another key component of a gender mainstreaming strategy involves setting up proper accountability and reporting mechanisms. This is usually done by senior managers, who are responsible for translating gender mainstreaming into practice, and who must therefore put in place mechanisms which enable the organisation to monitor outcomes. Moreover, sometimes UNHCR as well as other organisations, must also delegate responsibility for implementing projects to other partners and actors. In this case, you also will want to ensure that proper accountability mechanisms are in place for gender mainstreaming.

Questions you may wish to keep in mind are:

- a) what type of reporting and accountability mechanisms are in place?*
- b) are these mechanisms being adequately implemented?*

With regard to your own organisation or office, what type of accountability and reporting mechanisms are in place? Possible Answers:

- Periodic reporting obligations which have a built-in gender component that can take account of mainstreaming efforts and results;
 - Organisational strategy or operation plans with a required and built-in gender component;
 - Staff evaluation and career management systems (e.g., for UNHCR, CMS objectives). See, "Gender Mainstreaming Concepts and Strategies" in this Theme, Part I, and in particular, point 6.1;
 - Refugee women and men are provided with a venue for expressing their views, which are then taken into account for planning and evaluation purposes (i.e., a process exists for this purpose).
4. **Monitoring:** in your introduction to this topic, you may wish to:
- **Note** how monitoring is closely linked to accountability and is an indispensable part of mainstreaming, as it enables one to ensure that we are "keeping a gender sensitive eye on things" (UNDP, Mainstreaming Handbook);
 - **Remind** participants that we are all involved in monitoring activities as part of our every day lives. For example, we monitor household expenditures, our children's health and happiness, and even the quality of television programmes;
 - **What is monitoring?** Highlight that there are two main elements of monitoring:

1. Monitoring progress towards fulfilling substantive objectives (for example, change or lack of it, in a situation or set of situations);
2. Monitoring the implementation process (of any intervention, whether it be an activity, project, office programme, strategy or policy) (UNDP Mainstreaming Handbook, Step 9)
 - **Monitoring mechanisms** and plans should address the following:
 1. who is responsible for monitoring tasks;
 2. how other stakeholders will participate in the monitoring process;
 3. when monitoring will take place;
 4. what tools will be used to record observations;
 5. what mechanisms exist to review progress (periodic appraisal or review sessions). (UNDP Mainstreaming Handbook, step 9)
5. On why monitoring gender mainstreaming is important, you may wish to highlight that it is critical for good management as it provides information for the following:
 - short term decision-making;
 - accountability during the implementation of projects and activities;
 - as an input for evaluation and reporting purposes;
 - advocacy purposes.
6. You should ensure that you have sufficient time to review the “Gender Mainstreaming Checklist”, as well as your list of participants before the training in order to decide beforehand how you should organise the groups for this exercise (e.g., randomly assign issues to each, organise them by their function or professional background such as programme, protection, management, or if the training includes different organisation, then by their respective organisations). You should also reflect on how the results to this checklist could be put to good use, and discuss the issue of possible follow-up with participants during the plenary discussion period, so that it is not simply an academic exercise which they feel has no practical purpose.

Materials

Equipment:

Flipcharts, markers, overhead projector, and computer if you wish to make a power point presentation.

Training Materials: Handouts/ OHT/ PPP

TM no. 22: Training Session 5: Implementing and Monitoring

Gender Mainstreaming : Objectives

Handout/OHT/ PPP

TM no. 13: Definition of Gender Mainstreaming

Handout/ OHT/PPP

TM no. 23: Monitoring Gender Mainstreaming

Handout/OHT

TM no. 24: Exercise: Gender Mainstreaming Checklist

Handout

Documents to Distribute (Optional):

- UNDP, Gender Mainstreaming in Practice: A Handbook (Step 9). Available on Gender CD-ROM.
 - “Resistance: To Gender Equality and Gender Mainstreaming”
 - “Gender Mainstreaming Concepts and Strategies”
 - “Best Practices: Institutionalising Gender Equality in UNHCR”
- Available in this chapter (Part I of this Theme).



Chapter 2

Theme 3: Male Involvement on Gender Issues

Theme 3: Male Involvement on Gender Issues

In this theme:

Part I: Background Readings

- Involving Men in Securing Gender Equality and Improved Refugee Protection
- Men: a discussion paper
- Masculinities and Gender Issues: in Situations of Dislocation and Development

Part II: Training Sessions

- Training Session 6: Male Involvement: in Gender Equality and Gender Mainstreaming

Links:

- **Related Background Readings:**
 - Readings in chapter 4 on Sexual and Gender-Based Violence, and in particular “Prevention: Male Involvement”.
- **Related Training Sessions:** The trainings listed below also address the topic of male involvement and can therefore be combined with or used as alternative trainings to the one already provided in this Theme.
 - The series of Training Sessions (TS no. 7, 8, 9) provided in chapter 3 on Women’s Human Rights, which address amongst other topics, the issue of male involvement in the protection of the rights of refugee women (and prevention of SGBV).
 - Some of the Training Sessions in chapter 4 may also be useful to refer to when preparing the training (no. 6) included in this Theme. They may even be adapted and incorporated in it.

Theme 3: Male Involvement on Gender Issues

Part I **Background Readings**

Involving Men in Securing Gender Equality And Improved Refugee Protection⁷⁹

Men's Lack of Involvement

When we talk about a gender perspective in refugee assistance and protection, are we referring to men and women? Or do we assume we are only talking about women? In practice, within UNHCR and other agencies, gender equality has until recently implied addressing the position and needs of women. Until lately, men have not been involved in any significant way, although this is now changing. Men's lack of involvement is not an accident and can be attributed to a number of factors, such as:

- Concern for gender equality emerged from the feminist movement, which was led by women;
- Men don't perceive gender equality as being related to them and have lacked motivation to be involved;
- There have been varying levels of interest and commitment to the issues within UNHCR;
- Men have been in a dominant position in most societies, and also within UNHCR, and as such they have not had much of an interest in changing the order of things. They are afraid of losing power, their image and their dominant position;
- In some societies because men and women have formal equality in law, the issues are assumed to be taken care of;
- Hegemonic models of masculinity.

Masculinity as a Social Construction

Masculinity is a social construction. There are different models of masculinity depending on the country or situation. The dominant models proscribe roles for men as strong providers or protectors, see them as being tough, and discourage them from showing emotion or crying. As we see below, part of this social construct is the common view that men are naturally violent.

These models can change as societies and cultures evolve and transform themselves. At the beginning of this process however, men are often nervous and uncertain about their role, about what is expected of them, and how they should behave. Changes in gender roles can be deep social transformations which affect both the public and private lives of men and women.

Why Has Male Involvement Become an Issue Now?

Some possible answers could include the following:

- In some societies or countries, male involvement in gender issues has become an issue due to recent changes in the political and social spheres. This might be considered the case in CIS countries for example.
- Men may feel that they want to "respond" or "counteract" to the feminist and gender equality initiatives.
- Women have "forced" the issue of gender equality and gender mainstreaming on both men and women.
- There is now the realisation on the part of men that they must get involved in order to participate or be part of the process of change, thereby gaining more control over their future.
- Women now also realise that they must have men's input and participation or else the process will not evolve.

In the context of UNHCR as an organisation, some see the recent interest in greater male involvement (and specifically, in promoting gender equality and a gender perspective) as being due to the following factors:

- Demands made by the organisation's donors;

⁷⁹. By Andres Ramirez, Head of Mission/ Gender Coordinator, UNHCR office, San José, Costa Rica. This paper was presented in the context of the UNHCR "Training of Trainers on Gender Protection", June 11-15, 2001, Ankara, Turkey.

- UNHCR policies on gender issues are now beginning to affect them. For example, through UNHCR's Career Management System (CMS), relevant staff stipulate objectives related to refugee women and gender issues or policies, and appropriate benchmarks provide a basis for evaluation by superiors;
- Organisational recruitment and promotion policies and procedures which promote affirmative action;
- Real life context and changing attitudes to social issues in society at large;
- Male staff members now realise that if they are involved they can formulate their own claims and concerns, and have them taken into consideration;

Perhaps the most persuasive reason in favour of greater male involvement however, is that both men and women have come to the conclusion that gender mainstreaming has and will continue to fail for both sexes if men are not involved in the process. Women have realised men must be involved in the process if lasting changes in dominant paradigms are to be realised, and men have realised that their participation in this change can only be to their advantage as it offers them the possibility to affect the process. It is indeed crucial that the importance and richness of a gender perspective is not diminished by the absence or exclusion of men. This is something that virtually no one thought was necessary ten years ago, but is in itself a reflection of the changes in society and our attitudes.

What is in it For Men?

Gender analysis and men's participation in gender mainstreaming is important for men too, for a number of reasons, including the following:

- As mentioned above, their participation in the changes taking place allow them to affect the process;
- They have the opportunity to voice their concerns and formulate their claims;
- They understand the process of change;
- They can better understand and implement gender related policies in organisations and institutions which have them, such as UNHCR;
- It improves the quality of family and community life, which is best achieved and sustained when men and women have equal rights and equal partnerships;
- In the context of refugees, male refugees also benefit from gender analysis as it may improve their situation and protection in a number of ways, some of which are mentioned below.

Gender Analysis Leads to Improved Refugee Protection and Quality of Life

This is the case for both refugee men and women. The following are examples of ways in which a (explicitly male-inclusive) gender analysis and gender mainstreaming can enhance refugee protection and improve the general situation of the family:

- It enables vulnerable men to be protected as well as women;
- It enables men and women to learn or take on new roles, and views them as resources within a changing situation. We must not assume that change cannot occur within refugee communities, but must be ready to explore and support the potential for positive change;
- By involving both women and men in providing for the family, the burden on both is lessened. Gender analysis thus also benefits the family as a whole;
- A refugee claim can sometimes be supported by thinking of the issues as a family problem. Persecution can sometimes have important direct as well as indirect consequences on family members besides the principal applicant. For example, children may be denied entrance to schools, or other forms of discrimination may take place against spouse, children or other family members;
- In terms of refugee status determination, an understanding of gender-related forms of persecution can benefit both men and women. This is especially so in terms of the application of the Convention grounds related to 'membership in a particular social group'. For example, it may be applied to male asylum seekers who allege persecution based on their sexual orientation or behaviour;
- With regard to nutrition and food distribution, it has been found that a careful gender analysis of the population is of utmost importance. When women are not involved in the distribution of food, malnutrition tends to increase;
- In the field of reproductive health, the effectiveness of programmes decreases considerably when men are not involved;

- It has been found that the literacy level of women has significant benefits for the family as a whole, including children and the male partner. Moreover, in literacy programmes targeting women, it is often desirable to work with refugee men too so that they do not oppose or obstruct their wife's participation in the programme, and provide the necessary assistance (such as, taking care of the children or household chores) to enable them to attend the course;
- Similarly, in the area of gender related violence, it is important to work with both victims and perpetrators, especially as men are often both perpetrators and victims themselves. In related prevention programmes, it is also important to work with both men and women of that community, as the men may be able to provide significant protection assistance.

The Role of Men in Preventing Sexual and Gender Based Violence (SGBV)

Male involvement in the prevention of SGBV begins with the recognition that men are not merely part of the problem, they are part of the solution. Furthermore, power relations between men and women must be understood in the broader social context; namely, in the context of societies which perpetuate relationships (between men and women) which not only reinforce male dominance and female subordination, but also reproduce intra-gender schemes of subordination: male/male; female/female. At times, albeit rarely, they also produce reverse inter-gender schemes of subordination: female/male.

This broader context means that gender analysis must not be seen in isolation from other fundamental dimensions of power relations (such as, class, race and ethnicity) which pervade and determine cultural and social behaviour of men and women in all societies. The triad of violence: men against women, men against other men, and men against themselves, should be understood in the context of social dynamics which tend to reproduce a culture of violence in which men are consistently 'taught' (at all levels, including ideological, philosophical and psychological) to be violent against men, women and themselves.

These 'values' are both implicitly and explicitly presented as 'natural', static and eternal: men are naturally violent. As a consequence, some gender analysts have fallen into the trap by erroneously presuming men to be "naturally violent" and women to be "naturally pacific". While it is undeniable that gender inequities clearly place most men in a privileged position as compared to women, and that most violent perpetrators are men while most women are victims, this "good girl"/"bad boy" stereotyped analysis of men/women power relations is counterproductive. Not only does it fail to put male/female relationships into perspective, or to see the need for a male inclusive strategy (where those excluded, ignored and "missing men" are included) in the long and complex struggle for gender equality, but it serves to perpetuate and reinforce the wrong equation, namely, that gender equals women; a dogma which was supposedly buried years ago.

Men: A Discussion Paper⁸⁰

Discussion

There has been a tendency to regard issues of women's participation in development and equality as being a "women's concern," in which initiatives are largely pursued by and for women. With experience and the more widespread adoption of the concept of "gender" there has been greater recognition of the need to consider men and their gender identities and to involve men in the pursuit of change. However, some confusion is frequently evident about how to think about men in relation to gender equality strategies.

- Some men (and women) have questioned the focus on women, saying that if the concern is "gender", should not equal attention be paid to women *and* men. This perspective overlooks the reason why gender has been identified as an issue for development co-operation - the *inequalities* between women and men that result in *women* having less access to the development resources of a society and decision-making power at all levels of society. There is of course a need to consider the development needs of both women and men. Gender equality strategies exist to promote attention to the development needs of women that have largely been invisible, and to address the processes that continue to structure an unequal distribution of resources and opportunities to the disadvantage of women.
- However, a focus on women in isolation from their relationships with men can undermine strategies to achieve various development objectives, including the objective of reducing disparities between women and men. A gender analysis must consider not only differences between women and men, but inequalities in the relationship between them and what this means for the possibilities and action of different groups of women and men. For example, inequalities between women and men, and unequal relations between them, influence decision-making about fertility and sexuality. Thus men's gender identities and behaviour must be taken into account in order to develop effective strategies.
- The gender identities of women and men are closely inter-linked. One way this is evident, is in the division of labour by gender. Certain tasks and responsibilities are allocated to women and others to men - the division of labour itself creates interdependence. Changes for women thus also mean changes for men. More broadly, equality between women and men cannot be achieved by changes in the roles and responsibilities carried by women. To date, too few men have been involved in considering what more equal societies would look like and, in working as partners with women, to define and pursue strategies for equality. In part, this can reflect resistance to the implications of change. However, it can also be argued that more efforts must be made by equality advocates to develop alliances with those men who support efforts to construct a more equal society.
- For some development workers, a measure of the success of gender equality strategies is that equal numbers of women and men participate in a programme or, an initiative. Equal treatment and equal opportunities for women and men is an important objective. However, a lesson learned from experience is that equal participation at this level is not always the most relevant or effective means of ensuring that a programme or initiative supports the achievement of equality between women and men. Equality strategies are incorporating *this* lesson in two related ways:
 - *focusing on impact rather than activities/inputs* - looking at how the overall initiative will affect women and men and gender equality, either directly or indirectly;
 - *focusing on equality as an objective rather than on women as a target group* - considering how to select and design initiatives that can support equality as an objective, which may include, for example, changes in institutional practices, legislation, and planning methodologies, and include both men and women.

⁸⁰. Reproduced from: OECD-DAC, *Source Book: Prepared in Conjunction with the Draft Principles for Development Co-operation on Equality Between Women and Men*, OECD-DAC (Expert Group on Women in Development), prepared by Johanna Schalkwyk & Beth Woroniuk, March 1997, at 29-30. The subtitle has been added to the original title of "Men" for the sake of clarity.

On men and gender equality strategies in development co-operation

Why do gender strategies focus on women?

Development co-operation organisations and many partner countries have formulated gender equality policies and strategies precisely because gender equality does not exist. Since it is *women* who are now generally excluded or disadvantaged in relation to social and economic resources and decision-making, efforts to identify and redress imbalances have focused on women's situations and women's views. In addition, most of those working to change unequal gender relations are women. But it is increasingly recognised that strategies must focus on men as well as women, and on the relations between men and women, in order to achieve real change.

Don't men have gender too?

Gender is often overlooked as an aspect of men's social identity. This stems from a tendency to consider male characteristics and attributes as the norm, with those of women being a variation on the norm. But the lives and activities of men as well as women are strongly influenced by gender. In most societies, men tend to have broader options, more opportunities and greater access to society's resources than women. This is the result of a framework of legislation, policies, and institutions that incorporate attitudes and practices about what is appropriate to being male and female in a given society.

Cultural norms and practices about "masculinity" and expectations of men as leaders, husbands, sons and lovers - in other words, gender - are important in shaping the demands on men and their behaviour. In many societies, they mean that men are expected to bear arms and fight in defence of the nation or community. They shape the expectation that men will concentrate on the material needs of their families, rather than the nurturing and care relationship assigned to women. There are thus disadvantages and costs to men in patterns of gender difference.

What is the role of men in achieving gender equality?

The achievement of equality implies changes for both men and women. More equal relationships will need to be based on a redefinition of the rights and responsibilities of women and men in all spheres, including in the family, the workplace and society at large. One of the challenges in moving forward will be to motivate more men to participate as partners in the process of defining the visions and strategies for a more gender-equal society.

Adapted from draft materials prepared for SIDA's Gender Equality Unit by Johanna Schalkwyk, Beth Woroniuk, and Helen Thomas, 1997.

Masculinities and Gender Issues: In situations of dislocation and development⁸¹

A Compilation of Research, Insights, and Conclusions

1. Introduction

To what extent, and in what ways, can men be involved in transforming the gender inequalities that at present privilege them?

One of the things men share as a distinct group, regardless of the roles they may play in community, family or economy, is their gender privilege. Across differences related to class, race, ethnicity, age or religion, men share this privilege as well as a strategic common interest in defending, rather than challenging it. (Greig, Kimmel & Lang)

Despite this reality however, men generally are not conscious of themselves as 'gendered' beings, nor are they conscious of the processes that confer privilege on them, as these tend to be invisible to those holding the position of privilege. This is one of the reasons why gender is often dismissed as a woman's issue. Yet, *gender*, as a determinant of social relations that legitimises and sustains men's power over women, is inherently about relations between women and men, as well as relations among groups of women and among groups of men". (Greig, Kimmel & Lang)

The goal of gender equality cannot be achieved without changes to men's lives as well as women's. Men must move from the background of this discussion, to the foreground where one can examine their potential relationship to this process of transformative change. One way to do this is by exploring the meanings and uses of 'masculinity' - a concept which has the effect of rendering gender visible to us. (Greig, Kimmel & Lang)

2. Theories and Politics of Masculinity

2.1. The term masculinity has different meanings; meanings which are based on different assumptions and which also have different implications. 'Masculinity' is a way to explain men, but the ideas underpinning this term vary greatly. In most literature on masculinity however, it is explained in three different ways, namely as:

- 1) biological determinism (or essentialism)
- 2) cultural or social constructionism
- 3) and masculinity as a discourse of power

What determines men's masculinity: nature or nurture? Is it biological destiny or cultural construction? The basic difference between theories 1, 2 and 3 is that the first believes that human beings are either born with masculine or feminine characteristics which are innate to each sex (they are determined by nature itself), while the second and third both see these characteristics as a social construction.

2.2. Biological Determinism (nature theory)

Those working in the humanitarian and development fields have been slow to recognise the resurgence of biological determinism; a resurgence which has emerged as a response by men to threats by geo-political, economic and cultural changes - some of which have promoted the advancement of women. Resistance to global integration, and the emerging capitalist order for instance, has been mobilised by appealing to a biological determinist concept of masculinity. Similarly, religious fundamentalism and ethnic nationalism, (which are expressions of resistance to incorporation by a larger or dominant power) are often manifested as gender revolts, which include a "virulent resurgence of domestic patriarchy (or militant misogyny)", conflict with neighbouring masculinities (former Yugoslavia) and claims to a distinct manhood based on religious or ethnic lines which will restore power to the formerly privileged. (Greig, Kimmel & Lang)

⁸¹. By Rosa Da Costa. This paper is a compilation of selected literature on masculinities and gender, and also on their impact on refugee / forced migration situations, international assistance and development. It draws on an initial compilation of relevant literature by the Gender Co-ordinator of the UNHCR office, in San José, Costa Rica. The sources used for this compilation are provided in the attached endnotes.

2.3. Social Constructionism (nurture theory)

'Social constructionism' and 'masculinity as discourse of power', are both based on the nurture theory. Social constructionism in particular, holds that it is our capacity to think, construct societies, ideologies, and power relations that enables gender to exist in differentiation from sex. According to this school of thought, masculinity is defined as "the embodiment of the cultural norms and social pressures that help to determine the roles, rights, responsibilities and relations that are available to and imposed upon men, in contrast to women". (Greig, Kimmel & Lang)

2.4. Discourse of Power (nurture theory)

Another way to understand masculinity is to formulate it in terms of discourse of power. In this understanding, masculinity is "not [simply] the property of men ". Indeed, this theory holds that the prevailing ideas about masculinity are reproduced and consumed by everybody in society. According to this theory, discourses of masculinity are available, used by and imposed on both men and women. The advantage of this theory is that it clarifies the values and practices that create gender inequality, but also other hierarchies of oppression, including those based on race and class, for example. It places gender inequality in the larger context of wider systems of oppression and hierarchies of power relations. (Greig, Kimmel & Lang)

2.5. An understanding of the 'politics of masculinity' (i.e., the discourses and concepts that surround masculinity, and produce inequalities), enables us to "rethink men's strategic interest in challenging the values and practices that create gender hierarchy".

3. Gender and Situations of Dislocation (or Refugee Situations)

3.1. Many in the humanitarian and development fields have sought to take advantage of the opportunities for change often present in situations of dislocation, in order to promote gender equality and empower women. This is because hierarchies of power often change in refugee situations. For example, women frequently take on new roles and positions of responsibility in the family, drawing confidence and determination from these experiences, as well as gaining greater political consciousness and skills. By contrast, men often find themselves "at a loose end, unable to re-establish their position as respected decision-makers". (El-Bushra, quote at 3)

3.2. Due to the commitment to gender equality of many assistance/humanitarian organisations, women have benefited from increased investments towards their needs, resulting in greater income and access to services. Some argue however, that while these benefits are important, assistance organisations do not seem to have really influenced gender relations in a positive and lasting manner. (El-Bushra) One reason for this, as shown by Turner and Brun, is that "advancing women's interests at a superficial, women-focused level [...] fails to challenge overall paradigms of gender differences [and therefore] leaves women with new roles to fulfil but no institutional leverage to fulfil them effectively." (El-Bushra, about research by Turner and Brun, quote at 3)

3.3. Indeed, changing women's practices does not necessarily change men's attitudes or challenge the dominant gender ideology in which men and women's roles are viewed as 'natural'. This is because the understandings of masculinity which are based on 'nurture' theories have been mostly applied to programmes focusing on the advancement of women rather than work with men. For example, in a paradoxical manner, the ideal of everyone being equal before UNHCR has been reinterpreted by male refugees in some countries as making them equal to the helpless women and children. Men tend to have a hard time seeing UNHCR and its policy as 'empowering' women, for them UNHCR is simply taking their authority, masculinity and women from them. (El-Bushra)

3.4. In order to make the most of the opportunity to promote gender equality in situations of displacement therefore, El-Bushra argues that both men and women must participate as active partners in this re-negotiation. In other words, men need to be part of the solution. In addition, we must be willing to apply new paradigms of assistance based on a deeper gender analysis framework, and also to learn from the past by drawing on lessons learnt.

4. Men Need to be Part of the Solution

4.1. Gender sensitive policies need to involve both practical and strategic interests. In other words, one needs to relate these policies to the concrete conditions that women and men experience, as well

as to a critical re-examination of existing gender relations. To change gender ideologies both men and women have to participate as active partners. Active participation by young men in particular can create awareness and make them understand the consequences of changes in gender ideology. (Brun)

4.2. A first step to challenging gender inequalities is to help men become more conscious of gender as it affects their lives as well as those of women. This is done by separating men from their masculine roles, a process which creates a space, making gender more visible to them. In this way, men can become more conscious of the costs to them of current gender arrangements, and the pressure that masculinity imposes on men to conform to specific masculine roles. By insisting on separate gender roles men deny themselves many aspects of a genuine relationship with women, miss important lessons of life derived from relationships where women plan an equal role, and suffer from stress and other ailments resulting from having to live up to the myth of male superiority. (Greig, Kimmel & Lang)

4.3. In terms of its consequences to programming, understanding the pressures of masculinity can help us identify and work with the sources of these pressures, which are, broadly speaking, the institutions which help to socialise boys. These include familial, educational, religious and cultural institutions. These institutions offer a good entry point for organisations and assistance providers wishing to increase the effectiveness of their programmes, as well as male involvement in gender issues and gender equality. They are in addition, strategic partners for working on the creation of new models and identities for men. (Greig, Kimmel & Lang)

4.4. There are also many possible avenues for work by men among men. The following are some examples: forming counselling groups and support services for men who batter or have difficulty managing their anger; championing the inclusion of clauses on sexual harassment in collective agreements and in the constitutions or by-laws of our trade unions, associations, schools and political parties; raising money, campaigning for government funding and finding other means of support for rape crisis centres and shelters for battered women; speaking out against violent and sexist pornography; building neighbourhood campaigns on wife and child abuse; and personally refusing to collude with the sexism of our colleagues and friends. The latter is perhaps the most difficult of all and requires patience, humour and support from other men who are challenging sexism. (Kaufman)

5. A Deeper Gender Analysis Framework

5.1. Some recent trends can be identified which are challenging the nearly exclusive focus on women's needs and rights over the past ten years, and putting forth new ideas for a deeper gender analysis framework. A situation which has also been reflected in UNHCR's work.

5.2. The first trend, as we have seen above, is a general recognition that it is necessary to articulate the position and involvement of men within such frameworks. (El-Bushra)

5.3. Secondly, those in this field are now questioning what they have really achieved for women. While the mainstreaming of a gender perspective in the humanitarian and development sectors has certainly led to greater awareness and investment in women's needs and initiatives, some argue that the outcomes have been palliative in nature (e.g., additional income, mobility or access to services), and we now need to confront the ideological and institutional basis of discrimination against women and give more recognition to their capacity to act on their own account. (El-Bushra)

5.4. The third trend which can be discerned in the field of gender and development, is the realisation that increasing women's access to economic security and to sources of income, the long time goal of GAD (the approach known as 'gender and development'), is not enough. This approach has not only failed to take account of men's roles, but it has also failed to recognise women's many contributions to society, as well as their needs and interests. For example, women's roles in agriculture and commerce, and the distribution and consumption of food and other benefits within the household and community, are often overlooked in favour of crops and production systems managed by men. (El-Bushra)

5.5. Similarly, agencies have only recently begun to realise the extent to which the non-material aspects of people's lives contribute towards equitable gender relations and the empowerment of women. These non-materials aspects of their lives, such as their personal and sexual relationships,

their reproductive and mental health, their self-esteem and the respect they receive from others, and the capacity for political involvement, play as great a part as their economic success. (El-Bushra)

6. The Uses of Masculinity

6.1. Greig, Kimmel & Lang, provide some useful insights into the uses of masculinity in relation to some critical themes. We have included below, a summary of their research findings with regard to those themes we judged of most relevance to humanitarian/assistance work, and to the work of refugee-assisting organisations. These themes include the following: power and patriarchy; production and social reproduction; poverty; violence and conflict; and the workplace and organisations.

6.2. Power and Patriarchy

As mentioned above, one of the main functions of discourses of masculinity is to naturalise men's power. It is often expressed as the masculine/feminine duality - a duality which not only rests on but also supports associations that contrast the "powerful male" with the "powerless female". Contrasting associations such as hard/soft, active/passive, and productive/reproductive, are some of the underlying associations which have the effect of easing men's and inhibiting women's access to and control over political, economic and cultural power. These 'natural' associations between men and power result in rendering "their gender invisible in the acquisition of power". These connections between men, power and gender have been conceptualised in the term 'patriarchy', which refers to "the institutionalisation of men's power over women [in both the public and domestic spheres] within the economy, the polity, the household and heterosexual relations". Hence, irrespective of their power with regard to other men, men in general gain a "dividend from patriarchy in terms of honour, prestige and the right to command, [as well as a material dividend]." This means that men's relationship to these patriarchal arrangements of power is a critical area of concern to development or assistance programmes that look to involve men in gender equality work.

6.3. Production and Social Reproduction

One of the obstacles to such programmes and change is the fictional separation between the spheres of production and social reproduction. In contrast to men, who's involvement in the family is inhibited by traditional gender roles, women now work in both spheres - doing a double shift and caring for their families whether or not they are also involved in paid work. This has impacted on women negatively by putting pressure on them to perform this double shift, thus restricting their time for other activities and their participation and progress in labour markets.

A redistribution of the burden of reproductive labour is necessary, but this is inhibited by the politics of masculinity which impedes the social and policy changes necessary for this redistribution. At present, men still feel that there are benefits to their traditional male role. For example, they are not required to take on responsibilities in the sphere of social reproduction, and they benefit from being the male breadwinner since it reduces their vulnerability to poverty in the future and is the basis on which the state attributes the right to social benefits.

Hence, renegotiating an equitable division of labour requires more than individual change, it also requires structural changes. In addition to re-socialising men to take on caring and nurturing roles (based on new models of masculinity), the financial aspects of the present dichotomy between productive and reproductive labour must also be addressed. The issue of economic class is key to these structural changes as well. Men and women in marginalised communities often lack the economic freedom to negotiate their distribution of productive and social reproductive tasks, so that at the community and societal level, the economic conditions that make this re-negotiation possible must first be created.

6.4. Poverty

A strong connection exists between gender equality, human rights and the reduction of poverty. Gender inequality is responsible for the global 'feminisation of poverty'. Evidence of this is that women represent 70% of the poor people in the world, girls and women are more likely to be undernourished and to receive less health care, and two thirds of the illiterate adults in the world are women. At every level (individual household, communities, states, or even globally), discourses of masculinity are used to legitimise men's stronger bargaining position *vis-à-vis* women.

Even though they may appear to be gender-neutral, the institutional arrangements at all these levels are gendered (express a gendered logic) in such a way as to benefit men in terms of the division of

labour, access to resources etc. The differentiation of men's work from women's work, the omission of the reproductive sphere in macro-economic planning, and the principle of economic rationality in the global marketplace (fashioned by men) are all examples of this.

6.5. Violence and Conflict

Violence by men is a key factor underlying the inequalities of gender relations. It disempowers women, and is a fundamental dimension of human poverty. Men's 'natural' aggression is frequently invoked as a basic gender difference and as an explanation for gendered hierarchical arrangements in richer and poorer countries alike. But, if development is to be understood as a right, then men's violence must be seen as a restriction of women's and children's development. Working with men on this issue includes recognising the different pressures placed on them which can result in violent reactions, and also helping men take responsibility for their actions. Some men's anti-violence programmes which are based on a cultural constructionist theory of masculinity, have helped men deconstructing their violence by helping them understand how structural pressures, cultural messages and parenting practices have contributed to their socialisation into violence.

Programmes for violence prevention and intervention have been initiated by various United Nations agencies, as well as civil society organisations in many countries. Many of these, such as the White Ribbon Campaign, have been successful on several fronts. But beyond the value of these interventions, the author also stresses the importance of exploring "the political opportunities of deconstructing the connections between men, masculinity and violence".

One project in Nicaragua uses the strategy of contextualising violence in history and culture. Violence in a couple relationship is more easily understood as a problem of power and control - if it is placed in a larger context, namely, that of violence as a problem which is maintained by the social structures of oppression in which we live and which are based not only on gender but also on age, class and race. Moreover, a national history where conflict is resolved through force, maintains it, as does colonialism and imperialism. By placing men's violence in a wider historical and cultural context, this helps overcome the naturalising of men's violence. It also demonstrates how the discourses of masculinity are exploited and how what is claimed to be men's natural aggression is used for specific political purposes. This suggests that those working to address the relationship between men, masculinity and violence, should not only work with men but should also address issues of human rights and discrimination.

6.6. The Workplace and Organisations

Gender biases at the institutional level are deeply embedded in organisational cultures and practices, management systems, and bureaucratic structures. Gender mainstreaming, is one key way of overcoming these institutional biases; it includes two important aspects. One, is the recognition of the gender implications of programmes and resource allocation. Secondly, gender mainstreaming challenges the organisation to reflect on the gendered processes that exist at the level of its operational structures.

The UN Men's Group for Gender Equality⁸², a group emerging from UNDP's gender mainstreaming efforts, identified some key obstacles to a more gender equitable organisation, including *inter alia*:

- The organisational culture, with its embedded sexism, male/female staff ratios, hierarchical structures at the decision-making level and attitudes which see gender as a woman's issue;
- A lack of opportunities for men to discuss gender equality with other men and women;
- The fact that only a limited number of men participate in mainstreaming efforts.

Subsequently, this group also issued a statement which highlighted what they believed to be the issues behind these obstacles. These include fear, and more specifically, fear on the part of men that gender mainstreaming and the advancement of women implies a threat to their personal and professional status. For some there is also the anxiety that their masculinity will be compromised if they are seen as advocates of women's equality. Another issue is the lack of experience on gender issues by the majority of male staff members. This results in a vicious circle, since it is often women who are therefore appointed to handle these issues. In addition, the organisational culture fails to offer

⁸². This group sponsors panels and seminars and also facilitates a web-site and electronic discussion list, with the objective of creating a space for dialogue about gender issues, obstacles to it, solutions, and the creation of a model for how men can become more involved in gender mainstreaming. The web-site address is as follows:
http://www.undp.org/gender/programmes/men/men_ge.html

incentive structures for staff incentives which would promote gender equality as an integral objective for everyone.

The UN Men's Group further pointed out some of the following: at the practical level, gender mainstreaming requires that gender be central to the issue of development rather than a marginal "women's issue"; the organisation must be willing to conduct an internal self-examination of its assumptions (as well as administrative and human resource policies), in addition to looking into its mission and programmes; and men must be central to and fully integrated in discussions on gender mainstreaming. Otherwise, their attitudes may very well be the chief obstacle to women's equality, organisationally as well as politically.

7. Conclusions and Next Steps

7.1. Discussions about men's roles in the promotion of gender equality are relatively new. Making masculinities visible, and helping men become more conscious of the role of gender in their lives and that of women, is a critical first step in meeting this challenge. The next step is to facilitate programming efforts. UN agencies such as, the UN Men's Group for Gender Equality can assist practitioners by providing a space for discussing concepts, as well as tools and resources, and a venue for sharing information, including good practices which may be replicable in different settings. Below are some suggestions and conclusions, also drawn from the research of Greig, Kimmel & Lang, on how practitioners can help advance male involvement in gender equality.

7.2. Gender mainstreaming and institutional cultures

Instead of being marginalised as women's work, gender must become embedded in the broader agenda for sustainable development and human rights and it must be supported by men and women.

El-Bushra further supports this conclusion by pointing out how mainstreaming a gender analysis into international legal frameworks and agencies forms "the basis of accountability by the international community towards the displaced, and can help identify biases which institutions must confront in their own attitudes and practice." Moreover, if the concept of gender (as referring to the social constructions of masculinity and femininity) is to remain useful, it must be re-politicised and made relevant to both men and women, and also benefit from more resources which can be invested into research on how gender works in different socio-economic and political contexts. (El-Bushra, at 4, 5)

7.3. Policymaking

Discussions on gender equality and masculinity should be addressed in local, regional and national policy debates; they should not be restricted to institutional policies. This approach has the benefit of promoting more co-ordinated and integrated policy frameworks to key gender problems, such as domestic violence. For example, one could use surveys to measure the social and economic costs of this problem and design an integrated policy that could involve communities, schools, the police and health care providers.

7.4. Focusing on socialisation and youth

Increased attention must be paid to how key institutions of socialisation such as, the family, educational systems and religious institutions address the issue of gender. Promoting the role of these institutions as agents of transformation in the field of gender is necessary to achieving change among the young.

7.5. Addressing issues of class and other basis of inequality

Placing gender inequality in the broader context of other power structures and similar patterns of disempowerment based on race, class and ethnicity can also prove useful. It broadens the understanding of the problem for men and women, allowing them to recognise how they are affected by similar patterns of disempowerment based on other reasons such as class- this may help to bridge the gap between them. Secondly, for men, it demonstrates how gender equality is part of a wider agenda for social justice which will also benefit them materially as well as psychologically and spiritually. It helps answer the question: What is in it for men? Furthermore, placing gender in the broader social justice framework of class, race etc. also helps one better promote the advancement of women from different background by asking, "which women are we talking about?"

7.6. Diverse expressions of sexuality

Finally, the ability to recognise diverse expressions of sexuality, (besides heterosexual relations which are based on a specific sex-gender system) that do not conform to the traditional sex-gender system may be a useful analytical tool for thinking about all the possible potentialities of gender relations.

References:

El-Bushra, J., "Gender and Forced Migration: editorial", in *Forced Migration Review*, Vol. 9, (December 2000). Available at: <http://fmreview.org/1frames.htm>

To access this article and others in *Forced Migration 9* go to 'Electronic' and 'Back copies' once you have found the site and then select Issue 9.

Brun, Catherine, "Making Young Displaced Man Visible", in *Forced Migration Review*, Vol. 9, (December 2000). See above for web-site.

Turner, Simon, "Vindicating Masculinity: The Fate of Promoting Gender Equality", in *Forced Migration Review*, Vol. 9, (December 2000). See above for web-site.

Kaufman, Michael, "The Construction of Masculinity and the Triad of Men's Violence", in *Forced Migration Review*, Vol. 9, (December 2000). See above for web-site.

Greig, A., Kimmel, M. & Lang, J., "Men, Masculinities and Development: Broadening our work towards gender equality", Monograph #10, May 2000, part of *Gender in Development Monograph Series*, UNDP/GIDP, 2000. You may access this paper in:

www.undp.org/gender/programmes/men/undp_men_andmasculinities.pdf

Pelka, Fred, "Raped: A male survivor breaks his silence", in *On the Issues* (spring 1992), ed(s), O'Toole, L. L. & Schiffman, J. R., *Gender Violence: interdisciplinary perspectives*, New York University Press, NY, 1992.

Theme 3: Male Involvement on Gender Issues

Part II Training Sessions

Training Session No. 6

Session Title: Male Involvement: in Gender Equality (GE) and Gender Mainstreaming (GM)⁸³

Target Group: up to 20 UNHCR, NGO and/or government officials

Time Duration: 1 full day

Session Objectives:

- To review key gender concepts and theories of masculinity
- To explore reasons why we have been silent about male involvement in gender equality and why it is an issue now
- To develop an understanding of the possible role of men in GE and GM, and what is to be gained by their involvement
- To explore male violence, and how men can help prevent and respond to SGBV
- To develop a better understanding of how male staff members and refugees could be more involved and contribute to gender issues in our organisations

Session Outline

1. Welcome, outline training session objectives and/or day's agenda (TM no. 25). (15 mins)
2. Introduction of participants, and/ or ice-breaker. (15-20 mins)
3. Introduce key issues/questions to be discussed today: (Use TM no.26 to display the questions). (5 mins)
 - (1) Why have we been silent about men?
 - (2) What makes male involvement an issue now?
 - (3) Gender equality: what's in it for men?
 - (4) Forms of male involvement
 - (5) Male involvement in SGBV prevention and response in refugee situations.
4. Review key concepts by first asking participants what they believe is meant by:
 - a) Sex / gender
 - b) Gender equality
 - c) Gender mainstreaming (10 mins)
5. Provide definitions of these terms/ concepts, using TM nos. 2, 17, 13 respectively. Ask a different participant to read each definition, and provide brief explanation if necessary. (10 mins)
6. Short presentation on : Masculinity (10 mins)
Highlight different theories of 'masculinity' (i.e., masculinity as biological determinism, cultural construction, and discourse of power). Use TM no. 27 to assist you and see facilitator's notes for content suggestions.
7. Exercise 1: "Men's lack of interest in gender equality". (20 min.)
Divide participants into six small groups. If possible, have two groups of men only, two groups of women only and two mixed groups. Ask each group to answer the following questions:
Questions: Use TM no. 28 to display questions, or distribute it.
 - a) When we speak of a gender perspective are we referring to men and/or women?
 - b) Why haven't men in society at large, been so interested in gender equality issues?
(Or, why haven't men in your organisation e.g. UNHCR?)
- 8. Coffee/ Tea Break (15 mins)**

⁸³. Many of the exercises in this training session and corresponding training materials, have been adapted from the training conducted by Andres Ramirez (Head of Mission / Gender Co-ordinator, UNHCR office, San José, Costa Rica), during the UNHCR training, "Training of Trainers on Gender Protection", held in Ankara, Turkey, June 11-15, 2001.

9. Feedback in plenary by group rapporteurs. Ask a participant to assist you in recording the responses on a flip chart under the following headings: Common Views (between groups) and Divergent Views (between groups). Ask participants if they notice any differences between the responses from each of the groups. (45 mins)
10. Exercise 2: “Why male involvement now? “. (30 mins)
Again, divide participants into six groups as before (two groups of men only, two groups of women only and two mixed groups), but try to change the membership of each group. Ask the groups to answer the following questions:
Questions: Use TM no. 29 to display them or distribute it.
- Why has male involvement become an issue now?
 - What do male refugees and male staff members gain by being involved in gender equality and gender mainstreaming processes?
- 11. Lunch (1 hour)**
12. Feedback in plenary following the format for Exercise 1 above (45 mins)
13. Exercise 3: Male Violence. (10 mins)
In plenary, ask the group: (use TM no. 30 to display questions or distribute it)
Questions:
- Are men naturally violent?
 - How can we address male violence?
- Record answers on a flip chart, especially for question (b)
14. Provide brief summary of the answers by the group and highlight some of the key issues/ messages, using TM nos. 31-36 to assist you. (15 mins).
15. Brief presentation on: “Current Thinking on Male Involvement in Achieving Gender Equality”. You may use TM nos. 37-40 to complement your presentation. (Also, see facilitator’s notes below for content suggestions). (20 mins)
- 16. Coffee/ Tea Break (15 mins)**
17. Exercise 4: Male Contributions – Brainstorming. (20 mins)
Divide participants into groups of 4-5 from the same organisation. If only one organisation is present, then regroup according to different units, or activities, e.g., programming, protection, durable solutions, management, social work etc. Ask participants to:
- Brainstorm on concrete ways in which (a) male staff members and (b) male refugees could be more involved /contribute to gender issues, in the context of their office or organisation.
 - What would be gained by their involvement?
- Use TM no. 41, to display questions above (see facilitator’s notes).
18. In plenary, rapporteurs for each group provide feedback. (30 mins)
19. Then, facilitator highlights key points and makes concluding remarks. (10 mins)
20. Closing of session. (5 mins)

Suggestions on Preparation

- The background readings included in Part I of this Theme are essential reading before you begin this session.
- Other essential readings include:
 - Chapter 4 on SGBV: in particular, see “Prevention I : Male Involvement” in Part I of that chapter.
 - “Gender Mainstreaming Concepts and Strategies”, in Theme 2 in this chapter.
 - “Best Practices: Institutionalising Gender Equality in UNHCR” in Theme 2 in this chapter.

3. The above readings can also be useful for preparing your presentation on “Current Thinking on Male Involvement in Gender Mainstreaming”.

Facilitator’s Notes

1. This training session can be tailored to your particular needs and context, and can also be shortened, by simply selecting the exercises that are most relevant for your purposes. For example, you may wish to only cover the training module until exercise 2, and do the rest in a separate training, or not at all.
2. You will find detailed explanations of key gender terms and concepts (e.g., gender/ sex) in training sessions no. 1 and 2, as well as the glossary of gender terms in Theme 1 (Part I) of this chapter. You may even wish to distribute it.
3. For your short **presentation** on different theories of ‘masculinity’: you may draw on the paper, “Masculinity and Gender: In situations of dislocation and development” in this Theme. The following is a summary of some of the basic points you may wish to highlight: (10-15 mins)
 - **Theories and Politics of Masculinity**
The term masculinity has different meanings, as well as different assumptions and implications that ensue from these meanings. Masculinity is a way to explain men, but the ideas underpinning this term vary greatly. In most literature on masculinity, it is explained in three different ways:
 - biological determinism (or essentialism),
 - cultural or social constructionism,
 - and masculinity as a ‘discourse of power’.
 - What determines men’s masculinity: nature or nurture? Is it **biological destiny** or cultural construction? The basic difference between theories 1, 2 and 3 is that the first believes that human beings are born with either masculine or feminine characteristics which are innate to each sex (they are determined by nature itself), while the second and third both see these characteristics as a social construction.
 - ‘**Social constructionism**’ and ‘masculinity as discourse of power’, are both based on the nurture theory. Social constructionism in particular, holds that it is our capacity to think, construct societies, ideologies, and power relations that enables gender to exist in differentiation from sex. According to this school of thought, masculinity is defined as “ the embodiment of the cultural norms and social pressures that help to determine the roles, rights, responsibilities and relations that are available to and imposed upon men, in contrast to women”. (Greig, Kimmel & Lang)
 - Another way to understand masculinity is to formulate it in terms of **discourse of power**. In this understanding, masculinity is “not [simply] the property of men”. Indeed, this theory holds that the prevailing ideas about masculinity are reproduced and consumed by everybody in society. According to this theory, discourses of masculinity are available, used by and imposed on both men and women. The advantage of this theory is that it clarifies the values and practices that create gender inequality, but also other hierarchies of oppression, including those based on race and class for example. It places gender inequality in the larger context of wider systems of oppression and hierarchies of power relations. (Greig, Kimmel & Lang)
 - An understanding of the ‘politics of masculinity’ (i.e., the discourses and concepts that surround masculinity, and produce inequalities), enables us to “rethink men’s strategic interest in challenging the values and practices that create gender hierarchy”.
4. **Exercises 1 and 2**, which require that participants split into single-sex groups, may cause some division between men and women in the group. Therefore, this grouping should be used only when a good group feeling has already been developed, such as through the use of icebreakers or warm-up activities. The exercises should also be followed by a couple of quick exercises to get the group back together again.

However, if the group atmosphere is not relaxed, then simply have mixed sex groups, get feedback from the groups in plenary and ask each group rapporteur and others, if they noticed differences in the type of answers provided by women and men in the group.

5. If you do decide to divide the participants into separate groups of men or women you can draw attention to similarities and/or differences in group responses during the plenary feedback discussions.

For example: at the UNHCR “Training of Trainers on Gender Protection” held in Ankara in June 2001, men’s and women’s groups responded differently as to why men within UNHCR haven’t been interested in gender equality issues. One group of women felt that concerns for women’s equality was equated with feminism and was therefore not seen as applicable to men. Some men thought that aversion to supporting women’s equality did not apply to men within UNHCR, as they were generally supportive of women’s equality. Others mentioned that UNHCR’s policies favouring the hiring and promotion of women created some tensions in the organisation. Both men’s and women’s groups agreed that the main reasons for men’s lack of interest in the subject were due to the following, *inter alia*: tradition; men’s fear of losing power and their dominant position; their inability to see how women’s equality is relevant to them; and general confusion around the issues.

6. **For Exercise 1:** be clear when you are asking participants why men have not been interested in gender equality, whether you are speaking about men in society at large or about men in their organisation. The answers can vary considerably depending on the focus. The readings in this Theme can provide you with interesting points to bring out in this discussion, including some of the following:
 - Concern for gender equality emerged from the feminist movement, which was led by women;
 - Men don’t perceive gender equality as being related to them and have lacked motivation to be involved;
 - Men have been in a dominant position in most societies, and also within most organisations, e.g., UNHCR, and as such, they have not had much of an interest in changing the order of things. They are afraid of losing power, their image and their dominant position;
 - In some societies, because men and women have formal equality in law, the issue is assumed to be resolved or on the way to being resolved;
 - Hegemonic models of masculinity have not favoured an interest in gender equality issues.
7. **Exercise 3:** some key issues to highlight during this exercise on male violence, may be found in background readings in this Theme, as well as the above mentioned reading in chapter 4, which you may wish to distribute to participants).
8. For your **presentation on “Current Thinking on Male Involvement in Gender Mainstreaming”** key issues to address could include:
 - Reasons for men’s lack of involvement;
 - Masculinity as a social construction;
 - The reasons why male involvement is becoming an issue now;
 - Advantages of a gender analysis: for men;
 - What do men gain from being involved?

The readings in Part I of this Theme are probably enough to provide you with the material for this presentation. In order to make the presentation relevant to your audience, you should make the link between the issues mentioned and the concrete work settings of your participants.

9. **For Exercise 4 on Male Contributions,** some possible answers to the question of how male staff and refugees could be more involved and contribute to gender issues in their organisations, could include:
 - By actively being involved in *promoting* gender equality and gender mainstreaming;
 - Participating in and contributing towards better protection and assistance programmes for refugee women;
 - Ensuring that there are venues or opportunities for male participation and views;
 - Assist in ensuring that gender analysis includes men.

Materials

Equipment:

Flip Charts, markers, overhead projector, and computer if you wish to make a power point presentation.

Training Materials: Handouts/ OHT/ PPP

TM no. 25: Training Session 6: Male Involvement in GE and GM: Objectives	Handout/OHT/PPP
TM no.26: Today's Discussion: Questions	Handout/OHT/PPP
TM no. 2: Sex & Gender: Basic Definitions	Handout/OHT/PPP
TM no. 17: Definition: Gender Equality	Handout/OHT/PPP
TM no. 13: Definition of Gender Mainstreaming	Handout/OHT/PPP
TM no. 27: Masculinity: Nature or Nurture?	Handout/OHT/PPP
TM no. 28: Exercise 1: Men's Lack of interest in Gender Equality	Handout/OHT/PPP
TM no. 29: Exercise 2: Why Male Involvement Now	Handout/OHT/PPP
TM no. 30: Exercise 3: Male Violence	Handout/OHT/PPP
TM no. 31: On Masculinities and Violence	Handout/OHT/PPP
TM no. 32: The Triad of Men's Violence	Handout/OHT/PPP
TM no. 33: Masculine Socialisation Entails Expectations	Handout/OHT/PPP
TM no. 34: When Expectations Are Not Met	Handout/OHT/PPP
TM no. 35: Male Involvement: Part of Problem, More of Solution	Handout/OHT/PPP
TM no. 36: What is Being Done: Models for Refugee Settings	Handout/OHT/PPP
TM No. 37: Male Involvement: Working with Men	Handout/OHT/PPP
TM no. 38: It Takes Two	Handout/OHT/PPP
TM no. 39: Three Ways to do Integral Work with Men	Handout/OHT/PPP
TM no. 40: Entry Points for Working with Men	Handout/OHT/PPP
TM no. 41: Exercise 4: Male Contributions - Brainstorming	Handout/OHT/PPP

Documents for distribution: (Optional)

- "Men: a discussion paper", available in Part I of this Theme.
- "Prevention I: Male Involvement" in chapter 4 on SGBV
- The Glossary of Gender Terms and Concepts, provided in Theme 1 in this chapter .

Chapter 3



Women's Human Rights

In this Chapter:

Introduction

Part I: Background Readings

- A Glossary: Legal Terms, Principles and Institutions
- UNHCR and Human Rights: a policy paper
- Human Rights and Refugee Protection: (excerpt on “Women”)
- The International Human Rights Framework: the link with refugee protection and women's rights
 - The emergence of human rights law
 - International human rights instruments: an overview
 - Implications of international human rights law
 - The need for a particular human rights instrument for women
 - International human rights and refugee law
 - Women's human rights: its impact on UNHCR and refugee law
- CEDAW, the Optional Protocol and Related Institutions: an overview
- Gender Briefs: on Justice and Human Rights
 - I. National Legislation and Legal Rights
 - II. International Human Rights Obligations – Monitoring and Reporting
 - III. Protection and Complaints Mechanisms
- Addressing Cultural Relativism: in Relation to Gender Equality and Women's Rights – an approach by CIDA.

Part II: Training Sessions

- Training Session 7: Women's Human Rights: Session A for refugee women
- Training Session 8: Women's Human Rights: Session B for refugee men
- Training Session 9: Workshop/ Follow Up Meeting: on Protecting and Monitoring the Rights of Refugee Women (mixed refugee women and men)
- Training Session 10: International Human Rights and Refugee Protection: the gender dimension
- Training Session 11: Rights and Protection of Refugee Women

Links

- **Related Background Readings and Reference Documents:**
 - Full text of CEDAW, DEVAW and selected ExCom Conclusions available in the Reference Section of this Gender Handbook, under “Reference Documents”.
- **Related Training Sessions :**
 - Several of the training sessions in this chapter, and particularly sessions 7-9, may also be easily adapted for use as training sessions on Sexual and Gender-Based Violence (SGBV), the theme of chapter 4. They highlight SGBV as a human rights issue.
- **Related Training Materials:** The following training materials (TMs in the binder of this Kit) may also be used for the training sessions in this chapter:
 - On gender concepts, UNHCR policies and Women's Human Rights: TM nos. 2, 4, 8, 9, 17;
 - On SGBV as a human rights issue: TM nos. 72, 76, 77, 87, 88, 89;
 - On RSD and women's human rights: TM nos. 111, 113, 115, and TMs nos. 140-152 which correspond to case studies that can be used both for human rights and RSD trainings.
- **Lists of Human Rights Conventions and other Materials:**
 - “Selected: UN Human Rights Conventions / Treaties”, available as TM no. 42
 - “Selected International and Regional Human Rights Instruments”, available as TM no. 44, as well as in the Reference Section in this Gender Handbook.
 - “List of Convention Abbreviations” at the beginning of this Handbook.



Introduction

All action taken on behalf of refugee women, whether related to assistance or protection activities, should be guided by the standards contained in relevant human rights instruments, including those specific to women such as CEDAW and DEVAW. Indeed, the importance of human rights instruments, and in particular those relating to women's rights, for refugee work, is reiterated in many UNHCR sources, including relevant ExCom Conclusions (no. 64 and 73), UNHCR guidelines and policy papers, and various manuals and other support documents.

As such, Part I of this chapter is devoted to providing background readings which will familiarise the reader with the relevant human rights terminology and institutions, UNHCR documents and policies, the main international human rights instruments specific to women, and the link between these instruments, UNHCR and refugee law. Highlights of these readings include: a glossary of human rights terms and principles (related to women's human rights); UNHCR's policy paper on human rights; the article «The International Human Rights Framework: the link with refugee protection and women's rights» which explains why human rights instruments specific to women are necessary and how these impact on UNHCR and our protection work; as well as a short overview of CEDAW, its Optional Protocol, DEVAW and related institutions. These readings must, however, be complemented with the following: the actual texts of CEDAW, DEVAW and relevant ExCom Conclusions provided in the Reference Section of this Handbook; the UNHCR Guidelines on the Protection of Refugee Women contained in chapter 2 (Theme 1); and the UNHCR Guidelines on Gender-Related Persecution in chapter 5.

Given the multi-cultural nature of working in a refugee context, and the fact that we are often confronted with the argument of cultural relativity in the different aspects of our work (whether it be in training, advocacy, assistance or protection), we also thought it relevant to include materials which provide guidance on how to address this sensitive issue. In addition, three «Gender Briefs» on justice and human rights explain how to apply a gender mainstreaming strategy and build the capacity of actors in this field.

In Part II, we offer five training sessions, three of which target refugee populations, and the other two, government, UNHCR and NGO staff. As noted in the training sessions themselves, human rights trainings for refugee women and men should only be provided if they are part of a broader human rights programme or if protection structures are already in place, such as counselling, victim assistance services, reporting, monitoring or other human rights mechanisms. These mechanisms should be capable of supporting related human rights activities and integrating contributions by refugee women, and men. If such structures do not exist, the training sessions may raise false expectations and not allow for proper follow up. Many cultural, practical and strategy considerations must also go into the planning process when implementing trainings for refugee populations, so it is important to know the refugee populations well, including with regard to gender relations, anticipate and prepare for resistance, and make the training relevant to their lives at a practical level. For some of these reasons, we have provided separate trainings for women and men and one for a mixed group, and also some suggestions on readings and preparatory activities that can help make these trainings more effective.

The other training sessions aim to provide participants with general knowledge of women's international human rights instruments and how these standards link to refugee law and gender claims. It is hoped these sessions will further participants' ability to identify human rights violations and analyse gender-related asylum claims. The latter objective is achieved with a series of case studies specifically designed for this purpose, but which can also be used for trainings on refugee status determination (chapter 5). As with most other training sessions in this Kit, trainings on women's human rights are often more about raising awareness and changing attitudes than about transferring technical knowledge. Trainers should therefore be familiar with the forms that resistance (from participants) can take and prepare their sessions in consequence, including by using training techniques and arguments to counter this resistance, and promote a more open and non-judgmental attitude to learning and gender issues. As with refugee groups, it is equally important with governments, UNHCR staff and NGOs to render the training relevant and practical. This can only be accomplished by being knowledgeable of their particular operations, needs and issues in advance. This may include researching beforehand the women-specific human rights instruments that particular country has ratified, their National Plan of Action (as part of follow up to the Beijing Platform for Action), the participants' organisational mandate and the day to day nature of their work, and the profile of their refugee case load. It is important that these trainings go beyond simple academic presentations of human rights instruments and institutions, to demonstrate in a tangible and convincing manner (such as by doing practical exercises and building skills), how human rights knowledge is relevant and to be applied in the context of their specific individual tasks and organisational programmes.

Women's Human Rights

Part I Background Readings

A Glossary: Legal Terms, Principles and Institutions¹ In International Human Rights Law

I. Legal Terms

Accession: the act whereby a state becomes a party to a treaty already negotiated and signed by other states. It has the same legal force as ratification. Accession usually occurs after the treaty has entered into force.

Conventions: formal international agreements among nations (to which states become party), which create binding legal obligations. Such agreements may have different names: treaty, convention, covenant, or pact. Conventions are one of two main types of UN human rights instruments, the other is UN standards (see below).

Customary Law: a norm or rule of customary international law is one which is binding on all states, regardless of whether it is set out in a treaty to which a state is party. Several of the provisions in the Universal Declaration of Human Rights, including the prohibition against slavery, torture, prolonged arbitrary detention and extra-judicial killings, are generally recognised to have become part of customary international law.

Enter into Force: when the treaty or convention becomes a functioning and enforceable legal document. A convention only “enters into force” after the required number of ratifications (by states) have been received.

Protocol: an addition to the original text of a convention. It may include further agreements or involve amendments to the original text due to new circumstances. It can also be procedural (i.e. relating to the mechanisms for presenting a claim) or substantive (i.e. on the subject or nature of the claim).

Ratification: the legal act by which a country that has signed the convention agrees to be bound by its provisions; usually ratification requires that the national legislative body agrees to the convention. A certain number of country ratifications are required before a convention comes into force.

Reservations: sometimes when a state becomes party to an international treaty it makes a reservation to some of its provisions. A reservation is a formal note or declaration clarifying the manner in which the state will interpret a particular provision of the treaty, or indicating that the state will not be bound by a particular provision. Some treaties expressly indicate that certain provisions *may not* be subject to reservations, and it is also generally accepted that no reservation is permitted if it defeats the object and purpose of the treaty.

Signature: indicates that a country supports the purposes of the document, but is not legally committed to comply with the provisions until the country's legislature officially ratifies it.

States Parties: the term used to refer to countries which have ratified or acceded to a convention. Conventions are binding only upon states parties.

Treaty: see Convention. Although these two terms are almost interchangeable, a ‘treaty’ is more likely to deal with political relations between countries, while conventions generally deal with human rights, administrative or technical matters.

UN Standards (also called principles, declarations, or rules): these are passed by resolutions of a UN body, usually the General Assembly. States cannot become party to them since they are not treaties, and they do not create binding legal obligations. However, they are authoritative standards which states should respect.

¹ The following concepts, definitions and information on related institutions have been largely drawn and adapted from the following sources: UNHCR (October 1995), *Human Rights and Refugee Protection: Part I: General Introduction*, Training Module, RLD 5, Training with UNHCR series, Geneva, pp. 37-48; and International Women's Tribune Centre (1998), *Rights of Women: A Guide to the Most Important United Nations Treaties on Women's Human Rights*, New York, pp. 7-10.

II. Legal Concepts and Principles

Derogation: international human rights law allows states to derogate from their obligations and restrict the enjoyment of human rights, but only under exceptional circumstances and strict conditions, as follows:

- if there is a “*public emergency which threatens the life of the nation*”. The threat must be to the existence of the state itself, not the government currently in power. This usually refers to an armed conflict that puts the whole population, territorial integrity or the fundamental institutions of the state at risk, and where the threat is actual or imminent;
- the normal limitations that apply to the enjoyment of rights (e.g., public order, public health) must be shown to be insufficient to deal with the situation;
- the derogation must be temporary;
- the measure must be “*officially proclaimed*”, i.e., the legal procedure set out in the constitution or other law allowing for the derogation must be followed;
- the (extent and type of) limitations on the enjoyment of human rights must be “*strictly required by the exigencies of the situation*”;
- the measures taken must not discriminate on the basis of race, colour, sex, language, religion or social origin.

Non-Derogable Rights: However, some rights are *not derogable* under any conditions, including the following:

- the right to life;
- the right not to be subjected to torture, or to cruel, inhuman or degrading treatment or punishment;
- freedom from slavery and servitude;
- freedom of thought, conscience and religion.

Enforcement and Implementation (Control) Mechanisms: the system for monitoring implementation and enforcing international human rights law is very different from how states enforce their domestic laws. The former relies heavily on political pressure, and it is the state, not individuals, which are responsible for human rights violations. The two main ways to treat human rights violations within the UN system are:

- (1) By following the enforcement and complaint procedures established by each convention. These typically include:
 - A committee of experts: which is established specifically to monitor the convention;
 - Periodic reports: the requirement that states parties provide periodic reports to the committee on how the convention is being implemented in their country;
 - Inter-state complaints: provisions allowing states parties to bring a complaint about an alleged violation of that treaty against another state party;
 - Individual petitions (or complaints): some human rights instruments (or Protocols thereto) include provisions formally allowing individuals to petition the committee established by the convention for alleged human rights violations (covered by that same convention). This is a potentially very effective way of enforcing human rights conventions, but the state party must formally recognise the competence of the committee to receive and consider these individual petitions.
- (2) By approaching some of the other UN agencies and offices that focus on human rights. There exist general methods for making complaints that do not depend on a country having ratified a human rights convention. These include:
 - Working groups and special rapporteurs: UN commissions establish these different working groups and appoint special rapporteurs to investigate and report on various types of human rights violations. The working groups and rapporteurs carry out much of the work of the commission by working closely with both governments and NGOs. They do so by gathering reports on human rights violations, dealing with individual complaints and making recommendations for action. As such, they can be an effective vehicle through which individuals can make a complaint about human rights violations.

- Procedures for making petitions or complaints about gross violations of human rights: There are two such procedures (known as 1235 and 1503) which both states and individuals can use to make a complaint to the UN Commission on Human Rights and its Sub-Commission on the Prevention of Discrimination and Protection of Minorities. Under 1235 all communications relating to the petition are public, whereas under 1503 these are private.

Regional human rights instruments have their own monitoring and enforcement mechanisms in place. In the case of the European Convention on Human Rights (ECHR), it has a powerful and effective enforcement mechanism in the form of the European Court of Human Rights, as well as allowing for the possibility of an individual complaints procedure.

Limitations of human rights: many human rights are not absolute. Human rights instruments themselves often contain provisions (of a general as well as a specific nature) limiting these.² At the national level, Constitutions often contain similar limitations or have been interpreted as such through judicial interpretation.

In all cases however, limitations on civil rights *may only* be imposed if the following conditions are satisfied:

- the limitation must be prescribed by (i.e., provided for or in conformity with) the law;
- it must be “necessary” for achieving one of the listed purposes (such as protection of public health). The burden lies with the government to prove that the limitation is both required and proportional to the specific purpose it aims to achieve;
- the limitation may not be so severe as to totally suppress the exercise of the right.

Rule of non-discrimination: is a basic concept underlining international human rights law. The prohibition of discrimination means that, as a general rule, the rights and freedoms recognised by international human rights law apply to everyone and states may not make distinctions (for example, on the basis of race) between different individuals in protecting these rights.³

III. UN Bodies/ Institutions Dealing with Human Rights:

The following are the main UN bodies dealing specifically with human rights. Their mandates are derived either from the UN Charter or from particular human rights treaties.

- **UN High Commissioner for Human Rights:** first established in 1993, this appointed official (by the General Assembly) is responsible for co-ordinating human rights activities throughout the entire UN system, and has overall responsibility for the activities of the UN Centre for Human Rights. This broad mandate enables the Commissioner to be actively engaged in addressing almost any human rights issue/ violation around the globe. S/he has the role of promoting respect for human rights, co-ordinating and rationalising the UN human rights programme, rendering UN human rights machinery more effective and preventing human rights violations.
- **UN Commission on Human Rights:** is the most important UN human rights body. It is an intergovernmental body composed of 53 state representatives, with the office of the High Commissioner for Human Rights functioning as its secretariat. The Commission is responsible for co-ordinating the human rights activities of the UN and is the main forum for dealing with human rights violations. Since the Commission generally meets only once a year, most of its work is conducted through ‘mechanisms’ (either an individual, called a rapporteur, or a working group) which deal with a specific theme or country. Examples of ‘thematic mechanisms’ dealing with specific issues include, the working group on enforced or involuntary disappearances, the special rapporteur on torture, and special rapporteur on violence against women.

² For example, art. 29 of the UDHR provides a *general* limitation on the exercise of individual rights and freedoms, which stipulates that everyone is subject to the limitations set out by law which are necessary for securing the rights and freedoms of others, as well as morality and general welfare in a democratic society. Limitations may also be of a *specific* nature, such as when the right to freedom of movement is restricted by law because it is necessary to protect public health, national security etc., as might be the case when prohibiting someone from leaving the country if they have to appear in a court of law.

³ The prohibition of discrimination is of crucial importance to refugees. Indeed, even though refugees are foreigners in the asylum country, in general under international human rights law, they enjoy the same fundamental rights and freedoms as nationals.

Each mechanism has its own mandate. In general however, they may include:

- (1) examining information and allegations received on a specific subject or country;
- (2) when appropriate, urging governments to investigate the matter;
- (3) implementing the procedure for making urgent appeals to concerned governments (e.g., when reliable information is received about disappearances or torture);
- (4) visiting the country to observe the situation first hand, when the government consents to this;
- (5) issuing annual or interim reports to the Commission or General Assembly detailing actions they have taken, information received and their recommendations for improving the situation.

- **UN Sub-Commission on Prevention of Discrimination and Protection of Minorities:** it is a subsidiary group of the UN Commission on Human Rights, to which it also reports. It is composed of 26 members who are experts in various fields of human rights. Its role has been interpreted broadly and includes tasks such as: initiating studies on a whole range of human rights questions (not limited to discrimination or minority issues); adopting resolutions on particular topics or countries; and making recommendations to the Commission on Human Rights. The Sub-Commission has several working groups and special rapporteurs that each work on specific human rights issues.
- **UN Commission on the Status of Women (CSW):** it consists of 45 members, with the broad mandate of promoting the advancement of women and gender equality. The UN Division for the Advancement of Women (DAW) functions as its secretariat. It meets annually for two weeks, and works on reports, studies, and recommendations on a diverse range of women's human rights issues. A special Communications Working Group of the Commission also reviews, in confidence, accusations relating to violation of women's rights. For further information, see also "CEDAW, the Optional Protocol and Related Institutions: An Overview" in this chapter.
- **Treaty Bodies:** are expert bodies established by the UN human rights treaties, responsible for reviewing the implementation of the treaty. They vary in the manner in which they do this. However, generally, it is done by reviewing reports submitted by states party to the treaty, and raising questions or concerns about the reports. Some may also be competent to receive petitions from individuals on alleged violations of their rights within that treaty. Treaty bodies are 'implementation control mechanisms' with a quasi-judicial function; the latter deriving from the fact that the reports they publish contain authoritative views on the scope as well as the content of rights guaranteed by the relevant treaty. The main treaty bodies and the conventions they monitor are:
 - Committee on the Elimination of Discrimination against Women (CEDAW)
 - Committee against Torture (CAT)
 - Committee on the Rights of the Child (CRC)
 - Committee on Economic, Social and Cultural Rights (ICESCR)
 - Human Rights Committee (not to be confused with Human Rights Commission) (ICCPR)
 - Committee on the Elimination of Racial Discrimination (CERD)

Conventions with Established Treaty Bodies

Convention	Treaty Body	# of Members	Accepts individual complaints
International Covenant On Civil and Political Rights	Human Rights Committee	18 members	Yes
International Covenant on Economic, Social and Cultural Rights	Committee on Economic, Social and Cultural Rights (but, did not establish the committee itself*)	18 members	
Convention on the Elimination of All Forms of Discrimination Against Women	Committee on the Elimination of Discrimination Against Women	23 members	Yes (As of Dec. 22, 2000)



International Convention on the Elimination of All Forms of Racial Discrimination	Committee on the Elimination of Racial Discrimination	18 members	Yes
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Committee Against Torture	10 members	Yes
Convention on the Rights of the Child	Committee on the Rights of the Child	10 members	Yes

*The Economic and Social Council (ECOSOC of the UN filled this gap by setting up the Committee on Economic, Social and Cultural Rights in 1987.

Source: International Women's Tribune Centre, *Rights of Women : A Guide to the Most Important United Nations Treaties on Women's Human Rights*, NY, 1998, at 10. The information in this Table was updated for the purposes of this Kit.

- **Centre for Human Rights:** is a division of the UN Secretariat, based in Geneva, and provides legal, technical as well as administrative support to inter-governmental bodies (e.g., Commission on Human Rights) and to the treaty bodies. It also prepares studies on human rights issues, deals with all communications received by the UN on human rights, and operates an advisory service and technical assistance programme on human rights for governments.
- **UN System Agencies:** the ILO and UNESCO both supervise the application of a number of international human rights conventions within their field of competence, as well as operating human rights programmes. Other UN system agencies such as UNICEF and WHO also have functions related to human rights.



UNHCR and Human Rights: a policy paper

resulting from deliberations in the Policy Committee on the basis of a paper prepared by the Division of International Protection

INTRODUCTION

Extreme caution traditionally marked UNHCR's approach to any suggestion that it should co-operate and collaborate with established mechanisms for the promotion and protection of general human rights principles. While being prepared to acknowledge its human rights origins, as well as the complementarity of refugee protection and human rights promotion, UNHCR nevertheless kept a deliberate distance from the proliferating and increasingly forceful UN mechanisms for monitoring and ensuring compliance with international human rights norms. Motivating this approach was the fear that greater activism would lead to politicisation of UNHCR activities which would compromise our capacity to work with our government counterparts.

Over recent years, however, this "hands off" approach has given way to a policy of more constructive engagement with selected human rights bodies, as the potential of co-operation has become increasingly apparent. UNHCR participation in a multi-disciplinary, inter-agency response to complex emergencies is more and more the norm, with human rights monitors becoming an integral part. The heightened prevention focus of UNHCR activities has required the organisation to contribute actively to human rights promotion, *inter alia*, working with and through established human rights mechanisms. Human rights bodies, particularly treaty implementation bodies, have also become increasingly aware of the relevance of refugee protection problems to their mandates and have been actively seeking a UNHCR input into their deliberations. A further important development is the growing complementarity between legal human rights protection and refugee law developments.

Taken together, such developments have contributed to breaking down reservations inside the office to selective closer collaboration with human rights bodies. The approach now is increasingly one of co-operation based on complementarity but respect for and maintenance of differences in mandates and approaches.

The approach of working on separate but parallel and inter-linking tracks has had the added advantage of allowing the Office, from time to time, to take on exceptional human rights protection responsibilities for individuals whose situation is increasingly untenable without outside assistance. Confidentiality is of the essence here.

Having some experience now with the potential of selective co-operation, UNHCR needs to concretise its policy in a manner which continues to respect both the sensitivities and the particularity of our work, but which at the same time maximises the advantages of greater collaboration and encourages the taking of more initiative. This is the purpose of the present paper.

AN EXPANDING INTERACTION

It is a founding principle of the United Nations Charter that sovereign states are charged with the collective and individual responsibility to promote universal respect for, and observance of, human rights and fundamental freedoms for all. /1(1) Whilst the primary duty rests with states themselves, the effective implementation of these universal standards remains, nonetheless, a legitimate concern of all other entities and individuals. In this, UNHCR has a particular role to play insofar as its mandate extends to refugees and others of concern to the Office.

The linkage between human rights concerns and refugee issues was articulated in UNHCR's first address to the UN Commission on Human Rights in 1990, in the following terms:

Violations of human rights are a major cause of refugee exodus and in its efforts to curb such violations this Commission also contributes to the prevention of refugee flows.

Violations of human rights also create complex problems of protection in countries of asylum [...] Finally, too, restoration of acceptable human rights situations in countries of origin can be the key to successful resolution of long-standing refugee problems. It is clear that human rights considerations are central across the spectrum of the refugee problem, from departure through refuge to the realisation of a lasting solution.

These complex linkages between human rights considerations and international response to the problem of refugees led the High Commissioner to state, in her address to the 50th session of the Commission on Human Rights in February 1994, that

UNHCR today is very much an operational human rights organisation, albeit for certain categories of people.

This policy document reviews some of the most important implications of this statement for UNHCR practice at Headquarters and in the field.

To this end, it distinguishes three levels of interaction between UNHCR's responsibilities and the sphere of human rights, namely:

- **standards:** UNHCR promotes, and is guided by, human rights standards;
- **information:** UNHCR uses and generates human rights information; and
- **mechanisms:** UNHCR co-operates with, and seeks the co-operation of, human rights mechanisms, institutions and field operations.

This document does not purport to be exhaustive on any of these three levels. It does, however, provide policy guidance on a number of issues arising from this interaction.

1. Standards

International human rights law is concerned with setting standards - some of which are universally recognised - for the behaviour of states towards persons under their jurisdiction. UNHCR, as the UN agency tasked with providing protection to refugees - and, in some cases, returnees and/or internally displaced persons - has a global mandate to ensure that the human rights of its beneficiaries are upheld in accordance with the international obligations of states hosting them.

As far as refugees are concerned, human rights standards have been, in part, framed within specific international instruments - primarily the *1951 Convention relating to the Status of Refugees* and the *1969 OAU Convention governing Specific Aspects of the Refugee Problem in Africa*. It is clear, however, that the human rights provisions of these instruments are not exhaustive. Since the creation of UNHCR in 1950, many more international human rights treaties, both of universal and regional application, have been adopted, the provisions of which are immediately relevant to the protection responsibilities of the Office. UNHCR stands for, and is entitled to invoke, the full array of rights, freedoms and principles related to refugee protection developed by the international community under the auspices of the UN or of regional organisations. It can also base its arguments on constitutional and other domestic legal provisions reiterating or elaborating international human rights standards.

As evidenced by the preparatory process leading to and the Programme of Action adopted by the 1996 Regional Conference on Refugees, Displaced Persons, Other Forms of Involuntary Displacement and Returnees in the Commonwealth of Independent States and Neighbouring States (CIS Conference), UNHCR is expected to actively contribute to overall preventive standard-setting exercises, particularly tailored to societies in transition.

The first requirement for UNHCR staff is, therefore, to be familiar with these standards, their fields and modes of application, and their supervision and enforcement mechanisms. The Division of International Protection has published in 1996 three important documents which are designed to guide UNHCR staff in this area:

- an expanded *Collection of International Instruments and Other Legal Texts concerning Refugees and Displaced Persons*;
- a training module (in two parts) on *Human Rights and Refugee Protection* (RLD5);
- a reference manual for UNHCR staff: *International standards applicable to the Protection of Internally Displaced Persons*.

In addition, the REFWORLD CD-ROM published by the Centre for Documentation and Research contains an impressive collection of human rights standards.

Building on these recent endeavours, knowledge of human rights standards must be promoted and disseminated among staff at all levels, and by UNHCR staff among governmental counterparts and, where applicable, NGO partners, as additional tools for the protection of persons of concern.

In determining which rights it is going to defend or promote on behalf of its beneficiaries, UNHCR must be guided by the following considerations:

- maximising protection to the full extent of the law, taking into account permissible limitations or derogations;
- promoting new or enhanced legal norms and procedures where domestic law is discriminatory or otherwise falls short of international standards;
- attending in priority to the most fundamental civil rights: life, liberty, and security of the person, without however undermining any other civil, political, economic, social or cultural right;
- promoting the principle of non-discrimination: persons of concern should not be discriminated against for being displaced, or for being or having been refugees; on the other hand, they should not be treated as a privileged class with regard to the enjoyment of their rights or social benefits.

UNHCR's own goals, aims and objectives must comply with international human rights standards. This means that not only must UNHCR staff be careful not to compromise fundamental protection principles and norms, but they must also make their programme goals compatible with international human rights standards. They must also try to enhance the observance of these standards by their government and NGO partners.

Finally, recognising that human rights is a rapidly evolving area of international law, UNHCR must strengthen its involvement in standard-setting exercises, in particular within the UN, as well as in the development of case law by human rights Commissions and Courts. It must do so in order to ensure proper reflection of the Office's interests and concerns and to safeguard a liberal interpretation of these standards as they apply to refugees and other persons of concern.

2. Information

UNHCR staff make extensive use of human rights information, whether it is generated by UN or regional mechanisms, such as Special Rapporteurs (see the next section on Mechanisms), or by reliable human rights NGOs. UNHCR's REFWORLD contains considerable amounts of information on human rights situations in most countries in the world. This is used primarily in the context of determining the refugee status of asylum-seekers from those countries, but also in other contexts, such as the facilitation or promotion of voluntary repatriation, which depends heavily on an accurate assessment of conditions in countries of origin.

This policy paper focuses on the gathering of human rights information by UNHCR field offices, with particular emphasis on actual or potential countries of origin of refugee flows. The question is often asked whether it is legitimate and/or prudent for UNHCR to involve itself in the gathering and processing of information concerning the general human rights situation in countries where it operates -i.e., information which would not be limited to the situation of refugees, returnees or IDPs, as the case may be. This question must be considered bearing in mind that, on the one hand, UNHCR is not a human rights monitoring organisation intent on exposing abuses publicly, but, on the other hand, it has an indisputable interest in human rights issues that impact on its mandate and activities. The follow-up process to the CIS Conference is a case in point where

UNHCR - jointly with States and its partners, especially IOM and OSCE - is expected to assist in and monitor the implementation of the Programme of Action.

In this connection, gathering information on human rights developments that may lead to refugee flows and/or hinder repatriation is a legitimate and necessary activity for UNHCR staff assigned to an actual or potential refugee-producing country.

Wherever possible, UNHCR Representatives should present this concern as a matter of course to their Government counterparts. Based on such information, they should propose to Headquarters preventive measures which could be designed and implemented co-operatively by Governments and other UN and regional organisations, according to their respective mandates.

Exchange of information with human rights mechanisms and field operations is dealt with in the next Section.

3. Mechanisms

UNHCR is part of the UN's effort to promote respect for human rights. Co-operation with the other components of this system is, therefore, mutually beneficial.

In recent years, UNHCR has considerably increased its co-operation with a number of mechanisms constituting the "traditional" human rights machinery of the UN. These include the Commission on Human Rights, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, bodies supervising the implementation of specific human rights treaties, and special procedures, such as Rapporteurs or Working Groups.

A detailed description of these, as well as the major regional mechanisms can be found in the module *Human Rights and Refugee Protection, Part I*. The participation of UNHCR in the work of these human rights bodies is now actively solicited. /2(2)

The human rights liaison function within the Division of International Protection has greatly contributed to raising the profile of UNHCR and of refugee-related concerns in the human rights arena. There is, however, a crucial role for field offices to play in this area, since UNHCR's credibility as a source of information for the human rights machinery is based, largely, on its extensive field coverage. The instructions contained in IOM/64/-FOM/63 of August 1993 regarding the Committee on the Rights of the Child should be considered to apply, *mutatis mutandis*, to co-operation with all treaty monitoring bodies. /3(3)

In essence, these require all field offices to participate in the preparatory process of state reporting, by providing accurate information on the implementation of the rights enumerated in each respective treaty, and to provide some comment on the accuracy, or otherwise, of the initial report submitted by each state.

UNHCR field staff are also requested to continue to extend all necessary facilities to Special Rapporteurs, Representatives and Experts who often rely on refugee testimonies as a critical source of information for their reports, subject to security and confidentiality considerations.

General rules of confidentiality govern the sharing of information with human rights mechanisms, particularly with a view to protecting victims and witnesses of human rights violations. The Division of International Protection will soon publish new, comprehensive guidelines on this issue.

In the 1990's the UN human rights system is expanding into two new areas, namely:

- human rights field missions, either in the framework of peace processes or, more recently, at the initiative of the Commission on Human Rights and the High Commissioner for Human Rights; and
- jurisdictional activities - such as the international tribunals for the Former Yugoslavia and Rwanda - which "bridge" human rights and international criminal law. /4(4)

This policy paper focuses on the former development.

Human rights are regarded more and more as fundamental building blocks in achieving durable peace. There has been in recent times a multiplication of human rights components - including Civilian Police - in UN peace keeping missions: the United Nations Transition Assistance Group/UNTAG in Namibia; the United Nations Observer Mission in El Salvador/ONUSAL; the United Nations Transitional Authority in Cambodia/UNTAC; the United Nations Operation in Mozambique/ONUMOZ; the United Nations Protection Force/UNPROFOR and the United Nations Confidence Restoration Operation in Croatia/UNCRO in the Former Yugoslavia; the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA) and the International Civilian Mission in Haiti/MICIVIH which was part of the United Nations Mission in Haiti/UNMIH. In addition, some new field missions are being sponsored by the Commission on Human Rights and/or the High Commissioner for Human Rights/Centre for Human Rights. The human rights field operation in Rwanda (HRFOR) is seen by many as a "test" of the High Commissioner for Human Rights' role in "operationalising" human rights. Mention should also be made of regional organisations, such as the OSCE, the OAS or the European Union, which have fielded some human rights observer missions.

The structures, mandates and *modus operandi* of these missions vary considerably. Some have a role of observing/monitoring and reporting to a central body, much in the traditional way of the UN human rights machinery. Others, including HRFOR, are getting closer and provide essential support to the "operational" conception of protection familiar to UNHCR.

Overall a positive interaction has developed between the human rights field missions and the UNHCR operations on the ground. The mandates and activities of these missions are relevant to UNHCR's work, and indeed UNHCR has been repeatedly calling for a more operational human rights machinery as a useful complement to its own protection efforts. At the same time, UNHCR must preserve its specificity as a humanitarian, operational protection agency. UNHCR's interest clearly resides in having co-operation based upon complementarity and respect for differences in mandates and approaches. The pros and cons of greater UNHCR involvement in human rights operations must be weighed carefully in each situation.

In order to avoid misunderstandings and enhance complementarity, the adoption of co-operation agreements between UNHCR and human rights field operations is encouraged. Their usefulness has been demonstrated in Rwanda, where they cover issues of division of labour/responsibilities and exchange of information. Headquarters is looking into the possibility of establishing a framework agreement, or memorandum of understanding, with the High Commissioner for Human Rights.

In addition, UNHCR will

- continue to promote comprehensive prevention approaches to potential population displacement, as exemplified by the 1996 CIS Conference;
- be proactive in discussing with the High Commissioner for Human Rights and UN Headquarters the need for new human rights field operations, whenever this may assist in the resolution of refugee problems;
- associate itself more closely with the preparation of human rights field missions to ensure that refugee/returnee issues are duly taken into consideration;
- at the outset of a mission, actively encourage the establishment of a clear division of labour among all actors involved, or likely to be involved, in capacity-building activities. These include UN organisations and agencies as well as regional organisations and NGOs;
- consider positively the possibility of seconding appropriate staff to the Office of the High Commissioner for Human Rights and other UN departments responsible for human rights missions. Reciprocal arrangements will also be explored. UNHCR must also engage systematically in joint training of UNHCR and human rights field staff;
- consider ways of contributing to human rights field missions with procurement, logistical and/or fund-raising support.

THE FUTURE

Further guidance will be provided regularly on these issues, in the light of anticipated developments following the recent designation of a new High Commissioner for Human Rights and the presentation of the Secretary-General's UN reform plan, which highlights the need for human rights to be integrated in all principal United Nations activities and programmes. The policy delineated in this paper and the examples of its implementation which are provided are designed to enhance that goal and contribute to greater integration of efforts.

Issued under the AHC's memorandum AHC/97/325 dated 6 August 1997.

Endnotes

/1 Articles 1(1)-(4), 55 (c) and 56 of the Charter of the United Nations 1945.

/2 The Division of International Protection will soon issue guidance on support to national human rights institutions.

/3 **The main treaty bodies and the conventions they monitor are:**

- Committee on the Rights of the Child: Convention on the Rights of the Child
- Committee against Torture: Convention against Torture
- Committee on the Elimination of Discrimination against Women: Convention on the Elimination of All Forms of Discrimination against Women
- Committee on the Elimination of Racial Discrimination: Convention on the Elimination of All Forms of Racial Discrimination
- Human Rights Committee: International Covenant on Civil and Political Rights
- Committee on Economic, Social and Cultural Rights: International Covenant on Economic, Social and Cultural Rights

/4 For UNHCR positions on these issues see:

- Briefing Note on the International Criminal Court, DIP, 24 October 1996
- Address by the High Commissioner at the Holocaust Memorial Museum, Washington, 30 April 1997.



Human Rights and Refugee Protection

Part II: Specific Issues UNHCR Training Module, RLD, 1996 (Excerpt)

Chapter 10 **Women**

A. INTRODUCTION TO THE ISSUES

In carrying out protection work for refugees some UNHCR staff may have encountered different situations which involved the particular human rights issues discussed in this chapter. For the benefit of those who haven't and - more generally - to help staff focus on the practical aspect of pertinent human rights principles and standards, the following scenario may be a helpful illustration:

Scenario In a country, very few of the women seeking asylum have been recognised on the basis of gender-based persecution. The decisions of the authorities often reveal inconsistencies that seem to indicate a lack of understanding of the issues involved in determining whether or not a fear of persecution existed or could exist on grounds related to gender. Although the issue had been the subject of several decisions in the Courts, no consensus has emerged on what constitutes gender-based persecution and whether this ground falls within the Convention criteria for refugee status. Violence against women is an issue of intense controversy in the country.

B. WOMEN IN INTERNATIONAL REFUGEE LAW

As a matter of international law, refugee women are entitled to the same kind of protection as all other refugees. The provisions of the 1951 Convention apply to "any person" who comes within the refugee definition.

However, in practice, asylum-seeking and refugee women often face a number of disadvantages in obtaining international protection, including:

- the absence of gender as a ground of persecution in the refugee definition;
- unwillingness to recognise women as a particular social group;
- unequal access to procedures;
- failure of status determination officials to take into account that women are often persecuted and experience their persecution differently from men;
- greater responsibility for care of children and older family members; and
- increased risk of being subjected to sexual violence both in the country of origin and the country of asylum.

In response, the Office has taken a number of initiatives in recent years to assist staff in protecting the rights of refugee women, including:

- establishing the positions of Senior Co-ordinator for Refugee Women, and Legal Adviser (Refugee Women and Children);
- issuing Guidelines on the Protection of Refugee Women July 1991) and UNHCR Policy on Refugee Women (1990);
- issuing Guidelines on Prevention and Response with regard to Sexual Violence against Refugees (1995);
- training staff in People-Oriented Planning, designed to promote gender awareness in providing assistance and protection;

- issuing a training module on Interviewing Applicants for Refugee Status which includes a chapter on interviewing women;
- submitting to the Executive Committee the Note on Certain Aspects of Sexual Violence against Refugee Women (A/AC.96/822), which resulted in Executive Committee Conclusion number 73 (XLIV), 1993 on Refugee Protection and Sexual Violence; as well as raising the issue at previous meetings of the Executive Committee leading to the adoption of Conclusions Number 39/1985 (Refugee Women and International Protection), 54/1988 (Refugee Women), 60/1989 (Refugee Women) and 64 (Refugee Women and International Protection).

C. WOMEN IN INTERNATIONAL HUMAN RIGHTS LAW

C.1 NON-DISCRIMINATION

The general rule of non-discrimination in human rights law provides that everyone in a country is entitled to the same human rights. [...]

In addition to the general rule of non-discrimination set out in the instruments constituting the International Bill of Human Rights [...], there is a specific instrument addressing the situation of women; the Convention on the Elimination of All Forms of Discrimination against Women, to which over 130 states are parties. [As of May 10, 2001, the number of states parties was 168.]

This Convention establishes standards for states in a number of areas that are important to refugee women, including:

- suppression of all forms of traffic in women and exploitation of prostitution of women (Article 6);
- nationality (Article 9);
- education (Article 10);
- employment (Article 11);
- health care (Article 12);
- particular problems of rural women (Article 14);
- equality before the law (Article 15); and
- all matters relating to marriage and family relations (Article 16).

Of particular importance is recognition that the goal of equality of opportunity and treatment may require positive measures in favour of women. Article 4(1) of the Convention provides that:

"Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention [...]"

The Committee on the Elimination of Discrimination against Women, made up of twenty-three experts serving in their personal capacity, was established to monitor implementation by State Parties of the Convention on the Elimination of All Forms of Discrimination against Women. State Parties must submit reports to the Committee; the [Optional Protocol to the Convention provides for an individual communication, as well as an inquiry procedure]⁴.

C.2 VIOLENCE AGAINST WOMEN

Concern for the human rights of women at the international level has in recent years moved beyond the focus on non-discrimination to include the issue of violence against women. Reflecting the importance of this concern to the international community, the General Assembly adopted in December 1993 a Declaration on the Elimination of Violence against Women (A/RES/48/104).

⁴. As of the date of entry into force of the Optional Protocol, namely December 22, 2000. The information in [] was added by the editor of this Gender Kit.

In the preamble of that Declaration, the General Assembly is “*concerned that some groups of women such as [...] refugee women [...] are especially vulnerable to violence*”. The Declaration contains a list of what shall be understood to encompass violence against women in Article 2, and underlines in Article 3 that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It follows from Article 4 (1) that states should “[a]dopt measures directed towards the elimination of violence against women who are especially vulnerable to violence.”

The Commission on Human Rights has also acted on this issue, establishing a Special Rapporteur on Violence against Women in March 1994. In resolution 1994/45 of the Commission the Special Rapporteur is mandated to “[s]eek and receive information on violence against women, its causes and its consequences from Governments, treaty bodies, specialised agencies [...]”. The Special Rapporteur can also recommend measures, ways and means to eliminate violence against women.

The International Human Rights Framework : the link with refugee protection and women's rights⁵

1. The Emergence of Human Rights Law

1.1. Historically, international law regulated the relations between kings and sovereigns. Eventually, it also came to regulate the relations between the sovereign states which emerged from feudal kingdoms. The treatment of the individual person was not part of this body of law.⁶

1.2. The development of human rights law originated in the middle of the twentieth century with the foundation of the United Nations. Emerging from the post-World War II order, the human rights movement, with its concepts, laws, and new institutions, has challenged the traditional scope of international law, and become one of the few moral visions ascribed to internationally.⁷

1.3. The United Nations Charter (1945) itself recognised the central importance of protecting human rights. One of the four purposes of the Charter is that of “promoting and encouraging respect for human rights and fundamental freedoms”; a responsibility held by all members of the United Nations, who can no longer appeal to the principal of national sovereignty in order to avoid scrutiny by the international community in this regard. Moreover, the Charter’s vision of human rights is one which is founded on the principle of equality. Human rights and freedoms are to be available to all human beings without discrimination on the basis of race, sex, language or religion; making the principle of equal rights of women and men a pillar upon which the United Nations was founded.⁸

2. International Human Rights Instruments: an overview

2.1. This commitment to human rights in the UN Charter subsequently gained expression in a variety of international instruments. Beginning with the Universal Declaration of Human Rights (UDHR) adopted by the UN in 1948, these international instruments proclaim the inherent and inalienable rights and freedoms of all human beings. While technically the Universal Declaration is not a binding instrument, it effectively enshrined the language of universality of human rights, set out the basic framework of civil and political, as well as social, cultural and economic rights, and served as a foundation for subsequent human rights instruments. Moreover, in addition to being the historical and moral backbone of the succeeding generations of human rights instruments, some legal experts argue that the entire Declaration has acquired the status of customary international law, which means that its norms are universally recognised, binding all member states of the United Nations.⁹

2.2. The Declaration was followed by a series of legally binding international human rights instruments which solidified the human rights movement, developing further its basic principles and rights. Most importantly, by virtue of their status as multilateral treaties ratified by states parties, these subsequent instruments created international legal obligations. Chief among these instruments, are the two complementary Covenants of 1966, namely, the International Covenant on Civil and Political Rights (ICCPR) which is subject to immediate implementation, and the International Covenant on Economic, Social and Cultural Rights (ICESCR) which states are to guarantee over time. The two Covenants, together with the UDHR, form what is known as the **International Bill of Human Rights**.

⁵ . This paper was authored by Rosa da Costa, legal consultant, UNHCR, 2002.

⁶ . Goonesekere, Savitri, “ A Rights –Based Approach to Realising Gender Equality”, a paper prepared in the context of the Workshop on Rights-Based Approach to Women’s Advancement, Empowerment and Gender Equity, 5-8 October 1998, FAO, Rome, para. 9. The author also noted that on an exceptional basis, international law may have addressed the state’s responsibility towards alien subjects within its borders, and included treaties regarding the treatment of victims of war, and treaties combating slavery.

⁷ . Kerr, Joanna (ed.), *Ours By Right: Women’s Rights as Human Rights*, Zed Books & The North-South Institute, Ottawa, 1993, at 4.

⁸ . Goonesekere, para. 10-11.

⁹ . Goonesekere, at para. 13. While the question of whether the entire UDHR is part of customary law is still a matter of debate, there is already a clear *consensus* that some of the human rights in this instrument such as, the right to freedom from torture and slavery, do form part of customary law and bind all Members States of the United Nations.

2.3. Subsequent conventions continued to be adopted, some of which elaborated on existing standards, while others focused on specific areas of human rights. These instruments include, *inter alia*, treaties on non-discrimination on the basis of sex (CEDAW), and of race (ICERD), as well as in relation to education (CDE), treaties on freedom from torture (CAT), the rights of children (CRC), and ILO Conventions relating to the rights of workers.

2.4. International standards were also developed with regard to the treatment of persons in specific situations, such as in time of war or in refugee situations.¹⁰

2.5. Regional human rights instruments, which were subsequently put in place in Europe, the Americas and Africa, also represent a significant development in the human rights field as they contextualise, reinforce, and at times even expand on international human rights law. In Europe, the most important of these instruments is the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 (otherwise known as the 'European Convention on Human Rights', ECHR), which relates to civil and political rights. This Convention has the remarkable advantage of an enforcement mechanism in the form of the European Court of Human Rights, and of being complemented by the European Social Charter of 1961 which addresses social, economic and cultural rights. The American Convention on Human Rights of 1969 (otherwise known as the 'Pact of San Jose, Costa Rica', and which was expanded by the Additional Protocol of 1988) and the African Charter on Human and Peoples' Rights of 1981 for their part, both include civil and political rights as well as social, cultural and economic rights.

Moreover, some regional instruments also address specific human rights issues (e.g. torture), while others seek to provide additional general standards beyond those already existent in international human rights instruments. An example of the latter is the Inter-American Convention on the Eradication of Violence against Women (the Convention of Belem do Para).¹¹

2.6. The development of human rights has often been described as three successive generations of rights. The first being civil and political rights, which are still considered by many to be the ideal paradigm of rights. These rights have the benefit of being easily defined by law, easy to measure and monitor, and of being the most widely accepted as inherent or 'natural' rights. The second generation of rights refers to economic, social and cultural rights; a category of rights which in contrast to the above, are viewed as being subject to gradual evolution and social policy rather than immediate implementation. The third and most recent category of rights to emerge is that of 'group' or 'peoples' rights. To date, much of the emphasis and priority has been placed on the first generation of rights.

3. Implications of International Human Rights Law

Human rights hold important implications, both at the level of traditional international law, as well as at the national level.

3.1. Implications for international law

(i) Expands international law to individuals and groups:

Firstly, international human rights expands the state-centred discourse of international law to individuals and groups, who would otherwise neither be subjects of nor have access to the international legal system.¹² Unlike traditional international law, which only focuses on relations between states, human rights focuses on the relations between the government and their own subjects.

(ii) Rights and obligations are subject to monitoring:

¹⁰. For example, international humanitarian law, the body of international law which governs the conduct of armed conflicts and was codified in 1949 in the four Geneva Conventions (and Additional Protocols of 1977), seeks to protect individuals who are affected by such conflicts (e.g., prisoners of war, non-combatants, and civilians, including specific provisions on the treatment of women). International refugee law, (which is primarily based on the 1951 Convention relating to the Status of Refugees and its 1967 Protocol) also provides relevant international standards relating to the protection to be afforded these persons, (e.g., the principle of *non-refoulement*) and the minimum human rights of those meeting the definition of a refugee in the Convention.

¹¹. Goonesekere, at para. 18.

¹². Charlesworth, Hilary, "What are 'Women's International Human Rights? " at 58, in Cook, Rebecca (ed), *Human Rights of Women: National and International Perspectives*, University of Pennsylvania Press, Philadelphia, 1994.

Secondly, international human rights have a corresponding body of rights and obligations which are reinforced by mechanisms for supervision and monitoring; the latter seek to ensure both government accountability and implementation. Moreover, these mechanisms are increasingly direct as more and more human rights instruments, such as the Protocol to CEDAW, allow for individual (and group) complaint procedures by which ordinary citizens may avail themselves of complaint/petitioning procedures directly against the state.

3.2. Implications at the national level

(i) Require implementation at national level:

By their nature, these international and regional human rights standards require implementation at the national level. This means that states parties must take concrete legislative, administrative, and policy measures, if they are to secure these rights in practice. This includes providing appropriate remedies in case of violations. These international norms and standards, and especially those relating to civil and political rights and freedoms, are usually included in national Constitutions or in domestic legislation.¹³

(ii) Compliance with monitoring mechanisms and complaints procedures:

States parties must comply with the monitoring (implementation-control) mechanisms and complaints procedures established by each convention.¹⁴

(iii) Provide standards for citizens:

International human rights instruments provide important standards. As such, they are a frame of reference for citizens within their national contexts to make claims for their rights and affect changes in domestic laws and conditions.¹⁵ Furthermore, based on the fact that their country has ratified these instruments, citizens can call on their governments to fulfil their obligations and enact laws and practices that are in conformity with these standards. Courts in some jurisdictions have also drawn on international human rights instruments such as CEDAW, to help interpret domestic legal provisions.¹⁶

4. The Need for a Particular Human Rights Instrument for Women

4.1. Why existing international human rights did not adequately address the rights of women

In principle, women's rights are protected alongside those of others in the major international human rights instruments. Indeed, the principle of non-discrimination, a fundamental rule underlying human rights law and also embodied in the UN Charter, ascribes rights and freedoms to everyone without discrimination, including on the basis of sex.

However, there was a consensus in the international community that the rights of women were not being adequately addressed by the existing international human rights framework. This was so for some of the following reasons:

(i) The existing framework reflects and was developed from a masculine worldview, without sufficient consciousness of the needs of women:

The development of international human rights law, generally speaking, is argued to be partial and androcentric, inherently privileging a masculine worldview. Partly, this was due to the traditional exclusion of women from the public sphere.¹⁷ As a body of law, international human rights has therefore reflected the political, and socio-economic perspective of its authors, who were overwhelmingly men from a privileged background; as such it was not developed with a consciousness of the needs of women, or with a view to addressing the particular obstacles they experience.

¹³. Goonesekere, at para. 19-21.

¹⁴. For further information on these procedures please see "Enforcement and implementation (control) mechanisms" in the Glossary at the beginning of this chapter.

¹⁵. Kerr, at 4

¹⁶. Goonesekere, para. 29. Countries such as Tanzania, Australia, New Zealand, Botswana, Nepal and India are mentioned in this regard.

¹⁷. Charlesworth, at 63.

Moreover, insofar as human rights instruments are seen as contracts between the state and its people, women were naturally neglected since their relationship with the state was mediated by men, who at the same time also acquire their authority over women from the state.¹⁸ As such, not only did issues of potential importance to women receive insufficient attention, but many issues were simply not defined as human rights violations. For example, domestic violence, which is now increasingly being recognised as a human rights issue.

(ii) International human rights bodies have tended to ignore the application of human rights norms to women:

In addition to being conceived from a male perspective, human rights provisions have also generally been understood and interpreted as relating to men and the male experience, rather than in their application to women.¹⁹ Efforts are now being made to improve this situation however. Particularly noteworthy in this respect is the UN effort to integrate the human rights of women and the gender perspective throughout the United Nations system, including in human rights treaty bodies. This is discussed below.

(iii) The norm of formal non-discrimination is insufficient to achieve equality:

Most instruments simply apply this norm, which is based on the idea that women should be treated the same as men in the public sphere and with respect to equality of opportunity.²⁰ Yet, non-discrimination on the basis of “sex” is not sufficient to eradicate gender inequality because of the manner in which this provision has traditionally been interpreted and implemented.²¹ What is required is not only formal equality (i.e., of access), but equality of outcome, and a framework which takes into account the forces that maintain discrimination and undertakes positive measures to address them. Such a framework was adopted in CEDAW, as we see below.

(iv) The failure to address injustices in the private sphere:

Much inequality, discrimination and oppression of women takes place in the private sphere, and particularly within domestic and family life, which the existing international human rights framework did not address. CEDAW and DEVAW now speak to this problem.

(v) The perceived conflict between women’s rights and culture or tradition:

The application of international human rights to women is often seen to be in competition with the community’s broader ‘interests’ in preserving their culture, traditions and customs. As a consequence, women’s rights have often been sacrificed, losing the battle to cultural relativity and to structures enforcing male privilege through traditional customs and ways of life. It is an aspect of women’s rights also addressed in both CEDAW and DEVAW.

(vi) Women were adversely affected by the focus on civil and political rights:

In the context of the development of human rights law, women have been adversely affected by the focus and priority accorded by the western world to the ‘first’ generation of rights, i.e., civil and political rights. In contrast to these rights, which are subject to immediate execution and easily accepted as inherent and universal, social and economic rights are viewed as social policy issues (subject to gradual implementation) rather than issues of fundamental justice.²² As put by one author, “[s]ince universal gender inequality creates for women conditions of exploitation or subordination in the economic and social sphere, the lack of attention to these rights [has been of greater consequence to women].”²³

4.2. International Human Rights Instruments Specific to Women: CEDAW and DEVAW

(i) CEDAW

¹⁸ Kerr, at 5.

¹⁹ Charlesworth, at 59.

²⁰ *Id.*

²¹ Kerr, at 4.

²² Kerr, at 5.

²³ *Id.*

As a consequence of the consensus that the existing human rights framework did not ensure the rights of women, the UN General Assembly adopted in 1979 a Convention setting specific standards for the protection of women's rights, namely the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*. Often described as an **international bill of rights for women**, the Convention provides a definition of 'discrimination against women' and puts forth an agenda for states parties to end discrimination at the national level.

The broad definition of discrimination contained in this instrument goes beyond the requirement of formal equality (equal access with men) contained in the other human rights instruments. It demands also equality of outcome (*de facto* equality), and generally puts forth a "comprehensive framework for challenging the various forces that have created and maintained discrimination based on sex".²⁴

CEDAW defines discrimination in art.1, as follows:

"For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

With this provision, CEDAW codifies women's rights to non-discrimination on the basis of sex, articulates their equality as a 'self-standing norm', and provides that women and men are entitled (on the basis of equality) to the enjoyment of human rights and freedoms in all fields. Significantly, it also moves beyond the two Covenants by incorporating both families of rights (i.e., civil and political, and socio-economic and cultural) in a single instrument and by ensuring they are mutually reinforcing.²⁵

CEDAW is a convention with exceptional reach. Since becoming effective in 1981, 168 countries had ratified it by May 2001. With regard to its international enforcement mechanisms, it allows for monitoring and reporting on progress at the national level (art. 18), and through the Economic and Social Council, which reports to the UN General Assembly (Art. 21). At the state level, it functions like other international and regional human rights instruments, in that it relies on state legislation and policies to bring it into effect. In some countries however, such as those of Central and Eastern Europe, national Constitutions explicitly refer, and even grant priority to ratified international treaties when these conflict with domestic legislation. More recently, the convention was strengthened considerably by the entry into force of its Optional Protocol (in December 2000, with 36 ratifications as of 29 April 2002), which amongst other things, allows for individual and group communications procedure, as well as an inquiry procedure.

(ii) DEVAW

Complementing the above convention, is the *United Nations Declaration on the Elimination of Violence Against Women (DEVAW)*. Adopted in 1993, it provides a broad definition of violence against women, as well principals and standards key to addressing this global problem. While CEDAW does not address the issue of violence against women specifically, General Recommendation 19 of the Committee on the Elimination of Discrimination (1992), provides that the full implementation of the convention requires states parties to take positive measures to eliminate all forms of violence against women, and makes the important link between violence against women and the enjoyment of their other rights protected by the convention.²⁶ As such, by addressing the issue of violence, CEDAW and General Recommendation no. 19, together with the DEVAW, close an important gap between the rights of women in theory and their enjoyment of these in practice.

Despite its comprehensive treatment of discrimination, there may nonetheless be occasions where CEDAW does not provide specific enough provisions, or where it does not address a particular right or situation. Naturally, these gaps can be filled by referring to the general non-discrimination provisions or to provisions of particular relevance to women (e.g., art. 3 ICESCR and ICCPR) in

²⁴ Kerr, at 5.

²⁵ Goonesekere, at para. 23.

²⁶ Goonesekere, at para. 26.

other international human rights instruments. When applicable, reference should also be made to the instruments relating to refugees and armed conflict mentioned above. General Recommendations or Comments, and the Concluding Observations of human rights treaty bodies should be consulted as well, as they often complete or reinforce the rights contained in international instruments.²⁷

4.3. *The integration of the human rights of women throughout the United Nations system*

The need to integrate a gender dimension in United Nations human rights activities has been recognised by key bodies within the UN system. Most notably, the Commission on Human Rights has addressed this need in several of its resolutions.²⁸ For example, in resolution 1998/51 on integrating the human rights of women throughout the United Nations system, the Commission requested *inter alia*, that all human rights treaty bodies, special procedures and other human rights mechanisms (of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities) regularly and systematically take a gender perspective into account in the implementation of their mandates, and include information and analysis in their reports on violations of the human rights of women and girls. In addition, it also called upon all relevant actors to implement the ECOSOC Agreed Conclusions of 1997/ 2 on gender mainstreaming throughout the UN system, and to strengthen their co-operation and co-ordination on women's human rights.²⁹ This was reiterated by the Commission again in 1999 in its resolution 1999/4, where it also emphasised the need to strengthen expertise within the UN system on issues relating to equal status and the human rights of women, including through training and the inclusion of gender impact analysis.³⁰

The above resolutions were taken due to the recognition that, as mentioned above, relevant UN human rights agencies and treaty bodies have in the past tended to give insufficient attention to the application (interpretation) of human rights norms to women. Since the adoption of these resolutions, some initial steps have been taken to address this problem, and were the subject of a progress report of the Secretary-General on the topic (i.e., "integration of the human rights of women throughout the United Nation system") in 1999. While acknowledging these efforts, the report also included recommendations for further action, such as the following:

- that governments ratify without reservations both CEDAW and CRC, and ensure their legislation adequately protects the rights of women and gender equality;
- treaty bodies should further clarify states parties' obligations to prevent and redress violations of women's rights;
- treaty bodies continue their efforts to develop a gender analysis of each article of each treaty, cross-referenced to CEDAW, and also develop gender sensitive model questions to be used in the review of reports by states parties;
- a common strategy towards mainstreaming the human rights of women into the work of treaty bodies should be developed, so as to ensure that each body, within its mandate, monitors the human rights of women.³¹

5. International human rights and refugee law

Human rights are an integral dimension of refugee law. Indeed, they are of special importance to refugees who have generally become refugees through the disregard of these rights in their country of origin. Human rights violations are also the reason why they sometimes cannot return or successfully reintegrate.

²⁷. Goonesekere, at para. 27.

²⁸. For example, resolutions 1993/46, 1994/45, 1995/86, 1999/41 and 2000/61. UNHCHR, *Human Rights: A review of the United Nations High Commissioner for Human Rights*, Special Issue on Women's Rights- Spring 2000, Geneva, at 5.

²⁹. UN Economic and Social Council (ECOSOC), "Integration of the Human Rights of Women and the Gender Perspective: The question of integrating the human rights of women throughout the United Nations system. Report of the Secretary-General" by Commission of Human Rights, Fifty-fifth session, E/CN.4/1999/ 67, 28 January 1999, para. 1-2 at 3. Also, for further information on ECOSOC Agreed Conclusions of 1997/ 2 on gender mainstreaming, see chapter 2 (Theme 2) in this Kit.

³⁰. UNHCHR, *Human Rights: A Review of the UNHCHR*, Spring 2000, Geneva, at 5.

³¹. UN Economic and Social Council (ECOSOC), "Integration of the Human Rights of Women and the Gender Perspective: The question of integrating the human rights of women throughout the United Nations system. Report of the Secretary-General" Commission of Human Rights, Fifty-fifth session, E/CN.4/1999/ 67, 28 January 1999, at para. 1 and 85-88.

Furthermore, international human rights instruments play a pivotal role in the *protection* of refugees, in the following ways:

5.1. Reinforce existing refugee law and protect against *refoulement*:

Article 14 of the Universal Declaration of Human Rights recognises the “right to seek and enjoy in other countries asylum from persecution”. And while the “right to asylum” is not specifically mentioned in other human rights instruments, art. 3 of the European Convention on Human Rights (ECHR) and art. 3 of the UN Convention Against Torture (CAT), for example, may act as protection mechanisms against *refoulement*. These two provisions are especially relevant in the context of deportations or other forcible returns to a country where the person risks being subject to torture or cruel punishment. Also of note, is that the protection offered by the ECHR and CAT is not restricted by the five grounds contained in the 1951 Refugee Convention.

Furthermore, for those countries that have not yet acceded to the 1951 Convention, international and regional human rights instruments, as well as customary international law (which is universally applicable) can serve to fill this gap and provide some basic protection and other rights to refugees. For example, many scholars hold that the principle of *non-refoulement* forms part of customary international law and is therefore automatically and universally applicable.

Moreover, while many refugee protection standards are contained in sources of soft law such as non-binding ExCom Conclusions, thus making it difficult to argue that states are *legally* obliged to follow them, international human rights instruments which actually contain many of these standards *do* create legal obligations for states which are party to them. Therefore, they can be invoked to support compliance with ExCom Conclusion standards.³²

5.2 Guide us in the application/ interpretation of the 1951 Convention

International human rights instruments are also important to refugee law in view of the fact that the 1951 Convention itself contains no definition of ‘persecution’. As such, it is the standards contained in international human rights instruments which assist and guide us in the application of the 1951 Convention and the interpretation of this concept.

Of course, not all human rights violations amount to persecution in the sense of the 1951 Convention. And here too, some basic human rights principles and concepts (e.g., the principle of non-discrimination, and non-derogable rights or ‘core’ rights) can assist us in making this determination.

Likewise, reports on the human rights situation in the refugee’s country of origin, an essential tool in assessing refugee claims, are also fundamentally based on the framework provided by international human rights instrument (i.e., the standards and norms by which country practices are described and evaluated).

5.3. Provide general standards for the treatment of refugees and asylum seekers

Besides the threat of *refoulement*, refugees and asylum seekers also face a number of other problems such as prolonged or arbitrary detention, cruel or inhuman treatment and xenophobia. As the 1951 Convention cannot address the entire array of problems that refugees may experience, international human rights law provides the broader framework for the treatment of refugees. For example, basic or ‘core’ human rights are universal and non-derogable; they are therefore applicable to foreigners, whether they be asylum seekers, recognised refugees or ordinary aliens. These are rights they possess in addition to those specifically afforded them in the 1951 Convention. Indeed, standards contained in international and regional human rights instruments may serve to:

- (i) address gaps in the 1951 Convention;
- (ii) reinforce certain rights contained in that Convention (e.g., the right to family life and family unity, and to social and economic benefits and rights); and

³² UNHCR, Human Rights and Refugee Protection, Part 1: General Introduction, RLD 5, Training Module, October 1995, Training with UNHCR, p. 7-8. UNHCR ExCom Conclusions correlate with such diverse rights in international human rights instruments as: the freedom of movement; the right not to be subjected to cruel, inhuman or degrading treatment; the prohibition of discrimination; the right to family unity; and the right to be considered persons before the law.

- (iii) strengthen certain rights, since some instruments may provide for higher standards than those stipulated in the 1951 Convention.

5.4. Provide benefits of quasi-judicial and judicial implementing bodies

In contrast to the 1951 Convention, whose ‘enforcement’ power is limited to UNHCR’s mandate and right to supervise the application of the Convention, international and regional human rights instruments are often vested with supervisory mechanisms (which can issue authoritative opinions on the nature of certain rights, require compliance with periodic reporting requirements, and if applicable, decide on individual or state complaints regarding alleged violations) and, in some cases, judicial enforcement mechanisms such as, the European Court of Human Rights which can issue binding legal decisions on states parties to the ECHR.³³

6. Women’s Human Rights: its impact on UNHCR and refugee law

6.1. International human rights law is fundamentally concerned with setting standards regulating the behaviour of states towards persons falling under their jurisdiction. These standards also constitute a binding value system for all UN agencies, including UNHCR³⁴, and effectively form the context for the evolution of refugee law.

6.2. Since the adoption of the 1951 Convention, many new international human rights instruments have come to the fore; some of these relating specifically to women. As such, especially over the last decade, UNHCR has taken some steps to adapt its policies and practices to reflect changes and new developments in the international community in this regard.

6.3. For example, their *Guidelines on the Protection of Refugee Women* (1991) specifically provides that:

“[T]he protection of refugee women requires adherence not only to the 1951 Convention and its 1967 Protocol but also to other relevant international instruments [...] While individual states may not be parties to all of these instruments, they do provide a framework of international human rights standards for carrying out protection and assistance activities related to refugee women. [...] From these various international instruments can be drawn principles of equity that should underlie all policies and programmes established for refugees by UNHCR. “ (Para. 8)

6.4. Similarly, UNHCR ExCom Conclusion no. 73 (XLIV) 1993 on *Refugee Protection and Sexual Violence*, condemns persecution through sexual violence in the language of human rights, stating that it “constitutes a gross violation of human rights [and] when committed in the context of armed conflict, [is] a grave breach of humanitarian law...” On the same topic, UNHCR’s 1995 guidelines, *Sexual Violence Against Refugees: Guidelines on Prevention and Response*, also stresses the need for training courses on the topic, and to increase legal awareness among refugee women of their legal rights and responsibilities including of the UDHR, CEDAW and DEVAW.³⁵ Other UNHCR policy papers, such as the UNHCR Guidelines on Gender-Related Persecution³⁶, also refer to relevant international human rights instruments, to the principles and standards contained in these, and to the obligations imposed on states. It is largely by drawing on international human rights standards that UNHCR and other actors have been able to articulate the concept of persecution based on gender, and to provide guidelines for refugee status determination in gender cases.

³³. For a more comprehensive discussion of this topic of the link between human rights and refugee law, as well as UNHCR’s policy on human rights, please see “UNHCR and Human Rights: a policy paper” available in this chapter (Part I).

³⁴. For example, DEVAW specifically states this in art. 5, and further declares that UN agencies should contribute, within their respective fields, to the realisation of the rights and principles in this Declaration by taking the specific actions detailed in that provision.

³⁵. Furthermore, in its chapter on the ‘Legal Aspects of Sexual Violence’, it details the international standards relating to sexual violence, the specific provisions in existing international and regional human rights instruments which are relevant to sexual violence, and the treaty monitoring bodies responsible for monitoring compliance with these conventions. See in particular, pp. 22, 23, 24, 56-66]

³⁶. The full title of these guidelines is as follows: “Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees”, These new Guidelines were adopted by UNHCR 7 May 2002.

6.5. Of all the human rights instruments, CEDAW and the DEVAW are certainly the most useful in this regard, making important contributions to the understanding of gender-related asylum claims. More specifically, these instruments :

- (i) “[P]rovide a **framework of international human rights standards for carrying out protection** and assistance activities related to refugee women, [including the interpretation of the 1951 Convention].“ (*UNHCR Guidelines on the Protection of Refugee Women*, para. 8)
- (ii) **Confirm the view that many gender-related claims are related to membership in a “particular social group” specific to women.** CEDAW and DEVAW articulate the extensiveness and pervasiveness of discrimination and gender-based violence that continues to exist, as well as the various forces that create and maintain them. This confirms and reinforces the validity of using the “particular social group” ground in the 1951 Convention to support certain types of refugee claims based on gender.
- (iii) **Provide definitions for important terms such as “discrimination” and “gender-based violence”;** definitions which characterise these practices as human rights violations. These definitions may be used to inform and analyse gender-related asylum claims and are helpful for understanding the nature and different forms that gender persecution can take.³⁷
- (iv) **Reject and deconstruct the public/ private divide,** which has traditionally characterised international law and undermined women’s legal and social position. CEDAW, as well as DEVAW, now impose a positive duty on states to intervene in what was traditionally considered the ‘private’ sphere; the context in which discrimination, violence and oppression of women and girls has often been practised with impunity. As such, issues and practices which were previously viewed as “domestic”, have been re-characterized as human rights issues and are now also within the domain of the state. This has implications for gender-related asylum claims, which amongst other things, must be assessed in the context of human rights standards and state obligations to extend protection to women in both the public and private spheres.

In particular, DEVAW declares that for its purposes, the term “violence against women” refers to such acts whether they occur in public or in private life (art. 1), or whether they are perpetrated within the family, general community or by the state (art. 2(a),(b), (c)). It further provides that the state should pursue by all appropriate means a policy of eliminating violence against women, including by exercising “due diligence to prevent, investigate and [...] punish acts of violence against women [regardless of whether these] are perpetrated by the state or by private persons...” (art. 4(c))

Similarly, CEDAW also imposes a duty on states parties to condemn and take all appropriate measure to eliminate discrimination against women whether it be by a person, organisation, enterprise or the state (i.e. public authorities and institutions), and whether it be in the form of existing laws, regulations, customs and practices (art. 2(d), (e), (f)). Article 16 further stipulates the state’s obligation to take appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations.

- (v) **Reject the argument of cultural relativity as it has been applied to the human rights of women.** This approach should also facilitate and guide the refugee status determination process in certain gender-related asylum claims. Especially in view of the fact that traditional customs and practices have often been interpreted as having precedence over and nullifying women’s claims to a well-founded fear of persecution. Such practices include FGM, forced marriages, dress codes, and other restrictions limiting the rights and role of women in both the public and private spheres.

³⁷. This is so even if not all human rights violations or instances of discrimination and gender-based violence amount to persecution.

Article 4 in DEVAW stipulates that states “should condemn violence against women and should not invoke any customs, traditions or religious consideration to avoid their obligations with respect to its elimination. Articles 1 and 2 of CEDAW are also noteworthy in this respect. The broad definition of ‘discrimination against women’ provided in art.1, and the comprehensive obligation imposed upon states parties to condemn and (pursue all appropriate means to) eliminate discrimination against women in all its forms, may be seen as a clear rejection of the concept of cultural relativity as applied to women’s rights. Article 5 reinforces this interpretation by requiring that states parties take appropriate measures to “modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”.

- (vi) *Spell out the specific **obligations of the state**, with regard to discrimination, gender-based violence and the human rights of women generally; making it easier to identify the failures of the state *vis-à-vis* the protection of women’s rights in the country of origin. The failure of a state to ratify CEDAW, to incorporate its provisions and rights into domestic law, or to respect the rights and principles set forth in DEVAW, is also an indication of the willingness and the priority accorded by the state to the protection of women’s rights.*

CEDAW, the Optional Protocol, and Related UN Institutions: An Overview³⁸

1. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

This convention, which entered into force in 1981, had 168 states parties as of May 10, 2001.

Described as an international bill of rights for women, this landmark treaty seeks to move beyond the guarantees of formal equality contained in other legal instruments by setting out concrete measures for the achievement of equality between women and men in all fields, regardless of their status. Of particular note are the following: the provision allowing for temporary special measures of affirmative action which aim to accelerate *de facto* equality; the obligation to endeavour to modify social and cultural patterns of conduct in order to eliminate prejudices and stereotyped male and female roles; the obligation also to take all appropriate measures to eliminate discrimination against women in both the public and private spheres; its affirmation of the reproductive rights of women; and the fact that it targets culture and tradition as instrumental forces in shaping gender roles and family relations. By ratifying this convention, states parties undertake to eliminate discrimination against women in all spheres of life, including in the private sphere of the family.

The preamble to the convention reminds us that equality between women and men and the elimination of discrimination against women are central principles of the United Nations, and represent therefore, binding obligations under the Charter as well as other instruments. Yet, it also notes how discrimination against women is still pervasive, indicating that the existing international human rights machinery had been insufficient to guarantee the protection of women's human rights.

In addition to the preamble, CEDAW consists of sixteen substantive articles which bind states parties to comply with specific obligations. While the treaty requires progressive, rather than immediate implementation of many of its provisions, states that have ratified or acceded to it have made a clear commitment to the elimination of discrimination against women.

Central to this convention, article 1 provides a comprehensive definition of discrimination against women, as:

"...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

This definition is followed by four parts, which may be summarised as follows:

Part I - Articles 1-6: States parties agree to take all appropriate measures to bring about the advancement of women. This includes legal, administrative and other measures, including affirmative action, modification of social and cultural patterns of conduct as well as suppression of trafficking in women and the exploitation of prostitution of women.

Part II - Articles 7-9: States parties undertake to protect women's rights in public and political life. In particular, this includes women's right to vote, to be elected on a basis of equality with men, to participate in government as officials and policy makers, to participate in non-governmental organisations and to represent their countries internationally. States parties also agree to grant women equal nationality rights and equal rights with respect to their children's nationality.

³⁸ The following information has been largely drawn from <http://www.un.org/womenwatch/daw>, including this web-site's links with 'cedaw', 'protocol', 'csw', and 'news/ye040.htm.' (i.e., paper by Yakin Erturk, Director of DAW, "The Convention on the Elimination of all Forms of Discrimination against Women"). The above site includes the full text of the CEDAW and the Optional Protocol, papers and explanatory notes on them, and information on their ratification status. It also provides information on the Committee's work. For further information on the CSW in this Kit, you may also see the glossary provided at the beginning of this chapter.

Part III - Articles 10-14: States parties make commitments to eliminate discrimination in specific sectors such as education, employment, health, economic, social and cultural life. Particularly noteworthy in this section are also provisions which take into consideration the particular problems faced by rural women and which seek to eliminate discrimination against them, as well as ensure that they participate in and benefit from rural development on the same basis as men.

Part IV: In this final substantive part of the convention, states parties agree to afford women equality with men before the law, in the exercise of legal rights, as well as in marriage and family law.

In addition to binding themselves to implement the convention at the national level, states parties also commit themselves to submit reports on measures they have taken to give effect to the convention, and the difficulties they may have encountered in implementing its provisions. These reports are submitted to the Secretary-General of the United Nations, who in turn forwards them to the Committee on the Elimination of Discrimination against Women for consideration. Reports are to be submitted within one year after the entry into force of the treaty for the state party concerned, and thereafter every four years, or whenever the Committee requires.

2. The Optional Protocol to CEDAW

Adopted in 1999 by the General Assembly, the Optional Protocol entered into force December 22, 2000. As of April 29, 2002, there were 36 states parties, and it had been signed by 74 countries.

By ratifying the Optional Protocol, states parties recognise the competence of the Committee on the Elimination of Discrimination against Women (i.e., the body responsible for monitoring states parties' compliance with the convention) to receive and consider complaints from individuals or groups within its jurisdiction.

The Protocol contains two procedures:

- (1) A communications procedure which allows individual women, or groups of women, to submit claims of violations of rights protected under the convention to the Committee. The Protocol establishes that in order for individual communications to be admitted for consideration by the Committee, a number of criteria must be met, including that domestic remedies be exhausted.
- (2) The Protocol also creates an inquiry procedure enabling the Committee to initiate inquiries into situations of grave or systematic violations of women's rights.

For both of these procedures, states must be party to the convention and the Protocol. An "opt-out clause" in the Protocol does allow states upon ratification or accession however, to declare that they do not accept the inquiry procedure, while art. 17 explicitly provides that no reservations may be entered to its terms.

The communications procedures provided under this Optional Protocol puts it on an equal footing with other major international instruments such as the International Covenant on Civil and Political Rights, the Convention on the Elimination of Racial Discrimination, and the Convention against Torture- to which its inquiry procedure is the equivalent.

3. The Committee on the Elimination of Discrimination against Women

The Committee, which is comprised of 23 experts in human rights, is the primary mechanism instituted to oversee compliance and the implementation of the requirements of the convention. As such, its major function is the consideration of state reports required under the convention. The Committee is also empowered by the convention to make suggestions and general recommendations based on the examination of reports and information received from states parties. Suggestions are directed to organs of the United Nations, while General Recommendations are addressed to states parties and usually elaborate the Committee's view of the obligations assumed under the convention. To date, the Committee has formulated 24 General Recommendations. In addition, under the convention, the Committee may invite specialised agencies of the United Nations to submit reports for its consideration; it has also welcomed information from non-governmental organisations, in practice, although the convention makes no explicit provision for NGO input.

Since the adoption of the Optional Protocol, the Committee is also the body responsible for both its communications (by individuals or groups) and inquiry procedures.³⁹

4. Commission on the Status of Women (CSW)

The Commission on the Status of Women is the main inter-governmental forum within the United Nations mandated with the promotion of the advancement of women and gender equality. It has a broader mandate than the Committee, which deals exclusively with conventional mechanisms. The Commission was established as a functional commission of the Economic and Social Council in 1946 to prepare recommendations and reports to the Council on promoting women's rights in political, economic, civil, social and educational fields. It also makes recommendations to the Council on urgent problems requiring immediate attention in the field of women's rights. The Commission's mandate was expanded in 1987, and since the 1995 Fourth World Conference on Women (also known as the Beijing Conference) it is also responsible for integrating into its work programme a follow up process to the Conference, including by regularly reviewing the critical areas of concern in the Platform for Action⁴⁰.

³⁹. Yakin Ertürk, "The Convention on the Elimination of all Forms of Discrimination against Women and the Optional Protocol", at 2.

⁴⁰. For more information on the Platform for Action, please see the Reference Section in this Gender Handbook, under "Reference Documents".

GENDER BRIEF: ON JUSTICE AND HUMAN RIGHTS⁴¹

(Excerpt from UNDP Gender Mainstreaming Handbook)

This Gender Brief examines how a gender perspective can be integrated into justice systems and human rights monitoring and protection mechanisms. As this Brief highlights, gender mainstreaming not only strengthens the legitimacy of a state governed by the rule of law, but also enhances the efficiency of governments and quality of life of the population.

This Gender Brief includes several themes, three of which are reproduced below, namely:

- I. National Legislation and Legal Rights
- II. International Human Rights Obligations – Monitoring and Reporting
- III. Protection and Complaints Mechanisms

I. NATIONAL LEGISLATION AND LEGAL RIGHTS

What is the Issue? What is the Goal?

Legislation - such as constitutional law, criminal law, civil law, labour law, regional or local ordinances - provides the basis of legal rights to gender equality. While it is also necessary to examine implementation of legislation and the administration of justice as part of the legal rights equation (see parts II and IV of this Brief, [available in Gender CD-ROM to this Kit]), legislation in and of itself is important as a statement of political will and commitment to the principles outlined in that law. Furthermore, existence of legislation can draw attention to certain issues (such as gender equality) and serve as a catalyst for other types of changes.

As many gender researchers have pointed out, “gender-neutral” (gender-blind) legislation does not result in the specific promotion of gender equality and the elimination of discrimination. For this reason, many countries have adopted legislation aimed at guaranteeing gender equality. Oftentimes, this a constitutional provision prohibiting discrimination on the basis of sex. However, although some legal experts argue that a constitutional provision can compensate for the lack of more specific legislation, practice has too often showed that without explicit and concrete mention of the ways in which gender equality must be enforced and discrimination prohibited, true protection of legal rights to gender equality can remain allusive. Examples of some types of legislation that has been enacted to more fully protect legal rights to gender equality include:

- general anti-discrimination law (of which gender-based discrimination is one aspect);
- specific sex discrimination bills;
- equal opportunities act, or more specifically – equal opportunities employment act;
- women’s rights laws, often based upon CEDAW;
- local ordinances that implement CEDAW principles.

These laws all have different focuses and represent a variety of approaches to gender equality law. It is important that countries adopt a model that is most appropriate to their specific needs and situation.

Moreover, it is not uncommon to note contradictions between general constitutional provisions that “guarantee” gender equality, and other more specific laws, where specific instances of gender discrimination might emerge (for example, in regards to inheritance or property rights). Even more common are cases where certain laws indirectly promote de facto inequality (for example, laws on maternity and paternity leave or laws that restrict employment for women). This is why it is essential to apply gender expertise in the drafting, passing and review of legislation.

Finally, the absence of specific legal provisions on certain gender-related issues can also affect the realisation of full gender equality. For example, lack of legal provisions on marital rape and domestic violence do not afford full protection to a country’s inhabitants, and is a barrier to gender equality.

The goal of gender mainstreaming in the context of legislation and legal rights is thus two-fold:

⁴¹. This gender brief has been reproduced and slightly adapted for the purposes of this Kit from: UNDP (RBEC), *Gender Mainstreaming in Practice: A Handbook*, prepared by Astrida Neimanis, consultant, 2000/2001, pp. 96-106 (with the exception of part II of the original text). The full text of this Handbook is available in the Gender CD- ROM attached to this Kit.

- to ensure that any instances of gender discrimination are identified and removed from existing legislation;
- to ensure that legislation on gender equality offers adequate legal protection from gender discrimination and demonstrates strong political will to promote equality.

Why Bother?

Justice: Legal rights are obviously a question of justice. International human rights norms that include the full enjoyment of gender equality need to be enshrined in national legislation in order to provide better guarantees of implementation.

Accountability and Credibility: While a constitutional provision for gender equality may be sufficient in strict legal terms, the lack of more specific legislation is often a sign of lacking political will on behalf of the state to take gender equality seriously. Thus ensuring more specific legislative provisions is very much a question of credibility and accountability.

Efficiency: Indirect discrimination, which can be the result of inadequate legal provisions, perpetuates *de facto* gender inequality - particularly in spheres such as the labour market and family life. As demonstrated in other Gender Briefs (see, for example, MACROECONOMICS), such *de facto* inequality is a significant barrier to the full economic and social growth of a nation.

Quality of Life: Legal protection directly influences men's and women's ability to enjoy full participation in economic, social, political and cultural spheres of life.

"Legal rights can enhance women's living conditions by legislating against gender bias in employment, discrimination in pay and incentives, and violence and harassment. Moreover, legal rights can contribute towards increasing women's capabilities by giving them property and inheritance rights, better access to credit and other productive resources, and increased political participation and representation."⁴²

⁴². GIDP Learning and Information Pack, 2000.

Measuring Progress:

Indicator	Level of measurement	What does it measure?	What does it not measure?	Source of information
Existence of constitutional provision on gender equality	National	Legal commitment to gender equality	How this provision is implemented or monitored.	Legislative review
Existence of specific anti-discrimination and/or equal opportunities legislation	National (could include local or regional level)	Indication of political will to implement CEDAW or constitutional provisions or gender equality	Effectiveness or degree of implementation	Legislative review
If above-mentioned legislation exists, % of population that is aware of its existence	National	Indication of level of awareness of such law. Low levels of awareness most likely signal poor efforts to implement the law		Population-based survey

Possible Interventions and Entry Points

- Review of all legislation from a gender perspective:** A review of all legislation could be commissioned. The terms of reference of such a review should consist of three tiers, where the following questions are asked:
- 1) What specific provisions do or do not exist to explicitly protect individuals from discrimination on the basis of sex?
 - 2) Do laws exhibit direct discrimination on the basis of sex in the legislation? (i.e. where women or men are explicitly denied equal rights or opportunities).
 - 3) Do any laws exhibit potential indirect discrimination on the basis of sex? (i.e., are any legislative provisions likely to result in discrimination against either men or women, due to the social roles and responsibilities they generally fulfil in society?)

An analysis of potential indirect discrimination should also be on the alert for specific groups of men or women that may be discriminated against, e.g. mothers, fathers, young or old men or women, certain professions that are predominantly held by men or women, etc. A review of the effectiveness of implementation mechanisms and practical results can also be included here.

- Capacity building of legislation stakeholders:** Strengthening capacity of key partners who draft, review and pass legislation is critical to ensure that gender equality is adequately addressed. In particular, training or awareness-raising of the following groups should be considered:
- *Parliamentary committees* – to ensure that gender equality is adequately reflected in legislation that they draft or send to Parliament; to note legislative gaps in the area which they oversee in terms of gender equality, and introduce appropriate legislation to fill these gaps;
 - *Parliamentary legislative department* – to review and “gender proof” (see below) all legislation that is sent to parliament;
 - *Parliamentarians* – to be able to critically examine legislation put before them from a gender perspective;
 - *Ministry or Cabinet legal department staff* – to integrate a gender perspective into legislation sent to Parliament from the executive branch.

- ☑ **Introduction of “gender proofing” procedures:** In order to ensure a gender perspective in any legislation that is passed, it may be helpful to introduce systematic procedures to “gender proof” this law. This could be:
 - the inclusion of a gender expert in the parliament’s legislative department, whose terms of reference would include a review of all legislation and the preparation of a statement on its “gender soundness” (including recommended amendments);
 - the mandatory preparation of a statement by those who submit draft law to parliament on the “gender soundness” of the law as a routine part of its first reading in parliament.

- ☑ **Reference to CEDAW General Recommendations:** One useful source for amending and updating legislation is to refer to the General Recommendations issued by the Committee of CEDAW. These recommendations, while not binding, suggest ways that the convention should be interpreted at the national level, and can therefore be used to enhance existing law or to draft new legislation.

GENDER BRIEF (continued)

II. INTERNATIONAL HUMAN RIGHTS OBLIGATIONS – MONITORING AND REPORTING

What is the Issue? What is the Goal?

Many states have formal obligations as part of an international human rights community to promote and protect human rights related to gender equality. The Convention on the Elimination of All Forms of Discrimination against Women, or CEDAW, is often referred to as the most concrete and explicit international mandate in this regard.

However, experience around the world has shown that the mere ratification of a treaty does not mean that its principles will be adopted into national legislation or implemented “de facto”. For this reason it is crucial that effective implementation and monitoring mechanisms are established. Periodic reporting to international convention committees is one means of monitoring and reporting on fulfilment of commitments, but back-logs within these committees often mean that this mechanism plays more of a formal role than a practical one.

Nonetheless, the mechanisms that countries establish for monitoring and reporting can have great added value at the national level. At the same time, monitoring and reporting on conventions is rarely “integrated” - while reporting to the CEDAW committee will obviously refer to gender, reports to other committees (regarding Convention on the Rights of the Child, for example) often side-step the issue of gender equality altogether. Furthermore, even reporting to CEDAW is often “formalistic”, failing to report on the “de facto” fulfilment of commitments.

The **goal** of gender mainstreaming here is therefore:

- to ensure the **systematic and full integration** of gender issues into **monitoring and reporting** mechanisms on **all** international human rights obligations.

Why Bother?

Credibility: Attention to gender only in the context of the Women’s Convention means that reporting for other conventions loses credibility.

Efficiency: “Compartmentalisation” of issues is inefficient in terms of implementing changes. In other words, implementation and monitoring of the Women’s Convention is made much more efficient if the links between its provisions and those made in other conventions are made explicit from the outset.

Furthermore, it is important to note that the focus of monitoring and reporting mechanisms on accountability for failures within a social system - in our case, the failure to ensure gender equality - can broaden the minimal claims of human development and point to strategies and actions that can simultaneously enhance both the protection of rights and the promotion of human development - thus enhancing social and economic growth.⁴³

Measuring Progress

INDICATOR	Level of measurement	What does it measure?	What does it not measure?	Source of information
% of convention reports that include gender dimension	National	Degree to which a mainstreaming approach has been adopted		Report review

Possible Interventions and Entry Points

- Integration of a gender dimension into ALL convention reporting - not only CEDAW:** This may be accomplished by inviting a gender expert or members of non-governmental organisations to provide inputs or comments to draft reports from a gender perspective. Means of achieving this could include:

⁴³. UNDP Human Development Report, 2000, at 21.

- establishment of multi-sectoral working groups on gender for the purpose of greater transparency and information-sharing in the preparation of reports;
 - establishment of databases that can be cross-referenced for issues that pertain to more than one convention - such as gender equality!
- ☑ **Review of Reservations:** Governments should review any formal reservations they submitted in regards to CEDAW or other conventions, to ensure:
- (a) that these reservations are not incompatible with the object and purpose of the convention; and
 - (b) if they were entered because of insufficient national legislation or policy, that appropriate steps are being taken so that reservations can be removed.
- ☑ **Support to the non-governmental sector and to the preparation of shadow-reports for UN committees:** Non-governmental organisations (NGOs) often prepare “shadow reports” for convention committees, as they may feel that official government reports do not adequately or accurately represent the situation. Policy-makers should not perceive this as a threat, but rather as a way of enhancing participatory governance and dialogue with NGOs. Governments can support these efforts by providing all necessary information and documentation on request, agreeing to interviews, etc. Such co-operation will also enhance the credibility and quality of the shadow reports.

GENDER BRIEF (continued)

III. PROTECTION AND COMPLAINTS MECHANISMS

What is the Issue? What is the Goal?

A common problem arises once attention to gender in a legal or human rights context is raised: while individuals may then be more aware of their rights and of the nature of illegal discrimination, they are often met with the frustration of not knowing where to go from there. While awareness must therefore be raised about possibilities for filing complaints, at the same time the capacity of such complaints mechanisms must be strengthened in order to meet growing demand.

Common types of institutions that are charged with the mandate to hear complaints on issues of gender discrimination include:

- **Ombudsperson** (either a general ombudsperson or a specific ombudsperson for gender equality);
- National **Human Rights Office**;
- Regular **court system** (local, district, federal or constitutional courts).

However, in using these institutions and mechanisms, a number of issues that pertain to access and gender equality can arise:

- the capacity of such institutions or mechanisms may be limited, and therefore “more serious” or “top priority” complaints may take precedence. Because of low levels of awareness about the nature and effects of gender-based violations, their seriousness may not be recognised;
- the people working at such institutions may not recognise or understand gender-based human rights violations. This may be true also of gender-based violations against men - these may be scorned or not taken seriously by human rights workers;
- women or men may face time or financial constraints that will deter them from filing complaints. Even if services are free-of-charge (and not all are) transportation costs, costs of a child-minder, and taking time off work may act as disincentives;
- women and men may experience significant psychological barriers to filing complaints. For example, previous court rulings that did not recognise gender-based violations, or the lack of precedent on gender-based cases altogether, will raise serious doubt about their chances of success;
- women and men may also fear repercussions from their spouses, families, communities and employers. They may not feel that the direct benefits to them are worth the risks.

The **goal** in terms of protection and complaints mechanisms is therefore:

- to ensure a strong **mandate** and adequate **capacity** of human rights protection institutions to address gender equality claims;
- to ensure **equal access** of men and women to protection and complaints mechanisms and institutions.

Why Bother?

Justice: Human rights are indivisible. This means that equal access to protection and complaints mechanisms for both men and women, and for victims of all types of human rights violations must be guaranteed. Alternatively, the protection system itself can be in violation of basic human rights.

Credibility and Accountability: The credibility of human rights commitments made by governments is seriously compromised if effective and efficient means to ensure protection against violations are not provided. Furthermore, without such accessible mechanisms, those responsible for violations cannot be held accountable. This again damages the credibility of the state’s commitment to human rights.

Measuring Progress

INDICATOR	Level of measurement	What does it measure?	What does it not measure?	Source of information
% of complaints received by National Human Rights Institution (or ombudsperson, etc) that deal with gender discrimination*	National	Can indicate: - level of awareness about the mechanism; - level of trust in the system and its efficacy	It is unlikely to provide a true indication of the actual number of violations	Records
Average time and cost to an individual wishing to pursue a complaint by available mechanisms, disaggregated by gender	National	How accessible the system is, noting differences between men and women	Does not identify specific access barriers	Survey

* Specific criteria need to be articulated so that cases of gender discrimination can be objectively identified.

Possible Interventions and Entry Points:

- Promotion of Legal Literacy:** Various steps should be taken to ensure that both men and women from all parts of society are acquainted with their rights and responsibilities, and that they are aware of mechanisms intended to help protect these rights. This information should include specific details about procedures and mechanisms for filing complaints or seeking counsel. Specific interventions might include:
 - “Know your rights” popular awareness campaigns: These could use television and radio media and the production of special pamphlets and brochures that focus on different aspects of human rights and gender equality;
 - Integration of human rights education in schools (for example, in civic education, social studies and political science classes).

- Gender sensitivity training for all staff people at human rights protection institutions:** It is generally not adequate to have just one “gender rights specialist” working in institutions such as human rights offices or ombudsperson offices. This is because people submitting complaints are likely to be “filtered” through other staff members first - the person answering the phone, the receptionist, the assistant rights officer, etc. It is vital that all staff people share a commitment to and understanding of gender equality, so that the entire process is made accessible to those people with complaints of gender-based violations.

Addressing Cultural Relativism: in relation to Gender Equality and Women's Rights⁴⁴

An approach by CIDA

Questions about culture, gender equality and development co-operation

1. Why this note?

Concerns about culture are frequently raised in relation to initiatives for gender equality, [women's rights, and development or humanitarian work].

In some cases, program officers or partners are concerned that promotion of gender equality [and women's rights] would "interfere with local culture", and therefore feel that gender equality should not be promoted for ethical reasons. In other cases, the cultural values of a particular area are described as a major constraint on efforts for gender equality, and therefore action is considered to be difficult for practical reasons.

Are these concerns valid? What should [we be doing] ?

2. What do we mean by "culture"?

When we talk about "culture" we often mean intellectual and creative products, including literature, music, drama, and painting. Another use of "culture" is to describe the beliefs and practices of another society, particularly where these are seen as closely linked with tradition or religion.

But culture is more than that. Culture is part of the fabric of every society, including our own. It shapes "the way things are done" and our understanding of why this should be so. This more comprehensive approach is proposed in the definition of culture adopted at the World Conference on Cultural Policies (Mexico, 1982) and used in ongoing discussions on culture and development:

"Culture... is... the whole complex of distinctive spiritual, material, intellectual and emotional features that characterise a society or a social group. It includes not only arts and letters, but also modes of life, the fundamental rights of the human being, value systems, traditions and beliefs."
[Http://www.unesco.org/culture/laws/mexico/html_eng/page1.htm](http://www.unesco.org/culture/laws/mexico/html_eng/page1.htm) 1

3. How is gender related to culture?

Expectations about attributes and behaviours appropriate to women or men and about the relations between women and men - in other words, gender - are shaped by culture. Gender identities and gender relations are critical aspects of culture because they shape the way daily life is lived in the family, but also in the wider community and the workplace.

Gender (like race or ethnicity) functions as an organising principle for society because of the cultural meanings given to being male or female. This is evident in the division of labour according to gender. In most societies there are clear patterns of "women's work" and "men's work," both in the household and in the wider community – and cultural explanations of why this should be so. The patterns and the explanations differ among societies and change over time.

While the specific nature of gender relations varies among societies, the general pattern is that women have less personal autonomy, fewer resources at their disposal, and limited influence over the decision-making processes that shape their societies and their own lives. This pattern of disparity based on gender is both a human rights and a development issue.

⁴⁴. This CIDA paper has been reproduced with slight adaptations for the purposes of this Kit. Adaptations are indicated in [brackets]. CIDA, "Questions about culture, gender equality and development co-operation" (version, February 2001), Canadian International Development Agency (CIDA), Gender Equality Division, prepared by Johanna Schalkwyk. The original document is available at the CIDA web-site.

4. Are cultures and traditions unchanging?

Societies and cultures are not static. They are living entities that are continually being renewed and reshaped. As with culture more generally, gender definitions change over time. Change is shaped by many factors.

Cultural change occurs as communities and households respond to social and economic shifts associated with globalisation, new technologies, environmental pressures, armed conflict, development projects, etc. For example, in Bangladesh, changes in trade policies allowed for the growth of the garment industry, which drew large numbers of women into the urban labour force. This process has involved a reinterpretation of the norms of purdah (female seclusion) by the women entering this employment and by their families. The much greater visibility of women in cities such as Dhaka is also influencing public perceptions of possible female roles in the family and the workplace. ²

Change also results from deliberate efforts to influence values through changes in the law or government policy, often due to pressure from civil society. There are many examples of efforts to influence attitudes about race relations, the rights of workers and the use of the environment, to name three areas in which cultural values shape behaviour. Efforts to reshape values about women and gender relations have focused on concerns such as the number of girls sent to school, women's access to paid work, and public attitudes to domestic violence.

New cultural definitions are formed through a process in which some segments of society promote change through advocacy and example, while others resist it. In other words, societies are not homogeneous and no assumptions can be made about a consensus on "cultural values."

5. If it is "cultural" is it unquestioned?

As suggested in the point above, cultural values are continually being reinterpreted in response to new needs and conditions. Some values are reaffirmed in this process, while others are challenged as no longer appropriate.

A member of the Cambodian government uses a vivid image when describing the need to question the cultural norms that reinforce gender inequality. She says the aim is not to overturn the cultural identity of the nation, but to focus on the elements within it that oppress women:

"There is a Cambodian saying that men are a piece of gold, and women are a piece of cloth. The piece of gold, when it is dropped in mud, is still a piece of gold. But a piece of cloth, once it's stained, it's stained forever. If you are a prostitute, if you have been raped, if you are a widow, you are no longer that virginal piece of cloth. But men, whether they are criminal or have cheated on their wives, they are still a piece of gold. When there is such a saying, a perception, then there is something wrong with that culture and that's when you want to change it." ³

6. Are there different interests that we should be aware of?

We noted that gender identities and gender relations are critical aspects of culture because they shape daily life. Changes in gender relations are often highly contested, in part because they have immediate implications for everyone, women and men. This immediacy also means that gender roles - and particularly women's roles as wives and mothers - can be potent symbols of cultural change or cultural continuity.

The political potential of such symbols is evident in the ways that religious and political movements have focused on women's roles. This has served to highlight adherence to religious or cultural values - and resistance to "western" influences. In such contexts, internal efforts for change become even more complex as those advocating change can easily be dismissed as unpatriotic, irreligious, or tainted by the west. However, religious beliefs and national identity are also important to women. This is evident in the efforts by different groups of women to review interpretations of religious texts and to reaffirm values and traditions that support freedom and dignity for women.⁴

This example reinforces two points made earlier: that cultural values are constantly evolving rather than fixed and that there are different interests intervening in the process. Views about the role of women and about gender equality that are held by one person or group will not necessarily be held by others (and

views will differ among women as well as among men). A balanced assessment of the potential for gender equality initiatives requires consultations with a range of actors, including those working for equality.

Post-soviet countries provide another example. There the rhetoric of gender equality is associated with the propaganda of the soviet period. That women are "free to be women" – free of the requirement to be in the labour force – has been referred to as a benefit of the transition by politicians and officials. Women's organisations have noted that this serves to justify discrimination against women when there are too few jobs for all. Such organisations have been struggling to gain recognition from male-dominated political and bureaucratic structures that women want (and need) to participate in the labour market and to maintain their human rights.⁵

7. Can development [and legislative] initiatives be gender-neutral?

Decisions made in planning an initiative shape the type of impact that it will have on culture. Even if gender equality is not explicitly considered, decisions made in the planning process will have an effect on gender equality.

For example: [...]

A governance initiative concerned with the reform of the civil code:

- **could include** research and public consultations on the equality implications of provisions on marriage, divorce, property in marriage, inheritance, etc.;
- **or not**, in which case it ignores an opportunity to review aspects of the civil law that in many countries institutionalise discrimination against women.

[D]ecisions taken in planning are not neutral with respect to gender equality, even where gender issues are not considered. To address this, [an organisational policy must be in place which] requires [both an] explicit consideration of gender equality issues in the planning process and a decision-making process that supports progress toward gender equality. Partner countries agree on the gender equality goal, as noted below.⁶

8. Are we imposing "western" values?

The notion that gender equality is "western" ignores the ideals and activities of the women's movement in partner countries as well as commitments to gender equality by partner governments.

Governments in countries as diverse as Indonesia, Uganda, Jamaica and the Ukraine have undertaken commitments and action in support of gender equality. The commitments are stated in national constitutions and in international instruments such as the 1979 United Nations *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* and the 1995 *Platform for Action (PFA)*. These commitments to gender equality were reaffirmed in June 2000 at the Special Session of the General Assembly that reviewed progress in the implementation of the PFA (see [Table 1](#)). These instruments reflect a broad international consensus on the elements of gender equality and the steps required to achieve it.

While practice has not fully caught up with these commitments, many steps have been taken. Actions by governments to promote change in cultural values and practices include changes in the law (on marriage, property, inheritance etc.), public education campaigns (about domestic violence, women's rights to education and health care etc.), and program redesign (e.g., incorporation of gender equality themes in HIV/AIDS prevention initiatives).

Women's organisations in partner countries have been at the forefront of efforts to define gender issues and gender equality strategies. They have advocated adoption of instruments such as CEDAW and participated in formulating the PFA. They are becoming increasingly sophisticated in using these instruments to promote law reform and policy changes and to hold governments accountable for their commitments. Many women's organisations are also seeking to understand and respond to the complex inter-connections between gender and nationality, tradition and religion. [...]

Table 1. Equality commitments of partners

The UN *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* has been

ratified by about three quarters of UN members. Reports on implementation are made every 4 years. The Convention:

- includes articles on the elimination of discrimination in public life, civil status, education, employment, health care and other aspects of social and economic life;
- goes further than other human rights standards by requiring states to take measures to eliminate discrimination;
- also requires states to take action to modify social and cultural attitudes and practices that disadvantage women;
- applies to discriminatory actions by private organisations and enterprises as well as the state.

For the text of the Convention and recent country reports, see:

<http://www.un.org/womenwatch/daw/cedaw/frame.htm>

The *Platform for Action (PFA)* was adopted by governments of all countries at the UN Fourth World Conference on Women in 1995. Progress is periodically reviewed at the international level. The PFA:

- outlines strategic objectives and actions in relation to 12 critical concerns: poverty, education, health, violence, armed conflict, the economy, power and decision-making, government structures to support equality, human rights, media, the environment, and the girl child;
- emphasises the responsibility of governments to promote equality between women and men;
- emphasises the relevance of gender equality commitments to government policy and programmes in all sectors;
- outlines responsibilities of NGOs and development agencies as well as governments.

For the text of the PFA and selected national action plans, see:

<http://www.un.org/womenwatch/confer/beijing/>. For the outcome document of the June 2000 Special Session of the General Assembly (Beijing+5) see:

<http://www.un.org/womenwatch/daw/followup/as2310rev1.pdf>

9. Isn't cultural sensitivity important?

It is of course important to be culturally sensitive. But respect for other cultures is not merely uncritical acceptance when culture, tradition or religion are invoked. We would not accept culture or tradition as a rationale for discrimination against an ethnic group - rather we would look for opportunities to counteract prejudice and its consequences.

In relation to issues of women's position and gender equality, cultural sensitivity and respect would be better demonstrated by:

- Adherence to the values of equality and women's rights espoused by the international community. These are important human rights commitments made by both Canada and partner countries that are undermined by the assumption that cultural values take precedence when they do not coincide with human rights norms.
- Recognition that any society includes different views and interests on gender relations. The assumption that cultural values are static ignores the process of conflict and change under way in any culture. It also disregards the efforts of women (and men) in that society who are questioning cultural values and working toward equality.
- Assuming a role in protecting cultures from changes in gender relations is an outside imposition, as much as the imposition of change based on our own cultural values. A more respectful approach is to consult with women and equality advocates to learn how they are defining issues and what they see as potential ways forward.

10. What about women's empowerment?

Strategies that support women's empowerment can contribute to women's ability to formulate and advocate their own visions for their society – including interpretations and changes to cultural and gender norms.

[...]

"Empowerment is about people – both women and men – taking control of their lives: setting their own agendas, gaining skills, building self-confidence, solving problems, and developing self-reliance."

"Outsiders cannot empower women: only women can empower themselves to make choices or speak out on their own behalf. However, institutions, including international co-operation agencies, can support processes that increase women's self-confidence, develop their self-reliance, and help them

set their own agendas." (CIDA, Policy on Gender Equality)

UNDP's 1995 *Human Development Report*, in making the case for an "engendered approach," highlights the importance of women's empowerment to social and cultural change:

"The engendered development model, though aiming to widen choices for both men and women, should not predetermine how different cultures and different societies exercise these choices. What is important is that equal opportunities to make a choice exist for both women and men." 7

11. And what about men?

Although this is often overlooked, gender is an aspect of the social identity of men as well as women. Just as there are cultural norms and expectations about women's roles, there are also cultural norms and expectations of men as leaders, husbands, sons and lovers that shape their behaviour and opportunities. 8

Aspects of gender expectations may have costs and disadvantages for men (the expectation that they will take up arms and the defence of the nation, for example). However, the overall pattern of gender relations favours men in the distribution of resources, opportunities and power. Men's privileged position also gives them disproportionate power in determining the values that prevail.

To date, the struggle for increased equality between women and men has been led by women. However, recent developments include the formation of men's networks for gender equality and the "white ribbon" campaigns initiated by men in Canada and other countries such as Nicaragua against domestic violence. These are promising signs as the achievement of gender equality will require the participation of men as well as women. 9

[Relevant international and] development agencies are beginning to realise the importance of involving men in initiatives for gender equality. In some cases, this has been motivated by resistance from men when they were not informed of the wider benefits of women-specific initiatives. Other initiatives pursue the more ambitious objective of engaging men in promoting equality. Certain initiatives related to reproductive health have been particularly innovative in involving men in exploring the links between inequality and the well-being of families and communities. 10

12. What should we be doing?

The question is not *whether* we intervene in local culture, but how [...]. The challenge is to gain a better understanding of the context and in particular to:

- Identify opportunities for positive steps in support of gender equality;
- Be informed about and work in co-operation with change efforts by governments and civil society organisations in partner countries.

These challenges are particularly relevant to initiatives that do not focus specifically on women's rights and gender equality. Most development resources are directed to sectors such as education, health, infrastructure, or to issues such as economic reform, poverty reduction, or capacity development. Given that such initiatives account for most development investment, they will also account for most of the impact on people - and the impacts, both intended and unintended, on culture and on gender equality.

... establish a constructive dialogue with partners

A constructive dialogue with partners on gender equality issues is best established when an initiative is first being contemplated. This requires professionalism and a long-term view.

Not all partner agencies, or all officials within an agency, will be knowledgeable about the equality commitments in law and government policy or the perspectives of women's organisations. Some will be ambivalent or opposed to the changes implied by the pursuit of equality. Too often, discussions of gender equality are dropped when partners show a lack of understanding or enthusiasm. However, [international agencies, as well as those working in the humanitarian and development fields] have a professional responsibility to support state commitments to gender equality and to reinforce the human rights and development perspectives on which they are based.

Table 2 focuses on strategies for talking to partners about gender equality. In short: prepare appropriately,

be ready to make contributions to the discussion, allow for the time required to develop mutual trust and respect, and adhere to the long-term objective of gender equality.

... build on a gender analysis

A gender analysis is required for all initiatives as it ensures that planning is based on facts and analysis rather than assumptions.

Gender analysis has been advocated for over 20 years because of findings that projects can fail due to lack of information about basic cultural patterns such as the division of labour by gender within households and about the rewards and incentives associated with the division of labour. A gender analysis is therefore a means of increasing the quality and effectiveness of initiatives as well as supporting gender equality.

A gender analysis should provide information and analysis about the families and communities that will be targeted or affected by an initiative - about activities, needs and priorities, whether and how these differ by gender, and the implications for the proposed initiative. It should identify local and national initiatives for gender equality - the efforts by governments and civil society to pursue these issues, and how the initiative can complement these efforts. A gender analysis is the basis for planning an initiative that has realistic objectives and activities related to gender equality.

[...] Many guides are available to assist in identifying the issues that should be considered in different sectors or types of initiative [when conducting a gender analysis; CIDA's *Policy on Gender Equality*, may be of assistance in this regard]. Three points that are particularly important about a gender analysis:

- it requires skilled professionals with adequate resources;
- it benefits from the use of local expertise;
- the findings must be used to actually shape program design.

... be innovative

There are no blueprints to apply. The particular actions appropriate in a specific situation will depend on the policy environment, the relations established with partners, and the findings of the gender analysis.

13. Finally...

Finally, remember that we are directing attention to gender equality because it is an important development and human rights issue, not because we have the answers about what a society based on gender equality would be. Nor will (or should) women and men in other societies necessarily make the same choices we do. When [...] initiatives start with a commitment to work toward greater gender equality, they can play an important role in increasing awareness of inequalities, in supporting a constructive search for solutions, and in enabling women to have an effective voice in this process.

Table 2. Talking About Gender Equality with Partners

Preparing yourself:

- **Take an approach that reflects your own respect for gender equality as [...] an objective.** Gender issues should be addressed as part of the main discussion about [...] the initiative in question. If they are just an extra agenda item ("finally, let us discuss the gender aspects...") there is an implicit invitation to disregard them.
- **Do your research.** Start the discussion from an informed position. Investigate the gender equality [and women's rights] issues that are relevant to the sector or initiative. Identify relevant government initiatives. Find out what women's organisations have to say.
- **Identify internal allies.** Identify individuals or units in the partner organisation who are interested in gender equality issues (as a matter of personal commitment or organisational responsibility). Gain their views on issues and possibilities.
- **Use clear language and make the issues concrete.** Raise the issues in a way that makes sense to partners. For example, if you want to ensure that the benefits of a [particular project or initiative] reach both women and men, then begin the discussion by saying that. Partners are more likely to be engaged when the relevance to people or to the country is clear.
- **Draw on national commitments to women's rights and gender equality.** All partner countries have endorsed the Beijing *Platform for Action* and most have ratified the *Convention on the Elimination of All Forms of Discrimination Against Women*. Many have also formulated strategies to guide implementation of these commitments. These are important tools for dialogue on gender equality because they ground the discussion in commitments already made by partners.

Monitoring reactions:

Many people are ambivalent about gender equality or opposed to the changes it entails [including people in our own agencies) and thus avoid taking real action. It is important to recognise different forms of avoidance and to respond constructively. [The chart "Resistance: To Gender Equality and Gender Mainstreaming", in chapter 2, Theme 3 (Part I), provides examples of different types of resistance and how to counter them].

Endnotes

1. See UNESCO web-site on culture and development <http://www.unesco.org/culture/development/index.shtml>
2. N. Kabeer, "Women's labour in the Bangladesh garment industry: choice and constraints," in C. F. El-Solh and J. Mabro (eds.) *Muslim Women's Choice: Religious Belief and Social Reality*. Oxford: Berg, 1994.
3. Quoted in Sunam Naraghi Anderlini, *Women at the Peace Table: Making a Difference*. UNIFEM, 2000.
4. See issue on "Gender Religion and Spirituality," *Gender and Development* (Oxfam) Vol. 7 (1) (March 1999), and issue on "Women and culture" *Gender and Development* (Oxfam) Vol. 3 (1) (February 1995).
5. See, e.g., Bridger, S. et. al., *No More Heroines? Russia, Women and the Market*. London: Routledge, 1996.
6. CIDA, *CIDA's Policy on Gender Equality*. CIDA, 1999
7. UNDP, *Human Development Report 1995*. New York: Oxford University Press, 1995. Available on-line: <http://www.undp.org/hdro/1995/95.htm>
8. See issue on "Men and Masculinity," *Gender and Development* (Oxfam) Vol. 5 (2) (June 1997).
9. The UNDP web-site on men and gender equality provides useful links to various groups and to other resources. See : http://www.undp.org/gender/programmes/men/men_ge.html
10. On initiatives that deal with male resistance, see e.g.: <http://www.popcouncil.org/publications/seeds/seeds16.html>. On initiatives in reproductive health, see: <http://rho.org/html/menrh.htm#designing>.

Women's Human Rights

Part II Training Sessions

Training Session No. 7

Session Title: Women's Human Rights: Session A for refugee women

Target Group: up to 15 refugee women

Time Duration: 5 ½ - 6 hours (for a long afternoon session or short full day session)

Session Objectives:

- By drawing on the experience of women refugees themselves, raise awareness of their rights
- Increase participants' knowledge of international women's human rights, and their rights in the country of asylum
- Enhance the protection of women refugees through education on their rights
- Raise awareness of traditional customs and practices which may infringe on international human rights and/or laws in the country of asylum
- Empower refugee women by increasing their skills and involvement in the monitoring of their rights, and in relevant protection and assistance mechanisms.

Special Context:

- Please read the introduction to this chapter for issues to be aware of when organising training sessions or workshops for refugees.
- Only provide this training if there is a broader protection structure or programme in place which is capable of supporting, responding to and/or monitoring rights violations of women refugees.

Session Outline

1. Welcome, training session objectives and/or day's agenda (see facilitator's notes, and TM no. 43. (15 mins)
2. Introduction of participants: (30 mins)
Ask participants to briefly introduce the person next to them, after they have had 5 minutes to speak to each other.
3. Best Experience: (30 mins)
Ask each woman in the group to briefly share the best experience in her life; an experience which made her feel appreciated/valued in either her professional or private life (see facilitator's notes).
4. Small Discussion Groups: (30 mins)
Divide participants into groups of 4 or 5 and ask the groups to answer a couple of questions from the examples provided below. This will enable you to discover their level of awareness of their rights and encourage participation in the training.
Sample Questions:
 - a) How was your life similar or different to that of your brothers (or male cousins) when you were children? Were you both equally encouraged with regard to school? Did you do the same amount of work at home?
 - b) As an adult, how is your life similar or different from that of your husband's (if not married, your male relatives or friends)? Have you worked outside the home?
 - c) What do you like/dislike about these similarities and differences?
 - d) How is your life as a woman different in your country of asylum? Do you feel you have *more* or *less* rights in your country of asylum, and how does this impact on your life? Are there things you would like to do that you **cannot do** here? Or, *vice versa*, are there things which you could not do before that you **can now do** in the country of asylum?
5. **Coffee/ Tea Break (15 mins)**
6. Feedback in plenary: (40 mins)

- Group rapporteurs present in 10 minutes each, a summary of their group discussion.
7. Plenary Discussion: (20 mins)
Drawing upon participants' level of awareness, and the issues/rights brought up, choose two or three of the topics for discussion. Ask the whole group to outline the (gender) equality issues raised, and the rights they think they should have in relation to these topics.
 8. Making the link with human rights: "An introduction to women's human rights instruments": (30 mins)
Briefly introduce some general human rights principles, CEDAW, the Optional Protocol and DEVAW. Then using the rights/issues identified in the exercise above, point out a few relevant provisions in international and regional human rights instruments, as well as in national legislation (see facilitator's notes, and TM no. 44, "Selected International and Regional Human Rights Instruments", to distribute.)
 9. Plenary Discussion: (25 mins)
Ask the group :
 - (a) What types of violations of women's rights have you witnessed or do you know about?
 - (b) If you were to experience yourself, or to know about a human rights violation against another refugee woman, where/who would you turn to in order to report it and/or ask for help (based on the local context and existing structures)? Record answers on a flip chart.
- 10. Coffee/Tea Break (15 mins)**
11. Presentation on: (20 mins)
 - (a) Types of rights violations against refugee women and;
 - (b) Protection structures and other mechanisms to address them (e.g., to prevent, receive reports, monitor, and respond to such violations). (See facilitator's notes, and distribute TM no. 45 "Gender-Based Violence During the Refugee Cycle", as well as list of structures/ mechanisms to address women's rights violations, optional.)
 12. Working Group Exercise: (see facilitator's notes). (20 mins)
Brainstorming on ways to support/strengthen relevant structures. Ask participants in groups of 4-5 persons, to brainstorm on:
 - (a) How they could (on a practical day to day level) support or contribute to existing structures, or assist in setting up new ones (if few or no effective ones exist), and;
 - (b) What role men might have with regard to this issue, especially in the area of prevention.
 13. Feedback in plenary: (35 mins)
Rapporteurs for each group share the results of the brainstorming exercise (about 12 minutes each), and a discussion follows with facilitator also providing comments on the suggestions put forth by participants.
 14. Agree to meet again in 2-3 months to review the situation, and follow up on the results of this workshop (see facilitator's notes).
 15. Wrap up the session. (10 mins)

Suggestions on Preparation

1. The background reading materials in this chapter are essential before you begin this session. The following additional readings are also highly recommended:
 - The background readings in Part I of chapter 4 on SGBV;
 - International Women's Tribune Centre, *Rights of Women: A Guide to the Most Important United Nations Treaties on Women's Human Rights*, New York, 1998;
 - Daubian-Delisle, S., "UNHCR Guide to Women's Human Rights Awareness Training: A practical Tool for UNHCR and NGOs. How to Organise Training on Women's Human

- Rights and Legal Awareness for Refugees”, (UNHCR, draft version, Internal, available only for UNHCR trainers, undated);
- UNHCR (and UNFPA & WHO), *Reproductive Health in Refugee Situations: an Inter-agency Field Manual*, UNHCR, Geneva, 1999;
 - UNHCR, *Human Rights and Refugee Protection Part II: Specific Issues*, Training Module RLD 5, UNHCR, Geneva, June 1996;
 - UNHCR, *Prevention and Response to Sexual And Gender-Based Violence in Refugee Situations*, based on Inter-Agency Lessons Learned Conference Proceedings, 27-29 March 2001, Geneva.
 - OHCHR & UN, Training Manual on Human Rights Monitoring, Professional Training Series No.7, New York & Geneva, 2001 (see in particular pp.167-245 on Refugees and IDPs).
2. Please read the introduction to this chapter for a quick overview of some of the important issues to be aware of when organising human rights trainings for refugees. Examples of such issues, and steps critical to your preparation include, *inter alia*:
 - Possessing a good knowledge of the refugee population, and gender-related protection issues;
 - Knowing in advance, how the training will feed into the broader protection and support structures/programmes already in place for refugees, and refugee women in particular. This may include prevention programmes as well as structures capable of receiving reports (and maintaining them confidential), providing support, and monitoring the rights of refugee women.
 3. You may wish to document some of these structures, as well as related services, and provide this information to participants. Once documented, an added benefit is that you can provide them to newcomers to the refugee community. If you have refugee information pamphlets already available containing this information, then use those.
 4. Before commencing this session you will need to briefly **review** international and regional human rights instruments, as well as relevant domestic legislation, and pick out provisions most likely to be pertinent to refugee women. You can then **prepare a compilation** of the most relevant national legislation, and if you wish also international human rights provisions focusing on those issues most pertinent to refugee women in your country. The following document may save you time with this preparation: “Women’s Human Rights: Your Rights and the Laws that Protect Them” (available as TM no. 60).

This compilation will help you with your training, but you may also use this material to prepare a handout for participants (especially if you do not have the opportunity to compile your own materials on women’s international human rights). However, you need to prepare the related domestic legislation yourself. Often local Bar Associations (women’s section) or other women’s organisations may have such material already available. Make sure you present the material clearly, and simply, and in a manner appropriate to their level of education and awareness. If the women are illiterate you might have to use simple diagrams or examples to illustrate relevant provisions, but it will be equally important to adjust the material covered during the training and training techniques as well, to suit groups with an advanced education. As much as possible, you should also draw on your knowledge of the refugee caseload in your country and in particular, the problems faced by refugee women. This will permit you to tailor the training better, provide appropriate examples, and make your audience feel that you have a real grasp of the issues important to them. Make sure you are also familiar with CEDAW and DEVAW.

5. A woman facilitator who speaks the refugees’ language should lead the session. Alternatively it can be lead by a woman facilitator and woman interpreter.
6. Select the group of participants carefully. Note that mixed age groups can mean that only the older women are heard. You may need to have different sessions for young women, and for older women. You may also wish to have different sessions if the women have very different educational backgrounds.

7. It may be best not to use too much or any hi-tech equipment or training methods (e.g., power point presentations) during this session, as you want to establish and maintain a close rapport with the participants. We have, nonetheless, included a few training materials in this session which may be used as either handouts, OHT or PPP, at your discretion. Ensure the training materials you use during the training or distribute to participants are translated beforehand, as necessary.

Facilitator's Notes

1. Welcome: Give participants a warm welcome and take the time to introduce yourself, including with some personal details about yourself, and your experience working with refugee women. Let them know that you understand how difficult it was for many of them to attend this workshop (e.g., due to family duties, distance). Try to build a rapport with participants from the very beginning.
2. Best experience: make the time at the beginning of this session to conduct the warm up exercises (i.e., asking women to share the best experience of their lives). Do not skip this, since it is especially important with participants from the refugee community to first build confidence and trust, with you as the facilitator, but also among the participants. Moreover, this activity can serve as an icebreaker and be a positive start before talking about women's every day life and problems.
3. Making the link with human rights: "An introduction to women's international human rights instruments":
 - (i) For your brief introduction to general human rights principles and **CEDAW**, you may wish to highlight the following:
 - The general rule of non-discrimination (including based on sex) is contained in all major international human rights instruments, and in the UN Charter;
 - In addition, this principle is usually also contained in domestic legislation, and national constitutions;
 - But, it is most comprehensively elaborated in CEDAW;
 - CEDAW has been ratified by 168 members, as of May 2001;
 - CEDAW is considered the **women's international bill of rights**;
 - It incorporates the two families of rights, (i.e., civil and political rights, and socio-economic and cultural rights) into one instrument;
 - It includes women's rights in such fields as: political participation; access to opportunities in public life; standards on nationality; equal access to education; training; health; and employment;
 - It provides for the equal responsibility of men and women in family life;
 - It requires states parties to take all measures to eliminate the exploitation of prostitution and trafficking in women;
 - It calls for the introduction of temporary special measures to redress inequalities between women and men;
 - It pays particular attention to rural women and their involvement in the development process;
 - It obliges states parties to take all appropriate measures to ensure women do not face discrimination in certain areas of private life (e.g., discriminatory practices in the family, or in the private business sector);
 - The Committee on the Elimination of Discrimination against Women, monitors implementation by states parties to CEDAW; states parties must submit reports to the Committee.
 - (ii) The **Optional Protocol** to CEDAW:
 - Ratified by 36 states as of April 2002;
 - Entered into force in December 2000;
 - Allows for (1) an individual communications procedure by which individual women or groups of women may submit claims of violations of rights protected under CEDAW, and (2) an inquiry procedure which enables the Committee to initiate inquiries into situations of grave or systematic violations of women's rights.

(iii) If you wish to also introduce **DEVAW**, you may mention:

- This Declaration was adopted by the General Assembly in 1993 (Resolution 48/104 of 20 December 1993)
- It is the first set of international standards dealing specifically with violence against women;
- It complements CEDAW (as the latter does not explicitly address the issue of violence);
- It affirms that violence against women constitutes a violation of the rights and fundamental freedoms of women; it impairs the enjoyment of their rights;
- It notes in the preamble that **refugee women** are “especially vulnerable to violence”.

If you mention some international redress and enforcement mechanisms, make sure to keep it simple and brief. It is probably best to focus on relevant national legislation as much as possible, and mention only a few of the more accessible domestic remedies.

(iv) In order to be able to quickly point out relevant provisions in international and national law on the topics the participants have just discussed, you must have already anticipated and prepared in advance some of the topics likely to come up and some of the corresponding legal provisions. For both your preparation and also for quick reference during the actual training, TM no. 60 “Women’s Human Rights: Your Rights and the Laws that Protect Them” should be helpful.

Ensure that you make the link between the human rights provisions and remedies you cite, and how they relate to the life experiences and realistic options of your participants.

4. Presentation on: (a) **Types of rights violations**, including SGBV, against refugee women, and; (b) **Protection structures** and other mechanisms to address them (i.e., prevention, response, and monitoring of violations). For this presentation, you may wish to:
 - Ensure you are knowledgeable regarding the more common rights violations against refugee women in the country of asylum (e.g., domestic violence; discriminatory practices with respect to access to food, services or other material goods; sexual violence and exploitation);
 - Provide a brief explanation of the chart “Gender-Based Violence During the Refugee Cycle: Human Rights Awareness for Refugees”, available as TM no. 45;
 - Provide information on some of the existing⁴⁵ protection structures and other venues or programmes in place in that specific refugee context and which may be used to report and address violations of the rights of refugee women, especially SGBV. These mechanisms should be easily accessible to the refugee population or include assistance for accessing them. In some instances, specialised mechanisms and programmes may exist specifically to provide support to and monitor the rights of refugee women, while in other contexts, one will have to (at least initially) make use of more general structures and venues. Examples of the latter might include: periodic (women) refugee representatives’ meetings; refugee women’s groups or committees; a gender focal point or team (in UNHCR, NGO, or government structures); regular counselling services provided by community/social or field workers, as well as legal aid and legal counselling services; and general complaint procedures. You may also wish to consult some of the Training Sessions in chapter 4 on SGBV, which contain exercises designed to assess the adequacy of existing support structures and to develop new ones.
5. Working Group Exercise: Brainstorming on ways to support and strengthen existing protection structures. Possible answers to anticipate or that you may suggest could include the following:
 - Thanks to an increased awareness of their rights, refugee women could become more actively engaged (on a day to day level) in **monitoring** their rights in the country of asylum, and in the particular refugee setting where they live (e.g., refugee camp, reception centre);

⁴⁵. While we focus on non-judicial mechanisms here, it does not mean that we are dismissing the benefits of legal redress mechanisms; indeed, general protection mechanisms and programs responsible for receiving feedback on the rights of refugee women may actually include legal support services to assist women wishing to bring their cases to court.

- Through existing channels and venues (e.g., gender focal points, refugee representatives' meetings and counselling services), they provide the **results** of their monitoring activities or their personal experiences;
- **They participate** in prevention programmes, and in support/ **assistance programmes**;
- They participate in refugee (or refugee women) **representatives' committees**;
- They participate in **gender teams** which are open to refugee membership. Such gender teams, may exist in related government refugee agencies, refugee-assisting NGOs or the UNHCR Branch Office;
- They participate in existing **systems to prevent, respond to and monitor the rights** of refugees generally (i.e., systems not exclusive to women).

With regard to monitoring activities, you should also be prepared to do the following: explain the concept and benefits of monitoring; to provide easy monitoring techniques and guidelines; and to provide information on who this information may be communicated to. The issue of confidentiality should be addressed in detail.

New mechanisms or structures should be discussed if the existing ones are inadequate to address this issue, or are otherwise ineffective or inappropriate. Keep a record of these suggestions in order to follow up on them, including for the follow up session mentioned below. Ensure that you make clear to participants how their ideas and contributions today will be followed up.

Regarding the issue of **male involvement** in protection structures (and especially prevention programmes) concerned with the rights of refugee women, you can prepare for this discussion by reviewing some of the readings suggested in Training Session 8. The reading "Prevention I: Male Involvement" in chapter 4 is also particularly helpful.

6. As mentioned above, it is important that this training be practical and relevant to the women's lives. If the concepts contained in international instruments appear too abstract for participants to grasp during the training, the session should focus on domestic legislation and accessible protection structures. Be ready to adjust the complexity and amount of information you cover in this training to the level of awareness and specific interests demonstrated by your participants.
7. The women should be told that change can be slow, and they must be careful about expecting changes in their daily lives.
8. A **follow up session** to this training (either with refugee women alone or including refugee men this time) should be conducted approximately 2-3 months after this session is held. See Training Session no. 9 in this regard.

At that time, you may wish to discuss some or all of the following: the women's monitoring and reporting experiences; the responsiveness and adequacy of protection/support structures already in place; proposals for new structures; any increase or decrease in the number of reports of abuses received; the types of abuses which are reported; the impact of the training on women's lives; and on the protection situation in general. Alternatively, or in addition, you may wish to explore in more detail some of the issues brought up by the participants which you were not able to cover in the first session.

9. Independently from the above, this training session for refugee women should be quickly followed by the next, "Training Session No. 8: Session B for refugee men".

Materials

Equipment: Flipcharts, markers, overhead projector, and computer if you wish to make a power point presentation.

Training Materials: (Handouts/ OHT/ PPP)

TM no. 43: Training Session 7: Women's Human Rights:
Session A for refugee women: Objectives

Handout/OHT/PPP

TM no. 44: Selected International and Regional Human Rights Instruments	Handout/OHT
TM no. 45: Gender-Based Violence During the Refugee Cycle: Human Rights Awareness for Refugees	Handout/OHT
TM no. 60: Women's Human Rights: Your Human Rights and the Laws that Protect Them	Handout
<i>You may also use:</i> TM no. 42 "Selected UN Human Rights Conventions"	Handout

Documents to distribute: (Optional)

- Any relevant information pamphlets already available from UNHCR, government or NGO sources. Information pamphlets containing information mentioned below, would be appropriate:
 - The general rights of asylum seekers and refugees in the country of asylum;
 - The refugee status determination procedure;
 - Specific rights of women in the asylum country;
 - The programmes and services available to women asylum seekers and refugees in the asylum country (prepared by government, UNHCR, NGOs and local women's organisations).
- A compilation of the most pertinent domestic provisions (presented in simplified form) on women's rights (in the country of asylum), available remedies and other issues of concern to refugee women. These provisions should relate to the gender problems most commonly experienced by them.
- A list of the most relevant international and regional instruments (and the provisions themselves) on the human rights of (refugee) women. You may use for this purpose:
 - "Selected International and Regional Human Rights Instruments", TM no. 44 or TM no 42 "Selected UN Human Rights Conventions".
 - "Women's Human Rights: Your Human Rights and the Laws that Protect Them" (TM no. 60)
- A list of the protection structures and other mechanisms related to prevention, monitoring and response to violations of women's rights which are available in that specific refugee setting (see facilitator's notes for an explanation, and examples of such structures).

You will have to judge if it is appropriate to distribute these materials, given the refugee context in which you are working and the profile of the participants.

Training Session No. 8

Session Title: Women's Human Rights - Session B for refugee men

Target Group: up to 15-20 male refugees.

Time Duration: all day

Session Objectives:

- To raise awareness of how gender roles affect our lives
- To increase participants' knowledge of international human rights specific to women, and their rights in the country of asylum
- To develop an understanding of the role of men in preventing violations of the rights of women;
- To raise awareness of SGBV as a human rights issue
- To raise awareness of traditional customs and practices which may infringe on international human rights and/ or laws in the country of asylum.

Special Context:

- Please read the introduction to this chapter for issues to be aware of when organising training sessions or workshops for refugees.
- This training should only be provided where there is a broader support/ protection framework in place capable of addressing the issue of the rights of refugee women, and supporting the involvement of refugee men on this issue.

Session Outline

1. Welcome, brief mention of the purpose of this session, and/or day's agenda. Do not go into detail yet on the objectives of the training. (15 mins)
2. Introduction of participants, and ice-breaker: (30 mins)
In addition to introducing themselves, they should also mention their answer to the following questions: Are human rights important to you, and why? Or, what are two specific rights that you have learned to value? Once all participants have introduced themselves, the facilitator(s) may also want to answer the above question in relation to themselves.
3. Sensitisation Exercise: (10-15 mins)
Ask participants to discuss the following question with the person next to them.
Question: What are the advantages/disadvantages of being a woman? Of being a man?
4. Feedback in plenary: (30 mins)
Record participants' answers on a flip chart (ensure you have a separate column for men and women, and another subdivision for advantages and disadvantages for each). You may wish to refer to these answers later in the session in order to make a point, or to wrap up the training.
5. Objectives of this training session: present and discuss these (TM no. 46). (15 mins)
6. **Coffee/ Tea Break (15 mins)**
7. Plenary Discussion: Ask participants the following questions: (30 mins)
 - (a) Are women equal with men?
 - (b) How do you perceive the differences in the lives and rights of women in your country of origin and in the country of asylum (for example, do they have more or less rights in relation to men, or are there differences in the cultural practices that affect women in particular)?
 - (c) What specific types of abuses or rights violations do you know of and/or are you concerned about in relation to refugee women in the country of asylum (and in your specific refugee setting)? Ask a participant to record the responses on flip chart (see facilitator's notes).

8. Presentation: (35 mins)
- linking SGBV and other violations of (refugee) women's rights just discussed above, to **international human rights standards**; and
 - reviewing briefly the major protection **structures/venues and other mechanisms** (including non-judicial) in place to address (either directly or indirectly), the issue of refugee women's rights (see facilitator's notes, and TM no. 44, 45)
9. **Lunch Break (1 hour)**
10. Panel Discussion / Question Period on: (40 mins)
- The rights of women in the country of asylum, i.e., in domestic legislation; and
 - Existing protection structures or other programmes in place (especially in their specific refugee setting, such as the reception centre or refugee camp) to protect the rights of refugee women. This part of the discussion builds on the above-mentioned presentation by focusing on the adequacy of these structures and how they may be improved, including through the involvement of refugee men (where appropriate). The issue of how to monitor refugee women's rights (one of the protection mechanisms that can be used), and men's role in this activity should be given priority (see facilitator's notes).
11. Working Group Exercise 1: Suggestions regarding male participation in promoting and protecting the rights of refugee women. (45 mins)
Divide participants into groups of 4-5, and ask them to answer the following two questions:
- What are some concrete suggestions on how male refugees can participate in **monitoring** the rights of refugee women (especially in your refugee setting, and in light of existing structures) over the next few months? (20 mins)
5 minute break.
 - What are some suggestions on how men can **support the promotion** and protection of the rights of refugee women, especially with regard to SGBV, and prevention-related activities or programmes. What is the "added value" or benefit of male involvement? (20 mins)
12. **Coffee/Tea Break (15 mins)**
13. Feedback in plenary: (1 hour)
Each rapporteur provides a 10 minute feedback on question (a).
This is to be followed by the formulation in plenary (with the assistance of the facilitator), of conclusions and a common plan of action for monitoring activities. These should be recorded on a flip chart.
14. Plenary discussion on answers to question (b). Record answers on flip chart. (35 mins)
15. Plenary discussion on a possible follow up workshop for participants: (15 mins)
Discuss and agree on when the workshop should take place (suggested time frame is in 2-3 months, and see Training Session no. 9). If appropriate, also suggest how you can continue discussions with them on new initiatives they may have suggested during this training. Otherwise, these ideas and proposals may be reflected on and followed up in the next session (see facilitator's notes).
16. Wrap up the session by providing a brief summary of what was achieved and conclusions and action plans resulting from the above exercises. (10 mins).

Suggestions on Preparation

- An overview of the background readings in this chapter, and especially "Addressing Cultural Relativism: in Relation to Gender Equality and Women's Rights" is essential before you begin this session, as are the following:

- In chapter 1: the section on “Dealing with Resistance”, and the chart “Resistance: the roles members play and how to respond”;
 - In chapter 2: the background readings in Theme 3 on male involvement;
 - In chapter 4, Part I, “Prevention I: Male Involvement”.
2. For other recommended readings, also see those listed under “Suggestions on Preparation” in Training Session 7.
 3. A man and woman facilitator best jointly facilitate this session. A man should be used if an interpreter is required.
 4. Ensure that the panel guest speakers are well briefed on the profile of the participants, and also the objectives of the session beforehand, including the aspect of possible male involvement.
 5. A good knowledge of (1) the refugee population, and especially of male-female relationships among the different refugee groups, and (2) the major gender-related protection issues, is necessary before you organise this training.

You may have to conduct a preliminary investigation in this regard, if you are not already familiar with these questions. You may also use the information gathered during the refugee women’s training session (see previous Training Session 7), if it has already taken place.

6. Be prepared for some possible resistance or differences of opinion. Try to anticipate which specific issues are likely to cause the most resistance, and prepare your approach in advance. In this regard, the readings mentioned above, and particularly, “Addressing Cultural Relativism: in relation to Gender Equality and Women’s Rights” in Part I of this chapter, should be helpful.
7. Be ready with suggestions on creative and relevant contributions that men can make, but be realistic and ensure that there is a framework in place which can indeed support their efforts or initiatives. For ideas on possible programmes involving men, see the readings in chapter 2 (Theme 3) and also in chapter 4, “Prevention I: Male Involvement”; both provide examples of different initiatives that have been tried, including prevention programmes and campaigns against SGBV.
8. You may wish to document protection structures and other types of mechanisms in place which can be used to protect the rights of refugee women (e.g. complaint and monitoring mechanisms, support / assistance programmes, and other venues which provide channels of communication with refugee populations) and provide this information as a handout to participants. You can then easily refer to these structures and programmes when you discuss men’s monitoring activities, and other types of involvement. This will allow you to see more clearly possible “entry points” for constructive male involvement.
9. Before commencing this session you will need to *review* international and regional human rights instruments, and pick out the provisions most relevant to the types of rights violations/problems experienced by refugee women in the local refugee setting. You may wish to compile these and provide it as a handout to participants. The following material will facilitate your preparation: “Women’s Human Rights: Your Human Rights and the Laws that Protect Them” (TM no. 60). Ensure you are also familiar with CEDAW and DEVAW.

Facilitator’s Notes

1. Welcome: Give participants a warm welcome and take the time to introduce yourself, including with personal details about yourself, and your experience in working with refugee women and men. Try to build a rapport with the participants right away. For this reason it is also important to do the warm up exercises. It is often critical with participants from the refugee community to first build confidence and trust, with you as the facilitator, but also among the participants themselves, since men in particular may be weary of what other men think of their participation in this training.

2. Plenary Discussion. For the discussion on (a) the differences in the lives of women in their country of origin and in country of asylum, and (b) on SGBV and other women's rights violations in the particular refugee setting: you may wish to do some preliminary research of your own so that you are aware of the issues likely to be raised during the training, and also in order to provide ideas of your own.
3. For the presentation on: (a) linking SGBV and other violations of (refugee) women's rights (just discussed above) to **international human rights standards**; and (b) existing structures/programmes in place for the protection of refugee women's rights, you may wish organise it in the following manner:
 - (i) Mention briefly the general human rights principals of non-discrimination, and equal rights of women and men, and provide a short introduction to CEDAW, the Optional Protocol and DEVAW. Please see the "Facilitator's Notes" in Training Session 7 for a point form summary of these topics.
 - (ii) Proceed to then ask: **But are these rights realised in practice ?**
By drawing on the examples of SGBV and violations of other rights already mentioned by participants, point out some of the corresponding human rights provisions (prohibiting these acts and imposing corresponding obligations on states) in relevant international instruments. The following document will help you do this: "Women's Human Rights: Your Human Rights and the Laws that Protect Them" (available as TM no. 60). You may wish to distribute these documents, as well as TM no. 44 "Selected International and Regional Human Rights Instruments" or TM no. 42 "Selected UN Human Rights Conventions".
 - (iii) Then, briefly go over the table "Gender-Based Violence During the Refugee Cycle: Human Rights Awareness for Refugees", TM no. 45.
 - (iv) Finally, provide a brief review of the existing (judicial or non-judicial) protection structures which are (or can be) used to address violations of refugee women's rights. These may be UNHCR, government or NGO structures in place specifically for refugees. They may include both structures specifically developed to address this issue (e.g., prevention programmes, protection and response mechanisms and monitoring systems), or general structures and venues which can be suitable for this purpose. Non-judicial protection structures may include for example: periodic refugee (women) representatives' meetings; refugee women's support groups; gender teams or focal points; and regular counselling services provided by community/social/field workers, or by legal aid providers.

The aim of this exercise is to provide refugee participants with information on structures/venues which are easily accessible, in which they can participate or to which they can report or make complaints about abuses they may know about.
4. Panel Discussion and Question Period: The panel may be made up of a lawyer, UNHCR staff member, government representative, a camp/ reception centre manager, and a male refugee representative (if you know of a suitable candidate). The lawyer may be asked to provide a 15 minute presentation on how the types of violations of women's rights previously mention in the training (most common violations) are dealt with in domestic legislation. This may then be followed by a brief "Question/ Answer Period". With the assistance of the facilitator, the panel may then proceed to further discuss existing protection structures/programmes used to address refugee women's rights. The different panel members provide ideas on the adequacy of these structures, and how they might be improved (including structures specific to the refugee setting, such as the reception centre or refugee camp), including through the involvement of refugee men. The specific issue of how to monitor refugee women's rights (one of the protection mechanisms that can be used), and men's role in this activity should be given special attention.
5. Working Group Exercise 1: Male participation in the protection of the rights of refugee women. For this exercise, you should:
 - know in advance what channels (if any) are most commonly used by refugees to report or **monitor** possible rights violations. If no effective channels or monitoring bodies exist, you may wish to prepare some suggestions in advance, which you can then discuss with the

participants. In this case, you may also wish in advance to consult other interested actors/organisations on this issue;

- be prepared to explain the concept and benefits of monitoring; to provide easy monitoring techniques and guidelines; and to provide information on who this information may be communicated to. The issue of confidentiality should be addressed in detail;
- with regard to other ways in which men can support the promotion and protection of the rights of refugee women, you may wish to emphasise prevention programmes. The readings mentioned under “suggestions for preparation” above, including those materials specifically addressing SGBV, may be particularly helpful in this regard;
- Also, make time to discuss the possible issues, as well as benefits (‘added value’) related to male involvement on this issue of women’s rights. In particular, make sure that you discuss how women refugees might feel about men’s monitoring activities.

6. A follow up session to this training (with refugee men alone or including refugee women this time) should be conducted approximately 2-3 months after this session is held. See Training Session 9 in this chapter.

At that time, you may wish to discuss some or all of the following: the refugee men’s monitoring and reporting experiences; the responsiveness and adequacy of protection structures/programmes already in place; any increase or decrease in the number of reports of abuses received; the types of abuses which are reported; the impact of the training on men’s lives, as well as those of the women they know; and on the protection situation in general. Alternatively, or in addition, you may wish to explore in more detail some of the issues and ideas for new programmes brought up by the participants which you were not able to cover or take action on in the first session.

Materials

Equipment: Flipcharts, markers, overhead projector, and computer if you wish to make a power point presentation.

Training Materials: (Handouts/ OHT/ PPP)

TM no. 46: Training Session 8:

Women’s Human Rights: Session B for refugee men: Objectives Handout/OHT/PPP

TM no. 44: Selected International and Regional

Human Rights Instruments

Handout/OHT

TM no. 45: Gender-Based Violence During

the Refugee Cycle: Human Rights Awareness for Refugees

Handout/OHT

You may also use: TM no. 42 “Selected UN Human Rights Conventions” Handout/OHT

Documents to distribute (Optional):

1. Any relevant information pamphlets already available from UNHCR, government or NGO sources. Information pamphlets containing information mentioned below, would be appropriate:
 - The general rights of asylum seekers and refugees in the country of asylum;
 - The refugee status determination procedure;
 - Specific rights of women in the asylum country;
 - The programmes and services available to women asylum seekers and refugees in the asylum country (by government, UNHCR, NGOs and local women’s organisations).
2. A compilation of the most relevant national provisions on women’s rights in the country of asylum, and other issues of concern to refugee women (ensure this is presented simply and clearly).
3. A list of the most relevant provisions in international or regional human rights instruments. You may use for this purpose:
 - “Selected International and Regional Human Rights Instruments”, TM no. 44.
 - “Women’s Human Rights: Your Human Rights and the Laws that Protect Them”, TM no. 60.
 - “Selected UN Human Rights Conventions”, TM no. 42.
4. A list of the protection structures and other mechanisms related to prevention, monitoring and response to violations of women’s rights (see facilitator’s notes for an explanation, and examples of such structures).

You will have to judge if it is appropriate to distribute these materials, given the refugee context in which you are working and the profile of the participants.

Training Session No. 9

Session Title: Workshop/ Follow Up Meeting: on Protecting and Monitoring the Rights of Refugee Women

Target Group: Up to 20 refugee women and men. Participants will most likely be community leaders that attended one of the previous trainings (see Training Sessions 7 and 8 in this chapter). A gender and age balance is important for this workshop to be successful, as well as other considerations such as, the linguistic, ethnic, cultural and educational backgrounds of the participants, depending on the context.

Time Duration: half day to full day

Special context: This workshop is designed as a follow up to the two previous sessions held separately for men and women refugees. As with those sessions, it is suggested that this training only be provided where there is a broader support/protection framework in place which is capable of addressing the rights of refugee women, and supporting the involvement of refugee woman and men on this issue.

I. Workshop Objectives and Possible Agendas

1. These will largely **depend on** some of the following:
 - the context, i.e. the nature of the refugee operation, political climate, and resources;
 - the level of awareness, commitment, living conditions and sophistication of the refugee participants;
 - the extent of the preliminary work done with and by refugee women and men in previous trainings or meetings;
 - relevant structures already in place to address the issue;
 - willingness and resources of all actors to undertake new initiatives and programmes or undertake changes;
 - types of problems encountered;
 - and also the nature of male/female relations in the particular refugee community.
2. Depending on the above, some **issues and agenda items** could include:
 - a discussion on their monitoring and reporting experiences, including the responsiveness and adequacy of support mechanisms and protection structures already in place;
 - proposals for new initiatives or changes to existing structures/programmes;
 - changes in the number or types of abuses reported;
 - the impact of the prior training on the security environment and refugees' activities;
 - a discussion on the specific benefits related to the participation of refugee women in these protection structures/programmes, and distinctly, the participation and involvement of refugee men;
 - alternatively, or in addition, you may wish to explore in more detail some of the issues brought up by the participants that were not covered in the first session.
3. While women and men attended the prior training separately, this is now the opportunity to have **men and women discuss together** ideas already put forth, including:
 - their *perception* of the causes, nature, gravity and extent of the problem, i.e., violations of women's rights and SGBV in particular (these are likely to be different);
 - their initiatives, proposed changes, strategies or other ideas already put forth at previous meetings or trainings;
 - the results of their recent monitoring and "observation" activities;
 - their perceptions and experiences with the existing protection mechanisms/structures and venues in place (to report, address, monitor and prevent violations of rights);
 - their perceptions of, experience, and possible barriers to constructive male involvement;

- the benefits (as well as possible issues) of the involvement of both male and female refugees in different aspects of the issue (e.g., prevention, monitoring, response);
- how involving male refugees can impact the attitudes and behaviour of other male refugees;
- whether there is a need for a survey or study on SGBV and other gender-related abuses, especially against refugee women?
- what impact will strengthening the rights of women have on refugee men? Stronger mechanisms to prevent or respond to violence and rights violations should benefit all, and have a positive impact on relations between male refugees, as well as the general security climate.

II. Suggestions for preparing and conducting the workshop:

1. Ensure a **warm welcome** to participants and provide **warm up** exercises that are engaging for both women and men of different cultural or ethnic backgrounds. Do not be too formal, present this as a working meeting, and reveal your professional but also your personal side in your introduction. Ensure participants are also introduced, preferably by the person next to them after a brief exchange.
2. **Speak about ground rules for the meeting.** This is very important in order to encourage participation by everyone, including women (both young and older) and other participants who may not necessarily enjoy a high status within their community but who's input may be important for this meeting. Try to ensure that no single group or person dominates the meeting.
3. Make sure you have **clear objectives** for this meeting, and a **tangible but realistic output**. For example, this can include:
 - the formulation of a concrete *plan of action*. This action plan may consist in a general proposal for the establishment of protection mechanisms and structures to deal with these issues (where none or few exist), or it can address specific problems, such as sexual assaults, discriminatory practices or coercion with respect to food, privacy, education, etc.
 - a list of *proposals* for initiatives, projects or follow up activities and meetings;
 - a written *report* documenting refugees' experiences with existing (protection) mechanisms and venues related to prevention, monitoring and response to rights violations, including those primarily affecting refugee women;
 - the *organisation of committees*, working groups or other support groups which are tasked to work on specific issues or provide specific services.
4. **To prepare** for this workshop:
 - Make sure you read the introduction to this chapter, including on issues to keep in mind when organising trainings or workshops for refugee women and men;
 - It is also recommended you read the following:
 - chapter 1: the section on "dealing with resistance"
 - chapter 2: the background readings in Theme 3 on male involvement
 - the background readings in Part I of this chapter, including "Addressing Cultural Relativism: in relation to Gender Equality and Women's Rights"
 - chapter 4: Part I, "Prevention I: male involvement";
 - Draw on the feedback, ideas and opinions you gathered from the previous sessions held separately with refugee women and men. It is not suggested that you plan this workshop without prior sensitisation or training with refugee participants;
 - Have a solid grasp of gender relations in the different refugee communities represented at the workshop, as well as the major issues (i.e., SGBV and rights violations) affecting refugee women, and how the refugee community, women and men have dealt with it (or not) to date;
 - Ensure that from the beginning, you have involved relevant national and local actors, and that you keep them apprised of the trainings/workshops as well as any serious projects and proposals resulting from these; these actors are likely to be instrumental for their successful implementation.

Training Session No. 10

Session Title: International human rights and refugee protection: the gender dimension.

Target Group: up to 20 government, UNHCR or NGO staff. Participants should already be familiar with the refugee definition in the 1951 Convention.

Time Duration: 6 ½ hours

Session Objectives:

- To introduce international and regional human rights instruments, including those specific to women
- To raise awareness of the links between human rights, refugee protection and gender-related asylum claims
- To raise awareness of the types and also the extent of human rights violations against women
- To highlight how gender-related asylum claims should be viewed within the framework provided by international human rights instruments
- To gain practical skills in recognising and articulating human rights violations, especially those experienced by women.

Session Outline

1. Welcome, and outline of the day's agenda. (15 mins)
2. Introduction of participants, and /or ice-breaker. (20 mins)
3. Training Session Objectives: (10 mins)
Outline session objectives and ask if anyone would like to add any new ones (TM no. 47).
4. Brainstorming Exercise: (15-20 mins)
Ask participants which international and regional human rights instruments the country has ratified, including those specific to women. Record the answers on a flip chart or on a special wall chart suggested below (see "Suggestions on Preparation"). Add any other significant instruments which were not mentioned, to the list. If you wish, distribute TM no. 48 "Worksheet: Convention Profile: where does my country stand?" (which you filled in and photocopied in advance) at the end of the exercise.
5. Plenary Discussion 1: based on the following questions: (20 mins)
 - (a) What are some examples of women's human rights violations that you are aware of?
For instance, examples that you have come across in your work with refugee women; and
 - (b) Why do you think it was necessary to have international human rights instruments specific to women? Record answers on flip chart.
6. **Coffee/ Tea Break (15 mins)**
7. Presentation 1: (20 mins)
Following from the above discussion, mention some key reasons why human rights instruments specific to women were considered necessary, and introduce CEDAW, the Optional Protocol and DEVAW (see facilitator's notes and TM no. 49-54).
8. Plenary Discussion 2: How are human rights (and related instruments) relevant to our work with refugees? Record answers on flip chart. (10 mins)
9. Presentation 2 on : (20 mins)
The links between human rights, refugee protection and gender-related asylum claims (see facilitator's notes and TM no. 55-58).
10. Distribute a case study you selected in advance (see list of TMs included at the end of this session module) and give participants 10 minutes to read it. At the same time, distribute as handouts TM no. 59 "Refugee Definition", and TM no. 60 "Women's Human Rights: Your Human Rights and the Laws that Protect Them". Alternatively, you may wish to provide them with copy of CEDAW and the UDHR for example. If necessary, read the

refugee definition out loud with the help of an OHT (provided in the training materials), and inform participants they will have to refer to the definition and other distributed documents in several upcoming exercises. (10 mins)

11. Case study exercise 1: (20 mins)

In groups of 4-5, ask participants to discuss the questions written at the end of the case study they just read. They should select a rapporteur for the group who will share the results in plenary.

12. Feedback in plenary by group rapporteurs. (25 mins)

13. Lunch Break (1 hour)

14. Distribute 2 case studies of your choice (preferably short ones, see list of TMs) and ask participants to read both cases on their own. If you feel that two cases at once will be confusing, then simply select one case study which illustrates key points you wish to make. (10 mins)

15. Case study exercise 2: (25 mins)

In groups of 4-5 (not the same groupings as before), ask participants to discuss and answer the questions to the two case studies they just read, devoting 10 minutes to each. They should use the same materials you distributed for the previous case study exercise.

16. Plenary discussion of case studies, one case at a time. (30 mins)

Have a participant record answers on flip chart. During these discussions, bring up any relevant issues or human rights standards (provisions) that were not already mentioned.

17. Guest speaker: on one of the following suggested themes: (20 mins)

- “An overview of violations of women’s rights globally”, or
- “Country of origin briefing on the situation of women’s rights” (for example, in the 2 or 3 countries most representative of the refugee caseload in the asylum country).

18. Question and Answer Period: to the guest speaker. (15 mins)

19. Facilitator ends the session with a short summary, by drawing on the salient issues and discussions during the training. (10-15 mins)

20. Close session (5 mins).

Suggestions for Preparation

1. The background readings in this chapter are essential for preparing this session.
2. The following additional readings are also recommended:
 - The background readings (Part I) to chapter 5 on Refugee Status Determination;
 - International Women’s Tribune Centre, *Rights of Women: A Guide to the Most Important United Nations Treaties on Women’s Human Rights*, New York, 1998;
 - UNHCR, *Human Rights and Refugee Protection: Part I: General Introduction*, Training Module, RLD 5, Training with UNHCR Series, Geneva, October 1995.
3. Participants should not exceed 20 persons, should be familiar with the 1951 Convention definition of a refugee, and have a similar level of knowledge and experience in relation to refugee issues and human rights. This training may be considered adequate for an introductory and intermediate level.
4. This training is best conducted by a male and female facilitator.
5. Before the workshop, you may wish to prepare a large wall chart of TM no. 48 and attach it to the wall before the session begins, or if you prefer you can use this TM no. 48 as an OHT. You can then record the answers by participants (on ratification of human rights instruments) directly on this chart. When that exercise is completed you can distribute the same TM no. 48, but a version that is on normal paper size and on which you have already filled in the information on ratifications by that country. If your office doesn’t have this information, you will be able to find it in RefWorld,

or at <http://www.unhcr.ch>. You may also wish to create a shorter list of international and regional instruments, than the one provided above.

6. Pre-select the most appropriate case studies to be used during the training and translate them, if necessary. Ensure you also translate the other documents participants will need to do the case studies (e.g. the refugee definition, and TM no. 60). If you choose to provide them with the text of CEDAW or UDHR, official translations of these are most likely available from public sources. The advantage of using TM no. 60 to assist with the case studies, is that the latter already contains a pre-selection of the most relevant provisions (to women) from diverse human rights instruments.

If you feel that the case studies provided in the Kit are not well suited to the refugee caseload in your country, or are not appropriate for other reasons, prepare cases from your context. Insert these in the binder of this Kit (in the section 'Training Materials', under 'Additional Materials') so that they may serve for future sessions too.

7. If you feel that the participants could benefit from being introduced to key terms and concepts used in international human rights law, provide them with the glossary provided in Part I of this chapter. Include it in a participant's package or place it on their tables during the coffee break.

Facilitator's Notes

1. Presentation 1: on key reasons why human rights instruments specific to women were considered necessary, and also to introduce CEDAW and DEVAW.

- (i) **For the first part of the presentation**, i.e. on why human rights specific to women were necessary, much of the information you are likely to need is contained in Part I of this chapter in "The International Human Rights Framework: The link with refugee protection and women's rights", para 4.1. For your convenience, some of the main points contained in that paper are summarised below, though you may need to refer to the reading to grasp the full meaning of these. Note that in addition, TMs (e.g. OHT, PPP) corresponding to this information are also available. Please see the list of TMs at the end of this session module.

⇒ **In principle**, women's rights are protected alongside those of others in major international human rights instruments. Indeed, the principle of non-discrimination, a fundamental rule underlying human rights law and embodied in the UN Charter, ascribes rights and freedoms to everyone without discrimination, including on the basis of sex.

⇒ **However**, there was a consensus in the international community that the rights of women were not being adequately addressed by the existing international human rights framework. This was so for some of the following reasons:

- The existing framework reflected and was developed from a masculine worldview, without sufficient consciousness of the needs of women;
- International human rights bodies have tended to ignore the application of human rights norms to women;
- The norm of formal non-discrimination on the basis of sex is insufficient to achieve equality (what is necessary is equality of outcome);
- The failure to address injustices in the private sphere (including lack state measures to rectify the situation and provide protection to women);
- The perceived conflict between women's rights and culture or tradition (with women's rights often being sacrificed for the sake of the latter);
- Women were adversely affected by the focus on "classical human rights", i.e., civil and political rights (as opposed to economic, social, and cultural rights).

⇒ **As a result** of the consensus that the existing international human rights framework did not ensure the rights of women, the UN General Assembly adopted CEDAW in 1979.

- (ii) **For the second part of the presentation** relating to CEDAW, the Optional Protocol and DEVAW, some of the essential points you may wish to mention, are provided in point form

in Training Session 7 (facilitator's notes). These are drawn from the materials in Part I of this chapter, and have corresponding TMs, the list of which is also available at the end of this session module.

2. Presentation 2: on the links between human rights, refugee protection, and gender-related asylum claims. For this presentation one may draw upon various materials included in this Kit: the UNHCR Policy on Human Rights; the UNHCR Training Module on Human Rights and Refugee Protection, RLD 5, pp. 169-175; the UNHCR Guidelines on Gender-Related Persecution (2002), or the paper "The International Human Rights Framework" contained in this chapter, paras., 5-5.4 and 6-6.5. The following summary points are drawn from the latter, for your convenience (and they are also available in the form of TMs, see the list at the end of this module):

(i) **International human rights and refugee law:**

- Human rights are an integral dimension of refugee law. There is a direct link between the two as refugees have become refugees through the disregard of these rights in their country of origin. Human rights violations are also the reason why they sometimes cannot return or successfully reintegrate.
- Moreover, international human rights instruments also play a pivotal role in the protection of refugees. They:
 - Reinforce existing refugee law and protect against *refoulement*;
 - Guide us in the application/ interpretation of the 1951 Convention;
 - Provide general standards for the treatment of refugees and asylum seekers;
 - Provide benefits of quasi-judicial and judicial implementing bodies (e.g., European Court of Human Rights).

(ii) **Gender-related asylum claims:**

As a matter of international law, refugee women are entitled to the same kind of protection as all other refugees. However, in practice, asylum seeking and refugee women often face a number of disadvantages in obtaining international protection, including an unwillingness to recognise women as a particular social group and unequal access to procedures. In response UNHCR has taken a number of initiatives including the establishment of the positions of Senior Co-ordinator for Refugee Women and Legal Advisor, and the issuance of several relevant guidelines and training modules, as well as the adoption of related ExCom Conclusions. (Source: adapted from UNHCR, Human Rights and Refugee Protection: Part II, Training Module RLD 5, 1995, pp. 171-172).

(iii) **International human rights instruments specific to women, such as CEDAW and DEVAW, make important contributions to our work with refugee women and gender-related asylum claims. They:**

- **Provide a framework** for carrying out protection and assistance activities related to refugee women, including the interpretation of the 1951 Convention;
- **Confirm** the view that many gender-related claims are related to membership in a "**particular social group**" specific to women. Indeed, CEDAW and DEVAW articulate the extent and pervasiveness of discrimination and gender-based violence, and the forces that maintain them;
- **Provide definitions** for important terms such as "discrimination" and "gender-based violence", and characterise these practices as violations of human rights. This is helpful in order to understand the different forms that gender persecution can take;
- **Reject and deconstruct the public/ private divide:** CEDAW and DEVAW impose a positive duty on states to intervene in what was traditionally considered the "private sphere" (i.e., the domestic sphere and the family); the context in which many women suffer violence and oppression, sometimes amounting to persecution;
- **Reject the argument of cultural relativity** as it has been applied to the human rights of women. This approach should facilitate the analysis of certain gender-related asylum claims, since it makes clear that this argument cannot be used to nullify women's human rights (e.g., in the case of FGM, forced marriages, dress code);

- **Spell out the specific obligations of the state**, thereby making it easier to identify the failures of the state *vis-à-vis* the protection of women's rights. (The above have been excerpted from the paper, "The International Human Rights Framework", para. 6.5, contained in Part I of this chapter.)

3. With regard to the case studies, these should be selected and the answers to the questions prepared in advance. You may also wish to note key issues that you will want to discuss or highlight during the discussion. The TM no. 60 "Women's Human Rights: Your Human Rights and the Laws that Protect Them" can be useful to help you quickly prepare the answers to the case studies, especially for identifying which human rights were violated.

In addition to the case studies listed below, you may also use case studies associated with the training sessions in chapter 5 on RSD. If you decide to use these, simply have participants analyse the case in terms of the possible human rights violations that may be at issue, omitting questions intended for the RSD training.

Finally, you may wish to point out to participants that the case studies for this chapter which include citations of legal provisions, are in fact **real provisions in force** in given countries, even though the names of those countries have been deleted for the purposes of this Kit.⁴⁶

Materials

Equipment: Flipcharts, markers, overhead projector, and computer if you wish to make a power point presentation.

Training Materials: (Handouts/ OHT/PPP)

TM no. 47: Training Session 10:International Human Rights & Refugee Protection: the gender dimension: Objectives	Handout/OHT/PPP
TM no.48: Worksheet-Convention Profile: Where Does My Country Stand?	Handout/OHT
TM no. 49: Why were human rights instruments specific to women necessary?	Handout/OHT/PPP
TM no. 50: Why were human rights instruments specific to women necessary? (cont'd)	Handout/OHT/PPP
TM no. 51: CEDAW	Handout/OHT/PPP
TM no. 52: CEDAW (cont'd)	Handout/OHT/PPP
TM no. 53: The Optional Protocol to CEDAW	Handout/OHT/PPP
TM no. 54: DEVAW	Handout/OHT/PPP
TM no. 59: Refugee Definition	Handout/OHT/PPP
TM no. 55: International Human Rights and Refugees	Handout/OHT/PPP
TM no. 56: International human rights play role in protection of refugees	Handout/OHT/PPP
TM no. 57: Gender-Related Asylum Claims	Handout/OHT/PPP
TM no. 58: International human rights instruments make contributions to gender-related asylum claims	Handout/OHT/PPP
TM no. 60: Women's Human Rights: Your Human Rights and the Laws that Protect Them	Handout

Case studies

TM no. 63: Case Study 1: Rights of Refugee Women in their Country of Asylum	Handout-FV
TM no. 64: Case Study 2: Domestic Violence	Handout-FV
TM no. 65: Case Study 3: Honour Killings	Handout-FV
TM no. 66: Case Study 4: Travel	Handout-FV
TM no. 67: Case Study 5: Marriage/ Divorce/ Obedience	Handout-FV
TM no. 68: Case Study 6: Adultery / State Sanctions	Handout-FV
TM no. 69: Case Study 7: Ordinance on Women's Rights and Duties	Handout
TM no. 70: Case Study 8: Gender-Based Persecution: for UNHCR Protection Staff	Handout

Note: Many of the case studies listed above indicate that they are the facilitator's version (FV, which should be adapted for use by participant). This may easily be done by simply deleting the titles of the

⁴⁶ The legal provisions cited in some of the case studies associated with chapter 3 in this Kit, have been reproduced (and adapted for the purposes of deleting identifying information on specific countries), from the following publication: *Equality Now*, "Words and Deeds: Holding Governments Accountable in the Beijing + 5 Review Process", Women's Action 6.1, July 1999.

case studies so that participants are not influenced by suggestive descriptions such as “honour crimes”, or “forced marriage” etc.

You may also adapt and use case studies available in chapter 5 on RSD (in order to adapt these simply replace the questions focusing on RSD with questions such as those used in the case studies in this chapter). These are listed in the “Training Materials” section (the loose-leaf pages) of the binder of this Kit. Alternatively, you may refer to the list of case studies in the Training Sessions in chapter 5 itself.

Documents/ materials to distribute:

1. Selected international human rights instruments (e.g., CEDAW, UDHR, DEVAW). For the full text of CEDAW and DEVAW see the “Reference Section” in this Gender Handbook (you can photocopy these from there or you can print them from the same section in the CD-ROM).
2. A completed version of TM no. 48, “Worksheet-Convention Profile: Where does my country stand?”
3. Certain papers in Part I of this chapter, which you think participants may find useful, such as:
 - The Glossary
 - The Overview of CEDAW, the Optional Protocol and DEVAW.
 - The relevant excerpt from: UNHCR, *Human Rights and Refugee Protection Part II: Specific Issues*. Training Module RLD 5, UNHCR, Geneva, June 1996. Pages 169-170 on Women.
 - Gender Briefs: on Justice and Human Rights (UNDP)
 - I. National Legislation and Legal Rights
 - II. International Human Rights Obligations-Monitoring and Reporting
 - III. Protection and Complaints Mechanisms
 - The paper “The International Human Rights Framework: the link with refugee protection and women’s rights.”

And also: TM no. 42 “Selected UN Human Rights Conventions” or TM no. 44 “Selected International and Regional Human Rights Instruments”.

Training Session No. 11

Session Title: Rights and protection of refugee women.

Target Group: up to 20 participants from NGOs and other organisations providing legal services to refugees. May also be appropriate for government, UNHCR and NGO staff involved in either legal counselling or camp/reception centre management.

Time Duration: 1 day

Session Objectives:

- To raise awareness of women's human rights and related international instruments
- To raise awareness of SGBV as a human rights issue
- To increase knowledge of the links between human rights, refugee law and gender-related asylum claims
- More specifically, to highlight how gender-related asylum claims should be viewed within the framework provided by international human rights instruments, including those specific to women
- To highlight the rights violations and gender-related problems experienced by refugee women in their country of asylum, as well as possible approaches to addressing these
- To increase knowledge about guidelines and good practices for gender sensitive legal services to refugees.

Session Outline

1. The morning session, up to the lunch break, is the same as in the previous Training Session no. 10. Please review that session as well as the accompanying preparation and facilitator's notes related to those morning activities. However, ensure you use TM no. 61, which corresponds to today's session objectives.
- 2. Lunch Break (1 hour)**
3. Introduction to this afternoon's theme: The rights of refugee women in their country of asylum (see facilitator's notes). (15-20 mins).
4. Plenary Discussion: (25 mins)
Ask participants the following questions, and have a participant record all new responses on a flip chart (see facilitator's notes):
 - (a) In their experience, what gender-specific issues and problems do refugee women have in their country of asylum and their particular refugee setting (i.e., city/ camp/ reception centres)?
 - (b) How has your organisation dealt with and assisted women with some of these issues?
5. Case Study Exercise: (20 mins)
Distribute the case study corresponding to TM no. 63 and ask participants to read it on their own for 5 mins. Then, in groups of 4-5, ask them to discuss and answer the questions at the end of the case study.
6. Feedback in plenary by rapporteur for each group (5 minutes each). (20 mins)
7. Discuss the results briefly, adding any relevant points not already mentioned. (10 mins)
- 8. Coffee/Tea Break (15 mins)**
9. Group Brainstorming Exercise: (30 mins)
Distribute TM no. 62 and ask participants to also use the other materials (used for the case studies) distributed in the morning session (especially TM no. 60). In groups of 4-5, they should answer the questions in that exercise.
10. Feedback in plenary by group rapporteurs: (35 mins)
Each group has 7 minutes to report their answers, mentioning only those elements not

already brought up by other groups.

11. Discussion of results of exercise in plenary. (15 mins)
12. Plenary discussion led by facilitator on the following: (see facilitator's notes). (20 mins)
Question: How can we make our legal services more gender sensitive?
 Ask a participant to record answers and issues discussed on a flip chart (see facilitator's notes). If you wish, you may distribute the following papers: "Proposed Guidelines for Gender Sensitive Legal Clinics and Other Legal Aid Providers", and/or "Minimum Standards for Gender Sensitive Asylum Procedures", mentioned below.
13. Summary of key issues and themes: draw on the responses, observations and results of the group exercises as much as possible. (10 mins)
14. Closing of session. (5 mins)

Suggestions on Preparation

1. Regarding the preparations necessary for the morning session of this training, please see this section in Training Session 10.
2. The readings in this chapter are essential for preparing this session, as are the following:
 - "Minimum Standards for Gender Sensitive Asylum Procedures", available in Part I of chapter 5;
 - "Proposed Guidelines for Gender Sensitive Legal Clinics and Other Legal Aid Providers", available in the Gender CD-ROM to this Kit (under 'Miscellaneous and Related Papers')
3. The following readings are also recommended:
 - International Women's Tribune Centre, *Rights of Women: A Guide to the Most Important United Nations Treaties on Women's Human Rights*, New York, 1998.
 - UNHCR, *Human Rights and Refugee Protection: Part I: General Introduction*, Training Module, RLD 5, Training with UNHCR Series, Geneva, October 1995.
4. Prepare the case studies and exercises in advance, including with answers and interesting questions of your own that will stimulate the discussion.
5. If you feel that the case studies provided in the Kit are not well suited to your context, prepare others based on realistic situations your participants may have to face. Insert these in the binder of this Kit, under the TRAINING MATERIALS section, in "Additional Materials" so that they may serve for future sessions too.
6. Ensure that all the TMs required for this session have been photocopied and translated, if necessary. These may include case studies, exercises, and related documents, as well as documents for distribution.
7. Participants should not exceed 20 persons, should be familiar with the 1951 Convention definition of a refugee and, if possible, be at a similar level with regard to their knowledge of refugee issues and human rights.

Facilitator's Notes

1. For facilitator's notes for the morning session, see Training Session 10.
2. Introduction to this afternoon's theme: **The rights of refugee women in their country of asylum.** On this topic you may wish to highlight the following points (also see UNHCR training module on Human Rights, RLD 5, Part II, pp 174-177, included in Part I of this chapter):
 - ⇒ Refugees have the **same basic (core) human rights** as nationals;
 - ⇒ Refugee women have the same right (as women nationals) of non-discrimination mentioned in international human rights instruments and in CEDAW;
 - ⇒ **But in practice**, they often face a number of **disadvantages**. For example:

- unequal access to RSD procedures (e.g. tendency of refugee men to be principal applicants even when a woman has a potential claim of her own; possible lack of female interviewers and interpreters);
- identity and registration documents, and other documents essential for access to services and assistance are sometimes provided only to (or only bear the name of) the male head of the household/principal applicant, thus making the woman more dependant and vulnerable;
- a lack of understanding of gender-related asylum claims, and a reluctance by those undertaking RSD to recognise such claims;
- in many refugee settings, refugee women and girls are especially vulnerable to abuse and violations of their rights;
- in particular, they are at increased risk of SGBV such as, domestic violence and sexual assault, as well as exploitation;
- they generally have greater responsibilities for care of children and older family members;
- they often have less time and resources than men (due to family duties for example), and may be more isolated and less experienced in dealing with officials and bureaucratic procedures;
- women often have less information and less opportunity to exercise and enforce their rights;
- due to some of the above reasons or for cultural reasons, they may not be as proficient in the language of the country of asylum, as men;
- women and girl refugees often bear the brunt of problems resulting from differences in cultural (or religious) values; these may manifest themselves in the form of family violence, and attempts to maintain traditional practices considered harmful, illegal or socially unacceptable in the country of asylum (or according to international human rights standards). This could include for example, FGM, forced marriages, strict segregation of females and males in all areas of life.

⇒ **Hence**, the need to make a special effort to:

- make direct contact with refugee women, so that you may provide counselling and information directly to them;
- ensure legal services are gender sensitive and take into account their particular needs and problems;
- provide them with support at all stages. This includes at the level of advocacy, information dissemination, access to procedures, exercise of their rights, and when necessary, enforcement of rights.

3. Plenary discussions on: **“What types of gender-specific issues and problems do refugee women face** in the country of asylum and in their refugee setting (i.e., city/camp/reception centres) ?

(i) Possible answers could include:

- Some of the examples mentioned above, in point 2;
- Issues related to the RSD procedure, such as lack of female interpreters; lack of awareness about how their experiences may relate to an asylum claim;
- Lack of child care and family/social support (for example, to take care of the children so that they may receive legal counselling, attend RSD interviews and other appointments, work, attend vocational or language courses);
- All types of SGBV, including domestic violence (i.e., violence in the home by intimate partners or family), and sexual assault, including rape. The conditions in many refugee settings put women and girls at increased risk of sexual violence, which in addition to the above may also include sex through coercion by persons in authority, and ‘sex for survival’ – the UNHCR Code of Conduct may be relevant to mention here (see chapter 4);
- Reproductive health issues (the entire responsibility for these issues is often carried by women);
- Difficulties in negotiating certain legal issues, such as, marriage, divorce, custody of children, and other civil or criminal matters. Particular problems may relate to: lack of available time, knowledge, resources and skills to undertake these; lack of required documents (which may be held by the man, or be “attached” to him, or which the woman was not able to bring with her to the country of asylum);

- Little or no access to educational and work opportunities. Even if these are permitted by law and accessible in theory, women are often limited by family duties, the lack of affordable child care, and by cultural or other barriers, to taking on certain types of jobs. Free and gender sensitive legal services which take the above into account are therefore essential to assist them in securing their rights.
- (ii) When asking participants: **How has your organisation dealt with and assisted women** with some of these issues? Some answers could include the following:
- conducting advocacy efforts for more rights or more gender sensitive legislation (by commenting on draft legislation or lobbying relevant authorities for legislative changes);
 - supporting women on legal issues, such as marriage, divorce, child custody, and in taking cases to court (e.g., criminal cases);
 - implementing gender sensitive procedures and guidelines within their own organisations;
 - conducting legal awareness and sensitisation campaigns on relevant gender issues for police, law makers, judges, relevant ministries, and persons dealing with camp management, or providing counselling services;
 - production of information leaflets and awareness campaigns for refugee women on their rights;
 - providing trainings for refugee women on their rights and on the practical skills/knowledge required for accessing and exercising these rights;
 - enlarging their network by making links with local women's groups, such as the women's section of the local Bar Association, women's crisis centres and shelters (these organisations may be willing to include assistance to refugee women as part of their activities/ mandate);
 - their services and programmes take into account women's family responsibilities (e.g., flexibility of hours for consultations), as well s their particular limitations and needs.
4. Plenary discussion: **How can we make our (legal) services more gender sensitive?** The paper "Proposed Guidelines for Gender Sensitive Legal Clinics and Other Legal Aid Providers" (available in the Gender CD-ROM), may assist you in preparing for this discussion. Key points, which were drawn from this paper, and which you may wish to highlight include:
- (i) Taking into account gender issues with regard to:
- **Pre-procedural issues**, such as access to the territory and RSD procedures, detention, and access to legal aid;
 - **The RSD procedure and appeals**. This may include: a gender sensitive protocol for interviewing; availability of female counsellors and interpreters; information on RSD provided also to women; organisational capacity to respond to urgent needs; prioritising of legal counselling for vulnerable women; being knowledgeable on women-specific country of origin information and also on gender-related asylum claims;
 - **Post procedural issues**, such as integration rights, voluntary repatriation and deportation;
 - **The organisation's standards** and ethical/professional responsibilities. For example, the standards and services should take into account the specific legal needs and concerns of female clients, such as with regard to confidentiality and availability of female staff. The organisation's code of ethics should also reflect a commitment to the principle of gender equality and to services founded on this principle. Organisations may develop information materials for women, and employ qualified and trained female staff capable of providing gender sensitive services;
 - **Internal policies, procedures and referral mechanisms**. For example: confidentiality must be guaranteed to female clients *vis-à-vis* their husband and other family members; vulnerable women may be accorded priority in scheduling legal services and follow up; mechanisms may be put in place for receiving feedback by female clients; and referral systems may be established to assist clients in obtaining psychological/social counselling, emergency assistance, including shelter, or other such services;
 - **Reporting practices, evaluations and monitoring**. For organisations with reporting responsibilities, gender-age disaggregated statistics should be provided with regard to services rendered. This information may be valuable for planning purposes, fundraising,

and identifying the needs of the organisation as well as clients. The gender aspects of an organisation's work, may also be subject to evaluation and monitoring by management, funders or other interested parties.

- If you feel that the participants could benefit from being introduced to key legal terms and concepts used in international human rights law, provide them with the glossary available in the readings at the beginning of this chapter. Include it in a participant's package or place it on their tables during the coffee break.

Materials

Equipment: Flipcharts, markers, overhead projector, and computer if you wish to make a power point presentation.

Training Materials: (Handouts/ OHT/PPP)

TM no. 61: Training Session 11: Rights and Protection of Refugee Women : Objectives	Handout/OHT/PPP
TM no.48: Worksheet-Convention Profile: Where Does My Country Stand?	Handout/OHT
TM no. 63: Case Study 1: Rights of Refugee Women in their Country of Asylum	Handout-FV
TM no. 62: A Group Brainstorming Exercise: Refugee Women in the Country of Asylum	Handout
TM no. 49: Why were human rights instruments specific to women necessary?	Handout/OHT/PPP
TM no. 50: Why were human rights instruments specific to women necessary? (cont'd)	Handout/OHT/PPP
TM no. 51: CEDAW	Handout/OHT/PPP
TM no. 52: CEDAW (cont'd)	Handout/OHT/PPP
TM no. 53: The Optional Protocol to CEDAW	Handout/OHT/PPP
TM no. 54: DEVAW	Handout/OHT/PPP
TM no. 55: International Human Rights and Refugees	Handout/OHT/PPP
TM no. 56: International human rights play role in protection of refugees	Handout/OHT/PPP
TM no. 57: Gender-related asylum claims	Handout/OHT/PPP
TM no. 58: International human rights instruments make contributions to gender-related asylum claims	Handout/OHT/PPP
TM no. 60: Women's Human Rights: Your Human Rights and the Laws that Protect Them.	Handout

Case Studies

TM no. 64: Case Study 2: Domestic Violence	Handout-FV
TM no. 65: Case Study 3: Honour Killings	Handout-FV
TM no. 66: Case Study 4: Travel	Handout-FV
TM no. 67: Case Study 5: Marriage/ Divorce/ Obedience	Handout-FV
TM no. 68: Case Study 6: Adultery / State Sanctions	Handout-FV
TM no. 69: Case Study 7: Ordinance on Women's Rights and Duties	Handout
TM no. 70: Case Study 8: Gender-Based Persecution: for UNHCR Protection Staff	Handout

You may also : select some case studies from those available in the Training Sessions in chapter 5. These are listed at the end of each Training Session module as well as in the entire list of TMs provided in the TRAINING MATERIALS section (the loose-leaf pages) of the binder of this Kit.

Note: While many of the case studies mentioned above indicate FV (for facilitator's version), in fact they do not generally need to be adapted for use by participants in this instance – this will only be necessary if you wish to use these same case studies for the RSD trainings.

Documents/materials to distribute:

- Selected international human rights instruments (e.g., CEDAW, UDHR, DEVAW). The full text of CEDAW and DEVAW are available in the "Reference Section" in this Gender Handbook.
- A completed version of TM no. 48, "Worksheet: Convention Profile: Where does my country stand?"
- Certain papers in Part I of this chapter which participants may find useful, such as:
 - The Glossary;
 - The Overview of CEDAW, the Optional Protocol and DEVAW;



- The relevant excerpt from: UNHCR, *Human Rights and Refugee Protection Part II: Specific Issues*. Training Module RLD 5, UNHCR, Geneva, June 1996. Pages 169-170 on women.
- Gender Briefs: on Justice and Human Rights (UNDP)
 - I. National Legislation and Legal Rights
 - II. International Human Rights Obligations-Monitoring and Reporting
 - III. Protection and Complaints Mechanisms
- The paper “The International Human Rights Framework: the link with refugee protection and women’s rights.”
- And also: TM no. 42 “Selected UN Human Rights Conventions” or TM no. 44 “Selected International and Regional Human Rights Instruments”.



Chapter 4



Sexual and Gender-Based Violence

In this Chapter:

Introduction

Part I: Background Readings

- Lessons Learned: A Multi-Sectoral Approach (Excerpt from: Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations) UNHCR
 - Global overview of sexual and gender-based violence
 - A framework for prevention and response
 - Lessons learned: by sector
 - Refugee Community ▪ Community Services
 - Health ▪ Protection ▪ Security
- Lessons Learned: cross-cutting issues
 - Co-ordination ▪ Monitoring and Evaluation ▪ Prevention
- Prevention: Male Involvement
- Sexual Violence against Refugees: Guidelines on Prevention and Response(excerpt),UNHCR
 - Sexual violence in the context of refugees
 - Practical guidelines on responding to incidents
 - Legal aspects of sexual violence
- Domestic Violence Against Women and Girls (UNICEF)
- Strategies to Eradicate Harmful Traditional Practices, UNHCR
- Female Genital Mutilation
- Code of Conduct, UNHCR
- Annexes
 1. Checklist for Sexual Violence Programme
 2. Guidelines for Community-Based Response and Prevention Activities: Sexual and Gender-Based Violence
 3. Sexual Violence Incident Report Form
 4. Model for Counselling Victims of Sexual Violence
 5. Emotional Care for Survivors of Sexual Assault
 6. Physical Shock Symptoms of PTSD

Part II: Training Sessions

- Training Session No. 12: An Introduction to SGBV: Concepts and Approaches
- Training/Workshop Session No. 13: Defining and Addressing SGBV in Refugee Settings: Prevention and Response
- Training/Workshop Session No. 14: Designing and Implementing an Integrated Strategy and Action Plan for Addressing SGBV in Refugee Situations.

Links

Available in **Gender CD-ROM** in this Kit, full text of:

- *Domestic Violence against Women and Girls*, Innocenti Digest, May 2000, produced by The UNICEF Innocent Research Centre, Florence, Italy. Web-site: www.unicef-icdc.org
- UNHCR Guidelines on Sexual Violence (1995)
- UNHCR Guidelines on Protection of Refugee Women
- UNHCR Policy on Refugee Women (also available in chapter 2, Theme 1)
- Full text of DEVAW, and ExCom Conclusion no. 73 “Refugee Protection and Sexual Violence” provided in the Reference Section in this Gender Handbook (and in Gender CD-ROM)

Related Background Readings:

- Chapter 2: in Theme 1: “Refugee Women”, (Global Consultations)
- Chapter 2: in Theme 3: all readings in Part I
- Chapter 3: “Addressing Cultural Relativism”, in Part I
- Chapter 5: “Sexual Violence and Refugee Status Determination” and UNHCR Guidelines on Gender-related Persecution.
- Chapter 6: all readings in Part I

Related Training Sessions: The following may be used for the purposes of / or in combination with trainings on SGBV:

- Training Sessions no. 1, 2, and 6 in chapter 2 on Gender Concepts and Strategies;
- The Training Sessions in chapter 3 on Women's Human Rights and particularly sessions 7-9
- The Training Sessions in chapter 6 on Interpreting and Interviewing in a Refugee Context.

Tools relating to SGBV

- TM no. 95: Checklist for Responding to an Incident of Sexual Violence
- TM no. 96: Practical Guidelines on Responding to Incidents of Sexual Violence
- TM no. 97: Sexual Violence Needs Assessment and Programme Framework

Related Training Materials (TMs), see in the binder (loose-leaf pages) of this Kit:

- On Gender Concepts and SGBV: TM nos. 2-6, 9-11, 30-41 (on male violence)
- On Human Rights and SGBV: TM nos. 54, 57, 58, 62-65 (case studies)
- On RSD and SGBV: TM nos. 109, 114, 116, 119, 122, 123, 138, and related case studies in TM nos. 140-141, 143-144, 146, 150-152.
- On Interpreting & Interviewing and SGBV: TM nos. 160-171, and role-plays in TM nos. 173-176

Introduction

Many excellent materials by a variety of organizations exist on the general topic of sexual and gender-based violence (SGBV). In this chapter, we have included a UNICEF paper on domestic violence against women and girls which provides those looking for an introduction on the topic with a good overview of the different types of gender-based violence, most of which take place within the confines of the home. The remainder of the background readings in this chapter, however, focus on UNHCR materials specific to the refugee context. The aim is to provide readers and trainers with some of the basic concepts underpinning discussion on this topic, as well as the major UNHCR documents, guidelines and policies, and the more recent “multi-sectoral” approach to this issue. This approach is well explained in *Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations: Inter-Agency Lessons Learned Conference Proceedings*, UNHCR, (March 2001). We have reproduced essential sections of this publication in this chapter, such as a global overview of the situation, the role of gender-based violence during the life cycle and refugee cycle, and an explanation of the multi-sectoral approach to the problem. Also reproduced are summaries of lessons learnt on the subject (by sectors, e.g., refugee community, protection, security, and health), cross-cutting issues such as co-ordination and monitoring, and finally, different aspects of prevention including male involvement, the adoption of a code of conduct and ensuring access to resources.

UNHCR adopted its own Code of Conduct as of September 2002, which we were able to also include in this chapter. Amongst other things, this Code addresses the important issue of sexual abuse and exploitation and provides standards of conduct for those working with refugee populations and other persons of concern. At the time of writing, an *Introductory Training Manual on Gender-Based Violence, including Sexual Exploitation* was being developed in West Africa by UNHCR which was expected to be finalized by the end of 2002. This Manual will therefore provide an important complement to this Kit and the trainings in this chapter (which do not cover the sub-topic of sexual exploitation), and once available, should be, if possible, inserted in the binder of the Kit (in Section V. New Policies and Reference Documents, at the back of the TRAINING MATERIALS, which are the loose-leaf pages in the binder).

Other documents included in Part I of this chapter include excerpts from the UNHCR sexual violence guidelines, *Sexual Violence against Refugees: Guidelines on Prevention and Response* (1995). These Guidelines were in the process of being updated while this Kit was being finalized and are expected to only be available in 2003. However, we expect that these new Guidelines will *complement* the readings in this chapter rather than render them obsolete. For example, the new Guidelines are expected to stress a multi-sectoral approach to the issue – an approach which, as mentioned above, we already cover in other readings in this chapter. Moreover, the excerpts which we have reproduced from the current Guidelines are sufficiently generic that they are not likely to be contradicted by the new Guidelines. Once available, however, these new Guidelines will constitute an important document which trainers and other persons working in this field will need to be familiar with and disseminate. Materials on harmful traditional practices, including female genital mutilation, have also been included as part of the readings in this chapter, as have some practical working tools such as checklists, an incident report form, and user-friendly charts providing concise information on counselling tips, emotional care for survivors, and post-traumatic stress disorder (PTSD) -which have all been included in the form of annexes.

In addition to the above-mentioned background readings in Part I of this chapter, both the Gender CD-ROM and other sections in this Kit include other relevant materials. For example, the Reference Section in this Handbook includes the full texts of the Declaration on the Elimination of all Forms of Violence against Women (DEVAW), and relevant ExCom Conclusions (especially no. 73) which are key international documents on the issue. The readings in chapter 2 (Theme 3) relating to male involvement would also be excellent readings to add to the list, as would be the short piece on “Sexual Violence and Refugee Status Determination” and the relevant parts of the new UNHCR Guidelines on Gender-Related Persecution available in chapter 5. Details on related documents and readings, as well as training sessions which can be found in other sections of this Kit are provided under the rubric “Links” in the table of contents at the beginning of this chapter 4.

Three training sessions have been provided in this chapter. While the topic of SGBV is sufficiently important and broad enough to merit a training on its own, it is also an issue which may be successfully and usefully combined with trainings on other topics such as a refugee status determination, women’s human rights, male involvement in gender issues, and interviewing techniques. Indeed, in many instances, it is fundamental to have an understanding of SGBV before

one can proceed to properly address these other topics. Training Session no. 12, which provides an introduction to the issue, the relevant concepts (e.g. what is 'violence', 'force', 'abuse', 'SGBV'; what are the causes and consequences of SGBV, who is especially vulnerable to it, UNHCR's position etc.), and approaches to address it could thus be condensed and provided as a half-day training to be followed by one of the other topics mentioned above. The other two training sessions proposed in Part II of this chapter were inspired by the draft (December 2000) UNHCR, *Sexual and Gender-Based Violence Prevention and Response: Situation Planning Workshop*, and aim to develop an understanding of the multi-sectoral approach and the practical skills necessary to prevent and respond to SGBV in refugee situations, including how to conduct a situation analysis, and design and implement a strategy or action plan for this purpose. As pointed out in a note to trainers at the beginning of Part II, these three trainings can be conducted as individual and distinct one-day trainings (option one), or as a comprehensive three-day training and workshop where each training (beginning with Training Session no.12) session builds on the previous one (option two). Instructions are provided in the training sessions themselves on how to proceed with either option one or two.

All three training sessions target a mixed audience of UNHCR, government and NGO staff working in different sectors, such as protection, security, community services, and health. The last two training sessions (i.e., no. 13 and 14) include all of these actors and sectors, as well as (women and men) representatives from the refugee community, local women's organizations, representatives from the field, and camp/reception center management. This mix of participants and sectors will allow participants to learn about SGBV from different perspectives, and to apply more effectively a multi-sectoral approach during the practical exercises. Including and involving men and women representatives from the refugee community is critical not only to provide an accurate situation analysis but also to any effective programme or measure to address this topic. In addition to involving these various actors and refugees themselves (of varying age groups) in such trainings, it is also important not to underestimate the importance of tailoring trainings on this sensitive topic to suit the specific refugee context, setting, refugee profile, and proposed aim of the training event. The bibliography provided in the Reference Section (at the end) of this Handbook provides references for further readings and trainings which will assist facilitators in adapting trainings to different contexts. The importance of co-ordinated action and exchange of information between the various actors on the issue, including the possible contributions of other UN organizations such as UNICEF and WHO, should not be underestimated either. Training events should therefore also include the learning and exchange of best practices and strategies between different groups and organizations on this issue, especially given the quick pace of developments in this area, even if progress on the ground is not always as speedy.

Perhaps most important of all however, is ensuring first and foremost that trainings impart a sensitivity and understanding of the phenomena, concepts and dynamic of SGBV. This includes having an understanding of its underlying causes, its cyclical nature throughout a woman's life, its function as an oppressive force, and as a practice violating or rendering null some of the most basic human rights of women – with severe consequences not only to them but also to their children, their families and the community/society as a whole. Sexual and gender-based violence is not about sex, it is about power. This broader conceptual framework, which must be addressed from the beginning, is really at the core of the issue and is indispensable for a proper comprehension and sensitivity to the problem, as well as the capacity to establish programmes to prevent and respond to it. In addition to the three training sessions discussed above, trainers should also consult the "Links" in the table of contents at the beginning of this chapter for related training sessions in other chapters in this Handbook which can be used with or as SGBV trainings as such. The links will also provide information on many related training materials (TMs) which correspond to other chapters and topics but also address SGBV in some manner.

Sexual and Gender-Based Violence

Part I **Background Readings**

Lessons Learned: A Multi-Sectoral Approach

Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations¹(excerpts)



GLOBAL OVERVIEW OF SEXUAL AND GENDER-BASED VIOLENCE

Sexual and gender-based violence is a violation of basic human rights and a criminal act in most countries. Sexual and gender-based violence carries serious health and psychological consequences, and often death.

Sexual and gender-based violence can occur in the home, in the community, and in the culture. Forms of sexual and gender-based violence include physical, sexual, and psychological abuse, such as:

- Non-consenting sexual acts
- Rape
- Forced marriage
- Involuntary prostitution
- Sex with a minor
- Female genital mutilation
- Domestic abuse
- Sexual harassment

SEXUAL AND GENDER-BASED VIOLENCE

Physical, sexual and psychological violence occurring in the family and in the community, including battering, sexual abuse of female children, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence, violence related to exploitation, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women, forced prostitution, and violence perpetrated or condoned by the state

(Articles 1 and 2 of the UN Declaration on Violence against Women, 1993)

There are many factors contributing to acts of sexual and gender-based violence in any setting. In general, the overriding causes are gender inequity, assertion of power, and lack of respect for human rights. In situations of armed conflict and displacement, women and children face additional risks and vulnerability.

¹. The following text consists in excerpts which have been adapted (significant adaptations are indicated in [] brackets) for the purposes of this Kit from: *Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations: Inter-Agency Lessons Learned Conference Proceedings, 27-29 March 2001, UNHCR, Geneva*. The publication contains detailed sections on 'Issues Faced and Lessons Learned', as well as 'Recommendations', for each of the sectors discussed, namely, refugee community, community services, health, protection and security etc. While we did not reproduce these sections in their entirety in this chapter, they constitute important readings containing valuable messages for the purposes of training, and important information for anyone working in this field. It is highly recommended that readers therefore not rely only on the excerpts contained in this Kit (which have been selected only to provide a summary of the salient issues) but rather obtain the entire publication.

Sexual Violence During the Refugee Cycle:²

Phase	Type of Violence
During conflict, Prior to flight	<ul style="list-style-type: none"> • Abuse by person in power • Sexual battery of women • Sexual violence by “soldiers”
During flight	<ul style="list-style-type: none"> • Sexual attack by bandits, border guards, pirates • Capture for trafficking by smugglers, slave-traders
In the country of asylum	<ul style="list-style-type: none"> • Sexual attack, extortion by person in authority • Sexual abuse of fostered girls • Domestic violence • Sexual attack when collecting wood, water, etc. • Sex for survival
During repatriation	<ul style="list-style-type: none"> • Sexual abuse of women and girls who have been separated from family • Sexual abuse by person in power • Sexual attack by bandits, border guards
During reintegrating	<ul style="list-style-type: none"> • Returnees may suffer sexual abuse as retribution • Sexual extortion in order to obtain legal status

Some Statistics: The Magnitude of the Problem:

- In South Africa, it is estimated that every 83 seconds one woman is raped; only one in twenty of these cases is ever reported to the police (Vetten: 1995);
- More than 90 million African women and girls are victims of female circumcision or other forms of genital mutilation (Heise: 1994);
- "During the armed conflict in Bangladesh in 1971, it is estimated that 200,000 civilian women and girls were victims of rape committed by Pakistani soldiers" (Human Rights Watch);
- "A European Community fact-finding team estimated that more than 20,000 Muslim women have been raped in Bosnia since the fighting began in April 1992" (idem);
- 16-41 percent of women surveyed reported a physical assault by a male partner in an intimate relationship in studies conducted between 1986-1997 in the following countries: Canada, New Zealand, Switzerland, the United Kingdom, the United States, Cambodia, India, Korea, Thailand, Egypt, Israel, Kenya, and Uganda³;
- 14.8 percent of all adult women said they had been victims of a completed rape. An additional 2.8 per cent said they had been victims of attempted rape;
- At least 60 million girls who would otherwise be expected to be alive are missing from various populations, mostly in Asia, as a result of sex-selective abortions, infanticide or neglect.

² Table developed by Susan J. Purdin, based on the life cycle of violence by Heise, L. Information Source: Sexual Violence Against Refugees: Guidelines on Prevention and Response, Geneva, UNHCR 1995.

³ Heise, L., Elisberg, M. and Gottemoeller, M., 1999. "Ending Violence against Women." Population Reports, Series L, No. 11, Baltimore: Johns Hopkins School of Public Health.

Violence throughout the Life Cycle:

Even though most documentation refers to the different forms of violence affecting women and girls, this does not mean that men and boys are not affected; nor does it fail to recognise that the violence they suffer is no less of a crime.

Phase	Type of Violence
Pre-birth	<ul style="list-style-type: none"> • Sex-selective abortion; battery during pregnancy • Coerced pregnancy
Infancy	<ul style="list-style-type: none"> • Female infanticide; emotional and physical abuse • Differential access to food and medical care
Girlhood	<ul style="list-style-type: none"> • Child marriage; genital mutilation • Sexual abuse by family members and strangers • Differential access to food, medical care and education
Reproductive age	<ul style="list-style-type: none"> • Physical, psychological and sexual abuse of women by intimate male partners and relatives • Forced pregnancies by partner; sexual abuse in the workplace • Sexual harassment; rape • Abuse of widows, including property grabbing and sexual cleansing practices
Elderly	<ul style="list-style-type: none"> • Abuse of widows, including property grabbing and accusations of witchcraft • Physical, psychological violence by younger family members • Differential access to food and medical care

Source: Heise, L.: 1994

Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations
(excerpts continued)

**A FRAMEWORK
FOR PREVENTION AND RESPONSE**

The Context of Gender

Gender-based violence is an integral part of every society in every part of the world. There is no one group, no matter their culture, class, religion or geographical location, that is immune to the devastation of this violence. Gender-based violence is an attack on the fundamental human rights of adults and children alike. It is recognised as a major contributor to global poverty, an accelerator of the HIV/AIDS pandemic and an impediment to the achievement of peace, freedom, and prosperity.

Gender and gender/power relations refer to social constructions of masculinities and femininities. Gender refers to both men and women and the relationships of power, or lack thereof, between them. Gender-based violence is a manifestation of the difference in power relations at its most extreme. For this reason, it is important to recognise that the sexual and gender-based violence equation is made up of a perpetrator, almost always male, a victim, usually female (sometimes they are men and boys), and an act of violence. Yet, very often our responses to sexual and gender-based violence are designed as "women's programmes". To see rape and other forms of gender violence as a "women's issue" ignores gender analysis entirely.

Put simply, gender is one way of putting people into groups and defining a hierarchy that assigns entitlement and superiority to one group over another. These power relations are maintained by and condone violence that inhibits freedom of choice and opportunity for the group assigned the inferior status. Gender-based violence is violence that attempts to establish or enforce gender hierarchies and perpetuate gender inequalities. The bottom line is that gender-based violence is predominately men's violence towards women and children. (Of course, not all men are perpetrators of violence.)

One of the goals when looking at violence from a gender perspective is to see both women and men as potential agents of change in a collaborative partnership. This will require looking at the possible reasons behind violence, how these reasons may vary in different contexts, and how sexual and gender-based violence may be connected to other systems of violence and power. It is important to avoid seeing gender violence only as individual acts by individual men against selected women. Clearly, when all women of a particular ethnic group are targeted for sexual attacks (as in the rape camps established during the war in the Balkans or the systematic rapes that occurred during the genocide in Rwanda) this is a more structured form of gender violence. Even when violence is not a concerted attack against the women of one ethnic group, constant fear when walking home in the dark, collecting firewood or water, or even for some women, simply being in their own homes, are all forms of structural violence that create an atmosphere of fear and inequality.

Research on views of violence according to gender describes how men see gender-based violence as discrete events: "I hit her because she didn't keep the house tidy"; "I raped her because I felt lousy about myself." Women see gender-based violence as a continuing state: "I was always afraid he would hit me"; "I don't know why I took the shortcut through the park, I was always scared to do that". In a sense, even how we perceive gender violence is influenced by gender. For most men, it is personal or individual, while for many women it is structural, ongoing. This difference in view is also an impediment to addressing gender violence.

A comprehensive response includes focusing on the roles of both women and men and generating new knowledge on how this partnership can end violence and work towards gender equality. It is clear that without enabling both men and women to understand their roles and responsibilities in ending violence we will be attempting to resolve this multi-dimensional problem from a vastly limited perspective. A gender analysis is always needed when looking at each of the sectors and searching for cross-sectoral responses if we are to strengthen our approaches in each sector and forge links to develop strategies for eliminating this violence.

Multi-sectoral Framework

International protection is the foundation for programmes and activities to address sexual and gender-based violence. Protection of refugees involves all actors - UN, government, non-government, and the refugees themselves.

A well co-ordinated, multi-sectoral and inter-agency approach can **prevent** sexual and gender-based violence and provide appropriate and compassionate **responses** to survivor needs. Prevention and response includes each sector, every actor (including refugees), UNHCR, NGOs, and the host government. The diagram on this page provides a visual representation of this multi-sectoral framework.

All actors must engage in continuous review and analysis of anecdotal and factual data to discover the causes and contributing factors, and to develop strategies to address the consequences of SGBV for the individual survivor, the family, and the community. This team approach requires referral and reporting systems, co-ordination mechanisms, and engagement of all actors in a collaborative and co-operative effort.

Success of the multi-sectoral approach depends on engagement and action by the refugee community and all actors working with the community to support the design and implementation of solutions.



Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations
(excerpts continued)

LESSONS LEARNED - BY SECTOR

Sectors Include:

- Refugee Community
- Community Services
- Protection
- Security
- Health

[...]

REFUGEE COMMUNITY

The roles and responsibilities of the various actors that make up the community must be clearly defined to avoid duplication and confusion. While community can be defined as the various groups and individuals that are found in a specific location, this section and the following section focus specifically on the three groups of actors at the core of SGBV prevention and response programmes- the refugee community, UNHCR community services and field officers/assistants, and NGOs engaged in community services/ psycho-social programmes.

The refugee community should be at the heart of all SGBV programming activities. Community involvement in decisions that relate to SGBV programmes is essential for successful development and implementation of SGBV prevention and response activities. SGBV programmes implemented in partnership with humanitarian organisations and refugee communities have proven to be more effective, providing compassionate services sensitive to positive cultural trends. The multi-sectoral approach to prevention and response to sexual and gender-based violence strongly recommends that the refugee community be involved during all programme stages: assessment, planning, implementation, monitoring and evaluation.

[...]

Roles and Responsibilities:

- Build and increase knowledge and understanding of gender relations and sexual and gender-based violence within the refugee community;
- Maintain and strengthen existing social support networks;
- Act as awareness-campaign promoters for SGBV prevention and response;
- Support the role of women as equal decision-makers and community leaders;
- Provide safe shelter and immediate emergency assistance to survivors;
- Escort survivors to seek social, medical and legal assistance;
- Ensure the safety of the survivor, the perpetrator, their families, and the community;
- Co-ordinate within the refugee community and with other actors to promote effective SGBV prevention and response activities;
- Advocate for refugee inclusion in decision-making for SGBV programme activities, such as what services to be provided, at what location, what language to be used and by whom;
- Advocate for culturally sensitive SGBV services;
- Advocate for the rights of survivors and for the rights of women in general.

Issues Faced and Lessons Learned [relate to the following] :

- Female Leadership
- Traditional Conflict-Resolution Mechanism
- Safe Place for Survivors to Ask for Help
- Advocacy
- Information-sharing
- Assistance for Perpetrators
- Refugee Committees Against SGBV
- Safety and Security

For details on these, see pp. 9-11 in the original publication.

COMMUNITY SERVICES

Roles and Responsibilities:

UNHCR Community Services

- Build and increase knowledge and understanding of gender relations and sexual and gender-based violence within UNHCR and among other humanitarian aid workers;
- Support the establishment and maintenance of an SGBV database within UNHCR and the implementing agency;
- Ensure safety for the survivor, the survivor's family, and the refugee community;
- Ensure compassionate assistance, emotional support and counselling to survivors;
- Advocate for survivor assistance from within UNHCR and other actors;
- Support the establishment of referral and reporting systems and outreach identification strategies;
- Support the establishment of community-based social support networks;
- Support the inclusion of refugee women in leadership roles and in decision-making bodies;
- Support the inclusion of men in SGBV prevention and response activities;
- Support initiatives that promote the social re-integration of survivors and perpetrators into the community;
- Establish co-ordination bodies within UNHCR, humanitarian organisations and between other actors. Through these bodies, SGBV trends can be analysed and strategies for prevention and response developed;
- Increase the use of UNHCR guidelines and information resources, solicit feedback on revisions and/or additions needed in guidelines and resource materials.

Roles and Responsibilities:

Community Services NGOs

- Receive and review incident reports. Ensure reports are sent to protection officer;
- Ensure survivors' safety and provide compassionate assistance, emotional support and counselling;
- Provide direct emergency material aid to survivors, and advocate on behalf of survivors for assistance from all actors;
- Establish referral and reporting systems; outreach identification strategies, and mobilise the community;
- Establish service-provision facilities (e.g., drop-in centres, safe shelters) with the active participation of the refugee community;
- Conduct awareness campaigns to increase an understanding of SGBV, encourage reporting, and promote refugee participation in programme strategies;
- Build the capacity of community-based awareness campaign promoters;
- Support the existing social support networks in the refugee community;
- Maximise refugee resources (groups, schools, etc.), design and implement strategies for women's empowerment in camp decision-making;
- Design and implement strategies for the social reintegration of survivors and economic assistance for women; partner with national SGBV groups; maintain records and data to monitor SGBV trends, analyse problems, and develop strategies for prevention and response; co-ordinate with other sectors and actors.

Prevention:

Capacity-building with refugee leaders, traditional courts, refugee security, women, birth attendants, community health workers, teachers and peer educators has helped to raise critical consciousness of SGBV in the community.

Prevention strategies have included the following:

- Community sensitisation and awareness raising using participatory methods such as folk media, role playing, and drama. These methods have proven to be most effective in reaching a large number of people in a culturally sensitive manner;
- Promotion of girls' education and the importance of staying in school;
- Awareness workshops, radio programmes, posters and leaflets that disseminate information on available services, rights of refugees, and host country laws. This advocacy work emphasises how to prevent SGBV incidents at individual, family, and community levels and how to support would-be survivors;
- Community-based counsellors and women's forums that act as social pressure groups that bring SGBV issues to the attention of the community and humanitarian organisations;
- Skills training, income generating activities, and literacy programmes that empower women to make choices about staying or leaving situations of violence;
- Encouragement of the refugee community to be involved in the systems that provide security to their community.

Response:

Refugee staff and volunteers at "Drop-in Centres", "Women's" Centres", community services offices, or other suitable locations may provide the following services:

- Referral to medical and legal services;
- Survivor accompaniment to medical and legal appointments;
- Crisis intervention;
- Emotional and psychological support for the survivor and his/her family;
- Documentation of the SGBV incident;
- Provision of physical and material needs;
- Ensuring safety; engaging the community in providing safe shelter;
- Home visits/home-based support.

Issues Faced and Lessons Learned [relate to the following]:

- Gender Awareness
- Staff Expertise
- Funding
- Security of Staff and Volunteers
- Care for the Caregivers
- Gender Programmes vs. Women's Programmes

Recommendations [include:]

- Increase Organisational Commitment
- Increase Capacity-building of all Actors
- More Advocacy for SGBV
- Greater Support to the Community Development Approach

[For details on the above lessons learned and recommendations, see pp. 14-15 in the original publication].

HEALTH

The health sector is composed of staff and volunteers working in UNHCR and other UN organisations, NGOs, host government ministries, and refugee communities. Health workers include doctors, nurses, midwives, traditional birth attendants (TBAs), community health workers, health assistants, laboratory technicians, and others. In most settings, traditional healing practitioners and drug vendors are also an integral part of the community's health care system. Health sector activity occurs in health facilities (hospitals, outpatient clinics, health posts) and in the community. The health sector is concerned with a survivor's physical, psychological, and social well-being.

Underlying principles that guide the actions of healthcare actors:

- Prevention is an integral part of action to address sexual and gender-based violence;
- Respect survivor's needs for privacy and confidentiality;
- Plans and actions are guided by compassion for the survivor and respect for his/her dignity;
- Focus on the best interests and wishes of the survivor, avoiding our own biases;
- Encourage community participation;
- Strive to provide early and comprehensive care;
- Ensure that care is accessible and accessed: Inform clients, community, other actors and organisations.

Roles and Responsibilities:

- Provide healthcare to survivors of SGBV. Care should be easily accessible and include medical examination and treatment to:
 - Prevent disease (sexually transmitted infections and others);
 - Prevent unwanted pregnancy;

- Treat injury;
- Collect forensic evidence;
- Provide counselling and treatment for psychological trauma;
- Screen healthcare patients for sexual/gender violence.
- Provide follow up care;
- If survivor chooses to pursue legal action, testify in court about medical findings;
- Document, collect and analyse data:
 - Monitor healthcare services, including access and quality of care;
 - Monitor health needs of survivors;
 - Identify and design strategies to address contributing factors, e.g., alcoholism;
- Co-ordinate and collaborate with the community, other sectors, other actors, other organisations:
 - Share information and data with other actors;
 - Attend and participate in inter-sectoral and inter-agency meetings;
 - Refer to other sectors, receive referrals;
 - Identify survivor needs and gaps in services;
 - Conduct needs assessments and research.
- Advocate on behalf of survivors:
 - For protection, security, safety;
 - To address host country laws and policies that may conflict with survivor rights and/or survivor needs;
- Provide training and sensitisation to healthcare workers and the community.

All of these actions require preparation and planning to ensure:

- ☞ *Adequate supplies and equipment, private examination/interview room;*
- ☞ *Sensitisation and training for healthcare workers;*
- ☞ *Community education on where to go for help;*
- ☞ *Development and consistent use of standards, guidelines and protocols to guide actions and interventions;*
- ☞ *Monitoring and evaluation integrated into programme activities;*
- ☞ *Inter-agency and inter-sectoral procedures, referral and reporting pathways, and co-ordination mechanisms.*

Issues Faced and Lessons Learned [relate to the following]:

- Monitoring and Evaluation
- Standards, Protocols and Procedures
- Vertical Programmes vs. Integrated
- Staff Capacity
- Access to Early, Safe and Comprehensive Care
- Lack of Attention to Prevention

[For details on the above topics see pp. 17-20 in the original publication.]

Recommendations

Implement actions to assure best practices. Best practices include:

- Delivery of services to rape survivors within 72 hours of the accident;
- Analyse and remove barriers to access;
- Provide services according to an approved protocol;
- Distribute the “draft-for-field-testing” version of Medical Management of Post-Rape Survivors;
- Within six months, conduct a systematic review of its use in the field and revise as needed;
- Implement the SGBV Screening Checklist;
- Build staff capacity to perform according to established protocols;
- Ensure that 50 per cent of staff, particularly doctors, are female;
- Enlist local expertise to train all staff in how to execute correctly specific procedures;
- Use information to guide programme improvements;
- Develop monitoring and evaluation guidelines for SGBV services (with relevant indicators).

Analyse the fundamental concepts underpinning our programmes:

- Philosophical foundations (human rights approach, primary health-care concepts);
- Vertical versus integrated approaches;
- Clients’ and providers’ needs for information, resources, assistance and support;

- What are the best practices?

PROTECTION

Roles and Responsibilities:

The key UNHCR protection function is to ensure that the human rights of refugees are protected in accordance with international human rights and refugee laws and relevant guidelines. Protection staff will normally take the lead on this, often by:

- Being aware of host country laws and police procedures related to sexual and gender-based violence;
- Ensuring that cases of sexual and gender-based violence are reported to the authorities and that the victim/survivor is referred to UNHCR's implementing partners for reproductive health services and support;
- Ensuring that all refugees are issued identification documents by the relevant authorities;
- Following-up on cases with the local police and judicial officers to ensure that the rights of the victim/survivor are promoted and protected through the legal process;
- Monitoring court hearings and trials. Besides addressing the needs of the victim/survivor, protection officers will evaluate the needs of the victim/survivor's family members and address the rights and needs of the perpetrator;
- Ensuring that the accused is treated in accordance with due process under the relevant laws;
- Considering alternative solutions for the protection of the victim/survivor, or resettlement (where appropriate);
- Establishing partnerships and collaborations with local lawyers and women's rights organisations. Through this partnership, protection officers can access professional legal advice and representation for victims/survivors of sexual and gender-based violence. They will work with local lawyer groups and women's rights advocacy groups to promote the rights of refugee women;
- Taking the lead in keeping records and data to facilitate monitoring of sexual and gender-based violence trends and analysing these to strengthen strategies for prevention and response.

Prevention:

Protection officers' tasks to prevent sexual and gender-based violence include:

- Collaborating with the host country law enforcement agencies, implementing partners, and non-governmental organisations to develop measures to prevent SGBV;
- Working with the refugee community and refugee workers to develop and design practical steps to prevent SGBV. Consultations with the community include the participation of women refugees. The needs of single women and female heads-of-households should be identified and addressed;
- Ensuring the participation of women in all decision-making structures in the camps that address issues of security, response to and prevention of SGBV;
- Initiating legal awareness and civic education campaigns on SGBV and human rights norms among the refugee community. As far as possible, protection officers should ensure that they use the most effective communication strategies to create awareness of national laws and international human rights principles;
- Initiating specific activities to encourage tolerance between the host community and the refugee community.

Response:

The key response measures that protection officers should undertake include:

- Ensuring cases of sexual and gender-based violence are reported and investigated by the local police. Protection officers or field officers should accompany the victim/survivor to police stations and courts;
- Working with local law enforcement agencies to ensure access to justice for the victim/survivor. This includes allocating resources for mobile courts and/or transport and subsistence for the victim/survivor and witnesses to attend court hearings outside the camps.
- In countries with legal sanctions against SGBV, encouraging victims/survivors to seek legal redress from the courts. In situations where the application of customary and traditional laws and practices by the refugee community leads to injustice against the victim, protection officers should normally discourage recourse to such mechanisms.
- Establishing working relationships with local police, judicial and prison officers with the aim of strengthening strategies for the prevention of and response to sexual and gender-based violence.

Issues Faced and Lessons Learned [relate to the following]:

- Lack of Legislation on SGBV
- Application of Traditional Laws and Practices
- Reporting SGBV Cases
- Logistical Problems
- Effective Partnerships with National Lawyers' Associations
- Confidentiality
- Ensuring the Rights of the Perpetrator
- Lack of Adequate Resources
- Poor Administration of Justice
- Sexual and Gender-based Violence Committed by Police, Officers and Military Personnel

[For details on the above see pp. 9-11 in the original publication]

Recommendations [include:]

- **Revise [UNHCR's] Sexual Violence Against Refugees: Guidelines on Prevention and Response** (details in p. 27 of original publication)
- **Adopt a Step-by-step Guide for Protection Officers** (details in p. 27 of original publication)
- **Address Challenges Facing Protection Staff**
There should be sufficient resources to address deficiencies in national law enforcement structures, specifically those relating to the police and the judiciary. The protection concerns of victims of sexual and gender-based violence should be budgeted for in annual programmes. Responsibility for SGBV should be included in the job descriptions of staff with responsibility for the programme. Prevention and response to SGBV should also be included in the overall protection framework and country operations plan. This would include facilitating access to legal counsel, and assistance with transport and subsistence during trials for victims, witnesses, police and judicial authorities.
- **Conduct Human Rights Awareness Trainings for Refugees**
 - All UNHCR protection officers should conduct basic training for government officials, and partner agency staff on basic human rights under international law and raise awareness about national laws on sexual and gender-based violence. This training should be conducted in partnership with national human rights or women's groups, emphasising access to legal processes;
 - Protection officers should prepare and disseminate an index of national laws relevant to addressing sexual and gender-based violence, which they should share with the authorities and the refugee community. Efforts should be made to have the relevant provisions of national laws translated into a language that refugees understand;
- **Adequately Address Confidentiality by Ensuring:**
 - Access to case files and specific details about victims/survivors of SGBV are limited to senior staff in service provision;
 - Confidentiality provisions contained in the Guidelines are scrupulously adhered to;
 - Reports use non-identifying codes and are kept secure;
 - Inter-agency collaboration meetings highlight these concerns at every opportunity.
- **Strengthen Co-ordination in the Field**
Protection Officers should take the lead in ensuring that the various actors in SGBV prevention and response co-ordinate their activities.
- **Further Strengthen Capacity-building of UNHCR and Other Humanitarian Actors**
 - The Protection Learning Programme, which contains a chapter on SGBV, should be expanded to include more UNHCR staff and key partner agency staff;
 - UNHCR should provide better training for staff from implementing agencies and host countries;
 - Protection officers should ensure that refugee women contribute to needs assessments to ensure that their human rights and protection needs are identified and addressed.

SECURITY

Security is maintained by many actors, including the police, the military and other relevant national security institutions, the refugee community and humanitarian workers, including health, protection, community and security personnel. In short, security – and, by extension, the prevention of sexual and gender-based violence – is the responsibility of all.

Security has generally been seen both as a concept and a service. As a concept, it has been described as a situation characterised by an absence of violence and threats.

In refugee situations, security affects several levels of society: the home, the refugee setting, the local community and the national environment. Traditionally, assistance to refugees focused on securing food, shelter, sanitation and healthcare. Physical security and access to justice were seen to be the responsibility of state authorities, in deference to the sovereignty of host governments. But given that in many situations, governments have proven unable or unwilling to protect refugees on their territories, the security sector of humanitarian work has had to expand to fill this gap.

Roles and Responsibilities:

In principle, the primary responsibility for ensuring refugee security rests with the host government. However, in situations of failed, marginalised or collapsing states, the security of refugees is endangered and humanitarian actors must step in to protect them. In response, UNHCR has shifted its focus from staff security to exploring how to ensure refugee security, including safety from sexual and gender-based violence.

To ensure refugee security, it is important to:

- Empower community leaders and the refugee guard networks in camp settings;
- Sensitise and increase the capacity of the local police to discharge its responsibilities effectively;
- Set minimum standards of security that should exist in the refugee community.

Prevention:

Security should be considered at all stages of a refugee crisis, including before camps are established, during the settlement and the registration processes, and within the camps after settlement. To help prevent sexual and gender-based violence, humanitarian actors should:

- Design camps in a way that reduces women's exposure to attacks;
- Ensure that a number of female security personnel are featured among the police or other relevant law enforcement agencies posted in or near the camps;
- Place single female refugees and children in separate, protected accommodation, away from men who are not family members;
- Provide refugee women with escorts when they leave the area to collect firewood or water to trade or engage in other forms of income-generating activities;
- Establish community guard units, which are drawn from the refugee community itself;
- Ensure that an adequate number of women are included in the community guarding units.

Response:

- Mobilise the refugee community to identify their own security needs and establish systems in collaboration with law enforcement agencies;
- Ensure the rule of the law in refugee settings with an effective presence of law enforcement elements, gender sensitive referral procedures and the fair and rapid trial of perpetrators;
- Educate the leaders of the community on the consequences of SGBV and harmful traditional practices to eradicate deeply-rooted models of violent behaviour; isolate perpetrators in the community;
- Ensure the participation of the whole community in all stages of community policing;
- Involve refugee elders to assume responsibility in assisting female survivors of SGBV;
- Ensure the participation of neighbouring local populations to prevent SGBV incidents as a result of inter-community tensions;
- Use existing resources to address SGBV.

Issues Faced and Lessons Learned [relate to the following]:

- UNHCR Security - Role Definition
- Strengthening Community Security Action
- Measuring and Analysing the Security Situation
- Integrating Procedures Among the Sectors Involved in SGBV
- Dedicated Resources for Camp Security and Prevention of SGBV

[For details on the above, see pp. 30-32 in the original publication.]

Recommendations [include:]

Early identification of threats and the early formulation of appropriate responses is crucial. The following recommendations are not only directed to UNHCR security personnel; they are for all actors involved in a refugee setting.

Build the Capacity of the Security Sector

- Sensitise and train law enforcement personnel, including police, military and other relevant national security institutions, about SGBV incidents and concerns.
- Conduct systematic SGBV training sessions every six months to ensure that all law enforcement personnel understand how to deal with cases of SGBV.
- Establish the post of an SGBV-trained dedicated security expert from UNHCR in complex refugee situations.
- All UNHCR field security personnel should undergo SGBV sensitisation and training. In complex refugee or IDP situations, it may be necessary to place a security expert in the field.

Involve Refugees in Security Issues

- Neighbourhood watch or the defensible-space concept should be put into practice. This means good lighting should be installed and good observation by all members of the refugee community should be encouraged and rewarded. Place responsibility for maintaining the lighting systems on the refugee community. Train the refugee community in the 'neighbourhood watch' philosophy.
- Refugee women must be involved in key issues such as food distribution. Women must be drawn into decision-making processes from the outset. Encourage the participation of women in the various refugee committees. Establish direct dialogue with the refugee women with the assistance of female humanitarian workers.
- Ensure that a good proportion of the community police force drawn from the refugee community is female. Train both the men and women of the community police in SGBV prevention and response practices. Encourage leadership among female community police officers.
- Planning the layout of camps, including the location of latrines, water sources, community services, firewood supplies, etc., is important. Work with the refugee community and the local population to learn about local and traditional practices concerning these facilities. If possible, separate male and female latrines or equip female latrines with safety locks. Ensure that both latrines and water areas have adequate lighting. Be prepared to provide escorts to refugee women when they leave the camp to collect firewood.

Develop Tools to Address SGBV

- Establish a curriculum and training package on SGBV sensitisation for law enforcement personnel.
- Produce, in one year, a programme that will train all law enforcement personnel on SGBV.
- Develop measures for, and locate sources that have experience in, treatment and rehabilitation of perpetrators. Explore the practicality of applying those measures in refugee settings. Train relevant actors and implement the system as soon as possible.
- Establish a safe channel for reporting SGBV and ensure that there is witness and survivor protection. Confidentiality and the physical security of the survivor and witnesses must be ensured. Provide escorts, establish safe houses, if necessary and practical, protect drop-in centres and, if necessary, be prepared to relocate individuals.

Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations (excerpts continued)

Lessons Learned - Cross-Cutting Issues

In addition to the sector-specific roles, responsibilities, accomplishments and challenges, there are a number of issues that cut across all sectors and functional areas. [These include:]

- Children (see pp.34-37 of original publication)
- Co-ordination
- Monitoring and Evaluation
- Prevention I- Involvement of men in SGBV programmes
- Prevention II- Code of Conduct
- Prevention III – Access to resources to reduce exposure to SGBV

CO-ORDINATION

Roles and Responsibilities:

While some actors involved in SGBV prevention and response activities may have a greater role to play in co-ordination efforts, all actors are responsible for doing their part to promote successful co-ordination.

Lead Agency

- The lead agency in SGBV activities is responsible for facilitating the participation of all actors in SGBV-related co-ordination activities.

UNHCR

- Whether or not UNHCR is the lead agency in SGBV activities, it is seen as the agency responsible for ensuring that co-ordination structures are in place and functioning in refugee and refugee-like situations. This involves co-ordinating from the camp block level to the country level to the international level.

NGOs

- NGOs are responsible more for the co-ordination of activities specific to SGBV prevention and response. Their levels of co-ordination should include the following: block, camp, inter-camp, district, regional, national and organisational;
- NGOs should develop sectoral protocols, guidelines and referral systems for SGBV prevention and response activities.

Refugee Leaders

- Refugee leaders are responsible for co-ordinating participation in SGBV prevention and response activities at the block and camp levels.

Co-ordinating Bodies

- Information on sexual and gender-based violence should be shared within and between sectors, organisations and the refugee community;
- On an on-going basis, SGBV activities should be critically analysed by identifying gaps in services and strategies for improving and strengthening activities. The implementation of the identified strategies should be overseen;
- A supportive forum for actors to ask for guidance and assistance from others involved should be provided, as should space for constructive feedback to be given and received among the various actors;
- Roles and responsibilities of all those involved with the planning, implementation and monitoring of SGBV prevention and response activities should be clearly defined;
- The range of SGBV-related services available to survivors, their families, and the community should be made known to the refugee community;
- Ownership of SGBV activities should be shared, which will lead to an effective partnership among all involved.

Issues Faced and Lessons Learned [relate to the following]:

- Organisational Commitment
- Emergency Operations vs. Post-Emergency Phases
- Include SGBV in General Co-ordination Meetings
- Co-ordinate Data Collection
- Guidelines
- Sharing Lessons Learned

Recommendations [include:]

- Identifying a Lead Agency;
- Ensure the Creation of Co-ordinating Structures at ALL Level;
- Develop Working Protocols for Each Sector Involved in SGBV Activities.

[For details on the above, see pp. 38-40 in the original publication]

MONITORING AND EVALUATION

Monitoring and evaluation (M&E) is an integral part of any programme, essential for design and implementation. It is a systematic process that involves:

- | | |
|--|--|
| <ul style="list-style-type: none"> • Monitoring the problem • Monitoring programme activities • Evaluation services provided • Evaluating programme effects and outcomes | <ul style="list-style-type: none"> • Monitoring change <ul style="list-style-type: none"> - in the nature and extent of the problem - in the environment/ context - in staff ; in the organisation(s); in target beneficiary group; in others |
|--|--|

The steps involved in effective monitoring and evaluation can be simply summarised as follows:

1. Identify the problem you want to address; state the objective;
2. Define intended programme outcomes;
3. Develop specific and measurable indicators for those intended outcomes;
4. Determine information needs for monitoring incident data and outcomes;
5. Design documentation and record-keeping systems;
6. Maintain systematic records and documentation;
7. Establish systems for review of information, discussion, thinking, and reporting.

Monitoring and evaluation, including systems, procedures, and tools (forms, tracking formats, etc.) enables appropriate programme planning, on-going programme improvements, and re-direction, when needed. Specifically, this can include:

- | | |
|--|---|
| <ul style="list-style-type: none"> • Understanding the impact; • Measuring progress toward objectives; • Seeing and measuring the unexpected; | <ul style="list-style-type: none"> • Evaluating sustainability; • Measuring cost effectiveness. |
|--|---|

It is crucial that all actors in SGBV programmes understand the problem and understand effective strategies to address the problem in order to:

- Develop policy;
- Obtain Information for advocacy;
- Use information as an education tool and method for giving feedback.;
- Understand the lessons learned and good practices, and share them with other actors internationally.

Co-ordination and teamwork, integral components of SGBV programmes, are enhanced by effective monitoring, evaluation, and use of information and data.

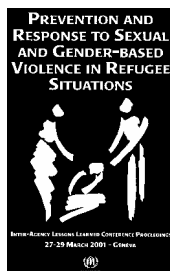
Issues Faced and Lessons Learned [relate to the following]:

- Include in M&E at the Initial Programme Planning Stages
- Education
- Decide on Indicators to Monitor
- Adapt Tools for Data Collection

[For details on the above, see pp 42-44 in the original publication, and for Recommendations see p. 44.]

(continued)

PREVENTION: MALE INVOLVEMENT⁴



Working against SGBV with Men as Partners

A popular adage says, "Prevention is better than cure". Working with men, statistically the major perpetrators of sexual and gender-based violence, as partners in prevention of SGBV is crucial to the success of any prevention strategy. The key objective of prevention is to ensure that the crime is not committed at all. This implies that encouraging male involvement is a pre-requisite for the effective prevention of SGBV. There is no doubt that men are a major part of the problem; but it is important to regard them, at least potentially, as part of the solution as well. It is time for men to put an end to SGBV.

CHALLENGES

Masculine Socialisation:

The long silence about men, masculinities and male violence is a major obstacle to involving men in the fight against SGBV. Many of the barriers to male involvement in the campaign against SGBV are centred around their highly gender-orientated socialisation. The expectations that derive from male socialisation, such as power and authority, entitlement and servicing by women and children, are often impossible to meet. Violence erupts from the resulting frustration, from a sense of thwarted expectations and entitlement: surplus repression produces surplus aggression. Michael Kaufman of the White Ribbon Campaign speaks of the "triad of male violence", i.e., men's violence against self, other men and then against women and children. Men's and women's different perceptions of SGBV are similar to the differentiated gender roles and inequalities that stem from the patriarchal nature of most societies. These all pose major challenges to effective and sustained male involvement in SGBV prevention.

Justification for Male Involvement

Part of the solution to male involvement in prevention of SGBV lies in finding answers to the following questions:

1. How do men see SGBV?
2. How do women see SGBV?

A shared understanding of the imbalance of power between both genders that produces SGBV is required. This, in turn, presents another challenge. How can men be led to recognise, acknowledge and appreciate the advantages of changed power relations that can enable a shared understanding of the problem of SGBV?

Lack of Programmes for Men in Camps

Most SGBV programmes in refugee camps are for women. Often, male refugees claim to be isolated from these discussions, at best, or, at worst, feel accused of being sex abusers? This creates resentment among men and reinforces the sense of frustration and threat to masculinity.

Difficulty in Reaching Out to Men

How can men who are perceived as perpetrators be allowed or convinced to join the campaign against SGBV?

Ignorance of the Law

⁴ . Excerpt from: *Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations: Inter-Agency Lessons Learned Conference Proceedings, 27-29 March 2001, UNHCR, Geneva, pp. 45-48.*

A lack of understanding about refugees' rights and/or sexual and gender-based violence presents a great challenge to preventing sexual and gender-based violence.

LESSONS LEARNED

- Male children should be educated from as young an age as possible about gender, equality, the dangers of violence of all kinds and, specifically, of sexual and gender-based violence and its consequences for society. Waiting until boys become adults to offer this kind of education is too late: their behavioural patterns and beliefs become harder to change as they mature.
- The misconception that 'gender' is only about women must be corrected. Men shy away from engaging in programmes that can lead to the empowerment of both women and men and real change in the power relations between them.
- Parents and carers play an important role in early childhood development, gender socialisation and character formation. Mothers, as nurturers of self-image, and fathers and other senior males, as role models, can either reinforce gender stereotypes, such as hegemonic masculinity and the subordination of women and negative attitudes towards girls, or, with education, they can begin to break these patterns of socialisation and work towards developing new attitudes among the young based on equality and mutual respect.

MODELS OF MALE INVOLVEMENT

South Africa

In South Africa, youths form mobile drama groups, dubbed the "Men for Change" show, campaign against rape. Through 'edu-drama', the young boys simulate a rape then one of them speaks directly to the young audience about the need to stop sexual violence against young girls. According to a group member, the campaign was effective because it was peer-designed and focused. Though this campaign did not emerge from a camp, it should be possible to replicate it successfully in a camp setting.

The White Ribbon Campaign

This is the largest effort by men to end violence against women. The White Ribbon Campaign was started by Michael Kaufman and a small group of friends in 1990 in Canada, following the massacre of 14 female engineering students by a man in Montreal. The campaign, which recognises that this kind of violence is a way of asserting power, privilege and control, has spread around the world. It advocates a 10-point action plan for men who want to do something about male violence against women:

1. Listen to and learn from women;
2. Learn about the problem;
3. Learn why some men are violent;
4. Wear a white ribbon;
5. Challenge sexist language and jokes that degrade women;
6. Learn to identify and oppose sexual harassment and violence in your workplace, school and family;
7. Support local women's programmes;
8. Examine how your own behaviour might contribute to the problem;
9. Work towards long-term solutions;
10. Get involved with the WRC's educational efforts.

UNHCR Women Victims of Violence Project, Kenya

This is a project that worked with policemen to discover their views on women, vulnerability, violence and rape. The objective was to enable the police to work better with refugee women to reduce the incidence of sexual and gender-based violence (Gardiner, 1996).

QUESTIONS

Why have we been so silent about men as partners against SGBV?

- Traditionally, work on SGBV has focused on victims, i.e., women and children; the focus has moved from there to women as survivors. This perhaps allows for the inclusion of men as collaborators in the project of recovery/survival and prevention;
- Women are more able to work with men as survivors rather than as victims;

- Women's fear of reprisals by powerful males and a lack of confidence in the genuine commitment of men to stop sexual and gender-based violence prevents them from seeing men as partners in this fight;
- Ultimately, the unequal power relations between the genders has prevented working together on this and many other issues for women's empowerment;

What makes male involvement an issue now for SGBV?

- Men in many countries have themselves taken initiatives to confront this and other aspects of gender inequality;
- Men and women now recognise that since men are the major perpetrators of SGBV, they have to take a decisive stand against it before real progress can be made ("It takes two");
- Since men are the main perpetrators of SGBV, and with increasing criminalisation of SGBV and the introduction of stringent international standards, many men end up in prison. This, in turn, adversely affects families and entire communities;
- Men are in leadership positions and have the power to influence change. Once influential males are convinced to join the campaign against SGBV, they can act as persuasive role models for others;

Gender equality: What's in it for men?

- Men understand the advantages they would derive psychologically and economically from gender equality. A less oppressive and more inclusive redefinition of 'power' will benefit both men and women.

RECOMMENDATIONS

Start Early

- Early childhood training should be targeted at parents, especially the primary carer who plays a crucial role in early development;
- Life-skills education that addresses sexual and reproductive health and rights and gender awareness should be provided in schools.

Work with Women as Well as Men

- Involve both men and women in the assessment of patterns and causes of violence;
- Interventions for men and for women should be focused on human rights, women's rights, the rights of the child, legal literacy, gender awareness, emotional intelligence, sexuality, conflict resolution, sexual and reproductive health rights and paternity;
- Prevention campaigns should be organised to familiarise men and women with public policy in the health, legal and education sectors with a view to making the policies more accessible to them.

Prevention Means Helping Survivors and Perpetrators

- Assistance in the form of legal and psycho-social counselling should be made available to perpetrators. Prison should not be the only option; therapy and re-education should also be available, especially for first-time offenders;
- Humanitarian staff should try to build a working relationship with perpetrators, prisoners, 'problem' children and juvenile delinquents;
- Rehabilitative and counselling programmes for both victims/survivors and perpetrators should be designed and provided, even in prison, but particularly during probation.

Develop Male-specific Programmes

- Self-help and reflection groups should be established among the male refugee population to work against SGBV;
- Appropriate information with themes against SGBV could be provided to young men and boys to distribute among their peers;
- Men in refugee situations should be able to hold focus-group meetings and brainstorm on what they can do to prevent SGBV.

Who Can Help?

- Religious and educational leaders in host communities can be a positive influence;
- Adolescent peers, as well as older males, could train others;

- The community should support men and survivors of SGBV and can help prevent future incidents of SGBV;
- Active collaboration with men and women (especially groups) in the host community should be encouraged and supported, as should the planning and implementation of programmes.

Methods

- Age-specific interventions, using participatory methodologies, should be designed to meet men at their level of understanding and in physical locations where they are most likely to congregate;
- Use case studies of SGBV from outside the community, while maintaining confidentiality, to serve as a motivation for men to get involved in prevention programmes;
- Monitor and evaluate all programmes regularly to ensure effective implementation;
- Outreach programmes that break the silence and cycle of violence should involve the entire community and include the host community as much as possible.

Resources

- Identify dedicated resources to support male involvement programmes;
- Meet regularly with refugee groups, humanitarian staff and partners to maintain awareness of evolving needs, successes and challenges. Use this information to plan new programmes;
- Ensure that programmes on male involvement in prevention are mainstreamed into the budget;
- Build capacity for male involvement through training-of-trainers and provision of adequate resources, including time, for these programmes.

Other Prevention Tools and Strategies: Code of Conduct and Access to Resources

Note to Readers

In addition to male involvement as a prevention strategy, two other tools or strategies are also mentioned in the original publication, namely, the adoption of a Code of Conduct and ensuring that refugees have safe access to resources. For further details on these you may consult pp. 49-54 (“Prevention II” and “Prevention III”) in *Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations: Inter-Agency Lessons Learned Conference Proceedings, 27-29 March 2001*, UNHCR, Geneva.

Code of Conduct

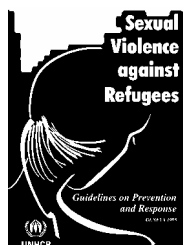
The section on a Code of Conduct in that publication defines why such a tool is necessary and advocates for the adoption of one by UNHCR, a process completed by the organisation in September 2002. Indeed the complete text of the Code of Conduct has been included as part of the Background Readings in this chapter (see the table of contents to this chapter).

Access to Resources

A key activity in prevention is to identify circumstances of high risk and vulnerability to incidents of sexual and gender-based violence and reduce exposure to those risks. It is well known that females moving in isolated areas are at great risk of assault. Collecting wood for fuel, gathering food or water or walking long distances for trading are all high-risk activities. [...] For further details on ensuring access to resources see, pp. 53-54 of the original publication mentioned above.

Sexual Violence against Refugees: Guidelines on Prevention and Response

UNHCR, Geneva, 1995
(Selected Excerpts)



INTRODUCTION

Chapter 1: SEXUAL VIOLENCE IN THE CONTEXT OF REFUGEES

- √ 1.1 Definition and Nature of Sexual Violence
- √ 1.2 Persons Most Vulnerable to Sexual Violence
- √ 1.3 Situations Where Sexual Violence May Occur
- 1.4 Under-Reporting of Sexual Violence
- 1.5 Effects of Sexual Violence
- √ 1.6 Causes of Sexual Violence
- √ 1.7 False Claims

Chapter 2: PREVENTIVE MEASURES

- 2.1 Involving Refugees and Refugee Workers
- 2.2 Involving Human Resources Management
- 2.3 Involving the Host Government
- 2.4 Involving Information, Education and Training
- 2.5 In the Context of Voluntary Repatriation

Chapter 3: PRACTICAL GUIDELINES ON RESPONDING TO INCIDENTS

- 3.1 General
- 3.2 Rights of the Accused
- √ 3.3 Identifying Incidents of Sexual Violence
- √ 3.4 Steps to Take in Response
- 3.5 Sexual Violence in Domestic Situations
- √ 3.6 Conducting an Interview
- 3.7 Reporting Requirements
- 3.8 Medical Response
- 3.9 Psychosocial Response

Chapter 4: LEGAL ASPECTS OF SEXUAL VIOLENCE

- √ 4.1 National Law
- √ 4.2 International Law
- √ 4.3 Refugee Status Determination (in chapter 5, in this Gender Kit)

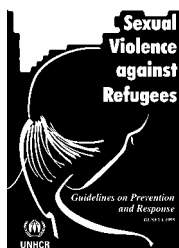
Chapter 5: OTHER RELATED MATTERS

- 5.1 Dealing with the Media
- 5.2 Female Genital Mutilation
- 5.3 Staff Trauma and Burnout

ANNEXES

- Annex 1** Checklist for Responding to an Incident of Sexual Violence
- Annex 2** Sample Sexual Violence Information Form
- Annex 3** List of Other Training Tools and Sources to Use
- Annex 4** UNHCR Executive Committee Conclusion No.73 (XLIV) (1993) on Refugee Protection and Sexual Violence
- Annex 5** Sexual Violence Needs Assessment and Programme Framework
- Annex 6** Declaration on the Elimination of Violence against Women

SEXUAL VIOLENCE IN THE CONTEXT OF REFUGEES⁵



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 recognised 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 offence. 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

⁵. Excerpts from: UNHCR, *Sexual Violence against Refugees: Guidelines on Prevention and Response*, Geneva, 1995, pp. 1-4, 7-11.

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 (XLN) (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.

[...]

1.6. 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 authorisation 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.

[...]

(continued)

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.

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 in this Kit.)

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. [...]
- 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 retraumatising 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 non-emergency grounds. It is emphasised 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).**
- 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 stigmatise 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. [...]

(continued)

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-à-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 retraumatisation 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.

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.

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.

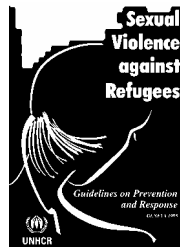
No interruptions

- 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, [using plastic containers]. For more details refer to the UNHCR Training Module, *Interviewing Applicants for Refugee Status*.

LEGAL ASPECTS OF SEXUAL VIOLENCE⁶



[Excerpts]

This [section] 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 [see chapter 5 in this Gender Handbook].

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?

⁶ UNHCR, *Sexual Violence against Refugees: Guidelines on Prevention and Response*, Geneva, 1995, pp. 53-60.

- Does the offence 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 2 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 recognises 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 full text of the Declaration is reproduced in the "Reference Section", under 'Reference Documents', in this Gender Handbook]

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: (4122) 9170212).

Promoting Awareness

- Readers of these Guidelines are encouraged to inform national and regional non-governmental organisations 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 co-operation with the Governments concerned, may be instrumental in the implementation of national plans of action, which, *inter alia*, call for the provision of specialised 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.

DOMESTIC VIOLENCE AGAINST WOMEN AND GIRLS ⁷

Innocenti Digest, UNICEF
(Selected excerpts)

Scope of the Problem

The family is often equated with sanctuary - a place where individuals seek love, safety, security, and shelter. But as evidence shows, for many it is a place that imperils lives, and breeds some of the most drastic forms of violence perpetrated on women and girls.

Violence in the domestic sphere is usually perpetrated by males who are, or who have been, in positions of trust and intimacy and power - husbands, boyfriends, fathers, fathers-in-law, stepfathers, brothers, uncles, sons, or other relatives. Domestic violence is in most cases violence perpetrated by men against women. Women can also be violent, but their actions account for a small percentage of domestic violence.

Violence against women is often a cycle of abuse that manifests itself in many forms throughout their lives. Even at the very beginning of her life, a girl may be the target of sex-selective abortion or female infanticide in cultures where son-preference is prevalent. During childhood, violence against girls may include enforced malnutrition, lack of access to medical care and education, incest, female genital mutilation, early marriage, and forced prostitution or bonded labour.

Some go on to suffer throughout their adult lives - battered, raped and even murdered at the hands of intimate partners. Other crimes of violence against women include forced pregnancy, abortion or sterilisation, and harmful traditional practices such as dowry-related violence, sati (the burning of a widow on the funeral pyre of her husband), and killings in the name of honour. And in later life, widows and elderly women may also experience abuse.

While the impact of physical abuse may be more 'visible' than psychological scarring, repeated humiliation and insults, forced isolation, limitations on social mobility, constant threats of violence and injury, and denial of economic resources are more subtle and insidious forms of violence. Its intangible nature makes it harder to define and report, leaving the woman in a situation where she is often made to feel mentally destabilised and powerless.

Jurists and human rights experts and activists have argued that the physical, sexual and psychological abuse, sometimes with fatal outcomes, inflicted on women is comparable to torture in both its nature and severity. It can be perpetrated intentionally, and committed for the specific purposes of punishment, intimidation, and control of the woman's identity and behaviour. It takes place in situations where women may seem free to leave, but are held prisoner by fear of further violence against themselves and their children, or by lack of resources, family, legal or community support.^{1/}

Magnitude of the Problem

[...] Most of the data available on violence against women are believed to be not only conservative, but unreliable. Studies vary in the sample size of women chosen, and the ways in which questions have been posed. It is difficult to compare these studies because of inconsistency in the definition of domestic violence and in the parameters used, which can range from just physical abuse to physical, sexual and psychological abuse.

Debate regarding the magnitude of the problem is also clouded by the fact that domestic violence is a crime that is under-recorded and under-reported. When women file a report or seek treatment, they may have to contend with police and health care officials who have not been trained to respond adequately or to keep consistent records. On the other hand, shame, fear of reprisal, lack of information about legal rights, lack of confidence in, or fear of, the legal system, and the legal costs involved make women reluctant to report incidents of violence.

⁷ This text has been reproduced (as excerpts) from: *Domestic Violence against Women and Girls*, INNOCENTI DIGEST, No. 6 - May 2000 (pp. 7-15), published by the UNICEF Innocenti Research Centre, Florence, Italy. Web-site: www.unicef-icdc.org. The full text of this publication is available in the Gender CD-ROM in this Kit.

Physical abuse

A growing body of research studies confirms the prevalence of physical violence in all parts of the globe, including the estimates of 20 to 50 per cent of women from country to country who have experienced domestic violence. Statistics are grim no matter which part of the globe one focuses on. Data from industrialised and developing countries as well as from transitional countries provide an overview of the global problem. The data in this table focus only on physical assault. There are few comparable statistics on psychological violence, sexual abuse, and murder of women at the hands of intimate partners and other family members. As already mentioned, physical violence is usually accompanied by psychological abuse, and in many cases by sexual assault.

Sexual abuse and rape in intimate relationships

Sexual abuse and rape by an intimate partner is not considered a crime in most countries, and women in many societies do not consider forced sex as rape if they are married to, or cohabiting with, the perpetrator. The assumption is that once a woman enters into a contract of marriage, the husband has the right to unlimited sexual access to his wife. Surveys in many countries reveal that approximately 10 to 15 per cent of women report being forced to have sex with their intimate partner. 2/

Some countries have begun to legislate against marital rape. These include Australia, Austria, Barbados, Canada, Cyprus, Denmark, Dominican Republic, Ecuador, Finland, France, Germany, Ireland, Mexico, Namibia, New Zealand, Norway, Philippines, Poland, Russia, South Africa, Spain, Sweden, Trinidad & Tobago, United Kingdom, United States. Although provision of such laws represents considerable progress, it is often difficult for a woman to press charges because of the evidential rules concerning the crime.

Psychological and emotional abuse

Because psychological violence is harder to capture in quantitative studies, a full picture of the deeper and more insidious levels of violence defies quantification. Victim-survivors report that ongoing psychological violence - emotional torture and living under terror - is often more unbearable than the physical brutality, with mental stress leading to a high incidence of suicide and suicide attempts. A close correlation between domestic violence and suicide has been established based on studies in the United States of America, Fiji, Papua New Guinea, Peru, India, Bangladesh and Sri Lanka. Suicide is 12 times as likely to have been attempted by a woman who has been abused than by one who has not. 3/ In the United States of America, as many as 35 to 40 per cent of battered women attempt suicide. 4/ In Sri Lanka, the number of suicides by girls and women 15-24 years old is 55 times greater than the number of deaths due to pregnancy and childbirth. 5/

Femicide

Femicide - murder of women by their batterers - is another phenomenon that should be reflected as a separate category when recording domestic violence. Studies carried out in Australia, Bangladesh, Canada, Kenya, Thailand and the United States of America have documented the incidence of femicide within the domestic sphere.6/ In Southern Africa, women's groups have begun to document the increasing incidents of femicide, and data are available from Botswana, South Africa, Swaziland, Zambia, and Zimbabwe.7/ A comparative analysis of spousal homicide, based on 1991 data, concluded that Russian women are 2.5 times more likely to be murdered by their partners than American women. However, American women are already twice as likely to be killed by their partners than women in Western European countries. 8/

Sexual abuse of children and adolescents

Considering the taboo in most countries that surrounds incest or sexual abuse against children and adolescents occurring within the family, this is one of the most invisible forms of violence. Because the crime is perpetrated most often by a father, stepfather, grandfather, brother, uncle, or other male relatives in a position of trust, the rights of the child are usually sacrificed in order to protect the name of the family and that of the adult perpetrator. However, studies have shown that from 40 to 60 per cent of known sexual assaults within the family are committed against girls 15 years and younger, regardless of region or culture.9/ A recent study in the Netherlands showed that 45 per cent of the victims of sexual violence within the domestic sphere are under the age of 18. Of these, girls are far more likely to be victims of incest than boys. 10/

Forced prostitution

Forced prostitution or other kinds of commercial exploitation by male partners or parents is another form of violence against women and children reported world-wide. Destitute families, unable to support their children, often hire out or sell their children, who may then be forced into prostitution. Very often the young girl is sent as a domestic worker, in which case she may be physically and sexually exploited by her employers. For example, in West Africa - from Senegal to Nigeria - tens of thousands of children of destitute families are reportedly sent to the Middle East each year, many of them ending up as prostitutes.^{11/} In South Africa, child prostitution is on the rise and has become an increasingly organised activity. In certain hill districts of Nepal, prostitution has become an almost 'traditional' source of income. Women and girls are tricked or forced by their husbands and relatives into being trafficked to India for prostitution. In the poor rural areas of Thailand, where poverty has given rise to the phenomenon of debt bondage, it is believed that it is the daughter's duty to sacrifice herself for the well-being of her family. Traffickers buy the "labour" of young women and girls in exchange for money. The high incidence of HIV/AIDS in the country has been attributed to this trafficking in young girls.^{12/} In Northern Ghana and parts of Togo, girls are "donated" to priests, and are forced to live as "wives" and submit sexually to the shrine priests in return for protection for the family. A similar practice exists in southern India where young women and girls (devadasis) are "donated" to serve a temple; and very often end up being prostituted.

Sex-selective abortions, female infanticide and differential access to food and medical care

In societies where a higher value is placed on sons, discrimination towards female children can take extreme forms such as sex-selective abortions and female infanticide. In India, a recent survey reported 10,000 cases of female infanticide annually. The figure does not take into account the number of abortions performed to prevent the birth of a child.^{13/} An official survey in China revealed that, with its one-child policy, 12 per cent of all female embryos were aborted or otherwise unaccounted for.^{14/} And in many countries the discrimination that leads to the neglect of girl children is the greatest cause of sickness and death among girls between the ages of two and five years.^{15/} Girls in many developing countries receive less nourishment than boys, and they are more likely to suffer mental or physical disability or even die, as a result of poor nutrition. Less access to health care also exacerbates the much higher mortality rate among girls.

Sex-selective abortion, female infanticide, and systematic differential access to food and medical care have led to the phenomenon known as the "missing millions" of women and girls. An estimated 60 million women are simply missing from the population statistics. In other words there are 60 million fewer women alive in the world than should be expected on the basis of general demographic trends. The phenomenon is observed primarily in South Asia, North Africa, the Middle East and China.^{16/}

Traditional and cultural practices affecting the health and lives of women

Around the world, women and girls suffer the harmful and life-threatening effects of traditional and cultural practices that continue under the guise of cultural and social conformism and religious beliefs. Examples include:

Female Genital Mutilation (FGM):

It has been estimated that nearly 130 million women world-wide have undergone FGM and that approximately two million undergo the procedure every year. FGM takes place in 28 countries in Africa (both eastern and western), in some regions in Asia and the Middle East, and in certain immigrant communities in North America, Europe and Australia. It can lead to death and infertility; and long-term psychological trauma combined with extreme physical suffering.

Dowry-related violence:

Even though India has legally abolished the institution of dowry, dowry-related violence is actually on the rise. More than 5,000 women are killed annually by their husbands and in-laws, who burn them in "accidental" kitchen fires if their ongoing demands for bride-price or dowry before and after marriage are not met. An average of five women a day are burned, and many more cases go unreported.

Deaths by kitchen fires are also on the rise, for example, in certain regions of Pakistan. The Human Rights Commission of Pakistan reports that at least four women are burned to death daily by husbands and family members as a result of domestic disputes.

Acid attacks:

Sulphuric acid has emerged as a cheap and easily accessible weapon to disfigure and sometimes kill women and girls for reasons as varied as family feuds, inability to meet dowry demands, and rejection of marriage proposals. In Bangladesh, it is estimated that there are over 200 acid attacks each year.

Killing in the name of honour:

In several countries in the world including, but not limited to, Bangladesh, Egypt, Jordan, Lebanon, Pakistan, and Turkey, women are killed in order to uphold the “honour” of the family. Any reason - alleged adultery, premarital relationships (with or without sexual relations), rape, falling in love with a person of whom the family disapproves - is enough reason for a male member of the family to kill the woman concerned. In 1997, more than 300 women were victims of these so-called “honour” crimes in just one province of Pakistan. In Jordan, the official toll is rising and in reality the numbers are higher because many such murders are recorded as suicides or accidents. Victim-survivors of attempted murders are forced to remain in protective custody, knowing that leaving custody would result in death at the hands of the family. The penal codes in Jordan that govern crimes of honour sanction killing by making the penalty disproportionately lenient, particularly if the crime is committed by boys under 18 years of age.

Early marriages:

Early marriage, with or without the consent of the girl, constitutes a form of violence as it undermines the health and autonomy of millions of young girls. The legal minimum age of marriage is usually lower for females than for males. In many countries, the minimum legal age for marriage with parental consent is considerably lower than without it; more than 50 countries allow marriage at 16 or below with parental consent.^{17/} Early marriage leads to childhood/teenage pregnancy, and can expose the girl to HIV/AIDS and other sexually transmitted diseases. It is also associated with adverse health effects for her children, such as low birth weight. Furthermore, it has an adverse effect on the education and employment opportunities of girls.

Causes of Domestic Violence

There is no one single factor to account for violence perpetrated against women. Increasingly, research has focused on the inter-relatedness of various factors that should improve our understanding of the problem within different cultural contexts.

Several complex and interconnected institutionalised social and cultural factors have kept women particularly vulnerable to the violence directed at them, all of them manifestations of historically unequal power relations between men and women. Factors contributing to these unequal power relations include: socio-economic forces, the family institution where power relations are enforced, fear of and control over female sexuality, belief in the inherent superiority of males, and legislation and cultural sanctions that have traditionally denied women and children an independent legal and social status.

Lack of economic resources underpins women’s vulnerability to violence and their difficulty in extricating themselves from a violent relationship. The link between violence and lack of economic resources and dependence is circular. On the one hand, the threat and fear of violence keeps women from seeking employment, or, at best, compels them to accept low-paid, home-based exploitative labour. And on the other, with limited economic independence, women have no power to escape from an abusive relationship.^{18/}

The reverse of this argument also holds true in some countries; that is, women’s increasing economic activity and independence is viewed as a threat which leads to increased male violence.^{19/} This is particularly true when the male partner is unemployed, and feels his power undermined in the household. Studies have linked a rise in violence to the destabilisation of economic patterns in society. Macro-economic policies such as structural adjustment programmes, globalisation, and the growing inequalities they have created, have been linked to increasing levels of violence in several regions, including Latin America, Africa and Asia. ^{20/} The transition period in the countries of Central and Eastern Europe and the former Soviet Union - with increases in poverty, unemployment, hardship, income inequality, stress, and alcohol abuse - has led to a rise in violence in society, including violence against women. These factors also act indirectly to raise women’s vulnerability by encouraging more risk-taking behaviour, more alcohol and drug abuse, the breakdown of social support networks, and the economic dependence of women on their partners.^{21/}

Cultural ideologies - both in industrialised and developing countries - provide 'legitimacy' for violence against women in certain circumstances. Religious and historical traditions in the past have sanctioned the chastising and beating of wives. The physical punishment of wives has been particularly sanctioned under the notion of entitlement and ownership of women. Male control of family wealth inevitably places decision-making authority in male hands, leading to male dominance and proprietary rights over women and girls.

The concept of ownership, in turn, legitimises control over women's sexuality, which in many law codes has been deemed essential to ensure patrilineal inheritance. Women's sexuality is also tied to the concept of family honour in many societies. Traditional norms in these societies allow the killing of 'errant' daughters, sisters and wives suspected of defiling honour of the family by indulging in forbidden sex, or marrying and divorcing without the consent of the family. By the same logic, the honour of a rival ethnic group or society can be defiled by acts of sexual violence against its women.

Experiences during childhood, such as witnessing domestic violence and experiencing physical and sexual abuse, have been identified as factors that put children at risk. Violence may be learnt as a means of resolving conflict and asserting manhood for children who have witnessed such patterns of conflict resolution.

Excessive consumption of alcohol and other drugs has also been noted as a factor in provoking aggressive and violent male behaviour towards women and children. A survey of domestic violence in Moscow revealed that half the cases of physical abuse are associated with the husband's excessive alcohol consumption.^{22/}

The isolation of women in their families and communities is known to contribute to increased violence, particularly if those women have little access to family or local organisations. On the other hand, women's participation in social networks has been noted as a critical factor in lessening their vulnerability to violence and in their ability to resolve domestic violence. These networks could be informal (family and neighbours) or formal (community organisations, women's self-help groups, or affiliation with political parties).^{23/}

Lack of legal protection, particularly within the sanctity of the home, is a strong factor in perpetuating violence against women. Until recently, the public/private distinction that has ruled most legal systems has been a major obstacle to women's rights. Increasingly, however, States are seen as responsible for protecting the rights of women even in connection with offences committed within the home. In many countries, however, violence against women is exacerbated by legislation, law enforcement and judicial systems that do not recognise domestic violence as a crime. The challenge is to end impunity for the perpetrators as one means of preventing future abuse.

Investigations by Human Rights Watch have found that in cases of domestic violence, **law enforcement officials** frequently reinforce the batterer's attempts to control and demean their victims. Even though several countries now have laws that condemn domestic violence, "when committed against a woman in an intimate relationship, these attacks are more often tolerated as the norm than prosecuted as laws... In many places, those who commit domestic violence are prosecuted less vigorously and punished more leniently than perpetrators of similarly violent crimes against strangers."^{24/}

Consequences

Denial of fundamental rights

Perhaps the most crucial consequence of violence against women and girls is the denial of fundamental human rights to women and girls. International human rights instruments such as the Universal Declaration of Human Rights (UDHR), adopted in 1948, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979, and the Convention on the Rights of the Child (CRC), adopted in 1989, affirm the principles of fundamental rights and freedoms of every human being. Both CEDAW and the CRC are guided by a broad concept of human rights that stretches beyond civil and political rights to the core issues of economic survival, health, and education that affect the quality of daily life for most women and children. The two Conventions call for the right to protection from gender-based abuse and neglect.

The strength of these treaties rests on an international consensus, and the assumption that all practices that harm women and girls, no matter how deeply they are embedded in culture, must be eradicated. Legally binding under international law for governments that have ratified them, these

human rights treaties oblige governments not only to protect women from crimes of violence, but also to investigate violations when they occur and to bring the perpetrators to justice.^{25/}

[For information on other consequences (i.e. human development goals undermined; health consequences; impact on children; and socio-economic costs of violence), as well as strategies and interventions, see the full text of this Innocent Digest edition, available in the Gender CD-ROM to this Kit.]

END NOTES

1. United Nations ECOSOC, Report of the Special Rapporteur on Violence Against Women, E/CN.4/1996/53.
2. Heise, L.L., Pitanguy J. and Germaine A. (1994) Violence against Women. The Hidden Health Burden. Discussion papers No. 225 Washington DC: The World Bank, p. 46.
3. Violence against Women in the Family, United Nations (ST/CSDHA/2), New York, 1989.
4. Back et al., "A study of battered women in a psychiatric setting," in *Women and Therapy* 13 (1982).
5. Hayward, Ruth F. (In Press) Breaking the Earthenware Jar: Lessons from South Asia to End Violence against Women, New York: UNICEF. (1999).
6. United Nations ECOSOC, Report of the Special Rapporteur on Violence against Women, E/CN.4/1996/53.
7. Charlotte Watts, Susanna Oslam and Everjoice Win (1995), *The Private is Public: A Study of Violence in Southern Africa*, Harare, Women in Law and Development in Africa.
8. UNICEF (1999). *Women in Transition. Regional Monitoring Reports, No. 6*. Florence: UNICEF International Child Development Centre.
9. *The World's Women 1995: Trends and Statistics*. United Nations, 1995.
10. The Netherlands Department of Justice, 1997.
11. *La Situation de la Femme Malienne: Cadre de Vie, Problèmes Promotion, Organisations Association pour le Progrès et la Défense des Droit des Femmes Malienne (APDS) et Fondation Friedrich Ebert—Bureau Mali*, 2000.
12. See Benninger-Budel C. and Lacroix A. (1999), *Violence against Women: A Report*, World Organisation against Torture, Geneva.
13. The U.S. State Department's annual survey of human rights, published 25 February, 2000.
14. United Nations ECOSOC, Report of the Special Rapporteur on Violence against Women, E/CN.4/1995/42.
15. *State of the World's Children 2000*, New York: UNICEF, 2000.
16. UNICEF (1999).
17. Benninger-Budel C., et al. (1999).
18. Schuler S.R., Hashemi S.M., Riley A.P., and Akhter S., *Credit Programs, Patriarchy and Men's Violence against Women in Rural Bangladesh*, *Soc. Sci. Medicine* Vol 43 No 12, pp 1729-1742, 1996.
19. ECLAC (Economic Commission for Latin America and the Caribbean), 1992, *Domestic Violence against Women in Latin America and the Caribbean: Proposals for Discussion*, Social Development Division, Santiago, Chile.
20. See UNICEF (1989). *The invisible adjustment: Poor women and economic crisis*. Santiago, Chile, UNICEF, The Americas and Caribbean Regional Office; *La Situation de la Femme Malienne: Cadre de Vie, Problèmes Promotion* (2000); Mazumdar, V. et al (1995) *Changing Terms of Political Discourse: The Women's Movement in India, 1970s-1990s*, *Economic and Political Weekly*, vol. XXX: 29, 1866-1878 (India).
21. UNICEF (1999).
22. *Ibid.*
23. Sen P., *Enhancing Women's Choices in Responding to Domestic Violence in Calcutta: A Comparison of Employment and Education*, *The European Journal of Development Research*, Vol 11 No 2, December 1999, pp. 65-86.
24. *The Human Rights Watch Global Report on Women's Human Rights*, New York, 1995.
25. United Nations ECOSOC, Report of the Special Rapporteur on Violence against Women, E/CN.4/1996/53 para 33.

UNHCR

Strategies to Eradicate Harmful Traditional Practices⁸ Including Female Genital Mutilation

The highly sensitive nature of dealing with harmful traditional practices is appreciated. While there are no hard and fast rules for eradicating these practices, the following may provide some guidance for field workers:

- Experience has shown that the initial step in addressing harmful traditional practices is providing education and information on such practices, with a particular focus on the negative consequences. However, action-oriented activities must follow on after initial awareness building.
- Campaigns to eliminate these practices are more likely to succeed and be accepted by the target population where they emphasise harmful health consequences rather than the legal or human rights aspects.
- It is necessary to have a thorough understanding of the nature and extent of the particular practice, including its roots and the social consequences it entails. This will obviously involve discussions with the refugees themselves. This underlies the importance of understanding the culture and habits of the refugees, as advocated under the People -Oriented Planning (POP) approach.
- Focus on educating target populations (both men and women), namely religious leaders, traditional leaders such as chiefs, tribal elders and political leaders, traditional birth attendants, other health workers and the refugee women, men and children themselves on the harmful health consequences of these practices. In particular, it is very important to educate young girls on these issues.
- Promote, provide technical support, and mobilise resources for national and local groups that will initiate community-based activities aimed at eliminating harmful traditional practices. National Committees to eradicate harmful traditional practices exist in many countries and their expertise should be mobilised.
- In Kenya, local NGOs running campaigns aimed at eliminating FGM found it more acceptable by the refugees when the issue was dealt with in workshops covering other reproductive health issues as well, such as STDs, HIV/AIDS, and safe motherhood, rather than as a stand-alone topic. On the other hand, the campaign in Ethiopia began as a stand-alone model and was quite successful, being incorporated into a larger reproductive health programme only later. This illustrates the importance of tailoring each programme to the community involved.
- The 'medicalisation' of harmful practices such as FGM (i.e. supporting health care professionals to perform practices in health facilities under more hygienic conditions) should not be supported. Health workers in refugee situations must be aware that their involvement in such practices will not be tolerated and will lead to immediate termination of employment. In countries where FGM is practised, this should be stipulated in the employment contracts of health personnel.
- It is important that alternative income generating activities are found for those carrying out harmful practices such as FGM. Additionally, the community's respect for traditional practitioners must be maintained.
- Videos have proved an excellent way of demonstrating the harmful effects of some traditional practices. Videos depicting FGM actually being performed or a woman who has not undergone FGM giving birth have proved effective.
- The use of drama and other cultural activities, such as plays or songs, can also be an effective method of disseminating information on the negative effects of harmful traditional practices. The

⁸ This text has been reproduced from Annex 1 to the UNHCR Policy on Harmful Traditional Practices, UNHCR/IOM/83/97, UNHCR/FOM/90/97, Dated 19 December 1997.

radio and local papers may also be used to help disseminate information on harmful traditional practices.

- In the Sudan, some health workers focus mostly on men in their campaign to save girls from FGM because their decisions may have the most influence. Men are often unaware of the exact nature and severity of the procedure.
- In Uganda, support for conducting the “rites of passage” ceremony is emphasised while stopping the harmful practices of FGM. Programmes encourage the continuation of the ceremonial aspects of the ‘coming of age’ for young women, but eradicate the ‘cutting’.
In Sierra Leone, FGM is part of an initiation process for women's secret societies. These societies can be very important for women's self empowerment because they provide a support network and contacts for income generating activities. While it is important to encourage groups that empower women, it is equally important to encourage initiations which do not require FGM.
- The importance of educating girls and women cannot be underestimated. The incidence of harmful traditional practices, such as FGM and early childhood marriage, decreases with gains in female literacy. Therefore, promoting and supporting female education, both for adults and by the enrolment of girls in schools, should be a priority .
- Growing immigrant populations in industrialised countries have brought FGM with them to states where it was not usually practised. Canada, the US, Australia and many European countries now have laws prohibiting the practice. France has prosecuted a number of parents for subjecting their daughters to the procedure in France. UNHCR discourages informing refugees about the criminalisation of the practice in resettlement countries prior to departure, as this may result in mass FGM operations before resettlement occurs. Instead, the authorities of the resettlement country should be encouraged to inform refugees of these laws upon their arrival.

Field staff are advised to plan their strategy for eradication carefully, in conjunction with the refugee community, implementing partners and any other relevant UN organisations. Working with the refugee community is important to ensure measures taken are as effective as possible. In addition, local NGOs and the government, who may already have active campaigns in the country, and host communities could be involved. In particular, UNHCR staff could benefit from the expertise and experience of the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children which has national committees (local NGOs) in 26 African countries and groups/sections in some European countries. Staff should consult Headquarters for advice where necessary. A document entitled “HOW TO GUIDE -From Awareness to Action: Eradicating FGM in Somali Refugee Camps in Eastern Ethiopia” (December 1997) detailing concrete methodology for conducting anti-FGM campaigns is available from Programme and Technical Support Section (PTSS) in Headquarters.

Female Genital Mutilation⁹

Joint WHO/UNICEF/UNPA Statement

(Excerpts)

Female genital mutilation (FGM), sometimes referred to as female circumcision, is a practice, which involves the cutting away of all or part of the external female genitalia or all other procedures involving other injury to the female genital organs.

This procedure is performed on approximately 2 million girls each year. Most of the girls and women that have undergone FGM live in 28 African countries, although some live in Asia.

Definition

Female genital mutilation comprises all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs whether for cultural or other non-therapeutic reasons.

Classification

The different types of female genital mutilation known to be practised are as follows:

- | | |
|-----------------|---|
| Type I | Excision of the prepuce, with or without <i>excision</i> of part or all of the clitoris (also known as clitoridectomy). |
| Type II | Excision of the clitoris with partial or total excision of the labia minora (also known as excision). |
| Type III | Excision of part or all of the external genitalia and stitching/narrowing of the vaginal opening (infibulation, also known as Pharonic circumcision). |
| Type IV | Unclassified: includes pricking, piercing or incising of the <i>clitoris</i> and/or labia; stretching of the <i>clitoris</i> and/or labia; cauterisation by burning of the clitoris and surrounding tissue; scraping of tissue surrounding the vaginal orifice (angurya cuts) or cutting of the vagina (gishiri cuts); introduction of corrosive substances or herbs into the vagina to cause bleeding or for the purposes of tightening or narrowing it; and any other procedure that falls under the definition of female genital mutilation given above. |

The procedures described above are irreversible and their effects last a lifetime.

Approximately 15% of women and girls subjected to FGM are infibulated, while the majority receive a clitoridectomy or excision. The incidence of infibulation is much higher in Djibouti, Somalia and northern Sudan, with a higher rate of complications. Infibulation is also reported in southern Egypt, Eritrea, Ethiopia, northern Kenya; Mali and Nigeria.¹⁰

There may be both immediate and long term health consequences to the practice of FGM. Immediate complications include severe pain, shock, haemorrhage, urine retention, ulceration's of the genital region and injury to adjacent tissue. Haemorrhage and infection can cause death. More recently, there have been concerns regarding the transmission of HIV/AIDS when a circumcisor uses the same unsterilized, sharp object to perform the FGM procedure on a group of girls or women one after the other.

Long term-consequences include cysts and abscesses, keloid scar formation, damage to the urethra resulting in urinary incontinence, dyspareunia (painful sexual intercourse) and sexual dysfunction. Infibulation carries additional complications, including recurring infections and infertility. Complications during delivery are common. Closing of the vagina after birth is also practised, further causing pain and suffering. Some reports also indicate that the risk of maternal death and stillbirths greatly increase as a result of FGM. Additionally, the psychological health of the girl or woman may also be adversely affected.[...]

⁹ "Female Genital Mutilation", Joint WHO/UNICEF/UNFPA statement, Geneva 1997, p. 5. See also, Preliminary report submitted by the Special Rapporteur on violence against women, its causes and consequences, Mrs. Radhika Coomaraswamy, E/CN.4/1995/42, para. 146, which lists the countries where FGM is traditionally practised: Somalia, Djibouti, Sudan, Ethiopia, Egypt, Mali, the Gambia, Ghana, Nigeria, Liberia, Senegal, Sierra Leone, Guinea, Guinea-Bissau, Burkina Faso, Benin, Cote d'Ivoire, Tanzania, Togo, Uganda, Kenya, Chad, Central African Republic, Cameroon, Mauritania, Indonesia, Malaysia, Yemen. The above material as well as this footnote are excerpts from Annex 2 to the "UNHCR Policy on Harmful Traditional Practices" (UNHCR/IOM/83/97, UNHCR/FOM/90/97), dated 19 December 1997. While we have only reproduced the section on FGM, other harmful traditional practices described in that Annex include: early childhood marriage; son preference, and dowry.

¹⁰ See note 1, Joint WHO/UNICEF/UNFPA statement.

The reasons for FGM tend to be culture-specific, but they include ensuring virginity at the time of marriage, suppressing a woman's sexual desire, enhancing social integration, religious reasons and numerous myths. However, there are no proven religious justifications founded in the Christian or Muslim faith; quite the contrary, as the practice of FGM runs against the teachings of the Bible and the Koran.

There is widespread condemnation of FGM by the international community. The World Health Organisation (WHO), the United Nations Children's Fund (UNICEF), the United Nations Population Fund (UNFPA) and the Special Rapporteur on Violence against Women condemn all forms of FGM and reject its justification on any grounds. UNHCR also opposes this practice as a violation of fundamental human rights. [...]

Care of Women with Female Genital Mutilation in Refugee Situations¹¹

Women who have undergone female genital mutilation, particularly Type III, need special care, especially during pregnancy, delivery and the postpartum period. When an infibulated woman gives birth, staff should be aware of the following points:

- the formation of rigid scar tissue around the vaginal opening as a result of the mutilation is likely to lead to delay in the second stage of labour, which may endanger both the woman and the baby; and
- extensive episiotomies may be needed to allow for safe delivery.

Women who have undergone infibulation need special care when using some forms of contraceptive methods, such as the IUD, and in managing the complications of unsafe and spontaneous abortion. Sexually transmitted diseases (STDs) are also more difficult to diagnose and women may be at a greater individual risk for bloodborne infections, including HIV.

Monitoring and Supervision

Monitoring the change in female genital mutilation practices in a community is very difficult. Programmes should monitor complications experienced by women during birth and investigate any deaths that may be related to female genital mutilation. Health care providers, both in health facilities and in the community, should be supervised and monitored routinely to ensure that they are not practising female genital mutilation.

Additional information regarding FGM can be found in WHO's Information Kit on FGM, available in English and French, and the Joint WHO/UNICEF/UNFPA Statement on FGM. Other References:

- Reproductive Health in refugee situations: an Inter-Agency Field Manual, UNHCR (and UNFPA, WHO), 1999.
- A variety of videos on FGM in several African countries can also be obtained from PTSS.
- "How To Guide: From Awareness to Action - Eradicating Female Genital Mutilation in Refugee Camps in Eastern Ethiopia", UNHCR, Geneva, 1997.
- "Policy Paper on Eradication of Harmful Traditional Practices", UNHCR, Geneva 1997.

¹¹ Excerpt from: *Reproductive Health in Refugee Situations: an inter-agency field manual*, UNHCR (& WHO, UNFPA), 1999, pp. 86-88.

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR)



CODE OF CONDUCT

INTRODUCTION

UNHCR's capacity to ensure the protection of and assistance to refugees and other persons of concern depends on the ability of its staff to uphold and promote the highest standards of ethical and professional conduct. We, the staff members of UNHCR, are personally and collectively responsible for maintaining these standards. Managers have a particular responsibility to uphold these standards, to set a good example, and to create a working environment that supports and empowers staff.

It is recognised that UNHCR's work often puts its staff in positions of power in relation to its beneficiaries. Staff have an obligation not to abuse this power.

This Code of Conduct is intended to serve as an illustrative guide for staff to make ethical decisions in their professional lives, and at times in their private lives. It is a moral code that does not have the force of law. It is designed to assist staff to better understand the obligations placed upon their conduct by the Charter of the United Nations and the Staff Regulations and Rules, which remain the only legal instruments that determine acceptable conduct in UNHCR. Signing the Code does not take away any acquired rights of UNHCR Staff.

While acknowledging that local laws and customs may differ from one country to another, the Code of Conduct is based on international legal standards. For example, children are defined as those under the age of 18. Guidance on appropriate interpretation can be found in the Notes to the Code of Conduct.

The Code applies to all UNHCR staff members, who will be requested to sign it. Persons holding a UNHCR consultant contract and interns will also receive the Code and be requested to confirm that they uphold its standards as far as applicable to their status. Governmental and non-governmental organisations and companies which, through their employees, work for UNHCR, will be requested to make the principles contained in the Code known to those persons in an appropriate manner.

All UNHCR staff are responsible for encouraging, advocating and promoting the dissemination of the Code of Conduct. They also have a role in implementing, monitoring and enforcing its standards. Staff are also urged to encourage partners to adhere to these standards and to join UNHCR staff in upholding them.

CORE VALUES AND GUIDING PRINCIPLES

UNHCR staff are committed to the following fundamental values and principles:

As staff working within the United Nations system, we will ensure that our conduct is consistent with and reflects the values enshrined in the Charter of the United Nations: respect for fundamental human rights, social justice and human dignity, and respect for the equal rights of men and women. We will assist UNHCR to actively promote adherence to the principles of international refugee law, international human rights law and international humanitarian law. We will be guided by the core values of the United Nations system, including professionalism, integrity and respect for diversity, and will maintain an international perspective at all times.

As UNHCR staff, our primary commitment is to ensure the protection of and assistance to refugees and other persons of concern, in accordance with the mandate of the Office. We are committed to supporting the fullest possible participation of refugees and other persons of concern – as individuals, families and communities – in decisions that affect their lives.

We will respect the dignity and worth of every individual, will promote and practise understanding, respect, compassion and tolerance, and will demonstrate discretion and maintain confidentiality as required. We will aim to build constructive and respectful working relations with our humanitarian partners, will continuously seek to improve our performance, and will foster a climate that encourages learning, supports positive change, and applies the lessons learned from our experience.

We will show respect for all persons equally without distinction whatsoever of race, gender, religion, colour, national or ethnic origin, language, marital status, sexual orientation, age, socio-economic status, disability, political conviction, or any other distinguishing feature. We will strive to remove all barriers to equality.

We will respect the cultures, customs and traditions of all peoples, and will strive to avoid behaving in ways that are not acceptable in a particular cultural context. However, when the tradition or practice is considered by the relevant organ of the United Nations to be directly contrary to an international human rights instrument or standard, we will be guided by the applicable human rights instrument or standard.

COMMITMENT TO UNHCR CODE OF CONDUCT

As a staff member of UNHCR, I commit myself to:

1. Treat all refugees and other persons of concern fairly, and with respect and dignity.

I will always seek to understand the difficult experiences that refugees and other persons of concern to UNHCR have faced and survived, as well as the disadvantaged position in which they – particularly on the basis of gender, age or disability – may find themselves in relation to those who hold power or influence over aspects of their lives.

I will always seek to care for and protect the rights of children, and act in a manner that ensures that their best interests shall be the paramount consideration.

If my job involves direct work with refugees or other persons of concern, I will meet with them regularly, in order to fully understand their experiences and needs, and to explain the role of UNHCR and the scope of its work.

I will keep myself informed about UNHCR's policies, objectives and activities and about refugee concerns, and will do my utmost to support the Office's protection and assistance work.

2. Uphold the integrity of UNHCR, by ensuring that my personal and professional conduct is, and is seen to be, of the highest standard.

I will demonstrate integrity, truthfulness, dedication and honesty in my actions. I will be patient, respectful and courteous to all persons with whom I deal in an official capacity, including refugees and other persons of concern, representatives of operational and implementing partners, governments and donors.

I will observe local laws, will meet all my private legal and financial obligations, and will not seek to take personal advantage of any privileges or immunities that have been conferred on me in the interest of the United Nations. I will do my utmost to ensure that the conduct of members of my household does not reflect unfavourably on the integrity of UNHCR.

3. Perform my official duties and conduct my private affairs in a manner that avoids conflicts of interest, thereby preserving and enhancing public confidence in UNHCR.

My actions will be free of any consideration of personal gain, and I will resist any undue political pressure in decision-making. I will neither seek nor accept instructions regarding the performance of my duties from any government, including my national authorities, or from any authority external to the United Nations.

In accordance with Staff Regulations and Rules, I will not accept any honour, decoration, favour gift, remuneration, from any government; nor will I accept these from any other source external to the United Nations without prior authorisation. I will not engage in any outside occupation or employment without prior authorisation. I will not accept supplementary payments or subsidies from a government or any other source, or participate in certain political activities such as standing for or holding public office.

I will avoid assisting private persons or companies in their undertakings with UNHCR where this might lead to actual or perceived preferential treatment. I will never participate in activities related to procurement of goods or services, or in human resource activities, where a conflict of interests may arise.

4. Contribute to building a harmonious workplace based on team spirit, mutual respect and understanding.

I will show respect to all colleagues, regardless of status or position, and will allow all colleagues the opportunity to have their views heard, and to contribute from their knowledge and experience to team efforts. I will communicate openly and share relevant information (subject to confidentiality requirements) with other colleagues, and will endeavour to respond in a timely manner to queries.

I will respect my colleagues' privacy, and avoid misinformation. I will seek to resolve differences and solve problems when they arise. I will contribute to building constructive dialogue, guided by mutual respect and an open, positive approach, between management and staff representatives.

As a manager/supervisor I will be open to the views of all team members. I will provide timely feedback on the performance of each team member through guidance, motivation and full recognition of their merits.

5. Promote the safety, health and welfare of all UNHCR staff as a necessary condition for effective and consistent performance.

I will remain aware of and comply with all instructions designed to protect my health, welfare and safety. I will always consider the safety of staff in operational decisions. If I have doubts regarding an instruction that I consider threatening to my safety or the safety of other persons, I will bring this immediately to the attention of my supervisor.

As a manager/supervisor, I will endeavour to ensure that the health and well-being of staff and their families are not subjected to undue risk. I will promote a healthy work-life balance for staff, and will respect staff entitlements.

6. Safeguard and make responsible use of the information and resources to which I have access by reason of my employment with UNHCR.

I will exercise due care in all matters of official business, and not divulge any confidential information about refugees, colleagues and other work-related matters in accordance with the staff regulations and rules and current guidelines.

I will protect, manage and utilise UNHCR human, financial and material resources efficiently and effectively, bearing in mind that these resources have been placed at UNHCR's disposal for the benefit of refugees and other persons of concern.

7. Prevent, oppose and combat all exploitation and abuse of refugees and other persons of concern.

I undertake not to abuse the power and influence that I have by virtue of my position over the lives and well-being of refugees and other persons of concern.

I will never request any service or favour from refugees or other persons of concern in return for protection or assistance. I will never engage in any exploitative relationships – sexual, emotional, financial or employment-related – with refugees or other persons of concern.

Should I find myself in such a relationship with a beneficiary that I consider non-exploitative and consensual, I will report this to my supervisor for appropriate guidance in the knowledge that this matter will be treated with due discretion. I understand that both my supervisor and I have available to us normal consultative and recourse mechanisms on these issues.

I will act responsibly when hiring or otherwise engaging refugees or other persons of concern for private services. I will report in writing on the nature and conditions of this employment to my supervisor.

8. Refrain from any involvement in criminal or unethical activities, activities that contravene human rights, or activities that compromise the image and interests of UNHCR.

I will neither support nor take part in any form of illegal, exploitative or abusive activities, including, for example, child labour, and trafficking of human beings and commodities.

As UNHCR is committed to the highest standards of protection and care for children, I am aware that I am expected not to engage in sexual activities with any person under the age of 18. (Further guidance is given in the Notes to this Code of Conduct).

9. Refrain from any form of harassment, discrimination, physical or verbal abuse, intimidation or favouritism in the workplace.

I will not engage in or tolerate any form of harassment in the workplace, including sexual harassment and abuse of power.

As a manager/supervisor, I will not solicit favours, loans or gifts from staff, nor will I accept unsolicited ones that are of more than token value.

I recognise that there is an inherent conflict of interest and potential abuse of power in having sexual relations with staff under my supervision. Should I find myself in such a relationship, I will resolve this conflict of interest without delay.

Adopted September 2002

ANNEXES

Annex 1

Checklist for Sexual Violence Programme

Key Interventions-Preventing Sexual Violence

- ✓ Ensure proper documentation for women.
- ✓ Increase availability of female protection officers and interpreters and ensure that all officers have knowledge of UNHCR Protection Guidelines and UN Security Guidelines for Women.
- ✓ 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.
- ✓ Improve camp design for increased security for women.
- ✓ Include women in camp decision-making processes, especially in the areas of health, sanitation, reproductive health, food distribution, camp design/location.
- ✓ Distribute essential items such as food, water and fuel directly to women.
- ✓ Train people at all levels (NGO, government, refugee, etc.), to prevent, identify and respond to acts of sexual violence.

Key Interventions-Responding to Sexual Violence

- ✓ Develop/adapt protocols and guidelines that would limit further traumas to survivors of sexual violence.
- ✓ Engage socially and culturally appropriate support personnel as a first contact with people who have been subjected to sexual violence.
- ✓ Provide prompt and culturally appropriate psychosocial support for survivors and their families.
- ✓ Provide medical follow-up immediately after an attack that also addresses STDs, HIV infection and unwanted pregnancy.
- ✓ Establish closer links among protection officers, women's groups, TBAs and community leaders to discuss issues related to the attacks.
- ✓ Document cases while respecting survivors' wishes and confidentiality.

Reproduced from: Reproductive Health in Refugee Situations:
an Inter-agency Field Manual, UNHCR (and WHO, UNFPA), 2000.

Annex 2

GUIDELINES FOR COMMUNITY-BASED RESPONSE AND PREVENTION ACTIVITIES¹²

SEXUAL AND GENDER-BASED VIOLENCE

These recommendations represent best practices from the field and can be implemented by:

- Community services organizations working in partnership with UNHCR.
- National and international NGOs establishing vertical SGBV programmes.
- National SGBV NGOs expanding services to include refugee populations.
- Any government or non-governmental organization seeking to address any of the psycho-social needs of survivors and/or to develop community-based strategies for the prevention of SGBV.
- UNHCR staff.

COMMUNITY-BASED INTERVENTIONS FOR SEXUAL AND GENDER-BASED VIOLENCE INCLUDE:

- Sensitization activities - targeting refugees/IDPs, host communities, and NGO staff, local government authorities - for human rights and protection awareness, prevention, and awareness of available assistance
- Outreach and identification of survivors
- Establishment of a place where survivors can go to receive confidential assistance
- Counselling (short-term listening and emotional support) for survivors and families
- Advocacy and assistance for survivors with health care, legal/justice, community services, and other needs
- Group activities for survivors that focus on building support networks, reintegration into communities, confidence building, skill building, and promotion of economic empowerment
- Economic empowerment through income-generation and micro-credit projects

It is acknowledged that males are often survivors of sexual violence: however, the majority of survivors of sexual and gender-based violence are females. For simplicity pronouns used in these recommendations are in the feminine voice.

A. GUIDELINES FOR COMMUNITY WORKERS AND PSYCHO-SOCIAL ASSISTANCE PROVIDERS:

1. The foundation for an SGBV programme shall be the refugee community. Together with the refugee community, the SGBV implementing agency should strive to fill the gaps between existing community resources and the identified survivor and community needs in the area of SGBV. Refugees, IDPs, and host communities should be integrally involved in community/social services, including community groups, women's groups, men's groups, youth groups, schools and training projects, religious groups, community leaders (formal and informal), and traditional/healing practitioners.
2. Services to survivors and their families should be available at the refugee community level, i.e. in the camp, with trained refugee volunteers or staff. Same-sex counsellors/advocates should be available. Survivor assistance should be provided in a location chosen by the community. At this location, survivors will feel most comfortable in reporting incidents because their privacy, confidentiality, and security will be ensured to the highest degree possible. This location will not be known as the "rape centre or rape building."
3. There should be a national staff person designated as the SGBV focal point. The SGBV focal point will liaise with all sectors of the community (community services, health, protection and security, UNHCR and implementing partner staff, national and local government and NGOs. and other relevant actors) involved in the prevention of and response to sexual and gender-based violence in refugee communities. It is recommended that the focal point be a non-refugee staff person, given the need for advocacy and co-ordination with government authorities and other actors. In many settings, refugees are limited in movement, access, authority, and credibility with non-refugee actors.
4. At all times, all actors will respect the survivors choices, maintain confidentiality, and ensure security.
5. Basic emergency supplies, such as food and clothing, should be available to survivors with emergency needs.

¹² Reproduced from: UNHCR, *Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations: Inter-Agency Lessons Learned Conference Proceedings 27-29 March 2001*, Geneva, pp. 69-73 (corresponds to Appendix 3 in original publication).

6. A 'lead' agency should be designated, in consultation with relevant actors and the SGBV focal point. The lead agency will be responsible for maintaining and storing survivor records. Likewise, the lead agency will also be responsible for collecting data and for monitoring and evaluating SGBV activities and services. This includes ensuring that accurate recording and reporting mechanisms are developed and maintained.

7. In refugee and IDP camps, SGBV incident reports and other survivor records will be kept in locked and secure cabinets located in a locked and secure building. When this is not possible, SGBV Incident Reports and other survivor records will be kept in locked and secure cabinets located in the lead agency's locked and secure office outside the camp.

8. Volunteers and staff providing psycho-social support for survivors will follow these general principles:

- Practice active listening.
- Reassure survivor that the incident was not her fault.
- Respect survivors wishes and choices.
- Maintain confidentiality.
- Support the survivor in resolving family and community disputes (when appropriate, considering safety and security).
- Help the survivor to integrate into community activities. When appropriate, enlist the support of the family and the community.

9. When possible and while maintaining survivor confidentiality and security, consider the following for the alleged perpetrator:

- Counselling.
- Medical treatment.
- Helping the perpetrator to re-establish his/her relationship with the community.

10. During both the development and implementation of an SGBV programme, persons with special needs must be considered. These persons may include persons with physical or mental disabilities, older persons, or children. The following is an example of specific guidelines for working with children who are survivors of SGBV:

- Ensure respect for the best interests of the child. If the child's rights and/or protection and family wishes are in conflict, provide family counselling, seek assistance from community services or SGBV supervisor, and consider seeking assistance from elders or other family members. In these difficult situations, use special care to maintain survivor confidentiality and security.
- Consider visiting the child at her dwelling for a private interview, away from family members. Relatives should be informed of the importance of privacy. If the child survivor insists on the presence of a relative, this should be respected. In some cases, the child survivor may not feel free to share some information with SGBV staff and will share more information with a family member.
- The SGBV staff may also hold consultations and counselling with family, teachers, and members of the community close to the survivor to support her re-integration into the family, school, and community. Again, carefully consider the confidentiality and security of the survivor. In many cases, the community will know the general situation and so it may be appropriate for the worker to acknowledge this and work with the family, community, and teachers in addition to the survivor.

11. As one prevention strategy, ensure ongoing SGBV community awareness raising activities with the support and co-operation of the refugee community.

12. Conduct sensitization and awareness raising training workshops with actors and organizations involved in SGBV prevention and response, such as health facility staff, community health workers, police, field officers, refugee traditional healers, elders, and traditional courts.

13. Identify gaps in services and unmet survivor needs, and facilitate on-going development of new ideas for prevention and response. Advocate for the establishment of new services and/or expansion of existing programmes and activities. Promote refugee community leadership and active involvement in addressing SGBV.

14. Compile and analyze SGBV data regularly. Assess trends, problems, and successes. Share information and reports with UNHCR, NGOs, the host government, and the refugee community. Use this information to monitor and evaluate SGBV programme activities and develop/revise programme strategies.

15. Ensure mechanisms for inter-agency and inter-sectoral co-ordination are established and implemented, involving UNHCR, international and national NGOs, the host government, the host community, and the refugee community.

B. SURVIVOR RESPONSE GUIDELINES

1. The survivor can report her case to any of the following:

- Refugee leaders or elders.
- SGBV focal person.

- Health care facility.
- SGBV lead agency or "drop-in" centre.
- NGO or UNHCR staff.
- Host-government police or other authorities.
- Refugee security personnel.
- Friends, family, or any person the survivor trusts.

2. The contact person listens to the survivor, reassures her that the incident was not her fault, and encourages her to get help through medical examination and treatment, and follow-up counselling and support (if available). The support person will accompany the survivor to available assistance, according to the survivor's wishes.

3. At the centre (the location chosen by the community see Guidelines for Community Workers section no:2) the volunteer or staff member will assess the survivor's need for immediate medical attention. If the survivor needs immediate medical attention, the counsellor will escort her to the health facility, leaving the interview and documentation to be completed later. If the survivor does not require immediate medical attention, the survivor should be interviewed and the necessary documentation completed.

4. For each case, the lead agency will ensure that the following documentation is fully completed, with a copy submitted to the UNHCR protection officer as soon as possible:

- SGBV incident report form, fully completed.
- For complex or especially difficult situations, a brief summary report describing the incident, circumstances, situation, and any follow-up conducted or needed.

These are confidential documents and are not to be shared with other actors without the express permission of the survivor.

5. During the interview, inform the survivor about the type of services available to her and her family:

- Medical services.
- Legal options.
- Security options.
- Community services.

It is vital for SGBV counsellors to know about the services available to survivors and their families. Providing accurate and realistic information to survivors will enable them to make informed choices.

6. Medical services: All survivors of sexual or physical violence, with or without visible injuries, shall be encouraged to undergo a medical evaluation within 72 hours, or as soon as possible. It is the role of the SGBV community worker to accompany the survivor for medical treatment, giving support and advocating for the survivor (however, the survivor's decision on whether or not she wants this service must be respected). Survivors shall also be encouraged to comply with recommendations for medical care or treatment.

7. Legal options: All survivors will be apprised of their legal rights, options, and consequences, and their choices will be respected. This will include asking the survivor whether she wants to make a report to the police. Legal options shall be discussed honestly, describing what generally occurs when a survivor decides to initiate police action, such as going to the police, explaining the incident in detail, and later testifying in court against the perpetrator.

- If the survivor decides to report the incident to the police, submit the SGBV incident report to UNHCR protection staff within 24 hours.
- Where available and appropriate, discuss the option of taking her case to the traditional courts. Again, this option should be discussed honestly, describing what action is generally taken by these traditional courts. If she is interested in pursuing this option, refer the case accordingly.

8. Security options: Assess the security needs of the survivor and take necessary action. This may result in finding safe shelter for the survivor or it may mean discussing with the survivor strategies to keep herself as safe as possible.

9. Community services: Assess other social and psychological needs of the survivor and her family. Assist or refer the survivor and her family to other relevant organizations and programmes.

- Counselling.
- Medical treatment.
- Helping the perpetrator to re-establish his/her relationship with the community.

10. Encourage the survivor to obtain any follow-up services needed, including medical treatment, counselling and legal assistance.

11. Where possible, follow up with those survivors who do not return for subsequent care. This must be done in a manner that ensures the confidentiality, privacy, and safety of the survivor.

12. For those survivors pursuing legal or medical services, it is important that they be offered the option of being accompanied by someone they trust to their appointments, including to the police, to court, or to the hospital. Being accompanied helps to ensure that a survivor feels supported since she will then have a person who can answer her questions and advocate on her behalf.

Annex 3

Sexual Violence Incident Report Form

CONFIDENTIAL**Sexual Violence Incident Report Form**

Camp: _____ Reporting Officer: _____ Date: _____

1) Affected Person:

Code(*): _____ Date of Birth: _____ Sex: _____

Address: _____

Civil Status: _____

If a Minor: Code/Name of Parents/Guardian: _____

2) Report of Incident:

Place: _____ Date: _____ Time: _____

Description of Incident:
(Specify type of sexual violence)

Persons Involved:

3) Actions Taken:Medical Examination Done: Yes No By Whom: _____
Major Findings and Treatments Given:Protection Staff Notified: Yes No
If no, reasons given:

If yes, actions taken:

Psychosocial Counselling given: Yes No
By whom and actions taken**4) Proposed Next Steps****5) Follow-up Plan**

- Medical Follow-up
- Psychosocial Counselling
- Legal Proceedings

Reproduced from: Reproductive Health in Refugee Situations:
an Inter-agency Field Manual, UNHCR (and WHO, UNFPA), 2000.



Annex 4

MODEL FOR COUNSELLING VICTIMS OF SEXUAL ASSAULT

Phase of Victim Response	Time Period Up	Emotional Manifestations	Concerns & Issues	Counsellor's Role
Acute reaction	Up to 8 weeks following the rape	<ul style="list-style-type: none"> Shock Disbelief Gross Anxiety Indecisiveness Phobias Eating and sleeping disturbances Helplessness Denial of need or extreme dependency Guilt and shame Doing and undoing of rape Self-blame 	<ul style="list-style-type: none"> Physical safety Who to tell Medical care Concern about rapist: will he return? Practical concerns, i.e., financial Interest in police progress in case investigation 	<ul style="list-style-type: none"> Crisis Intervention Support Identification of coping skills Help in making decisions, providing alternative frame of reference, factual information, breaking down decisions to manageable size Avoid too much care-taking, which further convinces victim that she can't cope
Outward adjustment	Marked by return to usual lifestyle. Onset may coincide with first menstrual cycle after rape.	<ul style="list-style-type: none"> Denial of impact of rape Suppression of feelings Lack of interest in counselling Any of manifestations from acute phase, but will be denied or attributed to other sources 	<ul style="list-style-type: none"> Feeling of being in control is tenuous and dependent on denial Deals with feelings about rapist by denying anger or seriousness of the rape 	<ul style="list-style-type: none"> Empathic listening if victim does talk Interchangeable responses: confrontations or probes for deep feelings will only increase denial Preparation for possibility that depression may occur in future without implying that present feelings won't last
Integration and resolution	May never occur. Often precipitated by outward event trial, movie about rape, etc.	<ul style="list-style-type: none"> May go through phase similar to acute reaction, but shorter Fear of going crazy Fear that she'll never get over rape Sexual concerns, often manifested as sexual withdrawal or promiscuity 	<ul style="list-style-type: none"> Must integrate new view of self as someone who was raped Resolution of feelings about rapist and his relationship to her 	<ul style="list-style-type: none"> Usual counselling techniques Reassurance that this is what needs to happen for her to resolve experience Support for experiencing anger at rapist (and others) Support for looking realistically at what she could have done to prevent rape

Source: Montgomery County Government
 Department of Addiction, Victim, and Mental Health Services
 Health Education Unit/Sexual Assault Services 2-89

Annex 5**EMOTIONAL CARE
FOR SURVIVORS OF SEXUAL ASSAULT***

Sexual assault is trauma that can cause a crisis in your life. As a result, you may experience a wide range of feelings and reactions. Although each person reacts differently according to her own individual personality, it is normal to experience these feelings in response to having been sexually assaulted. During the initial crisis period you may experience some or all of the following:

Shock and Numbness

Feelings of spaciness, confusion, being easily overwhelmed, not knowing how to feel or what to do. You may react similarly as you have to other crises in your life (crying, irritable, nervous laughter, taking charge)

What You Can Do: First of all, be aware that these are normal reactions to trauma. Each person handles things differently, so think about what things have helped you get through crises in the past. Try to do only one thing at a time. Get help to sort out what you would like to do and how you may want to organise your thoughts, time and decisions. Be compassionate towards yourself: You have just experienced extreme violation.

Loss of Control

Feeling like your whole life has been turned upside down and that you will never have control of your life again, feeling like you are feelings are out of control.

What You Can Do: Get as much control over your life as you possibly can, even over small things. Ask for information that may help you sort out your thoughts and feelings. Use outside resources such as counsellors and legal professionals. Ask how other people have handled similar situations. While you may want others to help you through the crisis, you will benefit most in the long run in making your own decisions about what to do.

Fear

Fear that the rapist may return, fear for your general physical safety, fear of being alone. Other people or situations may remind you of the assault.

What You Can Do: If you want company, do not hesitate to ask people familiar to you to be with you day and night. Do things to make your physical environment feel more safe (moving, making your home more secure, getting to know neighbours better). Let people know that you want support, not over-protectiveness. You may worry that you are relying on others too much. Gradually you will start taking risks again. Do this at your own pace.

Guilt and Self-Blame

Feeling like you could have or should have done something to avoid or prevent the assault, doubts in your own abilities to make judgements.

What You Can Do: No matter what the situation was, you did not ask to be hurt or violated. Blaming yourself is sometimes another way to feel control over the situation, thinking that if you avoid similar circumstances, that it will not happen to you. Remember: the violence was not your fault.

Vulnerability

Feeling that you are at the mercy of your own emotions and everyone and everything around you, difficulty in seeing the world as a safe place and wondering about the meaning of life.

What You Can Do: Try to talk with people whom you have found to be the most dependable in the past. Select those who have been good listeners and non-judgemental. Let people know that it is important to you that they follow through on their commitments to you. You may develop new ways of feeling less vulnerable and begin to set new priorities in your life.

Powerlessness and Helplessness

Feeling like you have no control over your life and your body.

What You Can Do: Since sexual assault is the ultimate form of one person overpowering another, you may carry with you this feeling of being victimised. Try to remember as these feelings come up, that they probably are related to the assault and not to the current situation which may remind you (sometimes unconsciously) of the rape. Again, let people you know and trust know how you are feeling. You will be able to figure out how to fact these feelings.

Isolation

Feeling that this experience has set you apart from other people, not wanting to "burden" other people with your experience, wondering whether your reactions are "crazy" or "abnormal."

What You Can Do: Sexual assault can be a very lonely experience. However, you are also not alone in what you are feeling. You are responding normally to a horrible experience. Talking to others who have been raped or to a counsellor familiar with common reactions to rape can be reassuring. Try to communicate your thoughts and feelings to those close to you, even when it is sometimes difficult.

(Continued)

Distrust

Not knowing who to trust or how to trust yourself, others, or what you know; feelings of suspiciousness and being very cautious.

*Adapted from sexual assault survivor patient information compiled by Janet Yassen, Co-ordinator of Crisis Services, Victims of Violence Program, Outpatient Department of Psychiatry, The Cambridge Hospital, Cambridge, MA 02139 Reprinted with permission.

What You Can Do: Trust your instincts about who you want to talk with about what has happened to you. You may undergo some re-evaluation as to what and who you can trust. Feelings of general suspicion will subside as you begin to find other people in your life you feel you can trust.

Sexual Fears

Feeling that you do not want to have sexual relations, wondering whether you will ever again want or enjoy sexual relationships, fears that being sexually intimate may remind you of the rape.

What You Can Do: Try to tell your sexual partner what your limits are. Let your partner know if the situation (not your partner) reminds you of the assault and may bring up painful memories. You may feel more comfortable with gentle physical affection. Let your partner know what level of intimacy feels comfortable. Communication is important. Know that in time negative feelings or fears about sexuality will change.

Anger

Feeling angry at the assailant. You may find yourself thinking about retaliation. You may also generalise to feeling angry at all men (or those who are similar to the attacker) or at the world, since it may no longer feel safe. You may never feel angry or may feel this later.

What You Can Do: Be accepting of your anger. Even if you are having thoughts of committing violence toward the attacker, it does not mean that you are a violent person. You have a right to feel angry about the violation that you have experienced. Talk to people who understand this.

Disruption of Daily Activities

During the first few days or weeks after the assault, you may feel preoccupied with intrusive thoughts about the event. You may also experience difficulty concentrating, nightmares, sleep disturbances, changes in appetite, startle reactions, phobias, general anxiety, or depression. You may have memories of prior crises.

What You Can Do: Although these are common reactions, they can be quite disrupting. Take things very slowly. If you know stress management techniques, use them. Some people find it helpful to keep a notebook at hand to write down feelings, thoughts, ideas, or details of the assault. Keeping the thoughts and feelings in one place sometimes makes them feel more manageable. Try to have as much control over what kinds of activities you choose to do (for example, if you want to go to work, do that; if you don't, take the day off). If possible, allow flexibility in your schedule. It is important to incorporate nurturing activities into your daily life every day: you deserve it. Remember that the intensity of these feelings will subside.

Physical Symptoms

Because your whole system has been violated, your body too may develop reactions. You may be healing from physical injuries, or you may develop headaches, gastrointestinal discomforts, or general aches and pains. You may also be physically exhausted.

What You Can Do: It is important to take care of your body. If you can, incorporate some form of exercise, nutritious meals, planned relaxation, and plenty of sleep each day. This will assist in your recovery. Consult with your doctor if symptoms persist.

Reactions Of Family And Friends

The people in your life will have their own disturbing reactions to what has happened to you. Sometimes they will be helpful, sometimes not. It is sometimes hard to witness the pain in others caused by something that happened to you. You may want to protect them. You may fear their reactions. You may be angry at their reactions. You may want more or less from them. They may be unsure how to react.

What You Can Do: Remember that you can choose who you want to be close to. Try to be clear about what you need from those around you. Let them know that sometimes it may be confusing, that sometimes you may want space, and that sometimes you may want to talk or be close. You should not be expected to take care of them. Encourage them to get help from other people or a counsellor.

Reproduced from: Montgomery County, Maryland, Department of Health and Human Services Crisis, Income, and Victims Services, Victim Assistance and Sexual Assault Program. Visit Us @ www.vasap.org

Annex 6**PHYSICAL SHOCK SYMPTOMS OF PTSD**

1. I feel weak all over.
2. I get cold sweats when I sleep.
3. I have frequent headaches.
4. My hands shake.
5. I've lost weight.
6. All I want to do is eat.
7. I have ringing in my ears.
8. I get acid indigestion often.
9. I have shortness of breath.
10. My head feels clogged.
11. I've been smoking more and more.
12. I drink alone - and too often.
13. I need a tranquilliser to calm my nerves.
14. My heart beats too fast.
15. I have lost my appetite.
16. I hear voices.
17. I see visions.
18. My skin feels prickly.
19. My eyesight is blurry.
20. My joints ache.
21. I get frequent sore throats.
22. I need to go to the bathroom frequently.
23. I'm nauseated.
24. There's a tightness in my chest.
25. I have no interest in sex.
26. I feel slow - in my thoughts, in my actions and in making decisions.

PTSD: Post-traumatic Stress Disorder

Reproduced from: Montgomery County, Maryland, Department of Health and Human Services Crisis, Income, and Victims Services, Victim Assistance and Sexual Assault Program. Visit Us @ www.vasap.org

* Originally: Excerpt from AFTERSHOCK by Andrew E. Slaby, M.D.



Sexual and Gender-Based Violence

Part II Training Sessions

Note on Using these Training Sessions on SGBV

1. Different Options For Using the Training Sessions

The next three training sessions may be used in two different ways, as follows:

- **Option 1.** As stand alone one day individual training sessions: If you pick this option, then no further instructions are required as each of the three training sessions is already written to be used in this fashion. The three training sessions/workshops offer an introductory, intermediate and advanced level training respectively.
- **Option 2.** As part of a comprehensive three day training and workshop. If you choose this option, further instructions on how to adapt the sessions for this purpose are provided in the training sessions themselves. The sessions have already been designed to build on each other. Naturally the same participants should attend all three days of the workshop. A detailed explanation of this three day programme is provided in point 4 below.

2. The approach used in the trainings and the selection of participants

The training sessions in this chapter are based on a multi-sectoral framework; a framework used for both conceptualising and addressing SGBV. This framework is built on the principle of an integrated process and multi-sectoral team approach, which requires the involvement of all pertinent actors and all sectors. It is used for both prevention and response.

In order to be consistent with this approach, it is best to have a mixed group of participants from different organisations (NGOs, government, UNHCR, other UN agencies, local women's groups, the refugee community, and from the field) and working in different sectors. The sectors should include (but are not limited to) the following:

- Refugee Community
- Protection (including legal services)
- Community services (including survivor support)
- Health
- Security

In addition, you may wish to have persons involved in project design, co-ordination, as well as monitoring and evaluation.

3. Pre- Training/Workshop Activities

These activities are designed to prepare participants for their active and effective participation in the workshop, and include, reading, observing, discussions with colleagues and reflection. They also have the objective of increasing their individual awareness of gender and gender differences, allowing them to observe and gather existing information on SGBV from their particular context, and generally prepare participants for a results-oriented workshop in which they will be prepared to contribute their knowledge and skills.

- **One month in advance**

Send a package of materials to participants. These materials may include the following:

- Sexual Violence Against Refugees: Guidelines on Prevention and Response, UNHCR, 1995 (or the new version of these Guidelines once it is finalised)
- Refugee Children, Guidelines on Protection and Care, UNHCR 1994
- Action for the Rights of Children (ARC), Exploitation and Abuse resource pack.
- Guidelines on the Protection of Refugee Women, UNHCR
- UNHCR Policy on Refugee Women, UNHCR
- Reproductive Health in Refugee Situations, UNHCR, 1999
- Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations: Inter-Agency Lessons Learned Conference Proceedings, 27-29 March 2001, UNHCR, Geneva.
- UNHCR's "How To Guides", namely;
 - How to Guide: Community-based Response to Sexual Violence: Crisis Intervention Teams – Ngara, Tanzania, UNHCR, Geneva, 1997;
 - How to Guide: Developing a Team Approach to Prevention and Response to Sexual Violence-Kigoma, Tanzania, UNHCR, Geneva, 1998
 - How to Guide: From Awareness to Action: Eradicating FGM in Somali Refugee Camps in Eastern Ethiopia, UNHCR, Geneva, December 1997.

And any other SGBV programme resource and reference materials from reputable sources with international experience (e.g. HCDS, WHO etc.)

▪ **Two weeks in advance**

Contact Country Representative:

- (a) Verify that pre-workshop materials were received and distributed
- (b) Verify that Representative indicated to staff his/her support for the workshop, and is encouraging all staff to engage in pre-workshop activities
- (c) Confirm location/venue of workshop and focal point for co-ordination, logistics, etc.

4. Details on the three day training/workshop : Option 2

Many elements of the three day training/workshop provided in this chapter (especially Day 2 and 3) have been adapted, from UNHCR, *Sexual and Gender-Based Violence Prevention and Response: Situation Planning Workshop*.¹³ However, the trainings provided here do not include many of the materials and detailed explanations provided in that original Workshop Packet. In particular, it does not include the Pre-workshop activities, some of the more involved materials in the 'Facilitator's Guide', and some of the handouts. It is therefore recommended that facilitators wishing to implement this workshop in full and who feel they need more details, obtain that original Workshop Packet (or its subsequent revised versions, if any are available).

Below are some further details on this three day training/ workshop, as described in the original "Situation Planning Workshop" package.

Three Day Situation Planning Workshop: on Sexual and Gender-Based Violence Prevention and Response

The SGBV Situation Planning Workshop is a package of activities and materials to assist country programmes in establishing realistic, team-based, multi-sectoral plans for prevention and response to sexual/gender-based violence (SGBV). Workshop participants engage in pre-workshop activities - reading, research, and reflection - to prepare for active participation in the workshop. The three day Sexual/Gender-based Violence Situation Planning Workshop combines teaching sessions with small and large group facilitation.

The Situation Planning Workshop can be used to address an entire country programme, or can be used in any given Sub-Office for more targeted analysis and planning for a specific situation. The workshop can include implementing partners, host government authorities, and others. Alternatively, it can be done as a first planning step, with only UNHCR participants. Partners and others would then be involved in a subsequent planning stage.

The Workshop [Agenda] Summary

Day One of the workshop covers gender and definitions, consequences, and outcomes of sexual and gender-based violence. Participants are encouraged to explore attitudes, knowledge, experience, biases, and any disagreements that may surface. Day One increases participant knowledge and understanding of SGBV. By the end of the day, a model for prevention and response will emerge. This day lays the groundwork for the next two days.

In **Day Two**, participants bring the results of their Pre-workshop activities to the table and share information about SGBV in the country. Gaps in knowledge and information are identified, and plans are made for filling those information gaps. By the end of this day, the group will define the problem (s) they seek to address.

Day Three is spent designing a country plan, establishing guiding principles, roles, responsibilities, and defining the next steps for implementation after the workshop.

¹³ . The draft version for field- testing, dated December 2000.

Training Session No. 12

Session Title: An Introduction to SGBV: Concepts and Approaches. ¹⁴

Target Group: up to 15-20 UNHCR, NGO, and government staff working in different sectors, such as, protection, security, community services, health, refugee community, and also in the field. Having a mixed group from different organisations and sectors will allow participants to learn about SGBV from different perspectives, and apply more effectively a multi-sectoral approach during the practical exercises.

Level/Options: This is intended as an introductory level training session. It may be used as a stand alone individual training or it may also be used as Day 1 of the three day workshop (option 2) described in the “Note” above.

Time Duration: 1 full day

Session Objectives:

- To increase understanding of the concept of gender and the role it plays in our lives
- To raise awareness of gender-based violence during the life cycle and refugee cycle
- To increase knowledge of SGBV: its different forms/ types, causes, consequences, and as a human rights issue
- To develop an understanding of the multi-sectoral framework for preventing and responding to SGBV
- To gain practical skills, through case studies, for addressing this issue in a refugee context

Session Outline

1. Welcome, facilitator introduces him/herself, and outlines day’s agenda. (15 mins)

2. Introduction of participants. (15 mins).

3. Expectations and outline of training session objectives. (20 mins)

Ask participants, what are their expectations and concerns about today's session. Then review session objectives, adjusting these to include feedback by participants (TM no. 71, see also facilitator's notes).

4. In plenary: What does the term "gender" mean? (15 mins)

Ask participants what "gender" means, in contrast to the term "sex" for example. Record answers on a flip chart, after which you may briefly go over the definitions of "sex" and "gender", with the help of TM nos. 2, and 3.

5. Group Exercise 1: “Statements about Men and Women”. (10-15 mins)

Ask participants to team up with the person sitting next to them and to complete this exercise, which corresponds to TM no. 6, which you should distribute. They should write ‘G’ next to statements they think refer to gender, and ‘S’ next to those they think refer to sex.

6. Feedback in plenary. (15 mins)

Go through the list of statements one by one, soliciting answers from the teams. Follow this with an explanation of "gender roles", using TM no. 4.

7. Coffee/Tea Break (15 mins)

8. Group Exercise 2: Types of violence against (refugee) women and the girl-child. (15 mins)

In groups of 4-5, ask participants to list examples of types of violence against women generally, and types of violence against refugee women (if possible, specific to their local context and refugee setting).

9. Feedback in plenary, with each group adding only new contributions to the list. A participant records answers on a flip chart. (15 mins).

¹⁴ . Some exercises and facilitator's notes for this module have been borrowed from: UNHCR, *Sexual and Gender-Based Violence Prevention and Response: Situation Planning Workshop* (draft dated December 2000)

11. Compare the lists generated by participants with your own lists by using TM nos. 72, and 73, representing sexual and gender-based violence during the life and refugee cycle respectively. (10 mins)

12. Guided Plenary Discussion: What is SGBV? (1 hour)

By asking some of the following questions, explore with participants the meanings of some of the relevant terms, as well as their attitudes and level of knowledge. (See facilitator's notes and TM nos. 74-82) Questions:

(a) What is violence? Force? Abuse?

(b) What is sexual violence? You may wish to do the exercise: "Rape and Sexual Assault" (TM no.75)

(c) What is Gender-Based Violence?

(d) What do we mean when we say "sexual and gender-based violence"?

(e) What are some of the consequences and costs of SGBV?

(f) How extended and how serious is this problem? With regard to women in general in the world, region, and country.

(g) What about amongst the refugee women population (both in the local refugee setting, and in their respective countries of origin)?

13. Lunch Break (1 hour)

14. Continuation of Guided Plenary Discussion: (30 mins)

Using the same technique, ask participants the remaining questions below, providing guidance as you go along. (See facilitator's notes, and TM nos. 83-87)

Questions:

(a) What are the causes (and contributing factors) of SGBV, especially with regard to refugee population in the country of asylum?

(b) What groups of refugees are the most vulnerable, when and why (i.e., in the local context/refugee setting)?

15. Presentation: Sexual and Gender-Based Violence: an ethical and human rights issue. (20 mins)

We know that SGBV is a human rights issue, but what does international human rights law (and refugee law) say specifically on this topic? (see facilitator's notes and TM nos. 54, 76-77, 88-89, 109, 113-114))

16. Case Study Exercise 1: (25 mins)

Distribute a pre-selected case study (it should be a short one, see list in this training module), which participants read on their own for 5 minutes. Then, in groups of 4-5, have participants address the set of questions you specify (for example, how should we think about this problem and how would you deal with the different aspects of this case, what would be your approach?).

17. Coffee Break (15 mins)

18. Feedback in plenary by group rapporteurs: (20 mins)

During this feedback, the facilitator should try to highlight positive elements and also point out possible gaps in the approach taken, particularly with regard to the role of the different sectors, and the co-ordination between them (from a multi-sectoral team approach).

19. Presentation: A multi-sectoral approach to prevention and response to SGBV. (30 mins)

Before beginning this presentation, ask participants to brainstorm on what elements should be part of a framework for addressing SGBV. Record answers on a flip chart. (10 mins). Follow this up with a 20 minute presentation on a "Multi-sectoral Team Approach to SGBV". (See facilitator's notes and TM nos. 90-91)

20. Case Study Exercise 2: (25 mins)

Distribute a case study you have pre-selected and give participants 5 minutes to read it on their own. In groups of 4-5, then have participants (mixed group again) answer the questions to the case study, using the multi-sectoral framework.

21. Feedback on the Case Study: in plenary by group rapporteurs. (1 hour)

Participants and facilitator(s) are provided the opportunity to make comments at the end of each group's presentation (see facilitator's notes).

22. Review of the day, and closing of the session. (15 mins)

Suggestions on Preparation

1. The readings in this chapter and in chapter 3, as well as the documents listed below are essential for your preparation:
 - Text of DEVAW
 - UNHCR, *Sexual Violence against Refugees: Guidelines on Prevention and Response*, UNHCR, Geneva 1995
 - UNHCR, *Guidelines on the Protection of Refugee Women* UNHCR, Geneva, 1991
 - UNHCR, *Policy on Refugee Women*, UNHCR, Geneva, 1989
 - UNHCR, *Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations*, Inter-Agency Lessons Learned Conference Proceedings, 27-29 March 2001, Geneva
 - UNICEF (Innocenti Research Centre, IRC), "Domestic Violence against Women and Girls", *Innocenti Digest*, UNICEF, IRC Florence, 2000. Web-site: www.unicef-icdc.org
 - The UNHCR Code of Conduct.

While excerpts from many of these documents are included in this chapter and in this Kit (see table of contents), it is highly recommended, whenever possible, to read the full text of these publications. If you do not have access to a hard copy, you will find many of these in the attached Gender CD-ROM. Many of these publications are also available in <http://www.unhcr.org>

2. You should acquaint yourself with the most common types of SGBV experienced amongst the refugee population in their countries of origin, but also in the country of asylum, and the specific refugee setting.
3. In addition to the above, facilitators should have practical experience and considerable knowledge of SGBV issues in general and on how to address them in that specific refugee setting (e.g., reception centre, urban area, refugee camp). Of particular importance, is that facilitators have knowledge of and (if possible) practical experience using a multi-sectoral framework in addressing SGBV.
4. Ensure that you select the case studies carefully, making sure that they are well suited to the refugee case load and context. Make the time to become familiar with the case and prepare it in advance using a multi-sectoral framework and considering the prevention, response and co-ordination aspects.

Facilitator's Notes

1. Terminology: Although the term "victim" may occasionally be used in some of the case studies in this chapter, you should point out to participants that stigmatisation and connotations of powerlessness associated with being a "victim" should be avoided at all times. While victims require compassion and sensitivity, their strength and resilience should not be overlooked. The term "survivor" is generally preferred for this reason.
2. For your discussions regarding expectations and session objectives: You may wish to proceed as follows:

Ask

 - What are your expectations for this workshop? List on flip chart.
 - What are your concerns for this workshop? List on flip chart.
 - Encourage people to express concerns, and offer examples, if necessary, such as:
 - Fear of more work, given few resources and time;
 - Fear judgement of colleagues that I haven't done my job thoroughly if I haven't addressed SGBV yet;
 - Expect or fear this will be a man-hating or man-bashing three days.
 Address each concern.
3. Guided plenary discussion: What is SGBV? (1 hour)

This part of the session is intended to illicit responses and reflection, but also to reflect the attitudes of participants. The facilitator's role is to guide the discussion and highlight or add relevant

information. However, it is an approach to training which requires that participants be comfortable with and ready to participate actively. If participants in your local context do not typically respond well to discussions and questions in plenary, then instead, have them regroup into working groups of 4-5 to discuss these questions, after which they report in plenary.

If you decide to conduct the plenary discussion, then the following are some of the issues and answers you may wish to highlight:

(a) What is violence? Force? Abuse?

Draw out KEY CONCEPTS: What do above words mean in this context ? Some examples might include:

- Coercion
- Duress
- Power
- Fear
- Vulnerability

(b) What is sexual violence?

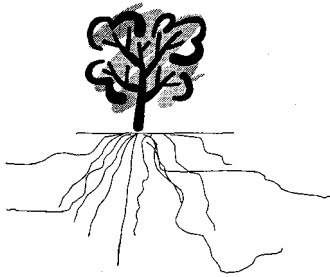
- List answers by participants on a flip chart.
- Then refer them to the “definition” in the UNHCR Sexual Violence Guidelines:
- ***“Sexual violence is a gross violation of fundamental human rights and, when committed in the context of armed conflict, a grave breach of humanitarian law.”***
- Elicit these kinds of phrases:
 - any act that is sexual in nature
 - attempted or threatened
 - without the consent of the person/survivor
 - with or without force or coercion
 - violation of basic human rights (e.g., right to life, safety, dignity, freedom from torture and inhuman treatment)
 - doing it when she says or indicates “no”

Optional Exercise: If you wish, you may also ask participants to team up with the person next to them to quickly do the exercise entitled “Rape and Sexual Assault” (provided as TM no. 75) and to answer the question: Do you agree with the statement? Why or why not? Give them 10 minutes to do this exercise, after which you resume the plenary session and solicit some answers from participants for a few of the statements (you may not have time to cover all the statements and get responses from all the participants). Nonetheless, if you sense that there is a lack of awareness about this issue amongst the participants, it may be useful to spend some extra time going over this exercise.

(c) What is gender-based violence?

- You may wish to refer to the definition of “gender” introduced earlier, as well as to the definition and examples (forms) of “violence against women” provided in DEVAW (Articles 1 and 2). See the TMs no. 2, 76, 78 and others, corresponding to this information.
- Elicit from participants the elements included in this statement:
Gender-based violence is physical, mental or social abuse which is directed against a person because of his or her gender or gender role.

(d) What, then, do we mean when we say “ Sexual and Gender-Based Violence”?



Draw a simple tree on the flip chart, using only top 2/3 of the page (leave bottom 1/3 for contributing factors/causes, later). Draw main branches, label with the categories (below). Smaller branches will be the specific types of SGBV.

Suggest a framework of 3 general categories:

Sexual Violence, Physical Violence and Emotional/Psychological Violence.

Describe each category, and elicit examples for each.

Be aware that each category may bring out opinions, biases and cultural issues.

(i) Sexual Violence: Examples

Rape, Sodomy, Attempted Rape, Marital Rape, Abuse/Exploitation, Child sexual abuse, Incest, Sexual abuse (non-penetrating), Forced prostitution ("willing" but involuntary), child prostitution, Sexual Harassment while crossing checkpoints, approaching male authority figures, Sexual abuse/manipulation by teachers, Harmful traditional practices (see list below).

(ii) Physical Violence:

Spouse beating, or "domestic violence". Ask participants: what does this wording imply to you? Do you agree? Also mention harmful traditional practices, though this will be elaborated on later.

(iii) Emotional/Psychological/Social Abuse or Violence:

Abuse, Humiliation, Discrimination, Denial of opportunities, Spouse confinement (domestic violence), Harmful traditional practices (see below)

Harmful Traditional Practices:

Fit each of these into the categories above. This discussion should also include the related aspects of culture, tradition, human rights, and the need for sensitivity, as well as the recognition of the many challenges related to dealing with long standing cultural practices. Examples of such practices include:

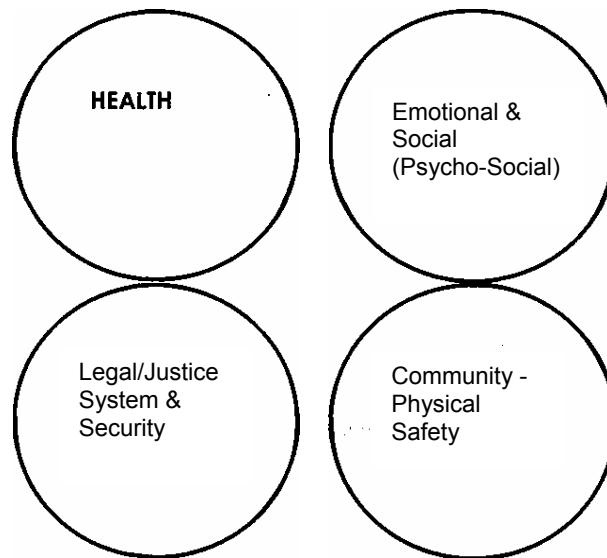
- FGM/FGC
- Early/forced marriage
- Honour killings
- Dowry abuse
- Widow ceremonies
- Punishments directed at women for crimes against culture
- Denial of education, food, etc., to girls or women due to gender roles.

To wrap up this discussion, you may wish to summarise some conclusions, such as the following:

- Culture is central to how one views and defines many forms of SGBV.
- Overt violence (assault) is not always present -threats, coercion are also forms of violence.

(e) What are some of the consequences and costs of SGBV?

- You may use the TMs indicated in the session outline, to demonstrate to participants some of the costs and consequences of different forms of SGBV, such as spouse beating (domestic violence);
- You may also wish to show the consequences by drawing the following diagram on a flip chart and writing examples of consequences provided by participants in the corresponding circle.



Examples of consequences resulting from SGBV:

Health:

- Injury, disability, or death (from physical and/or sexual assault, including domestic violence); STDs and AIDS;
- Injuries related to reproductive system, e.g. menstrual disorders, childbearing problems, infections, miscarriage, unwanted pregnancy, unsafe abortions;
- Depression leading to chronic physical complaints and illnesses;
- FGM: Immediate Outcomes: shock, infection, excessive bleeding, death;
- FGM: Longer term Outcomes: emotional damage (anger, fear, resentment, self-hate, confusion), lost sexual feelings; painful sexual intercourse, barrenness, difficult pregnancy and labour, chronic pain, chronic infections, death.

Emotional/Psychological:

- Emotional damage, shame, insecurity, loss of ability to function in society;
- Depression, sleep problems, eating problems, mental illness, social isolation, suicide.

Social, Community and Family Consequences or Outcomes:

- Gossip, judgement against the survivor, blaming the victim, treating the victim as a social outcast;
- Expensive, drain on community resources - family supports, neighbours, friends, schools, community leaders, social service agencies, etc.;
- Victim unable to continue as contributing member of society-child care, domestic responsibilities, earning an income;
- If perpetrators not considered by community to be criminals, not apprehended or arrested; message that the behaviour is acceptable may lead to more incidents.

Legal Justice System:

- Strain on police/court resources already challenged and overburdened.

Security, Physical Environment:

- Victim feels insecure, threatened, afraid
- Climate of fear and insecurity - entire community, or just the women.
- Community may respond with vigilante-ism.

(f) How extended and how serious is this problem? With regard to women in general in the world, region, and country.

You may wish to refer to TM containing statistics about domestic violence around the world, and also about FGM. These TMs are listed at the end of this training session module below. Some background readings in Part I of this chapter also discuss this. In general, the readings

in this chapter will assist you with respect to the global situation. However, for the regional and country-specific situation, you may wish to prepare some basic statistics, usually available from local women's organisations, the national statistics bureau or other government sources.

(g) What about amongst the refugee population (both in the local refugee setting, and in their respective countries of origin)?

As a facilitator you should already be familiar with the situation amongst the refugee population, but in addition, you may wish to provide participants with results of relevant surveys, statistics, and country of origin information (for the main groups/ nationalities represented in the refugee case-load of the host country).

4. During the continuation of the Guided Plenary Discussion, you may wish to highlight some of the points below:

(a) What are the causes (and contributing factors) of SGBV, especially with regard to refugee population in the country of asylum?

- The UNHCR Sexual Violence Guidelines, section 1.6, pages 7-9, (available in Part I of this chapter) should help you with this.
- You may also wish to illustrate these causes (listed below) in the Tree flipchart you drew earlier. You may do this by drawing roots under the line, and write the examples of the causes provided by participants on the roots. The information below may help you prepare and guide this discussion.

(i) List of (general) Causes

- Desire for power, control, political motive - weapon of war;
- Collapse of traditional society and family supports;
- Culture and traditional practices, religious beliefs, poverty;
- Alcohol/drug abuse, boredom, lack of services, activities, loss of male power/role in family and community; seeking to assert power;
- Legal justice system/laws silently condones - lack of laws against forms of SGBV;
- Retaliation, e.g., if refugees are considered materially privileged compared with local population;
- Geographical location/environment (e.g., may be near a high crime area);
- Design and social structure of camp (overcrowded, living with strangers);
- KEY CAUSE: is related to gender issues, such as: male and/or society attitudes of disrespect or disregard towards women; lack of equality of human rights for all;
- Cultural/social norms of gender inequality; lack of value of women and/or women's work.

(ii) List of causes/ contributing factors in the refugee context:

- Design of services and facilities;
- Camp leadership predominantly male;
- Women's security issues not considered in decisions;
- Availability of food, fuel wood, income generation; need for movement in isolated areas;
- Lack of police protection; lack of UNHCR presence in camp; general lawlessness;
- Lack of identity cards/registration cards for each individual refugee; lack of awareness or belief in human rights for all.

(iii) If you wish to summarise you may point out:

- Different consequences/outcomes for different types of SGBV;
- Response to different types will vary to address those differences;
- Different contributing factors for different types of SGBV;
- Prevention activities addressing different types will vary.

(b) What groups of refugees are the most vulnerable, why and when (in the local refugee setting)?

- You may need to caution participants that they should not make assumptions that some forms of violence are more prevalent in some groups of refugees and not in others;
- You may wish to draw from the UNHCR Sexual Violence Guidelines (especially, relevant excerpts from parts 1.2., 1.3 and 1.6 reproduced in Part I of this chapter). Some points to mention include:

(i) What Groups are most vulnerable?**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

(ii) Why ? (in addition to the causes provided above)**→ Particular 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;
- Females who are on their own for whatever reason, 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;
- Refugee women without proper personal documentation are susceptible to sexual exploitation and abuse;
- Male responsibility for distribution of goods and necessities may expose women to sexual exploitation.

→ Camp design and location

- The geographical location of a refugee camp (e.g. camp is located in an area which has a serious crime problem, or is geographically isolated from the local population);
- The design and social structure of many refugee camps and settlements may contribute to the likelihood of protection problems (e.g., communal living and sleeping space);
- Poor design of services and facilities. For example: communal latrines and washing facilities at some distance from the living quarters, thereby increasing the potential for attacks; camps not lit, or poorly lit; lack of night patrols; distance to travel for food, water, fuel distribution points or collection areas; housing centres and camps where sleeping rooms and washing facilities are not locked.
- The lack of police protection and general lawlessness in some camps.

→ UNHCR/Other presence

The lack of UNHCR or NGO access to/ presence in camps, particularly at night can be a contributing factor.

(iii) When are refugees vulnerable?

Violence during the Refugee Cycle: You may wish to refer to the chart on violence during the refugee cycle again (available as TM no. 73).

5. Presentation: Sexual and Gender-Based Violence: an ethical and human rights issue.

The following are some suggestions for the content of this presentation :

(a) An introduction to DEVAW and brief analysis of its definition of "violence against women". In particular, you may wish to highlight:

The government obligations undertaken under this Declaration, include taking action to eliminate and punish violence against women in both the public and private sphere, no matter who is the perpetrator (arts. 1, 2, 4 (c));

- UNHCR is bound by the standards in DEVAW;

- The Declaration specifically states 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" (Preamble);
- It also identifies refugee women as being "especially vulnerable to violence". (Preamble);
- And explicitly declares that states "should not invoke any **custom**, tradition or religious consideration to avoid their obligations with respect to [the elimination of violence against women, but should pursue, without delay, a policy of eliminating it]" (art. 4);
- Some of the types of violence against women mentioned in art. 2 of DEVAW .

(b) **UNHCR's position:** as reflected in various UNHCR policies and guidelines for the protection of refugee women, including:

- The UNHCR Sexual Violence Guidelines (available in chapter 4);
- Relevant ExCom Conclusions (especially no. 73, available in the Reference Section of this Gender Handbook);
- The UNHCR Policy on Human Rights (available in Part I of chapter 3);
- The UNHCR Guidelines on Gender-Related Persecution (in chapter 5);
- The UNHCR Guidelines on the Protection of Refugee Women (in chapter 2);
- The UNHCR Policy on Refugee Women (in chapter 2).

For example: ExCom Conclusion no. 73 on "Refugee Protection and Sexual Violence":

- Stresses the importance of international instruments, including those related to human rights, for the protection of refugees against sexual violence;
- Highlights that DEVAW was adopted by various United Nations bodies concerned with human rights, in order to prevent, investigate and punish sexual violence;
- Strongly condemns persecution through sexual violence, which constitutes a gross violation of human rights;
- 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 one of the five reasons in the 1951 Convention;
- Notes that women refugees often experience persecution differently from refugee men;
- Recommends that refugee victims of sexual violence and their families be provided with adequate medical and psycho-social care.

(c) You may also wish to make some **linkages between violence against women, human rights and gender-related asylum claims**. In this respect, you may refer to "The International Human Rights Framework: the link with refugee protection and women's rights" (and specifically section 6) contained in Part I of chapter 3.

(d) Finally, you may wish to go over the **UNHCR Code of Conduct**.

This Kit provides many Training Materials (TMs) (the loose-leaf pages in the binder of the Kit) which you can use for this presentation. These are itemised in the session outline, and also available in the form of a list which is provided at the end of this training module.

6. For the Case Studies:

You should use the multi-sectoral framework as your main reference and provide feedback and guidance to participants in line with this framework. As suggested above, ensure your case study is appropriate and relevant to the refugee context in which you are working, and also that you prepare the case yourself in advance.

Case study 1:

This case study should be short since it is only intended to draw out the initial and spontaneous responses of participants, in order to later be able to contrast this with the multi-sectoral approach used in the next case study. You may need to adapt (edit) the case studies in this Kit (provided in the TMs) so that they reflect only the questions and headings etc., you wish participants to see. For this training, you may ask participants to answer the following types of **questions** about the case study: Q: How should we think about this problem? How would you deal with the different aspects of this case -what would be your approach?

7. Presentation: A multi-sectoral approach to prevention and response to SGBV:

By first brainstorming with participants on the elements of a framework to address SGBV, you will engage them and encourage 'active listening'. The discussion will also offer a good link to your presentation. In this presentation you will want to point out some of the following elements of a multi-sectoral approach:

This approach includes the following elements:

- (a) The protection of refugees involves **all actors**, UN, government, NGOs and refugees themselves.
- (b) **All sectors** must be engaged, including
 - The refugee community;
 - Community services;
 - Health;
 - Protection;
 - Security.
- (c) Other necessary elements of a SGBV programme include:
 - Co-ordination amongst all actors;
 - Monitoring and evaluation;
 - Prevention, including through male involvement, a code of conduct (see UNHCR's Code of Conduct), and access to resources.

For more details on this approach and the elements listed above, you may refer to the corresponding background readings (excerpts) listed in the table of contents to this chapter, or alternatively, to *Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations: Inter-Agency Lessons Learned Conference Proceedings, 27-29 March 2001*, UNHCR, Geneva.

A chart illustrating the multi-sectoral framework is available as TM no. 91 to assist you with your explanations and presentation, and may also be helpful to participants if provided as a handout.

8. Case Study Exercise 2:

Instruct participants to answer the questions to the case study by using the multi-sectoral framework. If you write a case study of your own based on the local refugee context, some of the questions you may want to have participants address could include the following: How would you respond to this case? What action would you take on this case? What are the different issues in this case and how would you address each one?

9. Feedback in plenary on results of case study exercise 2 (by group rapporteur):

For your comments on these group work presentations, you may:

- decide to highlight how each group conceptualised (interpreted) the case or problem differently,
- how the immediate actions they elected to take may also be different,
- the different roles of actors in each sector and the manner of their co-ordination, preventive strategies, response strategy etc.,
- some of the possible results ensuing from these different approaches to the problem,
- how the groups' responses differed – in a positive way, from those of the first case study (where a multi-sectoral approach was not used).

Materials

Equipment: Flip charts, markers, overhead projector, and computer if you wish to make a power point presentation.

Training Materials (TMs): Handouts, OHT, PPP

TM no. 71: Training Session 12: An introduction to SGBV: Concepts
And Approaches: Objectives

Handout/OHT/PPP

TM no. 2: Sex & Gender: Basic Definitions

Handout/OHT/PPP

TM no. 3: Key Words: Sex and Gender

Handout/OHT/PPP

TM no. 6: Exercise: Statements about Men and Women

Handout/OHT

TM no. 4: Gender Roles

Handout/OHT/PPP

TM no. 72: Violence throughout the life Cycle	Handout/OHT
TM no. 73: Sexual Violence During the Refugee Cycle	Handout/OHT
TM no. 74: What is Sexual Violence?	Handout/OHT/PPP
TM no. 75: Exercise: Rape, Sexual Violence (Optional)	Handout/OHT
TM no. 76: DEVAW Definition of 'Violence Against Women'	Handout/OHT/PPP
TM no. 77: DEVAW: Article 2 (types of violence)	Handout/OHT/PPP
TM no. 78: 3 General Categories of SGBV	Handout/OHT/PPP
TM no. 79: (Tree) Exercise: SGBV-Forms of Violence and Causes	Handout/OHT
TM no. 80: Table: Socio-Economic Costs of Violence: a Typology	Handout/OHT
TM no. 81: Table: Health Consequences of Violence against Women	Handout/OHT
TM no. 82: Table (global stats) : Domestic Violence against Women	Handout/OHT
TM no. 83: What are the General Causes and Contributing Factors?	Handout/ OHT/PPP
TM no. 84: In the Refugee Context: What are causes and contributing Factors of SGBV?	Handout/OHT
TM no. 85: Table –Factors that Perpetuate Domestic Violence	Handout/OHT
TM no. 86: In Summary: Understanding SGBV	Handout/OHT/PPP
TM no. 87: What groups of refugees are the most vulnerable?	Handout/OHT/PPP
TM no. 54: DEVAW	Handout/OHT/PPP
TM no. 88: Why is DEVAW an Important Human Rights Instrument for Refugee Women?	Handout/OHT/PPP
TM no. 89: ExCom Conclusion no. 73: Refugee Protection and Sexual Violence.	Handout/OHT
TM no. 109: Gender-related (asylum) claims have typically encompassed	Handout/OHT/ PPP
TM no. 113: Well-Founded Fear of Persecution	Handout/OHT/ PPP
TM no. 114: Well-Founded Fear of Persecution: there is no doubt...	Handout/OHT/ PPP
TM no. 90: A Multi-Sectoral Approach to prevention and response to SGBV	Handout/OHT/PPP
TM no. 91: Chart – Multi-Sectoral and Functional Approach to Sexual Violence Prevention and Response.	Handout/OHT/PPP

Case Studies:

- TM no. 98: Case Study 9: Sexual Violence: Prevention and Response
- TM no. 99: Case Study 10: Gender-Based Violence and Mental Health Issues
- TM no. 100: Case Study 11: Gender-Based Violence and Resettlement Issues
- TM no. 101: Selected Supplementary Cases (nos. 12-17) for SGBV Trainings

Documents to distribute:

- TM no. 91 chart of "Multi-Sectoral Framework"
- Other TMs marked as a possible "Handout" (see list)
- Various readings provided in Part I of this chapter
- If not already done as part of pre-workshop activities, then you should make available to all participants, a copy of all the UNHCR SGBV related documents, guidelines and policies (a list of which is available in "Suggestions on Preparation" at the beginning of this training session, and also in the bibliography in the Reference Section of this Gender Handbook).

Training Session No. 13

Session/Workshop Title: Defining and Addressing SGBV in Refugee Settings: Prevention and Response.¹⁵

Target Group: up to 20 UNHCR staff, NGO and government counterparts/partners, as well as local women's organisations, and representatives from the refugee community (women and men). Participants should be selected from a mix of different sectors such as protection (legal services), community services, health, refugee community, security, and should also include representatives from the field and camp/reception centre managers.

Alternatively, you may wish to have a workshop focused on a specific sector. In that case, your target audience could be 15 participants from different organisations (and the refugee community) working in the same sector or conducting similar activities to that sector. If you select this option, you must then focus on co-ordination (for this sector) between the different organisations, but also build in some inter-sectoral co-ordination as well (for example, to take place before and /or after the training).

Level/Options:

Option 1: If conducted on its own, this session is appropriate as an intermediate level workshop for persons already familiar with SGBV issues in general and in the local context. They should also already be familiar with key gender concepts and with SGBV as a human rights issue. The training session outline can be conducted as is (without alterations), with the inclusion of the exercise marked "OPTIONAL".

Option 2: Alternatively, if you are using this workshop as Day 2 of the three day workshop, then you may adapt this session outline for your purposes by simply ignoring all the activities 1-7, and starting the session instead with a brief review of Day 1 (corresponds to Training Session no. 12 in this Kit), and an outline of the agenda for Day 2. You should also ignore the last exercise "Organisational Working Group Exercise 3" (and its associated follow up activities) which is marked "OPTIONAL". Skip this and simply proceed to review the accomplishments of the workshop and then close the session.

Time Duration: 1 full day

Session Objectives:

- To increase awareness of gender concepts, and different aspects of SGBV
- To develop an understanding of the multi-sectoral framework/approach to SGBV
- To develop a preliminary situation analysis of SGBV in the refugee setting
- To define the problem(s) related to SGBV in the refugee setting

Session Outline

1. Welcome, facilitator (s) introduces him/herself, and day's agenda. (15 mins)
2. Introduction of participants: (25 mins)
After speaking to the person next to them for five minutes, participants introduce each other to the group.
3. Workshop objectives and expectations: (15mins)
In plenary, participants share their expectations of the workshop. This is followed by a review of the session objectives, which are adapted, as necessary, to take account of participants' responses. (TM no. 92)
4. **Brainstorming in Plenary:** What is SGBV? (30 mins)
Record answers by participants on a flip chart and provide guidance and commentary as required, highlighting in particular: key gender concepts, definitions of different types of violence, as well as the main causes and consequences of SGBV; and approach this topic from a human rights perspective (see facilitator's notes for more details, and TM nos. 2-4, 72- 87, 54, 76, 77, 88-89, 109, 113, 114)

¹⁵ . Many of the exercises and facilitator's notes in this training session have been adapted from: UNHCR, *Sexual and Gender-Based Violence Prevention and Response: Situation Planning Workshop* (draft for field-testing, December 2000)

5. **Coffee/Tea Break. (15 mins)**

6. Exchange in Plenary: How is SGBV relevant to your work/sector/functions? (35 mins)

Record answers on a flip chart and tease out the main components of a multi-sectoral framework (i.e., security, community services, protection - legal services, refugee community, health) by underlining the sectors as participants bring them up. In this way, you will gradually flesh out the main elements of this approach.

7. **Presentation:** The multi-sectoral approach to preventing and responding to SGBV in a refugee context (see facilitator's notes, and TMs no. 90, 91). (20 mins)

Provide a detailed description of the multi-sectoral framework, presenting it as both a way to conceptualise the problem as well as a way of concretely addressing it (see facilitator's notes).

8. **Panel discussion:** on the situation of SGBV in the local refugee context: (1 hour)

The panel may include: a UNHCR, government and NGO staff member, representatives from the refugee community (woman and man), and a local woman's organisation. **Note** that these panel members are also participants at this workshop. Three of the panel members should make a 15 minute presentation each on one of the three topics suggested below, while the others provide 10 minute comments which may consist of additional remarks to the presentations, their general views on the situation as well as particular concerns. Suggested topics for presentations by panel members (see facilitator's notes):

- Facts about SGBV in the local refugee communities
- Reporting and response mechanisms in place
- Prevention strategies in place

9. Open Discussion and Question/Answer Period (to panel members): (15mins)

10. **Lunch Break (1 hour)**

11. Brief Introduction to the method of SWOT analysis: (see facilitator's notes). (15 mins)

12. Working Group Exercise: (total of 40 mins)

“Response to SGBV: Situation Analysis and Preliminary Recommendations”

In groups of 4-5 organised according to sectors/activities, participants conduct a SWOT analysis of response mechanisms by brainstorming for 25 minutes on the strengths, weakness, opportunities and threats they believe affect the situation in their sector (i.e., security, refugee community, community services, protection, or health).

This is followed by a 15 minute spontaneous brainstorming on preliminary recommendations to improve existing response mechanisms. Each working group produces a list, containing both the SWOT analysis and the preliminary recommendations. The aspect of co-ordination should be highlighted.

13. In plenary, each group rapporteur presents the results (in 15 minutes each) of the group work, noting any significant differences in the responses between different members of the working group. Key results are recorded on a flip chart. This is followed by a discussion period. (1: 30 hours)

14. **Coffee/Tea Break (15 mins)**

15. Working Group Exercise 2: **Prevention of SGBV: Situation Analysis and Preliminary Recommendations.** (40 mins)

Participants regroup once again into their sector working groups and conduct the same exercise as above, but this time in relation to Prevention. For 20 minutes, groups do a SWOT analysis with regard to prevention in their respective sector. This is followed by a

¹⁶ . Note: If you are conducting the three day workshop, then skip this exercise as well as the related feedback and question/answer period, and simply proceed to the next activity in this session outline.

15 minute brainstorming session resulting in a list of preliminary recommendations for improving the prevention situation or mechanisms in their sectors. The aspect of co-ordination should be highlighted.

Feedback in plenary by group rapporteurs (10 minutes each), followed by a discussion or Question/ Answer period. (total of 1 hour)

16. **Coffee/ Tea Break (15 mins)**

17. **OPTIONAL Exercise:** Organisational Working Group Exercise 3: "Recommendations and Action Plan":¹⁶ (40 mins)

For this exercise, participants from the same organisation form into groups of 4-5 persons and do the following:

- Take 15 minutes to discuss amongst themselves their own reactions to the results of the group exercises above (i.e., exercises 1 and 2) which were already shared in plenary.
- During the remainder of the exercise, discuss and fine-tune specific recommendations on how their organisation could address some of the issues identified in the SWOT analysis, and generally contribute to improving the situation (both prevention and response). Due to time constraints, each group should select the two sectors of priority or particular relevance to them, and only work on those areas.

18. In plenary, feedback by group rapporteurs, followed by discussions: (1:15 hours)

As part of this optional exercise, working groups make 15 minute presentations each, to briefly outline their results, followed by a 15 minute discussion on individual group presentations.

19. Concluding Discussion, in plenary in order to: (See facilitator's notes). (30 mins)

- (a) Discuss and agree with participants on follow up **actions** to this workshop;
- (b) Decide on a **follow up workshop** with all the participants (in for example, 2 or 3 months)

20. Thank participants and close the session. (5-10 mins)

Suggestions on Preparation

1. In order for this workshop to be fruitful, you must try to ensure that the right participants are present. Persons attending the workshop must be familiar with the topic of SGBV and be ready to provide substantive inputs during the group exercises, particularly those calling for a situation analysis and for recommendations. Having all or some SGBV focal points present (where these exist, if not, then gender focal points or members of the gender team in their organisation) would be a considerable asset.

2. You will also want to ensure that there are at least 2 persons from each organisation, but preferably 4 who represent different sectors (corresponding to those used in the multi-sectoral framework, namely, protection, security, health, community services, refugee community etc) since they will be working in organisational teams for the last exercise No.3.

3. If you have decided to target only one specific sector (e.g., protection) for this training, then you will want to invite at least 2 persons from that sector from each organisation (and the refugee community).

4. It is also critical to the ultimate success of this workshop that facilitators establish contact (both beforehand and afterwards) with the managers and representatives of the different organisations expected to attend the workshop, in order to gain their support both for the event as well as the follow up activities expected to take place.

For other suggestions on preparation (especially for the activities in the morning session), please see this section in Training Session no. 12.

Facilitator's Notes

1. For the morning workshop activities, up to and including the Presentation on the Multi-Sectoral approach, you should refer to the facilitator's notes in Training Session 12, where ample details are provided to help you prepare and conduct the session.

2. For the working group exercises: it may be useful for participants to be able to refer to certain documents while conducting the practical exercises in today's sessions. The following are some of the documents which you may wish to consider providing them as handouts for this purpose:

- TM no. 91 (chart) "Multi-Sectoral and Functional Approach to Sexual Violence Prevention and Response".
- TM no. 94: (Annex 1) Checklist for Sexual Violence Programme .
- TM no. 97: (Chart) Key Needs Assessment Questions: Sexual Violence Needs Assessment and Programme Framework.

3. Panel discussion: on the situation of SGBV in the local refugee context: (1 hour)

- It is important that all pertinent actors be present at this workshop and also, if possible, represented in the discussion panel.
- The 'comments' or statements provided by some panel members are just as important as the presentations provided by the others. This discussion panel provides an opportunity to express the concerns, views and perspectives of the different key actors.
- With regard to the presentations, make sure you tell panel members doing these that they should not exceed 15 minutes, and that while they may not be able to cover everything during their presentations, the main objective of the presentations is to lay the topic and issues on the table; they will be able to expound on their concerns and impressions later during the discussion period.
- As to the content of their presentations, they may include the following for example:
 - (a) Facts about SGBV in this refugee community: types, extent, attitudes, refugee community characteristics and attitudes, level of awareness about SGBV and human rights;
 - (b) Reporting and response mechanisms in place: should reflect those functioning under UNHCR, refugee structures, host government, implementing partners, and other relevant actors;
 - (c) Prevention strategies in place; such as those set up by UNHCR, refugees, host government, implementing partners, or other relevant actors.

Following the panel presentations and discussion, panel members will then join the participants - they are both resource persons and participants.

4. Introduction to the method of SWOT analysis:

As the working group exercise will require an analysis of the current situation, a brief explanation of an analysis model such as the SWOT analysis is recommended. The four main elements that are scrutinised under the SWOT analysis are the following: strengths, weakness, opportunities and threats. With these elements, not only can one analyse our present situation or programme but also plan for the future, and make strategic decisions. Participants can therefore analyse the SGBV situation in this way, with regard to each sector, and also use the same information to plan a way forward. It is a useful tool to be applied to new project proposals also.

5. Concluding discussion in plenary: (30 mins)

Before ending the workshop, you may wish to do the following:

- (a) Discuss and agree with participants on follow up **actions** to this workshop, such as:
 - Participants refine and commit their proposals to paper;
 - Introduce and consult with their colleagues and superiors on the preliminary recommendations arrived at during the workshop;
 - Together with them: develop the suggested activities/programmes or recommendations; formulate a concrete strategy (including the possible role of other actors) and an action plan with time lines for the suggested activities or changes to take place.
- (b) Decide on a follow up **workshop** with all the participants (in for example, 2 or 3 months) in order to:
 - Introduce each organisation's final proposals (on activities, changes to existing structures, projects etc), actions plan, and strategy (including on the suggested co-ordination strategy and the role of the different actors in their action plan);

- Exchange ideas and receive inputs from the different actors (e.g., refugees, and organisational counterparts such as UNHCR, government, NGOs, local women's groups) on their action plan and strategy;
- Ensure proper co-ordination of services and programmes, as well as of the roles of the relevant actors, and approaches to the issue;
- Through all of the above activities, facilitate the formulation of the final action plans (thanks to the inputs from all interested actors); and ensure their smooth implementation.

Materials

Equipment: Flip charts, markers, overhead projector, and computer if you wish to make a power point presentation.

Training Materials (TMs): Handouts, OHT, PPP

Note: Most of these TMs listed below are optional.

TM no. 71: Training Session 12: An introduction to SGBV: Concepts And Approaches: Objectives	Handout/OHT/PPP
TM no. 2: Sex & Gender: Basic Definitions	Handout/OHT/PPP
TM no. 3: Key Words: Sex and Gender	Handout/OHT/PPP
TM no. 6: Exercise: Statements about Men and Women	Handout/OHT
TM no. 4: Gender Roles	Handout/OHT/PPP
TM no. 72: Violence throughout the life Cycle	Handout/OHT
TM no. 73: Sexual Violence During the Refugee Cycle	Handout/OHT
TM no. 74: What is Sexual Violence?	Handout/OHT/PPP
TM no. 75: Exercise: Rape, Sexual Violence (Optional)	Handout/OHT
TM no. 76: DEVAW Definition of 'Violence Against Women'	Handout/OHT/PPP
TM no. 77: DEVAW: Article 2 (types of violence)	Handout/OHT/PPP
TM no. 78: 3 General Categories of SGBV	Handout/OHT/PPP
TM no. 79: (Tree) Exercise: SGBV-Forms of Violence and Causes	Handout/OHT
TM no. 80: Table: Socio-Economic Costs of Violence: a Typology	Handout/OHT
TM no. 81: Table: Health Consequences of Violence against Women	Handout/OHT
TM no. 82: Table (global stats) : Domestic Violence against Women	Handout/OHT
TM no. 83: What are the General Causes and Contributing Factors?	Handout/OHT/PPP
TM no. 84: In the Refugee Context: What are causes and contributing Factors of SGBV?	Handout/OHT
TM no. 85: Table –Factors that Perpetuate Domestic Violence	Handout/OHT
TM no. 86: In Summary: Understanding SGBV	Handout/ OHT/PPP
TM no. 87: What groups of refugees are the most vulnerable?	Handout/OHT/PPP
TM no. 54: DEVAW	Handout/OHT/PPP
TM no. 88: Why is DEVAW and Important Human Rights Instrument for Refugee Women?	Handout/OHT/PPP
TM no. 89: ExCom Conclusion no. 73: Refugee Protection and Sexual Violence.	Handout/OHT
TM no. 109: Gender-related (asylum) claims have typically encompassed.	Handout/OHT/PPP
TM no. 113: Well-Founded Fear of Persecution	Handout/OHT/PPP
TM no. 114: Well-Founded Fear of Persecution: there is no doubt...	Handout/OHT/PPP
TM no. 90: A Multi-Sectoral Approach to Prevention and Response to SGBV	Handout/OHT/PPP
TM no. 91: Chart – Multi-Sectoral and Functional Approach to Sexual Violence Prevention and Response.	Handout/OHT/PPP

Documents to distribute:

- TM no. 91 chart of "Multi-Sectoral Framework", others indicated above are optional.

Training/Workshop Session No. 14

Workshop Title: Designing and implementing an integrated strategy and action plan for addressing SGBV in refugee situations.¹⁷

Target Group: 20-25 selected UNHCR staff, NGO and government counterparts/partners, local women's organisation, refugee women and men representing the refugee community (the latter should be selected from refugee representatives who participated in a previous workshop/training or consultations on the issue).

Time Duration: 1 full day

Workshop Objectives:

- To define and address the needs related to the co-ordination, monitoring and evaluation of SGBV mechanisms and structures
- To establish multi-sectoral objectives and action plans
- To clarify among all pertinent actors, the next steps, as well as timelines and designated focal points or responsible persons

Level/Options:

Option 1: Only persons with advanced knowledge and experience in dealing with SGBV in refugee settings should participate in this workshop. If this workshop is to be conducted as a stand-alone event (i.e., not part of the 3 day training event of option 2), then it should be part of a broader context of reform or programme development initiatives already underway for addressing SGBV issues. The session outline provided below may be implemented as is, with no alterations necessary. However, please note the pre-workshop activities suggested below, which will help make this a successful workshop.

Option 2: This workshop may be conducted as Day 3 of a three day workshop. In this case, you may wish to end the previous Training Session 13 immediately after the "Feedback in plenary" on the results of Exercise 2. Then, the next day you may begin this Training Session no. 14 by summarising the results of the previous day, (i.e., situation analysis and preliminary recommendations of the working groups) and proceeding to activity 8 below ("Continuation of working groups by sector: Part II: First steps in designing an action plan").

Session/ Workshop Outline

1. Welcome and opening remarks by the UNHCR representative and government counterpart. (20 mins)
2. Introduction of participants (they introduce person next to them, after having spoken to each other for 5 mins). (35 mins)
3. Review of the objectives for the workshop with participants. TM no. 93. (15 mins)
4. Presentation: an **overview of the situation relating to SGBV** in the refugee setting. (See facilitator's notes). (25 mins)
5. Plenary discussion: on the above presentation. (20 mins)
Participants have the opportunity to comment on the situation as presented by the speaker, add new information or voice additional concerns they believe merit attention during the workshop (these should be different than the ones expressed in the written statement submitted prior to the workshop- see 'suggestions on preparation').
- 6. Coffee/Tea Break (15 mins)**
7. Working Groups by Sector: (See facilitator's notes). (30mins)
Part I: "Reviewing and discussing the **situation assessments** (in terms of prevention and response)"

¹⁷ . This training session has been largely inspired and adapted from: UNHCR, *Sexual and Gender-Based Violence Prevention and Response: Situation Planning Workshop* (draft for field-testing, December 2000).

At the end of the discussions, each working group prepares a short one or two paragraph statement which provides a synopsis of the current situation assessment and why it is necessary to take follow up action).

8. Continuation of Working Groups by sector:

Part II: **“First steps in designing an action plan: prevention and response”** (1 hour)

The same groups now take the preliminary steps necessary to design an action plan. In particular, based on the situation assessment, the groups discuss and decide on the following: (they should put them in writing, in point form, on a flip chart sheet)

(a) What are their **objectives**?

(b) What specific **actions** and tasks do they want to undertake (given the roles and responsibilities of this sector)? As the working groups are a mix of different actors (government, NGOs, refugees, UNHCR etc) they may each have different actions they wish to undertaken. In this case, these must be specified.

(c) How shall they **co-ordinate** their work with that of the others (i.e., other sectors)?

And what shall their **guiding principles** be? (e.g., confidentiality, respect for the survivor, team approach, compassion).

9. Lunch Break (1 hour)

10. Feedback in plenary by group rapporteurs (15 mins each): (1 hour total)

They present both the group statement on the current situation assessment, and also outline the main elements of their group action plan.

11. Discussion of group action plans in plenary: (See facilitator's notes). (30 mins)

Facilitator provides guidance and direction during these discussions, and if realistic, assists with the development of general guiding principles for everyone

12. Plenary Discussion: “Response: Reporting and Referral Pathways”. (45 mins)

Facilitate and guide discussions, as well as decision-making on the above issues. In particular, try to guide participants towards an agreement on:

(a) Incident report forms: the format, who must complete it, and who ultimately receives them?

(b) Referral pathways: there should be arrows to all actors; and

(c) The reporting mechanisms (for incident reports, as well as the various organisational reports, such as ‘Situation Reports’ (SitReps), analytical reports and so on): are the formats of these reporting mechanisms adequate for the purposes of co-ordination and monitoring also? Record answers and decisions on a flip chart.

13. Coffee/Tea Break (15 mins)

14. Guided Plenary Discussion: on Co-ordination Strategy of Working Groups (1 hour). (See facilitator's notes)

15. Working Groups by Sector: Setting a Timetable for Actions (1:30 hours)

Each group reviews their action plan, assigns timelines, and designates responsibility for each action to specific persons (suggested). In addition to sector-specific actions, co-ordination and reporting must also be part of the tasks considered. Decisions are recorded on a flip chart sheet.

16. Coffee/Tea Break (15 mins)

17. Working Groups resume their planning activities, and focus on: (total 40 mins)

(a) **A Review of Their Action Plan:** including their objectives, interventions and timelines etc. (20 mins)

(b) **Defining the Next Steps to Take.** (20 mins).

Record any results from this discussion and review the action plan accordingly.

18. Presentations in plenary by group rapporteurs (15 mins each), highlighting the major issues and decisions resulting from their group work: (total 1 hour)

19. Plenary Discussion on the group presentations. (30 mins)

20. Review of the day. (15 mins)
 Congratulate participants on their achievements today and close workshop. (10 mins)

Suggestions on Preparation

Pre-Workshop Activities:

1. **Option 1:** If this workshop is intended to stand on its own, then the following pre-workshop activities should be undertaken:
 - Request participants 1 ½ to 2 months before the workshop to prepare a 3-5 page written statement containing their own situation assessment (analysis) of each sector (both prevention and response), as well as preliminary recommendations on actions to be taken. In particular, they should state the concrete actions or changes that their organisation would consider taking. Both the situation analysis and the recommendations would take into account the issue of co-ordination, delegation of responsibility for certain envisaged actions and referral pathways and reporting channels.
 - Compile these assessments and share them with all relevant actors and participants at the workshop. It is important that persons intended to attend the workshop also share the assessments (of the different organisations/actors) with their superiors and other colleagues, in order to discuss and prepare in advance, as much as possible, their own feedback and responses to these reports.
 - The above pre-workshop activities may not be strictly necessary however, if the workshop is taking place during the advanced stages of reform or programme development/planning, as the actors may already have had the opportunity to exchange situation assessments. Often such initiatives are undertaken in response to a survey/ new information regarding the extent of the problems, or the ineffectiveness of existing systems, or alternatively during periodic programme planification activities.
2. **Option 2:** If this workshop is conducted as part of a 3 day training/workshop however, then no particular preparation is required before starting Day 3, except that participants must have attended the two first workshops.

Facilitator's Notes

1. It is strongly advised to have at least two, and preferably more, experienced facilitators conduct this workshop. They should be experienced on the topic, (including its different dimensions or sectors), and able to provide critical feedback and guidance during plenary discussions, and the taking of decisions, as well as coaching to the working groups.
2. Presentation: an **overview of the situation relating to SGBV** in the refugee setting. This presentation could be by one of the facilitators and should include:
 - An overview of the background or context in which the workshop is taking place (including the processes and steps taken prior to this event; or triggering the event etc.);
 - A snapshot of the major issues, concerns and needs expressed with regard to this topic by the relevant actors.
3. For the working group exercises: it may be useful for participants to be able to refer to certain documents while conducting the practical exercises in today's sessions. The following are some of the documents which you may wish to consider providing them as handouts for this purpose:
 - TM no. 91 (chart) "Multi-Sectoral and Functional Approach to Sexual Violence Prevention and Response".
 - TM no. 94: (Annex 1) Checklist for Sexual Violence Programme.
 - TM no. 97: (Chart) Key Needs Assessment Questions: Sexual Violence Needs Assessment and Programme Framework.
4. Working Groups by Sector:
 Part I: "Reviewing and discussing the **situation assessments**"
 While each organisation may have already shared a statement/ assessment of the situation relating to SGBV, prior to this workshop (or at least held discussions on this topic), participants now have the opportunity to receive feedback on each other's assessment of the situation, and discuss the more

significant areas of divergence, or points in common (e.g., shared concerns and perceptions of the different aspects of the situation). At the end of the discussions, each group prepares a short one or two paragraph statement which provides a synopsis of the current situation assessment and why it is necessary to take follow up action. As with all the other working group exercises in this workshop, facilitators should circulate among the working groups in session in order to provide necessary guidance or coaching.

5. Continuation of Working Groups by sector:

Part II: **“First steps in designing an action plan: prevention and response”**. (1 hour)

In this working session, the groups discuss and decide on some key issues such as:

- their objectives;
- specific actions they want to undertake;
- how they will co-ordinate their work between them;
- and guiding principles.

They may look to you as the facilitator to provide guidance and suggestions to start them off, especially at the beginning of the exercise. Hence, it is important that you prepare for this by being knowledgeable about SGBV in that specific context as well as about programme design (particularly from a multi-sectoral approach) to address this issue. You should also review pertinent readings on the topic, including those provided in this chapter, and the various guidelines, policies and other documents prepared by UNHCR and other organisations such as WHO, and UNICEF.

With regard to specific actions participants can undertake in their sector, you may want to suggest that they draw ideas from *Prevention and Response to SGBV in Refugee Situations: Inter-agency Lessons Learnt* (2001), (relevant sections of which are reproduced in Part I of this chapter). You may even provide this material to them (only the sections specific to their sector). Alternatively, you could simply provide them oral guidance by drawing on these and other readings yourself. While coaching working groups during their discussions, remind participants that they should be developing streamlined systems (not parallel ones), and that these must be both realistic and reflect a co-ordinated team approach.

6. Discussion of the group action plans, and development of general guiding principles for everyone (in plenary):

As a facilitator you will be providing guidance during this plenary discussion. In particular you should note and highlight to the group:

- any overlap or complementarity between sectors (their activities, objectives, roles);
- gaps in relation to the problems identified;
- strengths or opportunities which were not tapped;
- whether plans are realistic;
- and whether they include engaging all the relevant actors (such as refugees, government, host country organisations, other UN agencies, and NGOs or other partners - both local and international).

In addition, based on the presentations just made, you may wish to identify general guiding principles applicable to everyone (in addition to those specific to each sector).

7. Guided Plenary Discussion: on Co-ordination Strategy of Working Groups

As a facilitator you will guide this discussion. You may do so in the following way:

- Begin this discussion by briefly reviewing the co-ordination plans already presented by the working groups in the exercise above ("first steps in designing an action plan"; these should have been recorded on a flip chart, which you now refer to);
- And facilitate discussion/decisions, with regard to whether: the plan is realistic, manageable, or functional? Whether there was agreement among the group?
- Compare these with the co-ordination methods you currently use that work or don't work. Pay particular attention to how groups envisage to co-ordinate between/among organisations and with refugees?
- Discuss with participants, the establishment of focal points (on SGBV) in each sub/field office and BO.
- If you wish, you may make reference to the co-ordination mechanisms set up in Tanzania, in *How To Guide: on Monitoring & Evaluation*.

8. Working Groups resume their planning activities, and focus on: (total 40 mins)

(a) A Review of their Action Plan: including their objectives, interventions and timelines; whether the plan is realistic in view of time and resources available; and whether the referral pathways, co-ordination mechanisms, reporting, and delegation of responsibility are realistic, efficient and complete.

(b) Defining the next steps to take: These may include:

- the writing and distribution of the workshop report and the actions plans;
- sharing information with colleagues not present at the workshop;
- setting the date for a meeting regarding the establishment of a monitoring/ evaluation system;
- and setting a date for a meeting to review progress in the implementation of the country plan.

9. Review of the day and achievements of the workshop:

In order to facilitate this review, you may wish to refer back to the flip chart containing the original objectives for the workshop, and point out achievements as well as areas possibly requiring more work. You may also wish to refer to the sheet containing the situation analysis provided by sector groups at the beginning of the workshop (or if you prefer, to the situation assessments provided by participants prior to the workshop) and comment on how the actions plans elaborated during today's workshop respond to the situation analysis.

Training Materials (TMs):

TM no. 91: (Chart) « Mult-Sectoral and Functional Approach to Sexual Violence Prevention and Response »

TM no. 93: Training Session- Workshop 14: Designing and implementing an integrated strategy and action plan for addressing SGBV in refugee situations: Objectives

TM no. 94: (Annex 1) Checklist for Sexual Violence Programme

TM no. 97: (Chart) Key Needs Assessment Questions: Sexual Violence Needs Assessment and Programme Framework

Chapter 5



Refugee Status Determination

In this Chapter:

Introduction

Part I: Background Readings

- UNHCR Guidelines on Gender-Related Persecution
- UNHCR Guidelines on "Membership of a particular social group"
- Sexual Violence and Refugee Status Determination, UNHCR (excerpt)
- Minimum Standards for Gender Sensitive Asylum Procedures: a Checklist
- A Framework of Analysis: Women Refugee Claimants Fearing Gender-Related Persecution (Canadian IRB)
- Determining the Nature and the Grounds of the Persecution: Women Refugee Claimants Fearing Gender-Related Persecution (Canadian IRB)
- UNHCR Best Practices: Refugee Status Determination and Resettlement Procedures
- International Case Law Relevant to Gender-Based Asylum Claims
 - Selected Case Summaries
 - Five Convention Grounds: a list of selected gender cases
 - Key Legal Issues: list of selected gender cases
 - Type of Harm: list of selected gender cases

Part II: Training Sessions

- Training Session No.15: Linking Women's Human Rights and Refugee Protection: an introduction (introductory level)
- Training Session No.16: Gender Sensitive Refugee Status Determination and Procedures (intermediate level)
- Training Session No. 17: Advanced Training on Gender-Related Asylum Claims (advanced level)

Links

- Available in the **Reference Section** in this Gender Handbook:
 - Relevant ExCom Conclusions
 - Full text of CEDAW
- Available in **Gender CD-ROM** in this Kit, full text of:
 - Selected Individual Country Guidelines on Gender-Related Persecution
 - The paper "Proposed Guidelines for Gender Sensitive Legal Clinics and Other Legal Aid Providers"- under V. Miscellaneous and Related Papers
- **Related Background Readings** :
 - Chapter 3 on Women's Human Right: see "International Human Rights and Refugee Protection: the gender dimension".
 - Chapter 4 on Sexual and Gender-Based Violence: see all readings in Part I, but in particular, you may wish to focus on the following: "Lessons Learnt- A Sectoral Approach" (especially the section on 'Protection'); and "Sexual Violence against Refugees" (particularly 'legal aspects of sexual violence').
 - Chapter 6 on Interviewing and Interpreting: see all readings in Part I.
- **Related Training Sessions:** The following may be used for the purposes of / or in combination with the trainings on Refugee Status Determination already provided in this chapter:
 - Training Sessions 10 and 11 (in chapter 3 on Women's Human Rights): can be easily adapted for introductory level trainings on gender-related RSD issues. The corresponding case studies provided in chapter 3 are also suitable for RSD trainings.
 - Training Sessions 18 and 19 on interviewing and interpreting in a refugee context.
- **Related Training Materials (TMs)**, (the loose-leaf pages in the binder of this Kit) :
 - On Gender Concepts and RSD: TM nos 105-112; 115; 135
 - On Human Rights and RSD: TM nos. 48-60; 64-70 (case studies)
 - On SGBV and RSD: TM nos. 74; 76-77; 88-89.
 - On Interpreting and Interviewing, and RSD: TM nos. 136-138; TM no. 155; TM nos. 160-170; TM nos. 139 and 172-177 (role-plays, simulation exercises and case studies).



Introduction

Women's human rights have traditionally been excluded from the mainstream human rights movement. Indeed, international human rights instruments were developed and then continued to be interpreted from the perspective of the male experience, a reality recognized by the international community which responded by a series of measures including the adoption of women-specific human rights instruments.

This reality was also reflected in the international asylum system, which, until the last decade, has also largely interpreted the 1951 Convention definition of a refugee from the male experience of persecution, often resulting in a failure to provide effective protection to women asylum seekers.

Among the factors which distinguish women's gender-based asylum claims from claims typically made by men are three myths. The first is that of the public /private divide, which maintained that since these violations were by individual actors (rather than state actors) in the private sphere, generally in the home or community, they were private matters not subject to international scrutiny (and in most cases, not subject to national scrutiny either). Forced marriage, domestic violence, sexual assault and rape, and honor crimes are only some examples of human rights violations considered to take place in the private sphere. These types of claims are often difficult to even identify as many women are reluctant to speak about such experiences. The second myth was that women's human rights were not to be held as firmly as those of men, but could be subject to differing application and interpretation, as dictated by the higher demands of culture and tradition. At the same time, a third myth, namely that recognizing gender-related asylum claims would give rise to a mass influx of cases of oppressed women from all over the world, also gained ground. In addition to these myths, other factors have kept gender-based asylum cases from being recognized, including the fact that women are often persecuted differently than males, including through gender-based and sexual violence. Moreover, this is often accompanied by a *lack* of state protection, rather than active persecution by the state. And finally, many women simply lack sufficient legal and political awareness to understand or articulate their experiences in the language of human rights, persecution or the larger context of systemic gender inequalities. One reason for this is that as an emerging field, even human rights experts are only now beginning to understand the importance of systematically applying a gender analysis to the interpretation of human rights provisions, and to define (i.e., interpret) many gender issues fundamentally as human rights violations (such as is the case with 'domestic violence - for more details on this topic please see chapter 3 in this Handbook).

Nonetheless, over the last decade, significant measures have been taken by actors in the human rights and refugee field, as well as many governments, to ensure that interpretations of relevant international instruments, including the 1951 Convention definition and related procedures are fair, gender sensitive and inclusive. In Part I in this chapter, the background readings include notable examples of such measures such as the recent UNHCR Guidelines on Gender-Related Persecution, and the Guidelines on Membership of a Particular Social Group, materials on sexual violence and refugee status determination (RSD), practical tools such as a checklist on minimum standards for gender sensitive asylum procedures, and two frameworks of analysis to use for gender-related asylum claims which were produced by the Canadian IRB. In addition, this chapter also includes an example of a gender sensitive RSD process, and a compilation of international case law relevant to gender-based asylum claims. These last two readings were prepared in response to requests from the field and from trainers, and are used in the training sessions to further the sharing of good practices and knowledge of international jurisprudence in this field. It should be noted that the CD-ROM also includes selected individual country guidelines on gender-related persecution, as well as other readings, such as a paper containing guidelines for establishing gender sensitive legal services and legal clinics for refugees.

Three training sessions are available in Part II. These training modules have been developed for groups at an introductory, intermediate and advanced level, respectively. Some of the priorities reflected in these trainings include ensuring that participants are familiar with the following: the basic gender terms and concepts; how human rights and women's international human rights in particular are relevant to refugee law and the analysis of gender-related asylum cases; the new UNHCR Guidelines on Gender-Related Persecution; and some of the minimum standards for gender sensitive asylum procedures.

Beyond transferring information and knowledge however, these trainings also have practical objectives such as: further developing participants' applied analytical skills (for all three levels) in relation to different types of gender claims through the use of case studies, simulation exercises (of RSD hearings), and the writing of decisions or legal opinions; encouraging the dissemination and exchange of good practices in this field, as well as the use of practical tools such as checklists; and for more advanced groups, challenging them with more complex gender-related issues and exposure to international case law on this issue.

Many of the exercises and topics in the three training sessions can be mixed and matched (i.e., used interchangeably in each of the three trainings) so that facilitators can use ideas and content from each of the modules to create the training most suitable for their purposes. Training Sessions No. 10 and 11 in chapter 3, including the case studies and many of the training materials associated with these, may also be used and adapted for the purposes of RSD trainings, and are especially suitable for introductory and intermediate level trainings on this topic. The same is also true of Training Sessions No. 18 and 19 on interviewing and interpreting in a refugee context.

In addition, a wide selection of training materials, including handouts, overhead projections, power point presentations, case studies and many other exercises, have also been provided in order to facilitate the RSD trainings in this chapter. Amongst other things, these focus on gender concepts, key passages and messages in the recent UNHCR Guidelines on Gender-Related Persecution (including for example, on the issue of lack of state protection, agents of persecution, and how gender-related asylum claims fit into each of the five Convention grounds) and procedural standards. It should be noted that, in fact, many of these training materials (TMs) have the objective of disseminating the UNHCR Guidelines, and consist, therefore, in excerpts which have been drawn directly from the Guidelines themselves. For their part, the considerable array of case studies provided are designed to reflect a variety of gender claims as well as issues and points of law / interpretation.

For further suggestions on other background readings, and on how other training sessions and materials in this Kit can also be used for the purposes of your RSD trainings, please consult the « Links » in the table of contents at the beginning of this chapter.

Refugee Status Determination

Part I Background Readings



Distr.
GENERAL

HCR/GIP/02/01
7 May 2002

Original: ENGLISH

**GUIDELINES ON INTERNATIONAL PROTECTION:
Gender-Related Persecution within the context of Article 1A(2)
of the 1951 Convention and/or its 1967 Protocol
relating to the Status of Refugees**

UNHCR issues these Guidelines pursuant to its mandate, as contained in the Statute of the Office of the United Nations High Commissioner for Refugees, in conjunction with Article 35 of the 1951 Convention relating to the Status of Refugees and Article II of its 1967 Protocol. These Guidelines complement the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees (Reedited, Geneva, January 1992). They further replace UNHCR's Position Paper on Gender-Related Persecution (Geneva, January 2000) and result from the Second Track of the Global Consultations on International Protection process which examined this subject at its expert meeting in San Remo in September 2001.

These Guidelines are intended to provide legal interpretative guidance for governments, legal practitioners, decision-makers and the judiciary, as well as UNHCR staff carrying out refugee status determination in the field.

Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees

I. INTRODUCTION

1. “*Gender-related persecution*” is a term that has no legal meaning *per se*. Rather, it is used to encompass the range of different claims in which gender is a relevant consideration in the determination of refugee status. These Guidelines specifically focus on the interpretation of the refugee definition contained in Article 1A(2) of the 1951 Convention relating to the Status of Refugees (hereinafter “1951 Convention”) from a gender perspective, as well as propose some procedural practices in order to ensure that proper consideration is given to women claimants in refugee status determination procedures and that the range of gender-related claims are recognised as such.
2. It is an established principle that the refugee definition as a whole should be interpreted with an awareness of possible gender dimensions in order to determine accurately claims to refugee status. This approach has been endorsed by the General Assembly, as well as the Executive Committee of UNHCR’s Programme.¹
3. In order to understand the nature of gender-related persecution, it is essential to define and distinguish between the terms “gender” and “sex”. Gender refers to the relationship between women and men based on socially or culturally constructed and defined identities, status, roles and responsibilities that are assigned to one sex or another, while sex is a biological determination. Gender is not static or innate but acquires socially and culturally constructed meaning over time. Gender-related claims may be brought by either women or men, although due to particular types of persecution, they are more commonly brought by women. In some cases, the claimant’s sex may bear on the claim in significant ways to which the decision-maker will need to be attentive. In other cases, however, the refugee claim of a female asylum-seeker will have nothing to do with her sex. Gender-related claims have typically encompassed, although are by no means limited to, acts of sexual violence, family/domestic violence, coerced family planning, female genital mutilation, punishment for transgression of social mores, and discrimination against homosexuals.
4. Adopting a gender-sensitive interpretation of the 1951 Convention does not mean that all women are automatically entitled to refugee status. The refugee claimant must establish that he or she has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.

II. SUBSTANTIVE ANALYSIS

A. BACKGROUND

5. Historically, the refugee definition has been interpreted through a framework of male experiences, which has meant that many claims of women and of homosexuals, have gone unrecognised. In the past decade, however, the analysis and understanding of sex and gender in the refugee context have advanced substantially in case law, in State practice generally and in academic writing. These developments have run parallel to, and have been assisted by, developments in

¹ In its Conclusions of October 1999, No. 87 (n), the Executive Committee “not[ed] with appreciation special efforts by States to incorporate gender perspectives into asylum policies, regulations and practices; encourage[d] States, UNHCR and other concerned actors to promote wider acceptance, and inclusion in their protection criteria of the notion that persecution may be gender-related or effected through sexual violence; further encourage[d] UNHCR and other concerned actors to develop, promote and implement guidelines, codes of conduct and training programmes on gender-related refugee issues, in order to support the mainstreaming of a gender perspective and enhance accountability for the implementation of gender policies.” See also Executive Committee Conclusions: No.39, Refugee Women and International Protection, 1985; No.73, Refugee Protection and Sexual Violence, 1993; No.77(g), General Conclusion on International Protection, 1995; No.79(o), General Conclusion on International Protection, 1996; and No.81(t), General Conclusion on International Protection, 1997.

international human rights law and standards,² as well as in related areas of international law, including through jurisprudence of the International Criminal Tribunals for the former Yugoslavia and Rwanda, and the Rome Statute of the International Criminal Court. In this regard, for instance, it should be noted that harmful practices in breach of international human rights law and standards cannot be justified on the basis of historical, traditional, religious or cultural grounds.

6. Even though gender is not specifically referenced in the refugee definition, it is widely accepted that it can influence, or dictate, the type of persecution or harm suffered and the reasons for this treatment. The refugee definition, properly interpreted, therefore covers gender-related claims. As such, there is no need to add an additional ground to the 1951 Convention definition.³
7. In attempting to apply the criteria of the refugee definition in the course of refugee status determination procedures, it is important to approach the assessment holistically, and have regard to all the relevant circumstances of the case. It is essential to have both a full picture of the asylum-seeker's personality, background and personal experiences, as well as an analysis and up-to-date knowledge of historically, geographically and culturally specific circumstances in the country of origin. Making generalisations about women or men is not helpful and in doing so, critical differences, which may be relevant to a particular case, can be overlooked.
8. The elements of the definition discussed below are those that require a gender-sensitive interpretation. Other criteria (e.g. being outside the country of origin) remain, of course, also directly relevant to the holistic assessment of any claim. Throughout this document, the use of the term "women" includes the girl-child.

B. WELL-FOUNDED FEAR OF PERSECUTION

9. What amounts to a well-founded fear of persecution will depend on the particular circumstances of each individual case. While female and male applicants may be subjected to the same forms of harm, they may also face forms of persecution specific to their sex. International human rights law and international criminal law clearly identify certain acts as violations of these laws, such as sexual violence, and support their characterisation as serious abuses, amounting to persecution.⁴ In this sense, international law can assist decision-makers to determine the persecutory nature of a particular act. There is no doubt that rape and other forms of gender-related violence, such as dowry-related violence, female genital mutilation, domestic violence, and trafficking,⁵ are acts which inflict severe pain and suffering – both mental and physical – and which have been used as forms of persecution, whether perpetrated by State or private actors.
10. Assessing a law to be persecutory in and of itself has proven to be material to determining some gender-related claims. This is especially so given the fact that relevant laws may emanate from traditional or cultural norms and practices not necessarily in conformity with international human rights standards. However, as in all cases, a claimant must still establish that he or she has a well-founded fear of being persecuted as a result of that law. This would not be the case, for instance, where a persecutory law continues to exist but is no longer enforced.
11. Even though a particular State may have prohibited a persecutory practice (e.g. female genital mutilation), the State may nevertheless continue to condone or tolerate the practice, or may not be able to stop the practice effectively. In such cases, the practice would still amount to persecution. The fact that a law has been enacted to prohibit or denounce certain persecutory practices will therefore not in itself be sufficient to determine that the individual's claim to refugee status is not valid.

² Useful texts include the Universal Declaration of Human Rights 1948, the International Covenant on Civil and Political Rights 1966, the International Covenant on Economic, Social and Cultural Rights 1966, the Convention on the Political Rights of Women 1953, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984, the Convention on the Rights of the Child 1989, and in particular, the Convention on the Elimination of All Forms of Discrimination Against Women 1979 and the Declaration on the Elimination of Violence against Women 1993. Relevant regional instruments include the European Convention on Human Rights and Fundamental Freedoms 1950, the American Convention on Human Rights 1969, and the African Charter on Human and Peoples' Rights 1981.

³ See Summary Conclusions – Gender-Related Persecution, Global Consultations on International Protection, San Remo Expert Roundtable, 6-8 September 2001, nos. 1 and 3 ("Summary Conclusions – Gender-Related Persecution").

⁴ See UNHCR's Handbook, paragraph 51.

⁵ See below at paragraph 18.

12. Where the penalty or punishment for non-compliance with, or breach of, a policy or law is disproportionately severe and has a gender dimension, it would amount to persecution.⁶ Even if the law is one of general applicability, circumstances of punishment or treatment cannot be so severe as to be disproportionate to the objective of the law. Severe punishment for women who, by breaching a law, transgress social mores in a society could, therefore, amount to persecution.
13. Even where laws or policies have justifiable objectives, methods of implementation that lead to consequences of a substantially prejudicial nature for the persons concerned, would amount to persecution. For example, it is widely accepted that family planning constitutes an appropriate response to population pressures. However, implementation of such policies, through the use of forced abortions and sterilisations, would breach fundamental human rights law. Such practices, despite the fact that they may be implemented in the context of a legitimate law, are recognised as serious abuses and considered persecution.

Discrimination amounting to persecution

14. While it is generally agreed that ‘mere’ discrimination may not, in the normal course, amount to persecution in and of itself, a pattern of discrimination or less favourable treatment could, on cumulative grounds, amount to persecution and warrant international protection. It would, for instance, amount to persecution if measures of discrimination lead to consequences of a substantially prejudicial nature for the person concerned, e.g. serious restrictions on the right to earn one’s livelihood, the right to practice one’s religion, or access to available educational facilities.⁷
15. Significant to gender-related claims is also an analysis of forms of discrimination by the State in failing to extend protection to individuals against certain types of harm. If the State, as a matter of policy or practice, does not accord certain rights or protection from serious abuse, then the discrimination in extending protection, which results in serious harm inflicted with impunity, could amount to persecution. Particular cases of domestic violence, or of abuse for reasons of one’s differing sexual orientation, could, for example, be analysed in this context.

Persecution on account of one’s sexual orientation

16. Refugee claims based on differing sexual orientation contain a gender element. A claimant’s sexuality or sexual practices may be relevant to a refugee claim where he or she has been subject to persecutory (including discriminatory) action on account of his or her sexuality or sexual practices. In many such cases, the claimant has refused to adhere to socially or culturally defined roles or expectations of behaviour attributed to his or her sex. The most common claims involve homosexuals, transsexuals or transvestites, who have faced extreme public hostility, violence, abuse, or severe or cumulative discrimination.
17. Where homosexuality is illegal in a particular society, the imposition of severe criminal penalties for homosexual conduct could amount to persecution, just as it would for refusing to wear the veil by women in some societies. Even where homosexual practices are not criminalised, a claimant could still establish a valid claim where the State condones or tolerates discriminatory practices or harm perpetrated against him or her, or where the State is unable to protect effectively the claimant against such harm.

Trafficking for the purposes of forced prostitution or sexual exploitation as a form of persecution⁸

⁶ Persons fleeing from prosecution or punishment for a common law offence are not normally refugees, however, the distinction may be obscured, in particular, in circumstances of excessive punishment for breach of a legitimate law. See UNHCR’s Handbook, paragraphs 56 and 57.

⁷ See UNHCR’s Handbook, paragraph 54.

⁸ For the purposes of these Guidelines, “trafficking” is defined as per article 3 of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, 2000. Article 3(1) provides that trafficking in persons means “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

18. Some trafficked women or minors may have valid claims to refugee status under the 1951 Convention. The forcible or deceptive recruitment of women or minors for the purposes of forced prostitution or sexual exploitation is a form of gender-related violence or abuse that can even lead to death. It can be considered a form of torture and cruel, inhuman or degrading treatment. It can also impose serious restrictions on a woman's freedom of movement, caused by abduction, incarceration, and/or confiscation of passports or other identity documents. In addition, trafficked women and minors may face serious repercussions after their escape and/or upon return, such as reprisals or retaliation from trafficking rings or individuals, real possibilities of being re-trafficked, severe community or family ostracism, or severe discrimination. In individual cases, being trafficked for the purposes of forced prostitution or sexual exploitation could therefore be the basis for a refugee claim where the State has been unable or unwilling to provide protection against such harm or threats of harm.⁹

Agents of Persecution

19. There is scope within the refugee definition to recognise both State and non-State actors of persecution. While persecution is most often perpetrated by the authorities of a country, serious discriminatory or other offensive acts committed by the local populace, or by individuals, can also be considered persecution if such acts are knowingly tolerated by the authorities, or if the authorities refuse, or are unable, to offer effective protection.¹⁰

C. THE CAUSAL LINK ("for reasons of")

20. The well-founded fear of being persecuted must be related to one or more of the Convention grounds. That is, it must be "for reasons of" race, religion, nationality, membership of a particular social group, or political opinion. The Convention ground must be a relevant contributing factor, though it need not be shown to be the sole, or dominant, cause. In many jurisdictions the causal link ("for reasons of") must be explicitly established (e.g. some Common Law States) while in other States causation is not treated as a separate question for analysis, but is subsumed within the holistic analysis of the refugee definition. In many gender-related claims, the difficult issue for a decision-maker may not be deciding upon the applicable ground, so much as the causal link: that the well-founded fear of being persecuted was for reasons of that ground. Attribution of the Convention ground to the claimant by the State or non-State actor of persecution is sufficient to establish the required causal connection.
21. In cases where there is a risk of being persecuted at the hands of a non-State actor (e.g. husband, partner or other non-State actor) for reasons which are related to one of the Convention grounds, the causal link is established, whether or not the absence of State protection is Convention related. Alternatively, where the risk of being persecuted at the hands of a non-State actor is unrelated to a Convention ground, but the inability or unwillingness of the State to offer protection is for reasons of a Convention ground, the causal link is also established.¹¹

D. CONVENTION GROUNDS

22. Ensuring that a gender-sensitive interpretation is given to each of the Convention grounds is important in determining whether a particular claimant has fulfilled the criteria of the refugee definition. In many cases, claimants may face persecution because of a Convention ground which is attributed or imputed to them. In many societies a woman's political views, race, nationality, religion or social affiliations, for example, are often seen as aligned with relatives or associates or with those of her community.
23. It is also important to be aware that in many gender-related claims, the persecution feared could be for one, or more, of the Convention grounds. For example, a claim for refugee status based on transgression of social or religious norms may be analysed in terms of religion, political opinion or membership of a particular social group. The claimant is not required to identify accurately the reason why he or she has a well-founded fear of being persecuted.

⁹ Trafficking for other purposes could also amount to persecution in a particular case, depending on the circumstances.

¹⁰ See UNHCR's *Handbook*, paragraph 65.

¹¹ See Summary Conclusions – Gender-Related Persecution, no.6.

Race

24. Race for the purposes of the refugee definition has been defined to include all kinds of ethnic groups that are referred to as “races” in common usage.¹² Persecution for reasons of race may be expressed in different ways against men and women. For example, the persecutor may choose to destroy the ethnic identity and/or prosperity of a racial group by killing, maiming or incarcerating the men, while the women may be viewed as propagating the ethnic or racial identity and persecuted in a different way, such as through sexual violence or control of reproduction.

Religion

25. In certain States, the religion assigns particular roles or behavioural codes to women and men respectively. Where a woman does not fulfil her assigned role or refuses to abide by the codes, and is punished as a consequence, she may have a well-founded fear of being persecuted for reasons of religion. Failure to abide by such codes may be perceived as evidence that a woman holds unacceptable religious opinions regardless of what she actually believes. A woman may face harm for her particular religious beliefs or practices, or those attributed to her, including her refusal to hold particular beliefs, to practise a prescribed religion or to conform her behaviour in accordance with the teachings of a prescribed religion.

26. There is some overlap between the grounds of religion and political opinion in gender-related claims, especially in the realm of imputed political opinion. While religious tenets require certain kinds of behaviour from a woman, contrary behaviour may be perceived as evidence of an unacceptable political opinion. For example, in certain societies, the role ascribed to women may be attributable to the requirements of the State or official religion. The authorities or other actors of persecution may perceive the failure of a woman to conform to this role as the failure to practice or to hold certain religious beliefs. At the same time, the failure to conform could be interpreted as holding an unacceptable political opinion that threatens the basic structure from which certain political power flows. This is particularly true in societies where there is little separation between religious and State institutions, laws and doctrines.

Nationality

27. Nationality is not to be understood only as “citizenship”. It also refers to membership of an ethnic or linguistic group and may occasionally overlap with the term “race”.¹³ Although persecution on the grounds of nationality (as with race) is not specific to women or men, in many instances the nature of the persecution takes a gender-specific form, most commonly that of sexual violence directed against women and girls.

Membership of a Particular Social Group¹⁴

28. Gender-related claims have often been analysed within the parameters of this ground, making a proper understanding of this term of paramount importance. However, in some cases, the emphasis given to the social group ground has meant that other applicable grounds, such as religion or political opinion, have been over-looked. Therefore, the interpretation given to this ground cannot render the other four Convention grounds superfluous.

29. Thus, a particular social group is a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one’s human rights.

30. It follows that sex can properly be within the ambit of the social group category, with women being a clear example of a social subset defined by innate and immutable characteristics, and who are

¹² See UNHCR’s *Handbook*, paragraph 68.

¹³ See UNHCR’s *Handbook*, paragraph 74.

¹⁴ For more information, see UNHCR’s *Guidelines on International Protection: “Membership of a particular social group” within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees* (HCR/GIP/02/02, 7 May 2002).

frequently treated differently than men.¹⁵ Their characteristics also identify them as a group in society, subjecting them to different treatment and standards in some countries.¹⁶ Equally, this definition would encompass homosexuals, transsexuals, or transvestites.

31. The size of the group has sometimes been used as a basis for refusing to recognise 'women' generally as a particular social group. This argument has no basis in fact or reason, as the other grounds are not bound by this question of size. There should equally be no requirement that the particular social group be cohesive or that members of it voluntarily associate,¹⁷ or that every member of the group is at risk of persecution.¹⁸ It is well-accepted that it should be possible to identify the group independently of the persecution, however, discrimination or persecution may be a relevant factor in determining the visibility of the group in a particular context.¹⁹

Political Opinion

32. Under this ground, a claimant must show that he or she has a well-founded fear of being persecuted for holding certain political opinions (usually different from those of the Government or parts of the society), or because the holding of such opinions has been attributed to him or her. Political opinion should be understood in the broad sense, to incorporate any opinion on any matter in which the machinery of State, government, society, or policy may be engaged. This may include an opinion as to gender roles. It would also include non-conformist behaviour which leads the persecutor to impute a political opinion to him or her. In this sense, there is not as such an inherently political or an inherently non-political activity, but the context of the case should determine its nature. A claim on the basis of political opinion does, however, presuppose that the claimant holds or is assumed to hold opinions not tolerated by the authorities or society, which are critical of their policies, traditions or methods. It also presupposes that such opinions have come or could come to the notice of the authorities or relevant parts of the society, or are attributed by them to the claimant. It is not always necessary to have expressed such an opinion, or to have already suffered any form of discrimination or persecution. In such cases the test of well-founded fear would be based on an assessment of the consequences that a claimant having certain dispositions would have to face if he or she returned.
33. The image of a political refugee as someone who is fleeing persecution for his or her direct involvement in political activity does not always correspond to the reality of the experiences of women in some societies. Women are less likely than their male counterparts to engage in high profile political activity and are more often involved in 'low level' political activities that reflect dominant gender roles. For example, a woman may work in nursing sick rebel soldiers, in the recruitment of sympathisers, or in the preparation and dissemination of leaflets. Women are also frequently attributed with political opinions of their family or male relatives, and subjected to persecution because of the activities of their male relatives. While this may be analysed in the context of an imputed political opinion, it may also be analysed as being persecution for reasons of her membership of a particular social group, being her "family". These factors need to be taken into account in gender-related claims.
34. Equally important for gender-related claims is to recognise that a woman may not wish to engage in certain activities, such as providing meals to government soldiers, which may be interpreted by the persecutor(s) as holding a contrary political opinion.

¹⁵ See Summary Conclusions – Gender-Related Persecution, no.5.

¹⁶ See also Executive Committee Conclusion No.39, Refugee Women and International Protection, 1985: "States ... are free to adopt the interpretation that women asylum seekers who face harsh or inhuman treatment due to their 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 1A(2) of the 1951 United Nations Refugee Convention".

¹⁷ See Summary Conclusions - Membership of a Particular Social Group, Global Consultations on International Protection, San Remo Expert Roundtable, 6-8 September 2001, no.4 ("Summary Conclusions – Membership of a Particular Social Group").

¹⁸ See Summary Conclusions – Membership of a Particular Social Group, *ibid.*, no.7.

¹⁹ See Summary Conclusions - Membership of a Particular Social Group, *ibid.*, no.6.

III. PROCEDURAL ISSUES²⁰

35. Persons raising gender-related refugee claims, and survivors of torture or trauma in particular, require a supportive environment where they can be reassured of the confidentiality of their claim. Some claimants, because of the shame they feel over what has happened to them, or due to trauma, may be reluctant to identify the true extent of the persecution suffered or feared. They may continue to fear persons in authority, or they may fear rejection and/or reprisals from their family and/or community.²¹
36. Against this background, in order to ensure that gender-related claims, of women in particular, are properly considered in the refugee status determination process, the following measures should be borne in mind:
- i. Women asylum-seekers should be interviewed separately, without the presence of male family members, in order to ensure that they have an opportunity to present their case. It should be explained to them that they may have a valid claim in their own right.
 - ii. It is essential that women are given information about the status determination process, access to it, as well as legal advice, in a manner and language that she understands.
 - iii. Claimants should be informed of the choice to have interviewers and interpreters of the same sex as themselves,²² and they should be provided automatically for women claimants. Interviewers and interpreters should also be aware of and responsive to any cultural or religious sensitivities or personal factors such as age and level of education.
 - iv. An open and reassuring environment is often crucial to establishing trust between the interviewer and the claimant, and should help the full disclosure of sometimes sensitive and personal information. The interview room should be arranged in such a way as to encourage discussion, promote confidentiality and to lessen any possibility of perceived power imbalances.
 - v. The interviewer should take the time to introduce him/herself and the interpreter to the claimant, explain clearly the roles of each person, and the exact purpose of the interview. The claimant should be assured that his/her claim will be treated in the strictest confidence, and information provided by the claimant will not be provided to members of his/her family. Importantly, the interviewer should explain that he/she is not a trauma counsellor.
 - vi. The interviewer should remain neutral, compassionate and objective during the interview, and should avoid body language or gestures that may be perceived as intimidating or culturally insensitive or inappropriate. The interviewer should allow the claimant to present his/her claim with minimal interruption.
 - vii. Both 'open-ended' and specific questions which may help to reveal gender issues relevant to a refugee claim should be incorporated into all asylum interviews. Women who have been involved in indirect political activity or to whom political opinion has been attributed, for example, often do not provide relevant information in interviews due to the male-oriented nature of the questioning. Female claimants may also fail to relate questions that are about 'torture' to the

²⁰ This Part has benefited from the valuable guidance provided by various States and other actors, including the following guidelines: *Considerations for Asylum Officers Adjudicating Asylum Claims from Women* (Immigration and Naturalization Service, United States, 26 May 1995); *Refugee and Humanitarian Visa Applicants: Guidelines on Gender Issues for Decision Makers* (Department of Immigration and Humanitarian Affairs, Australia, July 1996); *Guideline 4 on Women Refugee Claimants Fearing Gender-Related Persecution: Update* (Immigration and Refugee Board, Canada, 13 November 1996); *Position on Asylum Seeking and Refugee Women*, (European Council on Refugees and Exiles, December 1997); *Gender Guidelines for the Determination of Asylum Claims in the UK* (Refugee Women's Legal Group, July 1998); *Gender Guidelines for Asylum Determination* (National Consortium on Refugee Affairs, South Africa, 1999); *Asylum Gender Guidelines* (Immigration Appellate Authority, United Kingdom, November 2000); and *Gender-Based Persecution: Guidelines for the investigation and evaluation of the needs of women for protection* (Migration Board, Legal Practice Division, Sweden, 28 March 2001).

²¹ See also *Sexual Violence Against Refugees: Guidelines on Prevention and Response* (UNHCR, Geneva, 1995) and *Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations* (Report of Inter-Agency Lessons Learned Conference Proceedings, 27-29 March 2001, Geneva).

²² See also Executive Committee Conclusion No.64, *Refugee Women and International Protection*, 1990, (a) (iii): Provide, wherever necessary, skilled female interviewers in procedures for the determination of refugee status and ensure appropriate access by women asylum-seekers to such procedures, even when accompanied by male family members.

types of harm which they fear (such as rape, sexual abuse, female genital mutilation, 'honour killings', forced marriage, etc.).

- viii. Particularly for victims of sexual violence or other forms of trauma, second and subsequent interviews may be needed in order to establish trust and to obtain all necessary information. In this regard, interviewers should be responsive to the trauma and emotion of claimants and should stop an interview where the claimant is becoming emotionally distressed.
- ix. Where it is envisaged that a particular case may give rise to a gender-related claim, adequate preparation is needed, which will also allow a relationship of confidence and trust with the claimant to be developed, as well as allowing the interviewer to ask the right questions and deal with any problems that may arise during an interview.
- x. Country of origin information should be collected that has relevance in women's claims, such as the position of women before the law, the political rights of women, the social and economic rights of women, the cultural and social mores of the country and consequences for non-adherence, the prevalence of such harmful traditional practices, the incidence and forms of reported violence against women, the protection available to them, any penalties imposed on those who perpetrate the violence, and the risks that a woman might face on her return to her country of origin after making a claim for refugee status.
- xi. The type and level of emotion displayed during the recounting of her experiences should not affect a woman's credibility. Interviewers and decision-makers should understand that cultural differences and trauma play an important and complex role in determining behaviour. For some cases, it may be appropriate to seek objective psychological or medical evidence. It is unnecessary to establish the precise details of the act of rape or sexual assault itself, but events leading up to, and after, the act, the surrounding circumstances and details (such as, use of guns, any words or phrases spoken by the perpetrators, type of assault, where it occurred and how, details of the perpetrators (e.g. soldiers, civilians) etc.) as well as the motivation of the perpetrator may be required. In some circumstances it should be noted that a woman may not be aware of the reasons for her abuse.
- xii. Mechanisms for referral to psycho-social counselling and other support services should be made available where necessary. Best practice recommends that trained psycho-social counsellors be available to assist the claimant before and after the interview.

Evidentiary Matters

37. No documentary proof as such is required in order for the authorities to recognise a refugee claim, however, information on practices in the country of origin may support a particular case. It is important to recognise that in relation to gender-related claims, the usual types of evidence used in other refugee claims may not be as readily available. Statistical data or reports on the incidence of sexual violence may not be available, due to under-reporting of cases, or lack of prosecution. Alternative forms of information might assist, such as the testimonies of other women similarly situated in written reports or oral testimony, of non-governmental or international organisations or other independent research.

IV. METHODS OF IMPLEMENTATION

38. Depending on the respective legal traditions, there have been two general approaches taken by States to ensure a gender-sensitive application of refugee law and in particular of the refugee definition. Some States have incorporated legal interpretative guidance and/or procedural safeguards within legislation itself, while others have preferred to develop policy and legal guidelines on the same for decision-makers. UNHCR encourages States who have not already done so to ensure a gender-sensitive application of refugee law and procedures, and stands ready to assist States in this regard.



Distr.
GENERAL

HCR/GIP/02/02
7 May 2002

Original: ENGLISH

**GUIDELINES ON INTERNATIONAL PROTECTION:
“Membership of a particular social group” within the context
of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol
relating to the Status of Refugees**

UNHCR issues these Guidelines pursuant to its mandate, as contained in *the Statute of the Office of the United Nations High Commissioner for Refugees*, and Article 35 of the *1951 Convention relating to the Status of Refugees and/or its 1967 Protocol*. These Guidelines complement the *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees (Reedited, Geneva, January 1992)*. They further supersede IOM/132/1989 – FOM/110/1989 *Membership of a Particular Social Group* (UNHCR, Geneva, 12 December 1989), and result from the Second Track of the Global Consultations on International Protection process which examined this subject at its expert meeting in San Remo in September 2001.

These Guidelines are intended to provide legal interpretative guidance for governments, legal practitioners, decision-makers and the judiciary, as well as UNHCR staff carrying out refugee status determinations in the field.

“Membership of a particular social group” within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees

I. INTRODUCTION

1. “Membership of a particular social group” is one of the five grounds enumerated in Article 1A(2) of the 1951 *Convention relating to the Status of Refugees* (“1951 Convention”). It is the ground with the least clarity and it is not defined by the 1951 Convention itself. It is being invoked with increasing frequency in refugee status determinations, with States having recognised women, families, tribes, occupational groups, and homosexuals, as constituting a particular social group for the purposes of the 1951 Convention. The evolution of this ground has advanced the understanding of the refugee definition as a whole. These Guidelines provide legal interpretative guidance on assessing claims which assert that a claimant has a well-founded fear of being persecuted for reasons of his or her membership of a particular social group.
2. While the ground needs delimiting—that is, it cannot be interpreted to render the other four Convention grounds superfluous—a proper interpretation must be consistent with the object and purpose of the Convention.²³ Consistent with the language of the Convention, this category cannot be interpreted as a “catch all” that applies to all persons fearing persecution. Thus, to preserve the structure and integrity of the Convention’s definition of a refugee, a social group cannot be defined *exclusively* by the fact that it is targeted for persecution (although, as discussed below, persecution may be a relevant element in determining the visibility of a particular social group).
3. There is no “closed list” of what groups may constitute a “particular social group” within the meaning of Article 1A(2). The Convention includes no specific list of social groups, nor does the ratifying history reflect a view that there is a set of identified groups that might qualify under this ground. Rather, the term membership of a particular social group should be read in an evolutionary manner, open to the diverse and changing nature of groups in various societies and evolving international human rights norms.
4. The Convention grounds are not mutually exclusive. An applicant may be eligible for refugee status under more than one of the grounds identified in Article 1A(2).²⁴ For example, a claimant may allege that she is at risk of persecution because of her refusal to wear traditional clothing. Depending on the particular circumstances of the society, she may be able to establish a claim based on political opinion (if her conduct is viewed by the State as a political statement that it seeks to suppress), religion (if her conduct is based on a religious conviction opposed by the State) or membership in a particular social group.

II. SUBSTANTIVE ANALYSIS

A. Summary of State Practice

5. Judicial decisions, regulations, policies, and practices have utilised varying interpretations of what constitutes a social group within the meaning of the 1951 Convention. Two approaches have dominated decision-making in common law jurisdictions.
6. The first, the “protected characteristics” approach (sometimes referred to as an “immutability” approach), examines whether a group is united by an immutable characteristic or by a characteristic that is so fundamental to human dignity that a person should not be compelled to forsake it. An immutable characteristic may be innate (such as sex or ethnicity) or unalterable for

²³ See Summary Conclusions – Membership of a Particular Social Group, Global Consultations on International Protection, San Remo Expert Roundtable, 6-8 September 2001, no.2 (“Summary Conclusions – Membership of a Particular Social Group”).

²⁴ See UNHCR’s *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees* (Reedited, Geneva, January 1992), paragraphs 66-67, 77; and see also Summary Conclusions – Membership of a Particular Social Group, no.3.

other reasons (such as the historical fact of a past association, occupation or status). Human rights norms may help to identify characteristics deemed so fundamental to human dignity that one ought not to be compelled to forego them. A decision-maker adopting this approach would examine whether the asserted group is defined: (1) by an innate, unchangeable characteristic, (2) by a past temporary or voluntary status that is unchangeable because of its historical permanence, or (3) by a characteristic or association that is so fundamental to human dignity that group members should not be compelled to forsake it. Applying this approach, courts and administrative bodies in a number of jurisdictions have concluded that women, homosexuals, and families, for example, can constitute a particular social group within the meaning of Article 1A(2).

7. The second approach examines whether or not a group shares a common characteristic which makes them a cognisable group or sets them apart from society at large. This has been referred to as the “social perception” approach. Again, women, families and homosexuals have been recognised under this analysis as particular social groups, depending on the circumstances of the society in which they exist.
8. In civil law jurisdictions, the particular social group ground is generally less well developed. Most decision-makers place more emphasis on whether or not a risk of persecution exists than on the standard for defining a particular social group. Nonetheless, both the protected characteristics and the social perception approaches have received mention.
9. Analyses under the two approaches may frequently converge. This is so because groups whose members are targeted based on a common immutable or fundamental characteristic are also often perceived as a social group in their societies. But at times the approaches may reach different results. For example, the social perception standard might recognise as social groups associations based on a characteristic that is neither immutable nor fundamental to human dignity—such as, perhaps, occupation or social class.

B. UNHCR’s Definition

10. Given the varying approaches, and the protection gaps which can result, UNHCR believes that the two approaches ought to be reconciled.
11. The protected characteristics approach may be understood to identify a set of groups that constitute the core of the social perception analysis. Accordingly, it is appropriate to adopt a single standard that incorporates both dominant approaches:

a particular social group is a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one’s human rights.

12. This definition includes characteristics which are historical and therefore cannot be changed, and those which, though it is possible to change them, ought not to be required to be changed because they are so closely linked to the identity of the person or are an expression of fundamental human rights. It follows that sex can properly be within the ambit of the social group category, with women being a clear example of a social subset defined by innate and immutable characteristics, and who are frequently treated differently to men.²⁵
13. If a claimant alleges a social group that is based on a characteristic determined to be neither unalterable or fundamental, further analysis should be undertaken to determine whether the group is nonetheless perceived as a cognisable group in that society. So, for example, if it were determined that owning a shop or participating in a certain occupation in a particular society is neither unchangeable nor a fundamental aspect of human identity, a shopkeeper or members of a particular profession might nonetheless constitute a particular social group if in the society they are recognised as a group which sets them apart.

²⁵ For more information on gender-related claims, see UNHCR’s *Guidelines on International Protection: Gender-Related Persecution within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees* (HCR/GIP/02/01, 10 May 2002), as well as Summary Conclusions of the Expert Roundtable on Gender-Related Persecution, San Remo, 6-8 September 2001, no.5.

The role of persecution

14. As noted above, a particular social group cannot be defined exclusively by the persecution that members of the group suffer or by a common fear of being persecuted. Nonetheless, persecutory action toward a group may be a relevant factor in determining the visibility of a group in a particular society.²⁶ To use an example from a widely cited decision, “[W]hile persecutory conduct cannot define the social group, the actions of the persecutors may serve to identify or even cause the creation of a particular social group in society. Left-handed men are not a particular social group. But, if they were persecuted because they were left-handed, they would no doubt quickly become recognisable in their society as a particular social group. Their persecution for being left-handed would create a public perception that they were a particular social group. But it would be the attribute of being left-handed and not the persecutory acts that would identify them as a particular social group.”²⁷

No requirement of cohesiveness

15. It is widely accepted in State practice that an applicant need not show that the members of a particular group know each other or associate with each other as a group. That is, there is no requirement that the group be “cohesive.”²⁸ The relevant inquiry is whether there is a common element that group members share. This is similar to the analysis adopted for the other Convention grounds, where there is no requirement that members of a religion or holders of a political opinion associate together, or belong to a “cohesive” group. Thus women may constitute a particular social group under certain circumstances based on the common characteristic of sex, whether or not they associate with one another based on that shared characteristic.

16. In addition, mere membership of a particular social group will not normally be enough to substantiate a claim to refugee status. There may, however, be special circumstances where mere membership can be a sufficient ground to fear persecution.²⁹

Not all members of the group must be at risk of being persecuted

17. An applicant need not demonstrate that all members of a particular social group are at risk of persecution in order to establish the existence of a particular social group.³⁰ As with the other grounds, it is not necessary to establish that all persons in the political party or ethnic group have been singled out for persecution. Certain members of the group may not be at risk if, for example, they hide their shared characteristic, they are not known to the persecutors, or they co-operate with the persecutor.

Relevance of size

18. The size of the purported social group is not a relevant criterion in determining whether a particular social group exists within the meaning of Article 1A(2). This is true as well for cases arising under the other Convention grounds. For example, States may seek to suppress religious or political ideologies that are widely shared among members of a particular society—perhaps even by a majority of the population; the fact that large numbers of persons risk persecution cannot be a ground for refusing to extend international protection where it is otherwise appropriate.

19. Cases in a number of jurisdictions have recognised “women” as a particular social group. This does not mean that all women in the society qualify for refugee status. A claimant must still demonstrate a well-founded fear of being persecuted based on her membership in the particular social group, not be within one of the exclusion grounds, and meet other relevant criteria.

Non-State actors and the causal link (“for reasons of”)

²⁶ See Summary Conclusions – Membership of a Particular Social Group, no.6.

²⁷ McHugh, J., in *Applicant A v. Minister for Immigration and Ethnic Affairs*, (1997) 190 CLR 225, 264, 142 ALR 331.

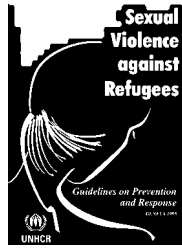
²⁸ See Summary Conclusions – Membership of a Particular Social Group, no.4.

²⁹ See UNHCR’s Handbook, paragraph 79.

³⁰ See Summary Conclusions – Membership of a Particular Social Group, no.7.

20. Cases asserting refugee status based on membership of a particular social group frequently involve claimants who face risks of harm at the hands of non-State actors, and which have involved an analysis of the causal link. For example, homosexuals may be victims of violence from private groups; women may risk abuse from their husbands or partners. Under the Convention a person must have a well-founded fear of being persecuted and that fear of being persecuted must be based on one (or more) of the Convention grounds. There is no requirement that the persecutor be a State actor. Where serious discriminatory or other offensive acts are committed by the local populace, they can be considered as persecution if they are knowingly tolerated by the authorities, or if the authorities refuse, or prove unable, to offer effective protection.³¹
21. Normally, an applicant will allege that the person inflicting or threatening the harm is acting for one of the reasons identified in the Convention. So, if a non-State actor inflicts or threatens persecution based on a Convention ground and the State is unwilling or unable to protect the claimant, then the causal link has been established. That is, the harm is being visited upon the victim for reasons of a Convention ground.
22. There may also arise situations where a claimant may be unable to show that the harm inflicted or threatened by the non-State actor is related to one of the five grounds. For example, in the situation of domestic abuse, a wife may not always be able to establish that her husband is abusing her based on her membership in a social group, political opinion or other Convention ground. Nonetheless, if the State is unwilling to extend protection based on one of the five grounds, then she may be able to establish a valid claim for refugee status: the harm visited upon her by her husband is based on the State's unwillingness to protect her for reasons of a Convention ground.
23. This reasoning may be summarised as follows. The causal link may be satisfied: (1) where there is a real risk of being persecuted at the hands of a non-State actor for reasons which are related to one of the Convention grounds, whether or not the failure of the State to protect the claimant is Convention related; or (2) where the risk of being persecuted at the hands of a non-State actor is unrelated to a Convention ground, but the inability or unwillingness of the State to offer protection is for a Convention reason.

³¹ See UNHCR's *Handbook*, paragraph 65.



Sexual Violence and Refugee Status Determination³²

(Excerpt)

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 offence to human dignity;

Executive Committee 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 [...] 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.

³² Reproduced from: UNHCR, *Sexual Violence Against Refugees: Guidelines on Prevention and Response*, Geneva, 1995 pp. 66-69.

Recommends the establishment by States of training programmes designed to ensure that those involved in the refugee status determination process are adequately sensitised 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

Recognise[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 (5) 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 recognised 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 judgement 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 offences 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 Procedure 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.

Minimum Standards for Gender Sensitive Asylum Procedures: A Checklist ³³

1. Overall Standard

- . The presence of qualified and trained staff, (i.e., border guards, interviewers and interpreters, adjudicators, protection officer, counsellors, doctors and psychologist, etc.) is promoted and where possible, ensured at all stages of the asylum procedure in order to facilitate sensitivity to gender needs and issues.
- . Women considered vulnerable as well as children and aged or disabled applicants are given priority in access to procedures and services.
- . Use of checklists and existence of guidelines for government, UNHCR, and NGO staff, on gender issues.
- . Existence of mechanism for women to provide feedback on appropriateness of systems and services.
- . UNHCR and counterparts (both government, and NGO) should include in all reports gender/age disaggregated information and statistical analysis which should be the basis for targeting population and assistance planning (POP).
- . Training of UNHCR, NGO, and government staff to recognise genders issues.
- . Identification of local, government, UN and other international agencies that have a gender-specific programme as part of their priority agenda. Advocacy, capacity-building, and networking with these agencies should be initiated or sustained.
- . Provide psychological and legal counselling at all stages of the procedures

2. Access to Refugee Status Determination Procedures (RSD)

- . Equal and easy access to legal counselling and orientation of asylum seekers is ensured for both women and men upon arrival at the entry points.
- . Women are interviewed separately and, when deemed vulnerable, given priority for the interview.
- . Emergency medical assistance is provided equally to male and female asylum seekers awaiting registration.
- . Special support is given to women asylum seekers, especially women who are unaccompanied, and pregnant and nursing mothers, including provision of play corner for children and private areas for breast-feeding/baby care.
- . Link with NGOs and government to facilitate access to asylum seekers at entry points.

3. Refugee Status Determination

- . Observe gender sensitive protocol for interview, (i.e. open and friendly environment); respect for applicant's physical space during the interview; thorough preparation of interviews; interviewer and the interpreter adopt an appropriate dress code and approach to ensure establishment of a trusting and respectful atmosphere.
- . Services are in place to respond to urgent needs (particularly psychological) as quickly as possible.
- . Existence of expedited procedures for vulnerable women and for children (i.e., vulnerable women are given priority when setting interviews, and are given speedy decisions).
- . Availability of female interviewers and interpreters at all stages of the refugee status determination procedure insofar as is possible. Men and women have the choice, to the extent possible, to decide whether or not they would like a male or female interviewer/interpreter.
- . Complete confidentiality of information provided to applicant, including with respect to other family members and the authorities.
- . Questionnaires are gender sensitive.

³³ . This checklist is a working document developed in the CIS/Eastern Europe and Turkey. It was prepared and agreed upon by the participants to the UNHCR Regional Workshop on Using POP to Develop Standards on Gender Sensitive Asylum Procedures, Dec. 13-16, 1999, Antalya, Turkey. Participants were composed of a team of protection, programme, field/community services officers and gender focal points.

- . Women are issued with documents in their own right.
- . Country of origin information is collected with special attention to possible existence of factors that could result in gender-based persecution.

4. Assistance, Care Maintenance

- . Equal access to all forms of assistance is ensured.
- . Routine assessment of needs and analysis of risks in order to ensure appropriate protection and assistance to men and women.
- . Activities undertaken to promote awareness and understanding of human rights and to ensure appropriate protection and assistance to men and women.
- . Creation of opportunities for equal representation of women and men in structures/mechanisms of co-operation between refugees and UNHCR, and its partners, as well as in decision-making mechanisms within their own communities.

5. Durable Solutions

REPATRIATION

- . Equal access of women and men to information concerning repatriation.
- . Participation of women and men in decision-making related to voluntary repatriation.
- . Organising return with consideration of gender-specific needs.
- . Gender-balanced reintegration assistance.

LOCAL INTEGRATION

- . Ensure that appropriate legal and social mechanisms are established for local integration in a gender sensitive manner.
- . Work with NGOs on gender specific-activities.
- . Support participation of refugees (including women and children's groups) in community-based activities.
- . Equal access to citizenship and naturalisation and individualised documentation.

RESETTLEMENT

- . Equal access to information on resettlement.
- . Accelerated resettlement procedures for women-at-risk.
- . Gender sensitive training for resettlement officers and concerned government officials.

A Framework of Analysis: Women Refugee Claimants Fearing Gender-Related Persecution

(Canadian Immigration and Refugee Board of Canada, Guideline 4, Update)³⁴

FRAMEWORK OF ANALYSIS

1. Assess the harm feared by the claimant. Does the harm feared constitute persecution?

(a) For the treatment to likely amount to persecution, it must be a serious form of harm which detracts from the claimant's fundamental human rights.

(b) To assist decision-makers in determining what kinds of treatment are considered persecution, an objective standard is provided by international human rights instruments. The following instruments, among others, may be considered:

Universal Declaration of Human Rights,
International Covenant on Civil and Political Rights
International Covenant on Economic, Social and Cultural Right
Convention on the Elimination of All Forms of Discrimination against Women
Convention on the Political Rights of Women,
Convention on the Nationality of Married Women
Convention Against Torture and other Cruel, Inhuman or Degrading Treatment
or Punishment
Declaration on the Elimination of Violence against Women

2. Ascertain whether the claimant's fear of persecution is based on any of the grounds, singly or in combination, enumerated in the Convention refugee definition.

Considerations:

- It is necessary to ascertain the characteristic of the claimant which places her or members of her group at risk, and to ascertain the linkage of that characteristic to a Convention ground.
- Gender is an innate characteristic and it may form a particular social group.
- A subgroup of women may also form a particular social group. Women in these particular social groups have characteristics (possibly innate or unchangeable) additional to gender, which make them fear persecution.
- The gender-defined group cannot be defined solely by the fact that its members share common persecution.

3. Determine whether the claimant's fear of persecution is well-founded. This includes an assessment of the evidence related to the ability or willingness of the state to protect the claimant and, more generally, the objective basis of the claim. Considerations:

- There may be little or no documentary evidence presented with respect to the inadequacy of state protection as it relates to gender-related persecution. There may be a need for greater reliance on evidence of similarly situated women and the claimant's own experiences.
- The claimant need not have approached non-state organizations for protection.
- Factors including the social, cultural, religious, and economic context in which the claimant finds herself should be considered in determining whether it was objectively unreasonable for the claimant not to have sought state protection.
- Where a woman's fear relates to personal-status laws or where her human rights are being violated by private citizens, an otherwise positive change in country conditions may have no impact, or even a negative impact, on a woman's fear of gender-related persecution.

³⁴ . This framework was reproduced from : Immigration and Refugee Board of Canada, Guideline 4, "Women Refugee Claimants Fearing Gender-Related Persecution: UPDATE, Framework of Analysis", available at: http://www.cisr.gc.ca/legal/guideline/women/gd4_f_e.stm . For the purposes of adding emphasis, the title was reversed and changed from the above-mentioned to "A Framework of Analysis: Women Refugee Claimants Fearing Gender-Related Persecution".

4. If required, determine whether there is a possibility of an internal flight alternative.

Considerations:

- Whether there would be undue hardship for the claimant, both in reaching the location of the IFA and in establishing residence there.
- Religious, economic, social and cultural factors, among others, may be relevant in determining the reasonableness of an IFA for a woman fearing gender-related persecution.

Determining the Nature and the Grounds of the Persecution: Women Refugee Claimants Fearing Gender-Related Persecution

(Canadian Immigration and Refugee Board of Canada, Guideline 4, Update)³⁵

A. DETERMINING THE NATURE AND THE GROUNDS OF THE PERSECUTION

Obviously, not all claims brought forward by women are specifically gender-related. Women frequently claim fear of persecution in common with their male fellow citizens, though not necessarily of the same nature or at the same level of vulnerability, for such reasons as belonging to an ethnic or a linguistic minority, or membership in a political movement, a trade union or a religious denomination.

I. GENERAL PROPOSITION

Although gender is not specifically enumerated as one of the grounds for establishing Convention refugee status, the definition of Convention refugee may properly be interpreted as providing protection for women who demonstrate a well-founded fear of gender-related persecution by reason of any one, or a combination of, the enumerated grounds.

Before determining the appropriate ground(s) applicable to the claim, decision-makers must first identify the nature of the persecution feared by the claimant.

Generally speaking, women refugee claimants may be put into four broad categories, although these categories are not mutually exclusive or exhaustive:¹

1. Women who fear persecution on the same Convention grounds, and in similar circumstances, as men. That is, the risk factor is not their sexual status, per se, but rather their particular identity (i.e. racial, national or social) or what they believe in, or are perceived to believe in (i.e. religion or political opinion). In such claims, the substantive analysis does not vary as a function of the person's gender, although the nature of the harm feared and procedural issues at the hearing may vary as a function of the claimant's gender.

2. Women who fear persecution solely for reasons pertaining to kinship, i.e. because of the status, activities or views of their spouses, parents, and siblings, or other family members. Such cases of "persecution of kin" typically involve violence or other forms of harassment against women, who are not themselves accused of any antagonistic views or political convictions, in order to pressure them into revealing information about the whereabouts or the political activities of their family members. Women may also have political opinions imputed to them based on the activities of members of their family.

3. Women who fear persecution resulting from certain circumstances of severe discrimination on grounds of gender or acts of violence either by public authorities or at the hands of private citizens from whose actions the state is unwilling or unable to adequately protect the concerned persons. In the refugee law context, such discrimination may amount to persecution if it leads to consequences of a substantially prejudicial nature for the claimant and if it is imposed on account of any one, or a combination, of the statutory grounds for persecution. The acts of violence which a woman may fear include violence inflicted in situations of domestic violence² and situations of civil war.³

4. Women who fear persecution as the consequence of failing to conform to, or for transgressing, certain gender-discriminating religious or customary laws and practices in their country of origin. Such laws and practices, by singling out women and placing them in a more vulnerable position than men, may create conditions for the existence of a gender-defined social group. The religious precepts, social traditions or cultural norms which women may be accused of violating can range from choosing their own spouses instead of accepting an arranged

³⁵ . This framework was reproduced from: Immigration and Refugee Board of Canada, Guideline 4, "Women Refugee Claimants Fearing Gender-Related Persecution: UPDATE – A. Determining the Nature and the Grounds of the Persecution", available at: http://www.cisr.gc.ca/legal/guideline/women/gd4_f_e.stm . For the purposes of adding emphasis, the title was reversed and changed from the above-mentioned to "Determining the Nature and the Grounds of the Persecution: Women Refugee Claimants Fearing Gender-Related Persecution."

marriage, to such matters as the wearing of make-up, the visibility or length of hair, or the type of clothing a woman chooses to wear.

II. GROUNDS OTHER THAN MEMBERSHIP IN A PARTICULAR SOCIAL GROUP

Race:

There may be cases where a woman claims a fear of persecution because of her race and her gender. For example, a woman from a minority race in her country may be persecuted not only for her race, but also for her gender.

Religion:

A woman who, in a theocracy for example, chooses not to subscribe to or follow the precepts of a state religion may be at risk of persecution for reasons of religion. In the context of the Convention refugee definition, the notion of religion may encompass, among other freedoms, the freedom to hold a belief system of one's choice or not to hold a particular belief system and the freedom to practise a religion of one's choice or not to practise a prescribed religion. In certain states, the religion assigns certain roles to women; if a woman does not fulfill her assigned role and is punished for that, she may have a well-founded fear of persecution for reasons of religion. A woman may also be perceived as expressing a political view (and have a political opinion imputed to her) because of her attitude and/or behaviour towards religion.

Nationality:

A gender-related claim of fear of persecution may be linked to reasons of nationality in situations where a national law causes a woman to lose her nationality (i.e., citizenship) because of marriage to a foreign national. What would constitute good grounds for fearing persecution is not the fact of losing her nationality as such (notwithstanding that such laws are discriminatory to the extent that they do not apply to men married to foreign nationals), but the consequences she may suffer as a result.⁴

Political Opinion:

A woman who opposes institutionalised discrimination against women, or expresses views of independence from male social/cultural dominance in her society, may be found to fear persecution by reason of her actual political opinion or a political opinion imputed to her (i.e. she is perceived by the agent of persecution to be expressing politically antagonistic views). Two considerations are of paramount importance when interpreting the notion of "political opinion":

1. In a society where women are "assigned" a subordinate status and the authority exercised by men over women results in a general oppression of women, their political protest and activism do not always manifest themselves in the same way as those of men.⁵
2. The political nature of oppression of women in the context of religious laws and rituals should be recognised. Where tenets of the governing religion in a given country require certain kinds of behaviour exclusively from women, contrary behaviour may be perceived by the authorities as evidence of an unacceptable political opinion that threatens the basic structure from which their political power flows.⁶

III. MEMBERS IN A PARTICULAR SOCIAL GROUP

In considering the application of the "membership in a particular social group" ground, decision-makers should refer to the Supreme Court of Canada decision in *Ward*.⁷ The *Ward* decision indicated three possible categories of "particular social group":

- 1) groups defined by an innate or unchangeable characteristic;
- 2) groups whose members voluntarily associate for reasons so fundamental to their human dignity that they should not be forced to forsake the association; and

3) groups associated by a former voluntary status, unalterable due to its historical permanence.

The Court gave examples of the three categories as follows:

The first category would embrace individuals fearing persecution on such bases as gender, linguistic background and sexual orientation, while the second would encompass, for example, human rights activists. The third branch is included more because of historical intentions, although it is also relevant to the antidiscrimination influences, in that one's past is an immutable part of the person.

Depending on the basis of the claim, women refugee claimants may belong to a group defined in any of these categories.

A further holding of the Ward decision is that a particular social group cannot be based solely on the common victimisation of its members. A group is not defined solely by common victimisation if the claimant's fear of persecution is also based on her gender, or on another innate or unchangeable characteristic of the claimant.⁸

Family as a particular social group

There is jurisprudential authority for recognising claims grounded in familial affiliation (i.e. where kinship is the risk factor) as coming within the ambit of the "membership in a particular social group" category. See, for example, *Al-Busaidy, Talal Ali Said v. M.E.I.*,⁹

...the [Immigration and Refugee] Board has committed reviewable error in not giving due effect to the applicant's uncontradicted evidence with respect to his membership in a particular social group, namely, his own immediate family.

Gender-defined particular social group

There is increasing international support for the application of the particular social group ground to the claims of women who allege a fear of persecution solely by reason of their gender. See Conclusion No. 39 (XXXVI) *Refugee Women and International Protection*, 1985, where the Executive Committee of the United Nations High Commissioner for Refugees (UNHCR)....

(k) Recognised 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 their 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. ¹⁰

Application of the statutory ground

In evaluating the "membership in a particular social group" ground for a fear of gender-related persecution, two considerations are necessary:

1. Most of the gender-specific claims involving fear of persecution for transgressing religious or social norms may be determined on grounds of religion or political opinion. Such women may be seen by the governing authorities or private citizens as having made a religious or political statement in transgressing those norms of their society, even though UNHCR Conclusion No. 39, above, contemplates the use of "particular social group" as an appropriate ground.

2. For a woman to establish a well-founded fear of persecution by reason of her membership in a gender-defined particular social group¹¹ under the first category in Ward (i.e. groups defined by an innate or unchangeable characteristic):

- The fact that the particular social group consists of large numbers of the female population in the country concerned is irrelevant - race, religion, nationality and political opinion are also characteristics that are shared by large numbers of people.
- Gender is an innate characteristic¹² and, therefore, women may form a particular social group within the Convention refugee definition. The relevant assessment is whether the

claimant, as a woman, has a well-founded fear of persecution in her country of nationality by reason of her membership in this group.

- Particular social groups comprised of sub-groups of women may also be an appropriate finding in a case involving gender-related persecution. These particular social groups can be identified by reference to factors, in addition to gender, which may also be innate or unchangeable characteristics. Examples of other such characteristics are age, race, marital status and economic status. Thus, for example, there may be sub-groups of women identified as old women, indigenous women, single women or poor women. In determining whether these factors are unchangeable, consideration should be given to the cultural and social context in which the woman lives, as well as to the perception of the agents of persecution and those responsible for providing state protection.
- Because refugee status is an individual remedy, the fact that a claim is based on social group membership may not be sufficient in and of itself to give rise to refugee status. The woman will need to show that she has a genuine fear of harm, that one of the grounds of the definition is the reason for the feared harm, that the harm is sufficiently serious to amount to persecution, that there is a reasonable possibility that the feared persecution would occur if she was to return to her country of origin and that she has no reasonable expectation of adequate national protection.

Endnotes

1. See generally M. Meyer, "Oppression of Women and Refugee Status", in *Proceedings of the International Seminar on Refugee Women* (Amsterdam: Dutch Refugee Council, 1985) at pp. 30-33, and A.B. Johnsson, "The International Protection of Women Refugees - A Summary of Principal Problems and Issues" (1989) 1 *International Journal of Refugee Law* 221, at pp. 223-224, for a more detailed discussion of the different categories of women refugee claimants. Similar categories have been used in the Amnesty International report, *Women in the Front Line: Human Rights Violations Against Women* (New York: Amnesty International Publications, 1991) at pp. 1-3, in enumerating human rights violations against women.

² In this context, domestic violence is meant to include violence perpetrated against women by family members or other persons with whom the woman lives.

³ See C. Niarchos, "Women, War and Rape: Challenges Facing the International Tribunal for the Former Yugoslavia" (1995) 17 *Human Rights Quarterly* 649. With respect to the former Yugoslavia,

At several levels, the rapes reflect the policy of "ethnic cleansing", rape is used as a means to terrorize and displace the local population, to force the birth of children of mixed "ethnic" descent in the group, and to demoralize and destroy. The rapes are also an expression of misogyny: women are targeted not simply because they are the "enemy" but also because they are women. Gender is essential to the method of assault. (at p. 658)

The author concludes that "Women's suffering in war is specifically related to gender -- women are raped, forced into prostitution, forcibly impregnated." (at p. 689)

See also the Chairperson's *Guidelines on Civilian Non-Combatants Fearing Persecution in Civil War Situations*, Immigration and Refugee Board, Ottawa, Canada, March 7, 1996.

⁴ A separate issue to be determined is whether the woman concerned has acquired her spouse's nationality, thereby enabling her to avail herself of the protection of that country.

⁵ See F. Stairs & L. Pope, "No Place Like Home: Assaulted Migrant Women's Claims to Refugee Status" (1990) 6 *Journal of Law and Social Policy* 148, at p. 163, where the authors assert that, "Where an ostensibly non-political act such as choice of dress is seen to in fact be political in nature, it may provide the basis for a claim to refugee status."

J. Greatbatch, in "The Gender Difference: Feminist Critiques of Refugee Discourse" (1989) 1 *International Journal of Refugee Law* 518, gives examples of how the refusal by Iranian women to conform to the dress code can be viewed as opposition to the Iranian government, thereby constituting a political act. The author also discusses the development of Chilean communal kitchens and co-operative nurseries and the search for missing relatives as examples of how Chilean women demonstrated their resistance to the Pinochet regime.

See also *Shahabaldin, Modjgan v. M.E.I.* (IAB V85-6161), MacLeod, Mawani, Singh, March 2, 1987, where the former Immigration Appeal Board found the claimant to be a Convention refugee on the basis of her political opinion, because she opposed the Iranian laws governing dress.

In CRDD T90-01845, Jackson, Wright (dissenting in part), December 21, 1990, the Refugee Division was of the view that the claimant's opposition to the government's enforcement of the dress laws, "could possibly result in her being persecuted because of political opinion should she be returned to Iran." The panel noted that Iranian women are subject to "extreme discrimination".

⁶ See *Namitabar v. M.E.I.*, [1994] 2 F.C. 42 (T.D.). In this case, the Court said that "I consider that in the case at bar the female applicant has demonstrated that her fear of persecution is connected to her political opinion. In a country where the oppression of women is institutionalized any independent point of view or act opposed to the imposition of a clothing code will be seen as a manifestation of opposition to the established theocratic regime."

⁷ *Canada (Attorney General) v. Ward*, [1993] 2 S.C.R. 689.

⁸ The Federal Court of Canada has found "women subject to domestic abuse" to be a particular social group in two cases -- *Narvaez v. M.C.I.*, [1995] 2 F.C. 55 (T.D.) and *Diluna v. M.E.I.* (1995), 29 Imm.L.R. (2d) 156 (T.D.). The issue which must then be addressed is whether the claimant's fear of persecution is well-founded.

⁹ (1992), 16 Imm.L.R. (2d) 119 (F.C.A.) at 121.

The former Immigration Appeal Board also considered the family as constituting a "particular social group" in *Astudillo v. M.E.I.* (1979), 31 N.R. 121 (F.C.A.), *Barra-Velasquez, Marie Mabel De La v. M.E.I.* (IAB 80-6330), Hlady, Weselak, Howard, April 29, 1981, and in *Zarketa, Ignacio v. M.E.I.* (IAB M81-9776), D. Davey, Suppa, Tisshaw, February 6, 1985.

Several Refugee Division decisions have also found women to be members of a particular social group, the family. See, for example, CRDD M89-02465, Hebert, Champoux-Ohrst (dissenting), January 4, 1990, and CRDD T89-03943, Kapasi, Jew, July 25, 1990, where a political opinion was imputed to the Somali claimant because of the actions of her brothers. See also CRDD M89-00057, Wills, Gauthier, February 16, 1989, where the Iranian claimant was found to be a member of the social group, "a pro-Shah family", and CRDD M89-00971, Wolfe, Hendricks, June 13, 1989, where the Refugee Division found the Peruvian claimant to be a member of a particular social group, her family. In CRDD M89-01098, Van der Buhs, Lamarche, June 14, 1989, the Sri Lankan claimant was also found to be a refugee because she was a young Tamil in a Tamil family.

In CRDD T89-02313, T89-02314, T89-02315, Teitelbaum (dissenting), Sri-Skanda-Rajah, October 17, 1990, the Refugee Division found that the Guatemalan claimant was found to be a member of the social group, "targeted family". The Refugee Division, in CRDD C90-00299, C90-00300, Lo, Pawa, December 18, 1990, also found a Salvadoran claimant to belong to a particular social group, her husband's family.

¹⁰ In July 1991, the UNHCR Executive Committee released *Guidelines on the Protection of Refugee Women*, EC/SCP/67 (July 22, 1991). These guidelines stress that women,

...fearing persecution or severe discrimination on the basis of their gender should be considered a member of a social group for the purposes of determining refugee status. Others may be seen as having made a religious or political statement in transgressing the social norms of their society.

In an *Information Note* submitted by the High Commissioner with the release of the above *Guidelines*, it was noted that "ensuring the protection of refugee women requires compliance not only with the 1951 *Convention* and its 1967 *Protocol*, but also with other relevant international instruments." (at p. 1)

During its 41st session in 1990, the UNHCR Executive Committee stated that severe discrimination experienced by women, prohibited by the *Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)*, can form the basis for the granting of refugee status. The importance of documentation regarding gender-based persecution and its consequences in the countries of origin of refugee women was discussed. See, in this regard, the UNHCR Executive Committee, *Note on Refugee Women and International Protection*, EC/SCP/59 (August 28, 1990) at p. 5.

The UNHCR has noted repeatedly that refugee women have special needs in the area of protection. See, for example, the discussion at the 41st session in the *Note on Refugee Women and International Protection*, cited above, at pp. 2-4. See also the United Nations General Assembly, Executive Committee of the High Commissioner's Programme, *Report on Refugee Women*, A/AC.96/727 (July 19, 1989) at p. 2.

It is interesting to observe that the European Parliament, as early as 1984, had passed a resolution similar to the 1985 UNHCR Resolution. The European Parliament called upon member states "to apply the UN treaty of 1951, as well as the 1967 Protocol regarding the status of refugees, in accordance with this interpretation." For a discussion of the resolution of the European Parliament, see the *Proceedings of the International Seminar on Refugee Women* (Amsterdam: Dutch Refugee Council, 1985) at p. 33.

In 1984, the Dutch Refugee Council issued the following policy directive:

It is the opinion of the Dutch Refugee Council that persecution for reasons of membership of a particular social group, may also be taken to include persecution because of social position on the basis of sex. This may be especially true in situations where discrimination against women in society, contrary to the rulings of international law, has been institutionalized and where women who oppose this discrimination, or distance themselves from it, are faced with drastic sanctions, either from the authorities themselves, or from their social environment, where the authorities are unwilling or unable to offer protection.

¹¹ Although the former Immigration Appeal Board decided few claims dealing specifically with gender-related persecution, there is one decision that merits discussion. In *Incirciyan, Zeyiye v. M.E.I.* (IAB M87-1541X, M87-1248), P. Davey, Cardinal, Angé, August 10, 1987, an Armenian claimant and her daughter who had been living in Turkey were found to be refugees on the basis of membership in a particular social group "made up of single women living in a Moslem country without the protection of a male relative (father, brother, husband, son)." Since the claimant had requested and had been refused the protection of the Turkish authorities on several occasions, the Board concluded that there was a lack of adequate state protection.

On several occasions, the Refugee Division has found women refugee claimants to have a well-founded fear of persecution by reason of their membership in a particular social group. In CRDD T89-06969, T89-06970, T89-06971, Nicholson, Bajwa, July 17, 1990, the Refugee Division found that the claimant and her two daughters had a well-founded fear of persecution on the basis of their membership in a particular social group, "consisting of women and girls who do not conform to Islamic fundamentalist norms." In CRDD U91-04008, Goldman, Bajwa, December 24, 1991, the Somali claimant was found to be a refugee on the basis of her membership in a particular social group, "young women without male protection." The Refugee Division, in CRDD T89-02248, Maraj, E.R. Smith, April 3, 1990, found the claimant to be a member of the particular social group composed of women who belong to a "women's organization objecting to the treatment of women in Iran."

¹² In the *Ward* decision, the Court described the first of the three possible categories of particular social group as "groups defined by an innate or unchangeable characteristic." The Court held that this category would include individuals fearing persecution on such basis as gender, linguistic background and sexual orientation. In CRDD T93-05935/36, Liebich, Larke, December 31, 1993, the Refugee Division found that a woman who was a divorced mother living under the jurisdiction of Sharia law had a well-founded fear of persecution by reason of her membership in a particular social group of "women." In CRDD T93-12198/12199/12197, Ramirez, McCaffrey, May 10, 1994 (reasons signed July 13, 1994), the panel found that "women" was a particular social group.

UNHCR Best Practices: Gender Sensitive Refugee Status Determination and Resettlement Procedures³⁶

Turkey

(Excerpt)

7. Mainstreaming of gender considerations at all levels of operations: an analysis of the refugee status determination (RSD) procedure, and resettlement.

7.1. Refugee Status Determination Procedure

The RSD procedure for all non-European asylum seekers in Turkey is performed by UNHCR Branch Office (BO) Ankara's legal unit. This unit consists of clerks, interpreters and legal officers who interview asylum seekers, research country of origin information and assess their claims. An eligibility officer is also responsible for reviewing claims in order to ensure the policies and guidelines (including those on gender), set by Headquarters and the Head of the Legal Unit are followed. Moreover, legal officers also have additional tasks, which include *inter alia*, serving as members of the Gender/Children Team and as focal points on gender cases. (Protection Report (PR), p. 25)

More specifically, some of the mechanisms used by UNHCR Ankara to ensure a gender sensitive RSD procedure include the following:

- (i) Special Procedural Safeguards and Other Measures
 - An interview questionnaire which includes specific questions intended to assess whether female spouses may have grounds for a separate claim from their husbands.
 - Separate and confidential interviews with female spouses.
 - Procedures for the separation of claims
 - An expedited procedure for vulnerable persons, including women considered vulnerable
 - Female legal officers and interpreters
- (ii) Recognition of Gender Based Claims
 - Types of gender claims recognised by the Branch Office
 - Recognition rate of female applicants by the Branch Office
 - Country of Origin Information

7.1.1 Special Procedural Safeguards and Other Measures

(a) Additional questions for spouse of principal applicant in questionnaire /interview assessment form

During the first interview, precautions are immediately taken in order to determine whether the spouse of the principal applicant may have grounds for a separate claim. This is done by interviewing the spouse separately on the additional questions contained for this purpose in the interview questionnaire/ assessment form. The additional questions designed specifically for the spouse of the principal applicant generally include questions such as the following:

- Why did you leave your country? (Would you have left if your spouse had not left? Did you plan your flight together?)
- Have you ever belonged to any political, religious, or social organisation?
- Have you ever been arrested?
- Have you ever been mistreated (i.e., beaten, threatened, sexually assaulted etc) by the authorities, your spouse, or by anybody else at any time? If yes, Why?
- Did your close relatives ever face any problems with the authorities?
- Were you mistreated by a smuggler or any authorities during your flight to Turkey?

³⁶ . Excerpted from : "Institutional Empowerment on Gender Issues: UNHCR Best Practices", a paper prepared by Rosa Da Costa, legal consultant, for the UNHCR Senior Regional Advisor on Refugee Women and Gender Equality, for Europe and Central Asia, RO, Ankara, Turkey, revised version, March 2002.

Based on the answers to some of these questions, a decision may be taken as to whether the claims should be separated. Alternatively, the information provided during this separate interview could also be used at a later stage in the procedure, such as to verify a new independent asylum claim or appeal made by the formerly dependant spouse.

(b) Separate and confidential interviews with female spouses

Given the procedure established whereby separate questions are posed to the spouse of the applicant, each spouse is therefore automatically granted at minimum a brief separate and confidential interview during the first hearing. If, based on this initial spousal interview there are indications that they have a claim of their own, they are given a full separate interview conducted by a female legal officer and a female interpreter whenever possible.

In addition to allowing the interviewer to assess whether the spouse may have separate grounds for asylum from her husband, this practice has also proved to be of much value in helping to determine the credibility of the principal claim as well as any future independent claims or appeals by the spouse. Above, all however, it is a practice which seeks to explore the possibility of separate gender claims and offers the spouse a venue to speak directly to the interviewer about her experience and reasons for leaving her country.

Initial separate interviews are also conducted for all other dependants over 18 years of age, including dependant female children or other dependant female family members.

(c) Procedures for the separation of claims

In the event that it is determined that the spouse has independent grounds of her own to claim asylum, a decision is made (together with that person) as to whether the claims should indeed be separated. Some factors influencing this decision may include the following: whether the spouse requests that the claims be separated; the information provided by spouse is of a confidential nature and the person does not wish this to be shared with the husband; or the information provided to the questionnaire reveals a family situation which has led or may lead to separation or divorce. Therefore if the spouse does not request a separation of the asylum claim and there are no other compelling reasons to do so, the Branch Office maintains joint files.

The experience of the Branch Office with regard to the separation of claims by spouses is that most requests or grounds for separating the claims occur / are revealed after the first negative decision.

The separation of claims between spouses (or others, such as dependant children) entails important consequences and counselling needs. For example, a separation or divorce (if obtained in Turkey) may obviously affect the unity of the asylum claims. Likewise, a marriage taking place in Turkey, especially if it is between an accepted and a rejected case, may also have important consequences for each of the spouses. A minor for example, who was accepted for reasons of family unity based on her parent's claim, will no longer be able to do so if she marries, as her dependency on her parents is no longer deemed to exist. Moreover, as importantly, the separation of claims has serious consequences with regard to child custody, since only the spouse whose claim is recognised is resettled to a third country. Partly for these reasons, the Branch Office recognises the importance of informing applicants of these consequences during their counselling sessions. In addition, they also decided that there was an important need for guidelines/protocols specific to the Turkish context (i.e., to the UNHCR operations in Turkey and also to domestic law) with regard to issues such as child custody, separation, and divorce. These protocols which are intended to assist staff in addressing these issues effectively and ensuring that there is a uniform office practice, were finalised in Autumn of 2002.

(d) An expedited procedure for vulnerable persons, including women considered vulnerable

The Branch Office maintains a policy of expedited RSD interviews for all persons deemed vulnerable. This category includes female headed households, single vulnerable women, destitute female asylum seekers, pregnant or lactating mothers, women at risk, victims of rape, domestic abuse or torture, women with psychological or physical ailments, and other refugee women considered vulnerable.

Those persons given priority under the expedited procedure are normally interviewed within two weeks of registration and the decision-making process is also expedited.

Asylum seekers found to be vulnerable are also referred to UNHCR's social services assistants who interview them and assess their special needs.

(e) Female legal officers and interpreters

Among one of the most crucial procedural safeguards put in place by UNHCR Ankara for refugee women, is the availability of female legal officers and interpreters. Indeed, it is an especially important safeguard for a gender sensitive RSD procedure in Turkey, given that the majority of the applicants come from Iran and Iraq, where their cultural backgrounds and traditions sometimes prevent them from expressing their claims to a male legal officer.

The Branch Office therefore ensures that the scheduling system attempts to match the sex and the profile of the principal applicant with that of the interviewer and interpreter, such that the claimant feels comfortable to speak freely during the interview, and the interviewer for his/her part is also knowledgeable with regard to the profile or issue in that particular case. Language is also a factor, as some interviewers are able to communicate without the need for an interpreter.

When a woman is interviewed, even if her husband was assigned a male interviewer, she is asked whether she would prefer speaking to a woman. If the spouse is indeed found to have grounds for a full-fledged separate interview, then a female legal officer and female interpreter is provided.

Every effort is made by the Branch Office to ensure that this safeguard is observed, including at the level of the hiring policies within the office. Branch Office Ankara therefore boasts a majority of female legal officers/interviewers and of female interpreters among its staff. Guaranteeing these standards has proven a more difficult task in the field offices however, and particularly in the field office in Van, where 50% of the legal officers/ interviewers are female but where there are currently no female interpreters. In part, this may be explained by the lack of interpreters in the required languages in that region.

7.1.2 Recognition of Gender-Based Claims

(a) Recognition of Gender Claims by the Branch Office

An increasingly number of women are seeking and receiving refugee status based on gender claims by Branch Office Ankara. Broadly speaking, recognised cases have presented political, religious, or particular social group claims. Pursuant to ExCom Conclusion No. 39, the Branch Office has also recognised women asylum seekers as refugees in cases where they face harsh or inhuman treatment due to their having transgressed the social mores or discriminatory laws of the society in which they live. This recognition has been generally based on the interpretation by which they are considered as members of a "particular social group" within the meaning of the refugee definition in Art. 1 A of the 1951 Convention.

In particular, such cases are often made by women from Northern Iraq (mostly Kurdish) who have left their country of origin due to threats to their lives as a result of real or perceived sexual affairs (pre-or post marriage), or because they refuse to marry a man designated by their family. They are frequently recognised as belonging to a particular social group having transgressed the social mores of their society. In those cases, either the Islamic movement, their own family or in a few cases the husband or his family, is considered the agent of persecution, when the *de facto* authorities are unable or unwilling to provide adequate protection.

With regard to Iranian women, Branch Office Ankara recognises that some are facing discriminatory measures sometimes amounting to persecution. The ground for recognition is also their membership in a particular social group, namely, that of women who have transgressed the social mores or discriminatory laws of their society. Some of the categories of Iranian women recognised based on gender claims include divorced women denied child custody rights, women who refuse to marry a designated husband, and some women who refuse to conform with the Islamic dress code, and as a result, have suffered persecution.

Finally, women who hold positions normally occupied by men in their society, westernised women, women who advocate for women's liberation (and who are frequently threatened by their own family), and in some cases, women who have suffered family or domestic abuse have also been recognised if they have not been afforded state protection. In many of these cases, they have been threatened or have suffered persecution at the hands of their own family, the Islamic movement, their husbands or his family, and fall into the category of women who have transgressed social mores. In cases of domestic abuse, the applicant may not only have suffered a situation of severe and persistent domestic abuse at the hands of her husband, but may also be threatened by his or her own family if she attempts to leave him (as she is perceived as "dishonouring" the family), and be granted no effective state protection or remedy in such cases.³⁷

(b) Recognition rate of female applicants by the Branch Office

As of February 2000, 68 % of female applicants were found to be refugees by the Branch Office, as compared to 50 % of males.³⁸ This figure can be supplemented by the office's RICs (i.e. Registration of Individual Cases), which not only provides a breakdown of positive cases according to gender but also essential information as regards the grounds for acceptance. For example, in some cases one may see both the general 1951 grounds as well as the specific reason why the claim was accepted. Grounds of claims may therefore refer to religion, gender-based PSG (persecuted social group), other social group, imputed political opinion, transgressing social mores (social group), homosexuality/transsexuality, family members of opponents of the regime, and refusal to co-operate with the regime.

As part of the same system the legal unit's 'Computer Action Sheet', which is filled out by the interviewing legal officer in each case, also contains the grounds for all accepted cases, including gender-based persecution under the rubric of 'particular social group'.

(c) Checks and Balances: their application to gender claims

With regard to the RSD procedure, the Branch Office has also established a number of noteworthy checks and balances systems which seek to ensure quality decision-making, effective harmonisation of decisions, and a mechanisms for ensuring that UNHCR policies and guidelines are mainstreamed into the decision-making process. This checks and balances system includes:

- (1) a 'discussion officer' mechanism during the first instance, whereby two officers (the interviewer and a randomly picked legal officer as 'discussion officer') must agree on the decision. If there is no consensus, the case is brought to the attention of the eligibility officer who assists in the process.
- (2) 'case discussion groups' with all the legal officers, which take place every two weeks and include discussion of substantive issues and legal questions raised by difficult cases;
- (3) an appeal process after the first negative decision, which is handled by a different officer than the decision maker and discussion officer in the first decision. The appeal may be on the merits of the case or on credibility issues.
- (4) the possibility of a re-opening of the case, if the applicant demonstrates the existence of new elements to the claim.

All of these mechanisms also have the indirect effect of mainstreaming and harmonising the office's position and analysis of gender claims. The 'case discussion officer' system in the first instance for example, ensures that there are effectively two legal officers considering the gender issues in the case, so that the issue is raised even if the interviewing legal officer may have initially missed elements in this respect. The regular 'case discussion groups' have also been a significant venue where gender claims have been raised and discussed. For example, these discussion meetings have addressed the question of adultery cases as an example of practices contravening social mores, as well as the issue of gender claims based on domestic abuse. Re-openings have also taken place based on the existence of new gender-related issues or elements, such as the revelation of domestic

³⁷ Above information, with the exception of that on domestic abuse, mostly drawn from Annual Protection Report of relevant year, p. 29-30.

³⁸ See COP, p. 5

abuse as a new element, or if the woman failed to raise certain issues during the first instance and the appeal due to the fact that she did not have a female interviewer and interpreter.

(d) In-house training and other support provided on gender cases and issues

All new interns, junior protection officers and staff members receive a **briefing on gender issues**, gender claims, and office policies by the legal unit's focal point on gender. As mentioned above, the 'case discussion group' which convenes every two weeks, is also an opportunity to become more familiar with the position of the office and the views of the different staff members with regard to various issues raised by specific cases, including gender claims.

New staff members also **receive on-the-job training** whereby they observe interviews and are themselves observed in turn. Other techniques to enhance interviewing skills are also used such as "coaching" and "shadowing". In addition, the Branch Office has a **country of origin** team, composed of legal officers, who write and update country of origin information and provide briefings to the rest of the legal officers on a quarterly basis. The country of origin reports (which are primarily focused on Iran and Iraq since this is the largest case load of the office) are updated to take into account new developments, and include gender conditions in the relevant countries.

Finally, the Gender and Children Team (GCT) as well as the training officer, include **gender-related trainings** in their agenda. In particular, the GCT Work Plan places special emphasis on training on gender issues. For example, for 2001 the Work Plan included in-house and external training on gender awareness, on the analysis of gender claims under the 1951 Convention, UNHCR's gender policies and guidelines, and Turkey-specific guidelines/protocols on dealing with issues such as domestic abuse, child custody, rape and prostitution, for example. The GCT Work Plan is discussed within the office to take into account the training unit's policies and priorities, and is then mainstreamed into the (relevant sections of the) office's overall Plan of Action.

7.2. Durable Solutions: Resettlement

After being recognised as refugees by the legal unit, the durable solutions unit at Branch Office Ankara interviews refugees who are to be resettled in order to gather the bio-data and other necessary information for the resettlement registration form (RRF), which must be completed.

In keeping with the Branch Office's policy of granting priority and expedited procedures for vulnerable persons, the office has also established an accelerated resettlement programme for women-at-risk cases. Some of the resettlement countries have special quotas for vulnerable persons, and depending on the nature of the persecution suffered, it is possible to submit such cases on an emergency or priority basis for quick resettlement. Of particular note in this context is the Canadian Embassy's "Urgent Protection Pilot Project", which is currently only being implemented in a small number of countries including, Turkey. The pilot project seeks to expedite the resettlement process by undertaking all the steps involved in the resettlement procedure in an accelerated manner, with the exception of the national security clearance, which is required when a case may entail a security concern.

The concept of "women-at-risk", which is widely known and used by a number of important resettlement countries, has therefore been instrumental in the development of an expedited process for refugee women falling under this category. Frequently, such resettlement programmes are also followed up by a special reception programme for vulnerable women. The Branch Office has taken great care to become knowledgeable about such programmes and to take advantage of them as an additional and significant tool for the protection of refugee women. Such programmes have also been used in cases where there is an imminent and serious threat to women (recognised) refugees (and their children) based on domestic abuse.

International Case Law Relevant to Gender-Based Asylum Claims³⁹

Contents:

- I. Selected Case Summaries
- II. Five Convention Grounds: list of selected gender cases
- III. Key Legal Issues: list of selected gender cases
- IV. Type of Harm: list of selected gender cases

I. Selected Case Summaries

List of Selected Case Summaries⁴⁰

1. *Aguirre-Cervantes v. United States Immigration and Naturalization Service*, USA, 2001⁴¹
2. *Jabari v. Turkey*, European Court of Human Rights, 2000
3. *Refugee Appeal No. 71427/99*, New Zealand, 2000
4. *Minister for Immigration and Multicultural Affairs v. Khawar*, Australia, 2000. (Confirmed on appeal, 2002, HCA 14)
5. *In Re S-A-*, USA, 2000
6. *In re R-A-*, USA, 1999
7. *Islam v. Secretary of State for the Home Department*
Regina v. Immigration Appeal Tribunal and Another ex parte Shah (conjoined appeals) UK, 1999
8. *In re Fauziya Kasinga*, USA, 1996⁴²
9. *Ward v. Attorney General of Canada*, Canada, 1993
10. *Fatin v. United States Immigration and Naturalization Service*, USA, 1993
11. *Matter of Chang*, USA, 1989
12. *Olimpia Lazo-Majano v. United States Immigration and Naturalization Service*, USA, 1987

1. *Aguirre-Cervantes v. United States Immigration and Naturalization Service*

U.S. Court of Appeals, 9th Circuit, USA

Decision: March 21, 2001

Keywords:

Domestic abuse- parental/ particular social group/ lack of state protection/ country of origin, Mexico.

Facts:

The petitioner, a Mexican woman of 19 years of age, established that she suffered many years of extreme abuse by her father. She states that all the members of the family suffered from physical and mental abuse, and that her mother neither intervened nor allowed her to seek police protection. She sought shelter with a grandfather but was forcibly returned by her father. She did not seek assistance from the police, in the belief that they would not help. She testified regarding two sisters who were being physically and sexually abused by their father and unsuccessfully sought police protection.

³⁹ This compilation of international case law was researched and prepared by Rosa Da Costa, legal consultant for the UNHCR, Senior Regional Advisor on Refugee Women and Gender Equality, for Europe and Central Asia, RO, Ankara, Turkey. Last updated in May 2002.

⁴⁰ The cases enumerated and summarised below are not intended as an exhaustive list, but are a selection of some of the most notable international cases related to gender-based asylum claims. It should also be noted that several cases, while not necessarily gender-related, have been included for the relevance of their analysis (e.g., analysis of "membership in a particular social group") to gender-based cases.

⁴¹ For a review and concise analysis of USA case law relating to gender-related asylum claims, including *Matter of R-A-*, the *Kasinga* case, and the *Aguirre-Cervantes* decision (appeals court), please see the following article: "Steps Forward and Steps Back: Uneven Progress in the Law of Social Group and Gender-Based Claims in the United States", by Karen Musalo and Stephen Knight, in *International Journal of Refugee Law*, Vol. 13, No. 1 / 2, 2001, Oxford University Press, p. 51-70.

⁴² While the correct spelling of Fauziya's surname is 'Kassindja', we have kept reference to the old spelling 'Kasinga' (which was the result of an error originally made by the INS and carried through the court case) simply to avoid confusion.

The petitioner left Mexico at age 16 after being severely beaten and threatened with death by her father and after trying to intervene to protect her mother who was being beaten while recovering from a cesarean delivery.

Legal Reasoning:

The Immigration Judge granted the petitioner asylum as a member of a particular social group, “victims of domestic violence” or of “the family which is a victim of domestic violence.” The Board of Immigration Appeals (BIA), though finding persecution, reversed the decision. The BIA defined the relevant social group as “Mexican children who are victims of domestic violence” and found that this group was not a particular social group for asylum purposes.

The U.S. Circuit Court of Appeals found “family membership” to be the appropriate particular social group, as Mexican society views the family as a discrete unit and members of a family view themselves as such. Violence within the family is treated as a “domestic matter” rather than a matter for government intervention. Country of origin information was found to fully support the claim that authorities were not providing state protection to victims of domestic abuse.

Conclusion:

The Court of Appeal found the petitioner eligible for asylum and withholding of deportation, on account of a well founded fear of persecution due to her membership in a particular social group, namely, her immediate family.

2. Jabari v. Turkey

European Court of Human Rights, Strasbourg

Decision: 11 July 2000

Keywords:

Particular social group/ transgressing social mores/ adultery/ risk of treatment contrary to art. 3 ECHR/ prosecution/ risk of sentence to inhuman treatment/ country of origin, Iran.

Facts:

Ms. Jabari is an Iranian national who was arrested in October 1997 after being suspected of having an intimate relationship with a married man. Upon being released from detention, the applicant fled the country before criminal proceedings could be taken against her, claiming that she would probably have been prosecuted and sentenced to a form of inhuman punishment.

The applicant fled to Turkey in February 1998 with the intention of travelling on to Canada, through France, on a forged Canadian passport. However, she was intercepted in France and returned to Turkey, where she lodged an application for asylum which was declared inadmissible by government authorities because she had missed the five day deadline.

Under threat of deportation, she was allowed to contact UNHCR, which interviewed and granted her mandate refugee status on February 16, 1998 on grounds of belonging to a particular social group, i.e., women who are at risk of persecution due to transgressing the social mores of that society. She then lodged a recourse against the deportation order, and submitted an application to the ECHR on the basis of Rule 36 (now 39).

Legal Reasons:

The case before the ECHR was based on the grounds that:

1. Her deportation to Iran would violate Art. 3 of the ECHR;
2. In violation of Art. 13 of the ECHR, she did not have an effective remedy against the negative decision rejecting her asylum claim and leading to her deportation;
3. In violation of Art. 5 of the ECHR, she was detained unlawfully without being provided with the reasons of her detention in a language she would understand, and she was held longer than is acceptable in a democratic country.

Conclusion:

The application was held admissible by the Commission and the Court considered the claim. After examination of the current law and practice in Iran concerning adultery⁴³ and with due consideration of UNHCR's conclusion on the applicant's claim, the Court found that there was a real risk of the applicant being subjected to treatment contrary to Art. 3 of the ECHR if she were returned to Iran. The Court also found that there was a violation of Art. 13 of the ECHR, since the Ankara Administrative Court could not be considered an effective remedy as it could not suspend the deportation decision with immediate effect.

3. Refugee Appeal No. 71427/ 99

Refugee Status Appeals Authority, New Zealand

Decision: 16 August 2000

Keywords:

Domestic violence/ policy of gender discrimination/ persecution in sense of systematic violation of human rights/ failure of state protection/ particular social group-"women"/ Two agents of persecution/ Country of origin, Iran.

Facts:

The appellant is a 32 year old Iranian woman, with one child. In 1987, at age 19, her parents arranged a marriage with a religious man who was also a member of the Sepah Pasdaran (revolutionary guards). Soon after the marriage, the appellant began to suffer violence and house imprisonment at the hands of her husband, the beatings intensifying once she became pregnant. During that time, the husband also brought his lover to their home. The appellant gave birth, was refused access to her son, and after a week was told by her mother in law that the child had died of hepatitis B. Sent out of the conjugal home by her husband, the appellant went to live with her parents. During this time, the husband, sold the baby to a couple, without the mother's knowledge. At the divorce hearing a year later, the appellant discovered for the first time that her child was alive. The court ordered that the husband be given custody of the child. The husband repeatedly used his connections in the Pasdar to unleash a campaign of harassment on his former wife, usually based upon allegations of violations of the dress code or the code regulating the separation of males and females.

Eventually, she also discovered that her son was not living with her ex-husband, and sought the intervention of the courts. Two years later, the case was heard and while the court did not believe the appellant's allegations, they awarded her access to the child one day a week. However, she was never able to exercise that right as the appellant hid the child from her. In 1993, the "adoptive" parents who had bought the child, contacted the appellant and also expressed concern that they were unable to find their "son" after the ex-husband had taken him away, and that they had not known the true circumstances surrounding the birth and "adoption" of the child. After combined search efforts, they found that the child was at the home of the ex-husband's mother.

Following the intervention by the appellant and the "adoptive" parents with the courts, in 1994 the Court ordered that the formal custody of the child remain with the father but that the appellant be given responsibility for caring for the child on a full time basis. As had occurred once before, the appellant was again subjected to a campaign of harassment by her ex-husband and by Pasdars acting on his behalf. The appellant stated she was not able to complain to the authorities about her ex-husband's behaviour because he was too high ranking an official in the Pasdaran and she was a woman.

Throughout this time, the appellant feared that the ex-husband would kidnap the child, as he had threatened, and took some measures to try to prevent that by occasionally leaving town. In 1997, she entered into a (temporary five year) marriage with an old acquaintance, and moved to Tehran in the hope that the ex-husband would lose interest in her and her son. A few months afterwards, the appellant's mother telephoned her to inform her that under coercion (beatings) she had had to reveal her daughter's address to several armed Pasdaran.

The appellant and her new husband decided to leave the country. The appellant was able to leave with her son after a bribe was paid to add the child to her passport without consent of the ex-husband. The new husband stayed behind to liquidate some assets. The appellant sought refugee status in New

⁴³ The Court made use of Amnesty International Reports, US Department of State Human Rights reports, as well as the text of the Islamic Penal Code, which details how stoning should be carried out for adulterers.

Zealand in March 1998. Since then, she has learnt that her second husband was harassed and badly beaten by her ex-husband, as well as being sentenced to six months imprisonment (he paid a bribe in order not to serve it) and having his passport confiscated. Her family was also harassed, and a warrant for her arrest was issued on unknown charges.

Legal Reasoning:

The Court looked at the discriminatory laws and practices in Iran with regard to women in general, and particularly, the inequalities related to marriage, divorce and custody rights. They concluded that "This state-legislated relegation of women to a substantially inferior status is in breach of fundamental human rights law which prohibit discrimination on the basis of gender" [Decision, Point 75]. They took into account the cumulative effect of these breaches on the appellant, and found that the "policy of gender discrimination and the enforcement of gender-based norms against women as a group in Iran is of a nature which permits a finding of persecution in the sense of a sustained or systematic violation of basic human rights. " [Decision, Point 78]. Moreover, they held that whatever justification there may be for prosecuting her for illegally taking her son from Iran, the 'punishment ' she would likely receive from both her husband and from the state (including permanent separation from her son) would be so "grotesquely disproportionate" to her offence that it would not constitute legitimate prosecution. [Decision, Par. 80]

In addition, the Court found that the state would fail to protect her should she return to Iran. This was based on the evidence submitted and the fact that the state itself has put in place the legislative framework which is largely responsible for the serious harm faced by the appellant. As such, if returned to Iran, she would face serious harm as well as a failure of state protection. [Decision, Point 82]

In analysing whether the appellant was a member of a particular social group, the Court referred largely to the analysis applied in both *Shah (1999)* and *Ward (1993)*, and like *Shah* adopted a broad category of social group in this case, namely, "women". They stated:

"[...] the evidence relating to Iran establishes that the overarching characteristic of those fundamentally disenfranchised and marginalized by the state is the fact that they are women. This is a shared, immutable, internally defining characteristic. Applying the principles identified, we find that the particular social group is therefore women" [Decision, Par. 108].

Like *Shah*, they also rejected the requirement that a particular social group must be cohesive, and made the further point that the size of the group cannot be a limiting factor, both given the breadth of the application of the other four Convention categories and also because their finding is, of course, country specific. [Decision, Par. 109]

Finally, the Court established that in the case at hand, there are two agents of persecution, namely, the ex-husband and the state, and as such they analysed the nexus to the Convention grounds for both. In their opinion, it was artificial to say that the serious harm likely to be inflicted by the first husband on the appellant was for Convention reasons, namely, for reasons of the fact that she was a woman (i.e., as the defined social group) or for religious or political reasons" [Decision, Par. 116].

However, with regard to persecution by the state, they held that the appellant was at risk, both due to serious harm at the hands of the state, as well as due to the failure of the state to protect her. Moreover, they found that the serious harm which the state would inflict and the reason for its failure to protect her were for the same Convention reasons of membership in a particular social group, religion, and political opinion. They concluded that the appellant was therefore entitled to refugee status on both basis. [Decision, Par. 120]

4. Minister for Immigration and Multicultural Affairs v. Khawar

[2000] FCA 1130, Decision of Federal Court of Australia

Decision: August 23, 2000

Note: Above Federal Court decision confirmed on appeal to the High Court of Australia, [2002], HCA 14. Decision: 11 April, 2002.

Keywords:

Domestic violence/ well-founded fear of husband and his family/ failure of state protection/ agent of persecution/ membership in a particular social group/ relevance of the issue of "hate or enmity" or other "attitude" of state as reason for failure to provide protection/ harm by family motivated by personal, family considerations/ country of origin, Pakistan.

Facts:

Ms. Khawar, a native and citizen of Pakistan, is accompanied by three children and claims a well founded fear of persecution for her membership in a particular social group. Ms. Khawar claims more specifically, to be the victim of domestic violence at the hands of her husband and his family. The violence endured for many years and included severe beatings leading to hospitalisation and both threats and an actual attempt at burning her either with acid, or (as was actually attempted) by setting her on fire with petrol. Married in 1980, the abuse began in earnest approximately five years later, partly as a result of the intervention of his family, especially his mother and brother in law. She feared losing her children however, and so remained in this situation.

On several occasions, Ms. Khawar tried to seek help. She went to the police to report the incidents of violence on four occasions (especially after she was threatened with burning), from 1995 to 1997, including with her sister's husband, but to no avail. On the occasions where the police reports were taken, these were inaccurate and no follow-up was undertaken. Moreover, in their comments, the policemen clearly demonstrated that they did not take the issue seriously, expressing that women always blamed men for their problems, and that they had a lot of similar complaints, such that, if they had to do something about all of them it would take all their time.

One day, upon returning home from the police (to report her husband and his brother's attempt at burning her), Ms. Khawar found that her husband had left the house. He did not return for several weeks and during this time, she decided to flee Pakistan. She lived with her sister while she waited for a visa to go to Australia, and finally left Pakistan on 15 June 1997.

On June 17 1997, Ms. Khawar and her children arrived in Australia, where she then lodged an application for a protection visa on September 16, 1997. In February 1998 her application was refused, and she sought a review of that decision by the Refugee Review Tribunal (RRT), which affirmed the previous decision in January 1999. The decision of the RRT was then appealed to the Court, which set aside that decision. A further appeal to the Federal Court upheld the earlier Court's decision.

Legal Reasoning:

Evidence related to the physical abuse and also the lack of effective protection by the Pakistani authorities was considered. Judge Lindgren, the majority judge, also considered the RRT decision and more particularly, whether the latter erred in law by not pursuing their inquiry to other considerations, once they concluded that the husband and his family were motivated by personal, family considerations.

Judge Lindgren noted that in their decision, the RRT found that the problems the applicant faced with her husband were peculiar to their relationship and there was no evidence that the applicant was being targeted by her husband or his family for a Convention reason. The RRT was not satisfied that there was a nexus between Ms. Khawar's claims and the Convention ground of "particular social group". They found that the husband was not motivated to harm her because she was a member of any of the particular social groups as defined by Ms. Khawar, namely, "women", "married women in Pakistan", "married women in Pakistan without the protection of a male relative", "married women in Pakistan suspected of adultery", or "women in who have transgressed the mores of Pakistani society". The RRT found instead, that she was harmed simply because the applicant and his family were angry or ashamed for other personal reasons, such as the fact that she was seen as the reason for her husband's estrangement from his family, and because she brought no dowry to the family.

The RRT also rejected the claim that Ms. Khawar faced persecution because she failed to follow the strict social mores expected of married women in Pakistan.

On appeal of this decision, Ms. Khawar submitted, *inter alia*, that "persecutory conduct can be Convention based, even though the persecutor, as an individual, has no discriminatory motive 'so long as the state withholds effective protection on a Convention ground'" . (FC Decision, Par. 108). Alternatively stated, the appellant submitted that "there could be persecution within the meaning of

Article 1 A of the Convention where a non-state agent persecutes for a non-Convention reason, and where, for a Convention reason, state protection is not available". (FC Decision, par. 109)

One of the key questions under consideration at the Federal Court, was whether the RRT had erred in law in its view that the absence of state protection was irrelevant to the causal link or nexus to the grounds in the Convention definition. The majority found that the RRT had erred in thinking that the issue of state protection with regard to the defined social group was irrelevant, simply because of their finding that she feared violence from her husband whose motivation was private and a family issue. They also found that, while not explicitly stated, the primary judge in the earlier Court had also implicitly invoked this error of the RRT by referring to a passage in *Islam* (1999).⁴⁴

Moreover, the Federal Court further considered whether persecution in this case consisted of the conduct of the state alone, or whether it was the result of the combination of the husband's violence and the lack of state protection -an approach which was accepted by the majority in *Islam* (1999). In relation to this question, Judge Lindgren, speaking for the majority, held :

"The definition does not, in terms, require identification of the persecutor or persecutors. Once it is accepted, as it has been (see for example, *Minister for Immigration and Multicultural Affairs v. Sarrazola* (1999) 166 ALR 641 (FCA/FC)), that the definition may be met even though a single persecutor has more than one reason for persecuting, there is no difficulty, I suggest, in accepting that persecution may consist of the effect of the conduct of two or more persons, only one of whom may be moved by a Convention reason." (FCA, para. 136)

Judge Lindgren then goes on to detail two possibilities that the RRT did not explore because they put aside the state's lack of protection once they found that the husband's immediate motivation was personal. They did not consider the following: (1) Ms. Khawar feared violence from her husband and his brother for exclusively personal reasons and this was followed by the objective lack of state protection for reason of her membership in a particular social group; or that (2) Ms. Khawar feared violence from her husband and his brother for reasons of personal considerations and the husband's and brother's knowledge that the state would not protect her from them for reasons of her membership of a particular social group ("what do you think the police would do to us?"). (FCA, par. 137)

On the question of the "attitude" or motivation" of the persecutor, Judge Lindgren refers to *Chen*, and agrees that it is an error of law "to insist upon the presence of any particular adverse attitude, emotion or state of mind on the part of the persecutor, [even though] the motivation for the persecutory conduct must be something perceived about the particular social group."

He goes on to state that :

"a state[s] perception of a particular social group as 'inferior', 'less deserving' or 'second class' by reference to the rest of the society, and in particular, a view of members of the group as not possessing the same human rights as the rest of society or, if possessing them, as not entitled to have them enforced and protected to the same extent as the rest of society, would constitute a motivation that would be entirely consonant with the Convention's definition and preamble." (FCA, par 141)

Based on this reasoning, Judge Lindgren held that in the case at hand, there was in fact evidence before the RRT on which it might have found that 'women in Pakistan' or 'married women in Pakistan' are regarded in this manner, and that indeed, this view formed part of the attitude of Ms. Khawar's husband, his family, as well as the police and caused them to act towards her in the manner they did.

Finally, on the issue of state complicity, Judge Lindgren made the observation that police failure to protect a woman from her husband's violence will not necessarily provide the bridge between the state

⁴⁴ On the first appeal to the Court, the primary judge concluded that the approach adopted in *Islam v. Secretary of State for the Home Department* [1999 2 AC 629 (HL), UK] was consistent with Australian jurisprudence and should be the one to be adopted. As such, the judge held that when considering the issue of the motivation of the applicant's husband in harming her, the RRT had made an error in law involving an incorrect interpretation of the applicable law (i.e., of the phrase "a well-founded fear of being persecuted for reasons of membership in a particular social group). The RRT made two mistakes: (1) they failed to consider the phrase as a whole with regard to the purpose of the Convention and; (2) they also reached a conclusion on whether the applicant's fear was due to her membership in a particular social group *without* first identifying the relevant social group of which she was a member.

and privately motivated harassment. For example, the failure to provide protection in a specific case may be atypical. He suggests that something more may be required, such as, the "sustained or systemic absence of state protection for members of a particular social group attributable to a perception of them by the State as not deserving equal protection under the law with other members of the society, whatever the origin or explanation of that discriminatory perception might be." (FCA, par. 160)

Conclusion:

The appeal was dismissed.

Confirmed on Appeal, 2001.

5. In Re S-A-

Board of Immigration Appeals (BIA), USA

Decision: June 27, 2000

Keywords:

Persecution on account of religious beliefs-regarding proper role of women in Moroccan society/ domestic violence- parental/ lack of state protection/ country of origin, Morocco.

Facts:

The respondent, a Moroccan woman of 21 years of age, established that she suffered past persecution and has a well founded fear of future persecution at the hands of her father on account of her religious beliefs, which differ from her father's orthodox Muslim views concerning the proper role of women in Moroccan society.

More specifically, the respondent claims that her father physically and emotionally abused her on a regular basis, including by cutting her with a heated straight razor on one occasion, due primarily to religious differences, i.e., on the role and proper attire of women. Based on these Orthodox views of her father, the respondent was also forbidden to attend school past the third grade, and was not permitted to do any activities for which she would have to leave the home. The respondent also stated that she did not consider requesting police protection or seeking any other kind of government intervention since her mother's previous attempts in this regard had proved unproductive. She stated that she attempted twice to commit suicide while in Morocco and also tried to run away. With the assistance of one of her aunts living in the USA and the respondent's mother, she was able to obtain a passport and leave to the USA.

Legal Reasoning:

In this decision, the BIA overruled the finding of the Immigration Judge on credibility, stating that the discrepancies identified by the Judge were not actually present. They also found the corroborative testimony provided by the respondent's aunt to be both credible and supported by the facts, as well as the US State Department reports regarding the situation of women in Morocco.

The BIA concluded that the respondent had successfully established that she suffered past persecution at the hands of her father and could not rely on the authorities to protect her. They further found that while she had not requested protection or help from the government, the evidence in this regard ⁴⁵had convinced them that even had she done so, the Moroccan authorities would have been unable or unwilling to control her father's conduct. For the same reason, they concluded that the evidence showed that upon her return she would likely face severe and possibly fatal persecution at the hands of her father.

Conclusion:

The BIA found, therefore, that the respondent had a well-founded fear of persecution on account of her religious beliefs, which differed from her father's concerning the proper role of women in Moroccan society.

6. In re R-A-

Board of Immigration Appeals (BIA), USA

⁴⁵ This included State Department reports stating that domestic violence is commonplace in Morocco, that domestic remedies are generally unavailable to women and that the judicial procedure is skewed against them.

Decision: June 11, 1999

Note: This decision was later vacated and the case remanded to the BIA by the Attorney General by Order No. 2379-2000, dated January 19, 2001.

Keywords:

Membership in a particular social group/ political opinion/ domestic violence/ country of origin, Guatemala

Facts:

The respondent, a female citizen of Guatemala, was a victim of brutal violence including very frequent rapes, forced sodomy, severe beatings and psychological manipulation and abuse, at the hands of her husband (whom she married at age 16) for nearly 10 years. During one assault the respondent's jaw was dislocated, he once threw a machete which only just missed her hands, and he beat her brutally when she refused to have an abortion.

Some assaults took place in public but she was never offered protection. She tried to obtain a divorce, but the courts would not grant it without the consent of the husband. While she tried to leave her husband on several occasions, he always forced her to return, under threats of violence and death, including by threatening to deface her with a machete, and cut her arms and legs if she tried to leave him again.

The respondent attempted to gain police protection but to no avail. On three occasions, the police summoned her husband to appear, but he ignored them and no further action was taken by the police. She also called the police twice but they never responded, and when she appeared before a judge, he told her that he would not intervene in domestic disputes. The husband told the respondent that he knew the police because of his former military duty and therefore calling the police would be futile. The respondent stated that she knew of no shelters or other organisations in Guatemala that could protect her.

The respondent testified that her sister told her that her husband had vowed to hunt her down and kill her should she return to Guatemala. The respondent fled Guatemala in May 1995 to the USA. Throughout the abusive marriage, the husband would express that he could do whatever he wished, and that because she was a woman, she had to do as he said.

The immigration judge found that the respondent faced persecution on account of her membership in a social group defined as "Guatemalan women who are intimately involved with a male companion who believes that women are to live under male domination". The judge also granted asylum on the grounds of political opinion, since he found that she faced persecution due to her resistance to her husband's violence. The decision was appealed to the BIA.

Legal Reasoning:

The BIA did not contest the finding that Ms. Alvarado was persecuted or faced future persecution. Rather, they rejected the earlier finding that she was targeted for abuse because of her membership in a particular social group. According to the BIA, she failed to prove that (1) the defined social group is a "recognised segment of the population, within Guatemala" and also, (2) that her husband had harmed her because of her membership in that social group. In other words, she did not show that her husband was motivated to harm her (at least in part), because he perceived her to be a member of this particular social group.

Other social group formulations which were also presented by the respondent, such as "Guatemalan women", "battered Guatemalan woman" and "Guatemalan victims of domestic violence" were also dismissed by the BIA.

The BIA further held that the persecution was not inflicted on account of the respondent's political opinion, or imputed political opinion. While the BIA noted that in *Lazo-Majano v. INS*, 813 F. 2d 1432 (Ninth Circuit 1987), it was determined that a woman's resistance to violent domination by her male partner can constitute an expression of political opinion, they found that in the case at hand, the respondent had failed to introduce meaningful evidence that her husband's behaviour was influenced by his perception of her opinion - so that there was no evidence that the persecution was on account of her political opinion.

Conclusion:

The BIA concluded that while they found the respondent to have been the victim of tragic and severe spousal abuse, they were not convinced that the abuse occurred because of her membership in a particular social group or because of her actual or imputed political opinion, and as a consequence, they found her ineligible for asylum and withholding of deportation.

Note: This decision was the subject of great controversy in the USA, and finally resulted not only in the case being remanded back to the BIA, but also in the development of new proposed regulations on gender persecution and domestic violence. These regulations were to address and ultimately discard some of the barriers to cases of domestic violence that were posed by the decision in *Matter of R-A-*. Hence, in the context of removal proceedings⁴⁶, the Attorney General reviewed the above BIA decision (of June 11, 1999), vacated the decision and remanded the case to the BIA, directing them to reconsider the case in light of a set of *proposed* regulations relating to persecution based on gender and domestic violence (the draft of which was published at 65 Fed. Reg. 76588-76598 (Dec.7,2000)), once these were published in final form. As of May 2002 however, these regulations had not yet been passed.

**7. *Islam v. Secretary of State for the Home Department*
Regina v. Immigration Appeal Tribunal and Another ex parte Shah (conjoined appeals)**

House of Lords, United Kingdom

Decision: 25 March 1999

Keywords:

Particular social group - "women in Pakistan"/ domestic violence/ accusation of adultery/ toleration and sanctioning of persecution by state/ country of origin, Pakistan.

Facts:

Two married Pakistani women flee violence by their husbands and severe sanctions under Pakistani law as a result of false charges of infidelity.

The Shah Case: The appellant, 43, was turned out of her marital home in Pakistan and arrived in the U.K. in 1992, shortly after which she gave birth to a child. In 1993 she claimed asylum, stating that she was afraid her violent husband would accuse her of adultery and assault her or denounce her under Sharia law for the offence of sexual immorality. The claim was rejected on the ground that she did not come within a "particular social group" under art. 1A (2) of the Refugee Convention. Leave to appeal was refused by the Immigration Appeal Tribunal in 1995 and the appellant sought judicial review of the refusal of leave, which was granted, so that the I.A.T was directed to hear and determine the appeal.

The Islam Case: The appellant, a 45 year old teacher, has two children and arrived with them in the U.K. in 1991 where she claimed asylum. Married in 1971, the appellant's husband was often violent towards her. In 1990, due to a fight which broke out between two political factions in the school where she was teaching, one faction became hostile to her and made allegations of infidelity against her. As a result, her husband assaulted her, resulting in injuries for which she was twice admitted to the hospital. She left her husband, staying briefly first with her brother (with whom she could not remain), and then in a temporary refuge, after which she left to the U.K.

She claimed refugee status based on a fear of persecution for reasons of membership in a particular social group and political opinion. Her claim was rejected. It was found that although she had been persecuted in Pakistan, and the authorities were both unwilling and unable to protect her, as a matter of law, the appellant was not a member of a "particular social group" because the group could not exist independently of the feared persecution. It was also held that neither the political faction nor her husband had persecuted her because of an actual or perceived political opinion. The appeal was dismissed by the I.A.T., which found that the appellant could not be said to belong to a particular social group because the "sub-group does not [...] have any innate or unchangeable characteristic, nor is it a cohesive homogeneous group whose members are in close voluntary association".

Legal Reasons:

⁴⁶ And by virtue of Order No. 2379-2001 dated January 19, 2001.

The majority of the House of Lords ruled in favour of the Appeal and adopted a broad formulation based on gender to define particular social group, namely, "women in Pakistan".

They rejected the requirement that a particular social group must possess a component of internal cohesiveness⁴⁷, and applied instead the 'immutable characteristic' (i.e., sex, in this case) approach to their analysis - an approach which is also found in the USA case *Matter of Acosta* (BIA 1985). They also found that a particular social group must exist independently of the feared persecution.

Several Lords stressed the central importance of the concept of discrimination to an understanding of the Refugee Convention, and the need to interpret the Refugee Convention in a manner consistent with human rights law (as mentioned in its preamble). They held that the category a 'particular social group' applied to whatever groups, including women, which might be regarded as falling with the Convention's anti-discriminatory objectives. Hence, women could constitute a particular social group if they lived in a country which discriminated against them based on sex, such as was found to be the case in Pakistan. Both women were found to have a well-founded fear of persecution by reason of 'membership of a particular social group', i.e., "women in Pakistan".

They stressed however, that they were not concluding that women constitute a particular social group in all societies. They underlined that in this case, women constituted a particular social group due to the toleration and sanctioning of the persecution of women as a group by the Pakistani government. Indeed, in the case at hand, the state aggravated the fear of persecution by their husbands, since local Islamic law would condone it and they would be further subjected to the criminal process of *Sharia* law, which provides severe punishments, including death by stoning for sexual immorality. Moreover, they noted that this membership would only give rise to a fear of persecution for certain women who actually suffered or feared harm on this basis.

Lord Millet, in dissent, argued that it was not possible in this case to define the social group separately from the persecution. He found that the women were discriminated against, but that the persecution was based on the fact that they had transgressed social mores, or in other words, on what they were thought to have done as individuals in violation of those norms.

Conclusion:

The majority of the House of Lords ruled in favour of the Appeal.

8. In re Fauziya Kasinga

Board of Immigration Appeals (BIA), USA.

Decision: June 13, 1996

Keywords:

Female genital mutilation (FGM)/ particular social group/ country-wide persecution/ lack of state protection/ Country of origin, Togo.

Abstract:

Young woman, member of the Tchamba-Kunsuntu tribe in Togo, fears forced female genital mutilation by husband and aunt.

Facts:

Applicant is a 19 year old native of Togo, who is a member of the Tchamba -Kunsuntu tribe of northern Togo. While young women of her tribe normally undergo FGM at age 15, she did not undergo this ritual due to the protection offered by her father, who is now deceased. Upon her father's death, under tribal custom, her aunt (her father's sister) became the primary authority figure in the family. The applicant's mother was driven from her home and left Togo to go live with her family in Benin. The applicant testified that she did not know precisely where her mother was living at the moment.

The applicant claimed that her aunt forced her into a polygamous marriage in October 1994, when she was 17, to a husband who was 45 years old and had three other wives. Under tribal custom, her aunt and her husband planned to force her to submit to FGM before the marriage was consummated. Fearing imminent mutilation, the applicant fled Togo for Ghana, with the help of her older sister. Afraid

⁴⁷ This requirement appeared in the US Court of Appeals for the Ninth Circuit in *Sanchez-Trujillo vs. INS*, 801, F.2d1571 (9th Cir. 1986) and was also applied in the previous decisions on this case.

that her aunt and husband would locate her there, she then fled to Germany, where she spent 2 months. There, she eventually bought a false British passport and travelled to the USA, where she arrived on December 1994 and immediately requested asylum. She was held in detention until 1996. The applicant explained that she did not request asylum in Germany as she did not speak the language and had no family there, whereas in the USA she had relatives.

The applicant testified that the Togolese police and the government of Togo, while aware of FGM, would not take any steps to protect her from the practice, and that upon her return, she would be taken to her husband by the police and he would force her to undergo the procedure. Moreover, her aunt reported her to the Togolese police. The applicant further testified that she would not find protection anywhere in Togo, as Togo is a small country and her husband and aunt could find her anywhere she might go. The applicant also claimed that her husband is well known in Togo and has friends in the police. Moreover, it would not be possible for her to live with another tribe in Togo.

Legal Reasoning:

The BIA considered the literature on FGM, and more specifically, the extreme form of FGM performed by the applicant's tribe, as well as reports on country conditions in Togo relating to FGM, violence against women, and police intervention. It found that FGM can amount to persecution - a finding consistent with past definitions of that term, including the formulation adopted in past decisions to the effect that "persecution can consist of the infliction of harm or suffering by a government, or persons a government is unwilling or unable to control, to overcome a characteristic of the victim".

The BIA found that the applicant was a member of a particular social group, namely, "young women of the Tchamba-Kusuntu tribe who have not had FGM, as practised by that tribe, and who oppose the practice". They noted that this meets the definition of social group previously articulated by the BIA in other cases such as *Matter of Acosta* (BIA, 1985), where the social group is "defined by common characteristics that members of the group either cannot change, or should not be required to change because such characteristics are fundamental to their individual identities." The BIA held that being a young woman and a member of the Tchamba-Kusuntu tribe cannot be changed, and that the characteristic of having intact genitalia is one that is so fundamental to the individual identity of a young woman that she should not be required to change it.

The BIA further found that the applicant had a country-wide fear of persecution in Togo that was confirmed by the country background information. The information on the record confirmed that indeed, FGM is widely practised in Togo, that acts of violence and abuse of women in Togo are tolerated by the police, the Government has a poor human rights record, and most African women can expect little governmental protection from FGM.

Conclusion:

The applicant's appeal was sustained and she was granted asylum.

9. *Ward v. Attorney General of Canada*⁴⁸

[1993] 2 S.C.R. 689, Supreme Court of Canada

Decision: 30 June 1993

Keywords:

Persecution/ unwilling or unable/ state complicity/ membership in a particular social group/ imputed political opinion/ Irish nationals/ IRA

Facts:

Appellant was a resident of Northern Ireland. Motivated by a perceived need to "take a stand" in order to protect his family, mainly from the IRA, he voluntarily joined the INLA, a para-military terrorist group dedicated to the political union of Ulster and the Irish Republic. The appellant, who had been detailed to guard innocent hostages, secured their escape when he learned that they were to be executed. This action was motivated by his conscience.

⁴⁸ This summary of the case was largely drawn from the UNHCR KIMS (UNHCR Knowledge and Information Management System), produced by the UNHCR Division of Communication and Information Centre for Documentation and Research, CD version dated January 1999, as well as from the summary provided in REFLEX, issue 20, dated August 1993, prepared by the Legal Services of the Canadian Immigration and Refugee Board, pages 1-3.

The police eventually let slip to an INLA member that one of their own had assisted the escape. The INLA, who had suspected the appellant, confined, tortured and sentenced him to death following a court-martial by a kangaroo court. Appellant escaped from the INLA, sought police protection and was charged for his part in the hostage incident. The INLA, in a pre-emptive move to prevent appellant's providing evidence to the police about INLA members and their activities, took his wife and children hostage.

Appellant pleaded guilty to the offence of forcible confinement and was sentenced to three years in jail. He did not provide evidence against the INLA and never admitted publicly to having released the hostages. Towards the end of his prison sentence, appellant sought the assistance of the prison chaplain for protection from INLA members. The chaplain, with the assistance of police, obtained a Republic of Ireland passport for him and airline tickets to Canada.

Appellant arrived in Toronto in December 1985 and sought admission to Canada as a visitor. He became the subject of an inquiry in May, 1986, and claimed Convention refugee status citing a fear of persecution because of his membership in a particular social group (the INLA).

Former Decisions:

The Minister of Employment and Immigration determined that Mr. Ward was not a Convention refugee. An application for re-determination of his claim was made before the Immigration Appeal Board, which found that he was a Convention refugee. The Federal Court of Appeal then allowed the Minister's application to set aside that decision and referred the matter back to the Board for reconsideration. Ward appealed to the Supreme Court of Canada.

Legal Ruling:

At issue before this Court were: (1) whether the element of state complicity is required to establish a refugee claim and the nature of the "unwillingness" or "inability" of a claimant to seek the protection of his or her home state; (2) the meaning of "particular social group"; (3) the nature of persecution for political opinion and whether desertion from a politico-military organisation for reasons of conscience may properly ground a claim based on that ground; (4) whether s. 15 of the Charter was applicable; and (5) in cases of multiple nationality, whether the claimant must establish want of protection in all states of citizenship.

Below are some of the more relevant issues for our purposes, as addressed by the Supreme Court.

Legal Reasoning:

Persecution and State Complicity / Unable and Unwilling

Justice La Forest, writing for the Court, first set out the rationale underlying the international refugee protection system, namely, that it is to serve only as a back-up system. As such, persecuted individuals must first seek out the protection of their own state before the responsibility of other states becomes engaged.

The Court stated that the definition of a "Convention refugee" relates firstly to whether there exists a well-founded fear of persecution, regardless of whether or not the claimant is unable or unwilling to avail himself of the protection of his country. Only when this is established, does it become relevant to analyse the state's inability to protect. Thus, state complicity or involvement in the persecution is not required or relevant. "Persecution" includes situations where the state is not an accomplice to the persecution but is simply unable to protect its citizens.

Judge La Forest J., also found that where a claimant establishes both (1) the existence of a subjective fear and (2) that the state is unable to protect him, a claimant has a well-founded fear of persecution. However, in the view of the court, a claimant will not satisfy the Convention definition, "where it is objectively unreasonable for the claimant not to have sought the protection of his home authorities" (Decision, p. 36). It falls on the claimant to provide "clear and convincing confirmation" of a state's inability to protect, absent an admission by the national's state of its inability to protect him or her. Moreover, except in situations of complete breakdown of the state apparatus, it should be assumed that the state is capable of protecting a claimant. To rebut this assumption however, the claimant can provide testimony relating to past personal incidents in which he or she did not receive state

protection, or advance testimonies of similarly situated individuals which the state also failed to protect.

With regard to the concepts of "unable" and "unwilling", these have become somewhat blurred - a situation which the Court sought to clarify. The Court held that the distinction "resides in the party's precluding resort to state protection: in the case of 'inability', protection is denied to the claimant, whereas when the claimant is 'unwilling', he or she opts not to approach the state by reason of his or her fear on an enumerated basis". (Decision, p. 31) Obviously, the claimant may also be physically or literally unable to avail him/ herself of state protection.

The test as to whether a state is unable to protect a national is bipartite: (1) the claimant must subjectively fear persecution; and (2) this fear must be well-founded in an objective sense. The claimant need not literally approach the state unless it is objectively unreasonable for him or her not to have sought the protection of the home authorities. The Board, if the claimant's fear has been established, is entitled to presume that persecution will be likely and that the fear is well-founded if there is an absence of state protection. The presumption goes to the heart of the inquiry, which is whether there is a likelihood of persecution. The persecution must be real -- the presumption cannot be built on fictional events -- but the well-foundedness of the fear can be established through the use of such a presumption.

The presumption was of some importance to the Board in this case. It found that the appellant was a credible witness and therefore accepted that he had a legitimate fear of persecution. Since Ireland's inability to protect was established through evidence whereby state agents admitted their ineffectiveness, the Board was able to presume the well-foundedness of appellant's fears.

Membership in a Particular Social Group

In analysing the meaning of a "particular social group", account should be taken of the general underlying themes of the defence of human rights and anti-discrimination that form the basis of the international refugee protection initiative.

A good working rule or test for the meaning of "particular social group" provides that this basis of persecution consists of three categories: (1) groups defined by an innate, unchangeable characteristic; (2) groups whose members voluntarily associate for reasons so fundamental to their human dignity that they should not be forced to forsake the association; and (3) groups associated by a former voluntary status, unalterable due to its historical permanence.

As an example of the first category, the Court mentioned individuals fearing persecution on such bases as gender, linguistic background and sexual orientation; while the second category would encompass, for example, human rights activists. The third category, is included more because of historical intentions, although it is also relevant to the anti-discrimination influences, in that one's past is an immutable part of the person.

In application to the case at hand, the Court analysed whether Ward's particular social group, namely, "members of the INLA", could indeed be characterised as a particular social group within the meaning of the Convention. It found that it could not. Its membership is neither characterised by an innate characteristic nor is it an unchangeable historical fact. Its objective of obtaining specific political goals by any means, including violence, cannot be said to be so fundamental to the human dignity of its members that it constitutes a "particular social group".

Furthermore, the appellant's fear was not based on his membership. Rather, he felt threatened because of what he did as an individual. "His membership in the INLA placed him in the circumstances that led to his fear, but the fear itself was based on his action, not on his affiliation". (Decision, p. 62)

The Court held instead that Ward's actions were political in nature and that the persecution emanated from his political opinion as manifested by his actions, namely, his assistance in the escape of the hostages he was guarding (from which can be imputed a political opinion relating to the proper limits to means used for the achievement of political change). In arriving at this conclusion, the Court recognised firstly, that the political opinion at issue need not have been expressed outright. Often the claimant is not even given the opportunity to articulate his or her beliefs, but they are simply imputed to the claimant from his or her actions. Secondly, the Court also recognised that the political opinion

imputed to the claimant and for which he or she fears persecution need not necessarily conform to the claimant's true beliefs. The examination of the circumstances should be approached from the perspective of the persecutor, as it is the perspective of the persecutor that is determinative (and responsible for inciting the persecution). Similar considerations apply to other bases of persecution.

Conclusion:

The Supreme Court of Canada allowed Ward's appeal, set aside the order of the Federal Court of Appeal and remitted the case back to the Board to determine the claim as against Great Britain, Ward's second country of nationality.

10. *Fatin v. United States Immigration and Naturalisation Service*

Reference No. 92-3346

Citation: 12 F.3d 1233 (3rd Cir. 1993)⁴⁹ USA

Keywords:

Muslims/ particular social group / violation of cultural norms relating to gender roles/ gender discrimination/ country of origin, Iran.

Facts:

On 31 December 1978, Parastoo Fatin, an 18-year-old Iranian woman entered the United States as a non-immigrant student. Six years later, Ms. Fatin applied for political asylum. In January 1986, the district director for the INS denied her application.

In February 1986, Ms. Fatin was placed in deportation proceedings for failing to maintain her non-immigrant student status. At this time, she renewed her application for asylum and withholding of deportation, claiming that she had a well-founded fear of persecution based on her membership in a particular social group and her political opinion. Ms. Fatin claimed that she would be forced to submit to the traditional Muslim view of a woman's proper role in society, including wearing the chador, or veil, while in public. She asserted that Iran's discriminatory treatment of women was in direct conflict with her belief in freedom of expression and the equality of the sexes.

The petitioner's application was denied and the Board of Immigration Appeals dismissed her appeal. She appealed the BIA's dismissal.

Legal Ruling:

(1) The Court is bound by the BIA's reasonable interpretation of the phrase 'particular social group' contained in the INA statute.

(2) To qualify for withholding of deportation or asylum based on membership in a particular social group, the alien must:

(a) identify a particular social group within the meaning of the statute;

(b) establish that he or she is a member of that group; and

(c) show that he or she would be persecuted or has a well-founded fear of persecution based on that membership.

Legal Reasoning:

The Court found that the BIA's interpretation of particular social group, i.e., 'a group of persons all of whom share a common immutable characteristic,' is a permissible construction of the statute which the Court is bound to follow. In *Matter of Acosta* (BIA, 1985), the Board explained that the shared characteristic might include sex, colour, kinship ties, or a shared past experience such as former military leadership or land ownership. The Board further stated that the common characteristic which defines the group must be one that the members of the group either cannot change, or should not be required to change because it is fundamental to their individual identities or conscience.

The Court applied its three-prong test for qualification as a member of a particular social group to three potential groups to which the petitioner, Ms. Fatin, might possibly belong. The Court reasoned as follows:

⁴⁹ This summary of the case was largely drawn from the UNHCR KIMS (UNHCR Knowledge and Information Management System), produced by the UNHCR Division of Communication and Information Centre for Documentation and Research, CD version dated January 1999.

(1) All women in Iran - the Court found that the administrative record did not compel a conclusion that Iran's treatment of women amounted to persecution simply for being a woman.

(2) Iranian women who refuse to conform to the government's gender-specific laws and social norms - The Court indicated a willingness to recognise this category as a qualifying social group, but found that the petitioner had failed to demonstrate her membership in this group. The Court noted that at no time did the petitioner testify that she would refuse to comply with any gender-specific law or social norm. Instead, the petitioner stated that she would find the requirement objectionable and would seek to avoid compliance, if possible.

(3) Iranian women who find their country's gender-specific laws offensive and do not wish to comply with them - While accepting, *arguendo*, that compelling a person to engage in conduct which is abhorrent to that individual's deepest beliefs could constitute persecution, the Court found that the petitioner's testimony did not show that for her, complying with Iran's gender-specific laws "would be so profoundly abhorrent that it could aptly be called persecution".

In *dicta*, the Court strongly suggested that feminism could qualify as a political opinion within the meaning of the statute, but in this case, the administrative record did not establish that Iranian feminists are generally subject to treatment so harsh as to qualify as persecution.

Conclusion:

The Court affirmed the BIA and denied the petition for review.

11. Matter of Chang⁵⁰

Board of Immigration Appeals (BIA), USA

Decision: 12 May 1989

Keywords:

Family planning / possibility of forced sterilisation/ particular social group/ nexus to Convention grounds/ denial of refugee status / Country of origin, China.

Facts:

Chang, a citizen of the People's Republic of China, applied for asylum and withholding of deportation. He claimed persecution on the basis that he and his wife wished to have more children than the two they already had, and that because of China's population control measures he might be subjected to mandatory sterilisation. He claimed to belong to a social group of persons opposed to the Chinese government's one-child policy. The immigration judge had denied his application and found him deportable.

Legal Ruling:

The one-child policy of the Chinese government is not on its face persecutive on the grounds of § 101(a)(42)(A) of the Immigration and Nationality Act, which incorporates the refugee definition in the 1951 Convention, into United States law. The fact that a citizen of another country may not enjoy the same constitutional protection as a citizen of the United States does not mean that he is therefore persecuted on account of one of those grounds.

Legal Reasoning:

There is no evidence that China's population control measures are a subterfuge for persecuting any portion of the Chinese citizenry on the grounds of the 1951 Convention, even to the extent that involuntary sterilisation's may occur. Such a showing cannot be made by arguing the existence of a particular social group made up of those persons opposing the one-child policy, whose persecution lies in the fact that the policy is applied to them. As China's policy is tied to controlling population, rather than as a guise for acting against people for reasons protected by the INA, an asylum claim based solely on the fact that the applicant is subject to that policy must fail; the applicant must show that he was persecuted on the basis of one of the protected grounds.

Whether China's policies are such that the immigration laws should be amended to provide temporary or permanent relief from deportation to all individuals who face the possibility of forced sterilisation as

⁵⁰ This summary of the case was largely drawn from the UNHCR KIMS (UNHCR Knowledge and Information Management System), produced by the UNHCR Division of Communication and Information Centre for Documentation and Research, CD version dated January 1999.

part of a country's population control program is a matter for Congress to resolve legislatively. Even if involuntary sterilisation was demonstrated to be a violation of internationally recognised human rights, that fact in itself would not establish persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

Conclusion:

The BIA affirmed the decision of the immigration judge.

Note:

The *Matter of Chang* has been rendered moot due to the current US immigration law, which, since 1997, has included punishment for opposition to coercive population control measures as a grounds for asylum.

12. *Olimpia Lazo-Majano v. United States Immigration and Naturalization Service*

Ref: 813 F.2d 1432 (9th Cir. 1987)⁵¹ USA

Decision: 09 June, 1987

Keywords:

Rape/ Well-founded fear of persecution/ imputed political opinion / agents of persecution/ country of origin, El Salvador.

Facts:

Petitioner Olimpia Lazo-Majano is a native of El Salvador whose husband left El Salvador after quitting a rightist paramilitary group. A sergeant in the Salvadoran armed forces ('Z') hired the petitioner to do his laundry, then raped her at gunpoint. Subsequently, Z. threatened to use grenades against her. He told her that if her husband returned to El Salvador, he would kill them both, and that if she informed on him, he would say that she was a subversive, and torture and kill her. The petitioner believed the armed forces would let Z. carry out his threat, and that no one in El Salvador could stop the armed forces from doing such things.

In 1982 she escaped from Z., left El Salvador and illegally entered the United States. In January 1983 she was ordered to show cause why she should not be deported for entry without inspection. She applied for political asylum based on a fear of persecution by Z. Her request was denied by an Immigration Judge, and the BIA affirmed the decision, declaring that her plight was strictly personal and did not constitute political persecution under the INA. Petitioner appealed.

Legal Ruling:

In determining whether persecution is on the basis of political belief, the political belief which the persecutor perceives or imputes upon the claimant may support a claim even where the claimant does not actually maintain the belief.

Legal Reasoning:

The Court found that the petitioner's evidence and story were uncontroverted and established a well-founded fear of persecution. The issue, according to the Court, was whether the petitioner was persecuted by a government agent (Z.) because of her political beliefs or whether the persecution was based on the personal relationship between them. Z. viewed the petitioner as a subversive because she regarded the armed forces as responsible for lawlessness, and he persecuted her on this account. Petitioner contended, moreover, that no political control existed in the armed forces to restrain Z. The Court found that under the statute, 'political opinion' means the political opinion of the victim as perceived by the persecutor. Because Z. regarded the petitioner as a subversive, he persecuted her. Therefore, the petitioner suffered persecution for her political opinion as a matter of law, and the BIA order denying her asylum was an abuse of discretion.

Conclusion:

The Court of Appeals reversed the decision and remanded the case to the BIA.

⁵¹ This summary of the case was largely drawn from the UNHCR KIMS (UNHCR Knowledge and Information Management System), produced by the UNHCR Division of Communication and Information Centre for Documentation and Research, CD version dated January 1999.



Note: Overruled in part by *Fisher v. INS* (9th Cir. 1996)

(continued)

II. Five Convention Grounds: List of Selected Gender Cases

Convention Grounds:

1. Political Opinion

Olimpia Lazo-Majano v. United States Immigration and Naturalization Service, 813 F.2d 1432 (9th Cir., 1987), USA

Fatin v. United States Immigration and Naturalization Service, 12 F.3d 1233 (3rd Cir. 1993), USA

Ward v. Canada (Attorney General), [1993] 2 S.C.R. 689, Supreme Court of Canada, 30 June 1993

In re R-A, BIA, 11 June 1999, USA

Matter of CYZ, Interim Decision # 3319 (BIA 1997), USA

Matter of DV, (BIA, 1993), USA

Grajo v. INS, 124 F.3d 203 (7th Cir. 1997), USA

Fuentes v. INS, 127 F.3d 1105 (9th Cir. 1997), USA

Fathi and Ahmady (IAT) (14264), UK

2. Religion

In Re S-A, (BIA, 27 June 2000), USA

Rusovan v. INS, 139 F.3d 902 (7th Cir. 1998), USA

Matter of DV, (BIA, 1993), USA

Kokkinakis v Greece, (ECHR, 1993) 17 EHRR 397

Iftikhar Ahmed v SSHD (CA) [2000] INLR 1, UK

Fathi and Ahmady (IAT) (14264), UK

Re MN, Refugee Appeal No 2039/93, 12 February 1996, New Zealand Refugee Status Appeals Authority

3. Membership in a Particular Social Group

Jabari v. Turkey, European Court of Human Rights, Strasbourg, 11 July 2000

Islam v. Secretary of State for the Home Department and Regina v. Immigration Appeal Tribunal and Another ex parte Shah (conjoined appeals) House of Lords, United Kingdom, 25 March 1999

Refugee Appeal No. 71427/99 Refugee Status Appeals Authority, New Zealand, 16 August 2000⁵²

Matter of Chang (BIA, 12 May 1989), USA

Fatin v. United States Immigration and Naturalization Service, 92-3346, 12 F.3d 1233 (3rd Cir. 1993)

Ward v. Canada (Attorney General), [1993] 2 S.C.R. 689, Supreme Court of Canada, 30 June 1993

In re Fauziya Kasinga, (BIA, 13 June 1996), USA

In re R-A, (BIA, 11 June 1999), USA

Minister for Immigration and Multicultural Affairs v. Khawar, FCA 1130, Decision of Federal Court of Australia, 23 August 2000

Rusovan v. INS, 139 F.3d 902 (7th Cir. 1998), USA

Pitcherskaia v. INS, 118 F.3d 641 (9th Cir. 1997), USA

Re ZWD, Refugee Appeal No, 3/91 (New Zealand Refugee Review Board)

A v Miah, [1998] INLR 1, 30 G (High Court of Australia)

Matter of Acosta, (1985) 19 I & N 211, USA

Quijano v Secretary of State for the Home Department (CA) [1997] Imm AR 227, UK

Applicant A v Minister for Immigration and Ethnic Affairs, 24 February 1997, High Court of Australia

Refugee Appeals Board (V.B.C., 2 ch., 8 April 1992), E024, Belgium

Djellal, 12 May 1999, 328.310, France

Hernandez-Montiel v United States Immigration and Naturalization Service, 24 August 2000, (9th Cir. 2000), USA

Fisher v INS, 79 F.3d 955 (9th Cir. 1996), USA

⁵² For a more in depth discussion of the interpretation of the term "social group" in New Zealand's case law, see the following article: "Developments in Refugee Law relating to the Interpretation of the Term 'Social Group' with Particular Reference to Gender-Based Persecution and Persecution on the Basis of Sexual Orientation- A New Zealand Perspective", by David Ryken and Jeanne Donald, August 2001. The paper was presented at the International Bar Association 2001 Conference at Cancun, 1 November 2001, and is available via the internet at: <http://www.refugee.org.nz/iba.html>

Namitabar v. Canada (MEI), 5 November 1993, [1994] 2 FC 42, Federal Court of Canada
 C.R.R. (France), 19 December 1989, 60.025
 New Zealand R.S.A.A., 27 September 1999, Refugee Appeal No 71462/99
Re MN, 12 February 1996, Refugee Appeal No 2039/93, New Zealand
Re Mayers and Minister of Employment and Immigration (1992) 97 DLR (4th) 729,
 Immigration and Refugee Board (Canada)
Lazo-Majano v INS, 813 F.2d 1432 (9th Cir. 1987), USA
Cardozo Porto v Canada [1992] F.C.J. No 881 (QL), Canada
 C.R.R. (France), 12 July 1985, 26.971 and 5 December 1985, 30.819
Canada (Minister of Employment and Immigration) v Mayers [1993] 1 F.C. 154 (C.A.)
Cheung v Canada (Minister of Employment and Immigration) [1993] 2 F.C. 314 (C.A.)
Chan v Canada (Minister of Employment and Immigration), [1995] 3 S.C.R. 593
Diluna v Canada (Minister of Employment and Immigration) (1995), 29 Imm. L.R. (2d) 156 (F.C.T.D.)
Rodionova, Svetlana v M.E.I. (F.C.T.D., no 92-A-6839), 7 Jul 1993, Canada
Narvaez v Canada (Minister of Citizenship and Immigration), [1995] 2 F.C. 55 (T.D.), 28 Imm. L.R. (2d)
 170 (F.C.T.D.)
Vidhani v Canada (Minister of Citizenship and Immigration), [1995] 3 F.C. 60 (T.D.)
Cen v M.C.I. [1996] 1 F.C. 310 (T.D.), Canada
Rodriguez, Ana Maria v M.C.I. (F.C.T.D., no. IMM-4573-96), 26 Sept. 1997, Canada
Veeravagu, Uthaya Kumar v M.E.I. (F.C.A., no. A-630-89), 27 May 1992, Canada
Velasquez, Liliana Erika Jaramillo v M.C.I. (9F.C.T.D., no. Imm-4378-93), 21 Dec. 1994, Canada.

4. Race

Raquel Marti de Mejia v Peru, Case 10.970, report No. 5/96, Inter-American Commission on Human Rights, March 1 1996

Prosecutor v Jean-Paul Akayesu (ICTR) Case No. ICTR-96-4-T

5. Nationality

--

(continued)

III. Key Legal Issues: List of Selected Gender Cases

1. Discrimination

Fatin v. United States Immigration and Naturalization Service, 92-3346, 12 F.3d 1233 (3rd Cir. 1993), USA

Islam v. Secretary of State for the Home Department and Regina v. Immigration Appeal Tribunal and Another ex parte Shah (conjoined appeals) House of Lords, United Kingdom, 25 March 1999

In Re MN Refugee Appeal No 2039/93, 12 February 1996, New Zealand Refugee Status Appeals Authority

Fisher v United States Immigration and Naturalization Service 37 F. 3d 1371, 1379-1381 (9th Cir. 1994), USA

2. State Protection

Refugee Appeal No. 71427/99 Refugee Status Appeals Authority, New Zealand, 16 August 2000

In Re S-A, (BIA, 27 June 2000), USA

Ward v (Attorney General), 2 S.C.R. 689, Supreme Court of Canada, 30 June 1993

In re Fauziya Kasinga, (BIA, 13 June 1996), USA

Minister for Immigration and Multicultural Affairs v. Khawar [2000] FCA 1130, Decision of Federal Court of Australia, 23 August 2000

Rusovan v. United States Immigration and Naturalization Service, 139 F.3d 902 (7th Cir. 1998), USA

Horvath v SSHD, (HL) [2000] 3 WLR 379, UK

Ireland v the UK (ECHR), (1978) 2 ECHR) 25

Raquel Marti de Mejia v Peru, Case 10.970, Report No. 5/96, Inter-American Commission on Human Rights, March 1 1996

Prosecutor v Anto Furundzija, (ICTY) Case No. IT-95-17/1-T, 10 December 1998

Selmouni v France (ECHR) (1999) 29 EHRR 403

Re MN Refugee Appeal No 2039/93, 12 February 1996, New Zealand Refugee Status Appeals Authority

Islam v. Secretary of State for the Home Department and Regina v. Immigration Appeal Tribunal and Another ex parte Shah (conjoined appeals) House of Lords, United Kingdom, 25 March 1999

3. Internal Flight Alternative

Robinson v Secretary of State for the Home Department & IAT (CA) [1997] Imm AR 568, UK

Karanakaran v SSHD (CA) [2000] INLR 122, [2000] Imm AR 271, UK

4. Imputed Political Opinion

Islam v. Secretary of State for the Home Department and Regina v. Immigration Appeal Tribunal and Another ex parte Shah (conjoined appeals) House of Lords, United Kingdom, 25 March 1999

Findik (17029), (IAT), UK

Aydin v Turkey (ECHR) (1997) 25 EHRR 251

Olimpia Lazo-Majano v. United States Immigration and Naturalization Service (Ref: 813 F.2d 1432) 9th Cir., 1987, USA

5. Agent of Persecution

Olimpia Lazo-Majano v. United States Immigration and Naturalization Service (Ref: 813 F.2d 1432) 9th Cir., 1987, USA

Ward v. Canada (Attorney General), [1993] 2 S.C.R. 689, Supreme Court of Canada, 30 June 1993

Refugee Appeal No. 71427/99 Refugee Status Appeals Authority, New Zealand, 16 August 2000

Minister for Immigration and Multicultural Affairs v. Khawar [2000] FCA 1130, Decision of Federal Court of Australia, 23 August 2000

IV. Type of Harm: List of Selected Gender Cases

1. Domestic Violence (DV)

Islam v. Secretary of State for the Home Department and Regina v. Immigration Appeal Tribunal and Another ex parte Shah (conjoined appeals) House of Lords, United Kingdom, 25 March 1999
Refugee Appeal No. 71427/99 Refugee Status Appeals Authority, New Zealand, 16 August 2000
In Re S-A, (BIA, 27 June 2000), USA
In re R-A, (BIA, 11 June 1999), USA
Minister for Immigration and Multicultural Affairs v. Khawar [2000] FCA 1130, Decision of Federal Court of Australia, 23 August 2000
Rusovan v. INS, 139 F.3d 902 (7th Cir. 1998), USA

2. Female Genital Mutilation (FGM)

In re Fauziya Kasinga, (BIA, 13 June 1996), USA
 Decision by Independent Federal Asylum Senate (IFAS/UBAS- the Austrian second instance asylum authority), IFAS No. 220.268/0-XI/33/00, dated 21 March 2002, Austria.⁵³

3. Harsh or Inhumane Treatment due to Transgression of Social Mores

Jabari v. Turkey European Court of Human Rights, Strasbourg, 11 July 2000
Islam v. Secretary of State for the Home Department and Regina v. Immigration Appeal Tribunal and Another ex parte Shah (conjoined appeals) House of Lords, United Kingdom, 25 March 1999
Fatin v. United States Immigration and Naturalization Service (Ref: 92-3346 Citation: 12 F.3d 1233) 3rd Cir. 1993, USA
Re MN, Refugee Appeal No 2039/93, 12 February 1996, New Zealand Refugee Status Appeals Authority

4. One Child Policy / Forced Abortion/ Other infringements of Reproductive Rights

Matter of Chang (BIA, 12 May 1989) USA
Matter of CYZ, Interim Decision # 3319 (BIA 1997), USA

5. Rape

Olimpia Lazo-Majano v. United States Immigration and Naturalization Service, 813 F.2d 1432, (9th Cir., 09 June 1987)
Matter of DV, (BIA, 1993), USA
Grajo v. United States Immigration and Naturalization Service, 124 F.3d 203 (7th Cir. 1997), USA
Fuentes v. United States Immigration and Naturalization Service, 127 F.3d 1105 (9th Cir. 1997), USA
Prosecutor v Jean-Paul Akayesu (ICTR) Case No. ICTR-96-4-T, 2 September 1998
Prosecutor v Anto Furundzira, (ICTY) Case No. IT-95-17/1-T, 10 December 1998
Aydin v Turkey (ECHR) (1997) 25 ECHR 251
Raquel Marti de Mejia v Peru, Case 10.970, Report No. 5/96, Inter-American Commission on Human Rights, March 1 1996

6. Honour Killings / Burnings

In Re MN Refugee Appeal No 2039/93, 12 February 1996, New Zealand Refugee Status Appeals Authority

⁵³ This positive decision on an FGM asylum claim by a Cameroonian woman, was still subject to an appeal by the Austrian Ministry of the Interior to the Higher Administrative Court, until the end of April 2002.



Refugee Status Determination

Part: II Training Sessions

Training Session No. 15

Session Title: Linking women's human rights and refugee protection: an introduction.

Target Group: up to 20 government officials, NGO, or UNHCR staff involved in RSD, legal counselling or refugee protection issues more generally.

Level: Introductory. Participants should already be familiar with the 1951 Convention definition, but are not expected to have previous knowledge or training on women's human rights or gender-related asylum claims.

Time Duration: 1 full day

Session Objectives:

- To introduce international and regional human rights instruments, especially those specific to women
- To raise awareness of links between refugee protection and women's human rights
- To highlight how gender-related asylum claims should be viewed within the international human rights framework
- To gain an understanding of the different types of gender-related asylum claims
- To raise awareness of gender-related procedural problems and issues in the context of RSD
- To gain practical skills at applying knowledge of women's human rights, and analysing gender-related asylum claims

Session Outline

1. Welcome, facilitator introduces her/himself, and outlines day's agenda. (15 mins)
2. Introduction of participants, and/or ice-breaker. (15 mins)
3. Outline the training session objectives and ask if anyone would like to add any new ones. TM no. 102. (10 mins)
4. Ask participants for examples of women's human rights violations that may, in their opinion amount to persecution. If possible, they should provide examples of real cases they may have come across in their work. (15 mins)
5. Brainstorming Exercise: (15 mins)
Ask participants which international and regional human rights instruments the country has ratified, including those specific to women. Record the answers on a flip chart, a special wall chart suggested below (see suggestions on preparation) or on an OHT of TM no. 48. At the end, consolidate the list by adding any instruments which were not mentioned. If you wish, distribute TM no.48 "Worksheet: Convention Profile: Where does your country stand?" (which you completed and photocopied in advance) at the end of the exercise.
6. Introduce CEDAW and DEVAW. (15-20 mins)
(See facilitator's notes, and TM nos.49-54)
7. Question and Answer period. (10 mins)
- 8. Coffee/ Tea Break (15 mins)**
9. Presentation 1: on the links between human rights, refugee protection and gender-related asylum claims. (20 mins).
(See facilitator's notes and TM nos. 55-58.)
10. Case Study Exercise 1: (30 mins)
Distribute a case study of your choice (see list at end of training session module) and give participants a few minutes to read it. Instruct them that in addition to the questions at the end of the case study, they should also identify some of the human rights violations in that case. Distribute as handouts, a copy of TM no. 59 "Refugee

Definition", and TM no. 60 on "Women's Human Rights: Your Human Rights and the Laws that Protect Them", noting they are to be used for this exercise as well as subsequent ones. Then in groups of 4-5, participants discuss and answer the questions to the case study (including on human rights violations), with the help of the above documents.

11. Group rapporteurs report back in plenary (5 minutes each), and a brief discussion follows, during which facilitator provides missing elements and any required additional guidance on the analysis of the case – you may use the TMs on UNHCR's Guidelines on Gender-Related Persecution (see the list at the end of this training session module and also the facilitator's notes below). (35 mins)

12. Lunch Break (1 hour)

13. Presentation 2: on Gender-Related Persecution, followed by a discussion period. (See facilitator's notes and select from TMs nos. 105-138). (35 mins)

14. Case Study Exercise 2: (25 mins)

Distribute another case study of your choice (see list), and have participants read it on their own for five minutes. Then in groups of 4-5 (not the same groupings as before), participants discuss and answer the questions to the case study, using the handouts (TMs) provided for the previous case study. Remind them to also identify some of the human rights violations in that case.

15. Feedback in plenary by group rapporteurs (5 mins. each). (total 35 mins)

Have a participant record group answers on flip chart. During discussions, provide missing elements and any required additional guidance on the analysis of the case.

16. Coffee/ Tea Break (15 mins)

17. Brainstorming in plenary on the following question: (15 mins)

What types of obstacles or disadvantages do women face with regard to RSD procedures (in the context of the procedures in your country or region) ? Have a participant record answers on a flip chart.

18. Distribute the TM no. 138 "Procedural Measures to be Taken" (a checklist).

Drawing on the answers already given by participants during the brainstorming, note the corresponding standards in the checklist and discuss how these standards could be implemented, or how the checklist could be used as a tool to improve RSD procedures in the country. (15-20 mins)

19. Briefly review today's session by reiterating the links between women's human rights and refugee protection; noting the salient issues with regard to gender-related asylum claims in the country; and specifically mentioning how the objectives of the session were met. As much as possible, draw on the discussions that took place, including on the case studies. (15 mins)

20. Close session (5 mins)

Suggestions for Preparation

1. The readings in Part I of this chapter as well as those in chapter 3 are essential for preparing this session.

2. In addition, the following may also be of assistance in your preparation:

UNHCR, Human Rights and Refugee Protection, Part I: General Introduction, Training Module RLD 5 (October 1995), Training with UNHCR series, UNHCR, Geneva.

3. Before the workshop, you may wish to prepare a large wall chart of TM no. 48 and attach it to the wall before the session begins. You can then record the answers by participants (on ratification of human rights instruments) directly on this chart. Alternatively, do this with an OHT of TM no. 48.

When that exercise is completed you can distribute the same TM no. 48, but a version that is on normal paper size and on which you have already filled in the information on ratifications by that country. If your office doesn't have this information, you will be able to find it in <http://www.unhcr.ch>. You may also wish to create a shorter list of international and regional instruments than the one provided above.

4. Pre-select the most appropriate case studies to be used during the training and translate them, if necessary. Due to the special focus on human rights in this training session, you may wish to ask participants to also identify the specific human rights violations in the case (in addition to asking whether the treatment amounts to persecution). Other case studies in this Kit (for example, those provided in the training sessions in chapter 3) are also suitable for this purpose and are listed at the end of this training session module. Since participants will be asked to identify some of the human rights violations in the case studies, you will want to provide them with TM no. 60, which contains numerous human rights provisions specific to women.

Ensure you also translate the other documents participants will need to do the case studies (e.g. the refugee definition, and TM no. 60). If instead of TM no. 60 you choose to provide them with the text of CEDAW or UDHR, official translations of these are most likely available from public sources. The advantage of using TM no. 60 with the case studies is that the latter contains the most relevant provisions (to women) from diverse international human rights instruments.

If you feel that the case studies provided in the Kit are not well suited to the refugee caseload in your country, or are not appropriate for other reasons, prepare cases from your context. Be sure to insert these in the binder of this Kit (in "TRAINING MATERIALS", under 'Additional Materials' so that they may serve for future sessions too).

5. If you feel that the participants could benefit from being introduced to key terms and concepts used in international human rights law, provide them with the glossary available in Part I of chapter 3. Include it in a participant's package or place it on their tables during the coffee break.

6. Participants should not exceed 20 persons, should be familiar with the 1951 Convention definition of a refugee, and should be at a level appropriate for this *introductory* training session on gender issues in a refugee context.

7. For the brainstorming exercise on gender sensitive RSD procedures, you should prepare in advance your own list of obstacles and disadvantages that women face (in the country of asylum) in this respect by going through the checklist, i.e. "Minimum Standards for Gender Sensitive Asylum Procedures" provided in Part I of this chapter, as well as the section on "Procedural Issues" in the UNHCR Guidelines on Gender-Related Persecution (also provided as TM no.138.) This way you will be better prepared to facilitate the exercise and point out possible issues during the discussions.

Facilitator's Notes

1. For detailed facilitator's notes on the morning activities related to:
 - The brainstorming exercise on international and regional human rights instruments;
 - Your introduction of CEDAW and DEVAW;
 - And your presentation on the links between women's human rights, refugee protection and gender-related asylum claims.Please see Training Session no. 10 in chapter 3. Otherwise, you may simply use the background readings in chapter 3, which should be sufficient for your preparation. TMs are also available to assist you with these topics, and are listed at the end of this training module as well as in the session outline.
2. With regard to the case studies, you should select and have possible "answers" to the questions prepared in advance. You may also wish to note key considerations and issues which should be part of the analysis of the case, and which you will want to highlight during the discussions.
3. Presentation 2: on Gender-Related Persecution: The readings provided in Part I of this chapter should be sufficient to prepare this 20 minute presentation. Indeed, you may even decide to only

use the UNHCR Guidelines on Gender-Related Persecution, which offer a concise analysis. Ample TMs, which may be used for example as overhead transparencies or power point presentations, reflect the UNHCR Guidelines and can be used during your presentation. In addition to the materials in this chapter, you may also wish to draw on those provided in the Gender CD-ROM, and particularly the “Selected Individual Country Guidelines on Gender-Related Asylum Claims” (e.g. UK, USA, Canadian, and Australian Guidelines etc).

Given that this is an introductory level training, it may be best to:

- Keep the structure of your presentation simple. For example, you could go through each ground in the Convention, one at a time. To assist you, we have provided training materials (TMs) which you can use as OHT or PPP, some of which correspond already to the Convention grounds. They are TM nos. 105, 106, 108, 112, 124-135 (the latter correspond to the Convention grounds);
- Refer, but only briefly, to a few of the relevant documents and policies which speak to this topic, such as the UNHCR Policy on Refugee Women (or the corresponding Guidelines); ExCom Conclusions and the recent UNHCR Guidelines on Gender-Related Persecution;
- Refer, but only briefly, to the growing body of international jurisprudence on the topic as well as the adoption of guidelines on the issue by many governments as well as NGOs;
- Highlight only some of the **major substantive issues relating to gender claims**, such as:
 - How gender-related asylum claims fit into each of the five Convention grounds (as suggested above, do it one by one, TM nos. 124-135);
 - The issue of lack of state protection (TM nos. 119, 124);
 - How to deal with the issue of discriminatory laws in the country of origin
 - or discriminatory implementation of these in practice (TM nos. 118-119);
 - The issue of cumulative discrimination (TM no. 118);
 - When the persecutory treatment is at the hands of private actors, even family members (TM nos. 114, 123, 124);
 - The question of cultural justification for the treatment (TM nos. 115, 116);
 - SGBV (TM nos. 113, 114, 115, 116);
 - Imputed political opinion (TM nos. 126, 127, 128, 132, 133, 135);
 - Procedural issues relating to claims by women asylum seekers (TM nos. 136-138).

Materials

Equipment: Flipcharts, markers, overhead projector, and computer if you wish to make a power point presentation.

Training Materials: Handout/ OHT/ PPP

TM no. 102: Training Session 15: Linking women’s rights and refugee protection - An introduction: Objectives	Handout/ OHT/PPP
TM no.48: Worksheet-Convention Profile: Where Does My Country Stand?	Handout/OHT
TM no. 49: Why were human rights instruments specific to women necessary?	Handout/OHT/PPP
TM no. 50: Why were human rights instruments specific to women necessary? (cont’d)	Handout/OHT/PPP
TM no. 51: CEDAW	Handout/OHT/PPP
TM no. 52: CEDAW (cont’d)	Handout/OHT/PPP
TM no. 53: The Optional Protocol to CEDAW	Handout/OHT/PPP
TM no. 54: DEVAW	Handout/OHT/PPP
TM no. 55: International Human Rights and Refugee Law	Handout/OHT/PPP
TM no. 56: International human rights play role in protection of refugees	Handout/OHT/PPP
TM no. 57: Gender-related asylum claims	Handout/OHT/PPP
TM no. 58: International human rights instruments make contributions to gender-related asylum claims	Handout/OHT/PPP
TM no. 59: Refugee Definition	Handout/OHT/PPP
TM no. 60: Women’s Human Rights: Your Human Rights and the Laws that Protect Them	Handout
TM no. 105: What is Gender-Related Persecution?	Handout/OHT/PPP

TM no. 106: General Principle of Interpretation in Refugee Law	Handout/OHT/PPP
TM no. 107: To understand gender-related persecution it is essential to define 'gender' and 'sex'.	Handout/OHT/PPP
TM no. 108: Gender-related claims may be brought by either women or men	Handout/OHT/PPP
TM no. 109: Gender-related claims have typically encompassed	Handout/OHT/PPP
TM no. 110: Evolution of the Refugee Definition	Handout/OHT/PPP
TM no. 111: Developments with regard to gender-related asylum claims have run parallel to...	Handout/OHT/PPP
TM no. 112: The refugee definition, properly interpreted, covers gender-related claims.	Handout/OHT/PPP
TM no. 113: Well-founded fear of persecution	Handout/OHT/PPP
TM no. 114: Well-founded fear of persecution: there is no doubt	Handout/OHT/PPP
TM no. 115: Well-founded fear of persecution: a law to be persecutory	Handout/OHT/PPP
TM no. 116: Well-founded fear of persecution: State may have prohibited a persecutory practice but...	Handout/OHT/PPP
TM no. 117: Well-founded fear of persecution: Where the penalty or punishment for non-compliance...	Handout/OHT/PPP
TM no. 118: Discrimination amounting to persecution	Handout/OHT/PPP
TM no. 119: Discrimination amounting to persecution: state failure to extend protection	Handout/OHT/PPP
TM no. 120: Persecution on account of one's sexual orientation	Handout/OHT/PPP
TM no. 121: Persecution on account of one's sexual orientation	Handout/OHT/PPP
TM no. 122 Trafficking for the purposes of forced prostitution or sexual exploitation as a form of persecution	Handout/OHT/PPP
TM no. 123: Agents of Persecution	Handout/OHT/PPP
TM no. 124: The causal link: relation to one or more of Convention grounds	Handout/OHT/PPP
TM no. 125: Convention Grounds – Race	Handout/OHT/PPP
TM no. 126: Convention Grounds – Religion	Handout/OHT/PPP
TM no. 127: Convention Grounds – Religion	Handout/OHT/PPP
TM no. 128: Convention Grounds-Overlap of Religion and Political Opinion	Handout/OHT/PPP
TM no. 129: Convention Grounds – Nationality	Handout/OHT/PPP
TM no. 130: Convention Grounds-Membership of a Particular Social Group-Definition	Handout/OHT/PPP
TM no. 131: Convention Grounds - Membership of a Particular Social Group	Handout/ OHT/PPP
TM no. 132: Convention Grounds - Political Opinion	Handout/OHT/PPP
TM no. 133: Convention Grounds - Political Opinion	Handout/OHT/PPP
TM no. 134: Convention Grounds - Political Opinion	Handout/OHT/PPP
TM no. 135 Convention Grounds-Political Opinion and factors to be taken into account	Handout/ OHT
TM no. 136: Procedural Issues	Handout/OHT/PPP
TM no. 137: Procedural Issues	Handout/OHT/PPP
TM no. 138: Procedural Measures to be Taken	Handout/OHT

Case studies to select from:

From Chapter 3: Women's Human Rights

TM no. 64: Case Study 2: Domestic Violence	Handout-FV
TM no. 65: Case Study 3: Honour Killings	Handout-FV
TM no. 66: Case Study 4: Travel	Handout-FV
TM no. 67: Case Study 5: Marriage/ Divorce/ Obedience	Handout-FV
TM no. 68: Case Study 6: Adultery / State Sanctions	Handout-FV
TM no. 69: Case Study 7: Ordinance on Women's Rights and Duties	Handout

From Chapter 5: Refugee Status Determination

TM no. 140: Case Study 18: Honour Crimes and Family Violence	Handout (FV)
TM no. 141: Case Study 19: Imputed Political Opinion / SGBV/ Membership in a particular Social Group	Handout (FV)
TM no. 142: Case Study 20: Political Opinion/ Social Group	Handout (FV)
TM no. 143: Case Study 21: Sexual Abuse within the Family	Handout (FV)
TM no. 144: Case Study 22: Homosexuality	Handout (FV)
TM no. 145: Case Study 23: Political Opinion / Discriminatory Laws and Practices	Handout (FV)
TM no. 146: Case Study 24: Forced Prostitution	Handout (FV)
TM no. 147: Case Study 25: Discrimination/ Adultery/ Contravening Social Mores	Handout (FV)
TM no. 148: Case Study 26: Adultery	Handout (FV)
TM no. 149 Case Study 27: Forced Marriage / Domestic Violence	Handout (FV)
TM no. 150: Case Study 28A: Female genital mutilation	Handout (FV)

TM no. 152: Supplementary Case Studies (include):

- Case Study 29: Domestic Violence / discriminatory laws re: custody
- Case Study 30: Transsexuals
- Case Study 31: Forced Marriage

Handout (FV)

Documents and handouts to distribute (some are optional):

1. The text of CEDAW, DEVAW, and the UDHR (the first two instruments are provided in the Reference Section in this Gender Handbook). These are optional.
2. TM no. 59: The 1951 Convention Definition of a Refugee
3. TM no. 42: Selected UN Human Rights Conventions (optional)
4. TM no. 44: Selected International and Regional Human Rights Instruments (optional)
5. TM no. 60: Women's Human Rights: Your Human Rights and the Laws that Protect Them
6. TM no. 138: Procedural Measures to be Taken
7. Minimum Standards for Gender Sensitive Asylum Procedures: a checklist (available in Part I of this chapter)

Training Session No. 16

Session Title: Gender Sensitive Refugee Status Determination and Procedures.

Target Group: 15-20 eligibility officers (decision-makers), NGO staff providing legal assistance, and UNHCR protection staff.

Level: Intermediate. Participants should be familiar with the refugee definition of the 1951 Convention, and preferably have some previous exposure to gender-related asylum issues.

Time Duration: 1 full day

Session Objectives:

- To review international human rights instruments, especially those relating to women
- To raise awareness of the link between women's international human rights and refugee protection
- To increase knowledge and applied analytical skills in relation to gender-related asylum claims
- To increase knowledge of standards for gender sensitive refugee status determination procedures, and share good practices.

Session Outline

1. Welcome, facilitator introduces him/herself, as well as the day's agenda. (15 mins)
2. Participants introduce themselves. (15 mins)
3. Training Session Objectives: Review of these objectives with participants, possibly adding new ones. (10 mins)
4. As a warm up exercise, ask participants to work in pairs and fill in statements about men and women, using TM no. 6 "Statements about Men and Women". (10 mins).
5. Quickly go over the answers to the statements in plenary, and introduce the basic definitions of 'sex' and 'gender' (using TM nos. 2, 3, 4 or 107). Make the link that it is often our ideas about gender roles that underlie discriminatory practices, and even set women apart as a "particular social group". (15-20 mins).
6. Brainstorming Exercise: (15 mins)
Ask participants to list the international human rights instruments which their country has ratified. Do they know any international human rights instruments specific to women? Has their country ratified these? At the end, consolidate the list by adding any instruments which were not mentioned. If you wish, distribute TM no. 48 "Worksheet: Convention Profile: Where does your country stand?" (which you completed and photocopied in advance) at the end of the exercise.
7. Briefly introduce CEDAW, the Optional Protocol thereto, and DEVAW: (15 mins)
Point out how these and other international human rights instruments provide standards to guide us in the application/interpretation of the 1951 Convention, including with respect to gender-related asylum claims (see facilitator's notes and TM nos. 49-54).
- 8. Coffee/ Tea Break (15 mins)**
9. Presentation: on Gender-Related Asylum Claims (see facilitator's notes and TM nos. 105-138). (20-30 mins)
10. Plenary discussion. (15 mins)
11. Case Study Exercise: (25 mins)
Distribute a case study of your choice (see list) and ask participants to read it on their own for five minutes. Then, in groups of 4-5, participants discuss and answer the questions to the case study: (e.g., should applicant be granted refugee status? If so, on what grounds?). Groups must select a rapporteur for the group.
12. Feedback in plenary, by group rapporteurs on results of case study. Discussion follows. (25 mins)
- 13. Lunch (1 hour)**

14. Introduce the next exercise “Simulation Exercise: An RSD Hearing of a Gender-Related Asylum Claim” (TM no. 139), to participants, as follows:
First, distribute a case study of your choice (see list) and give participants five minutes to read it on their own. *Then*, divide participants into 5 different groups as indicated in the simulation exercise, and give each of them the instructions in the “simulation exercise” (TM no. 139). However, you will need to adapt TM no. 139 so that you can provide each group with their own (separate) written instructions (see facilitator’s note). (15 mins)
15. Groups prepare the case and practice their role-plays. (30-40 mins)
16. Simulation Exercise (RSD hearing of gender-related asylum claim) is acted out. (35 mins)
 Lawyers may make their case for approximately 15 minutes, decision-makers also for the same amount of time (with questions, interventions etc), and the claimant and children act out their roles, answering questions as appropriate.
- 17. Coffee/ Tea Break (20 mins)**
 During this coffee break, all participants in group 4 (the decision-makers) convene to prepare their decision on the case.
18. Simulation exercise is continued: all actors resume their places in hearing room and decision-makers render and justify their decision. Once the exercise is finished, all participants resume their seats. (15 mins.)
19. Plenary Discussion: on all aspects of simulation exercise:(see facilitator’s notes) (15 mins)
20. Brief Introduction to documents relating to procedural aspects of gender-based asylum claims. (15 mins)
 Distribute and introduce one or more of the following documents: (15mins)
 TM no. 138 “Procedural Issues” (from UNHCR Guidelines on Gender-Related Persecution);
 “Minimum Standards for Gender Sensitive Asylum Procedures” (sections 1-3 are relevant);
 “UNHCR Best Practices: Gender sensitive refugee status determination and resettlement procedures”. The last two documents are available in Part I of this chapter (or you may print them from the Gender CD-ROM (under Gender Handbook)
21. Working Group Exercise: on Gender Sensitive Asylum Procedures: (30 mins)
 In groups of 4-5, participants discuss, and develop a list of concrete suggestions on how the country’s asylum procedures could be improved against the standards provided in the above documents, especially (a) and (b), while the Best Practices paper may simply serve to provide ideas.
22. In plenary, group rapporteurs report back with results of exercise (10 mins each): (50 mins)
23. Discussions in plenary: on the above results. (15 mins)
 If you wish, you may also ask participants to comment on how aspects of the simulation exercise may have met / or not, the relevant standards in above documents.
24. Review of the day, and thank participants for their hard work ! (15 mins)

Suggestions for Preparation

1. Before conducting this session it is essential that you carefully review the readings in this chapter, as well as those in chapter 3.
2. Other recommended readings include:
 - UNHCR, Human Rights and Refugee Protection, Part I: General Introduction, Training Module RLD 5 (October 1995), Training with UNHCR series, UNHCR, Geneva;
 - Selected individual country guidelines on gender-related asylum claims, which are available in the Gender CD-ROM to this Kit (e.g., the UK Guidelines are fairly recent and very comprehensive);
 - Reference documents such as: CEDAW, DEVAW, relevant ExCom Conclusions, and UNHCR policies and guidelines on the protection of refugee women (these are available either in the Reference Section of this Gender Handbook or in the CD-ROM).
3. Before the workshop, you may wish to prepare a large wall chart of TM no. 48 and attach it to the wall before the session begins. You can then record the answers by participants (on ratification of human rights instruments) directly on this chart. Alternatively, you can use TM no. 48 as an OHT and

write on that. When that exercise is completed you can distribute the same TM no. 48, but a version that is on normal paper size and on which you have already filled in the information on ratifications by that country. If your office doesn't have this information, you will be able to find it in <http://www.unhcr.ch>. You may also wish to create a shorter list of international and regional instruments than the one provided above.

4. Pre-select the most appropriate case study to be used during the training and translate it, as well as other documents which may be necessary (such as the refugee definition, see TM no. 59). If you feel that the case studies provided in the Kit are not well suited to the refugee caseload in your country, or are not appropriate for other reasons, prepare cases from your context. Insert these in the binder of this Kit, in the section "TRAINING MATERIALS" – these are the loose pages in the binder (under 'Additional Materials') so that they may serve for future sessions too.

5. For the Simulation Exercise, you should:

- read the instructions to the simulation exercise ahead of time (see TM no.139);
- adapt TM no. 139 for use by participants. In particular, make sure that each group has its own individual instructions;
- ensure that there is sufficient space where you are conducting the training, for the working groups to prepare, and that there are extra chairs and a table to be used for the simulation exercise;
- prepare possible arguments of your own for the case study (both rejecting and accepting the asylum claim) so that you can offer additional suggestions and stimulate discussions during the plenary.

6. For the brainstorming exercise on gender sensitive RSD procedures, you should prepare in advance your own list of obstacles and disadvantages that women face (in the country of asylum) in this respect, by going through the standards in the documents you will distribute (i.e., TM no. 138 "Procedural Issues"; and "Minimum Standards for Gender Sensitive Asylum Procedures", available in Part I of this chapter). This way you will be better prepared to facilitate the exercise and point out possible issues during the discussions.

Facilitator's Notes

1. Regarding the differences between 'sex' and 'gender', if the definitions available in TM nos. 2-4 are not sufficient, please see chapter 2 and especially the glossary of terms provided there.

2. For detailed facilitator's notes on the morning activities related to:

- The brainstorming exercise on international and regional human rights instruments;
- Your introduction to CEDAW and DEVAW;

Please see Training Session no. 10 in chapter 3. Otherwise, you may simply use the background readings in chapter 3, which should be sufficient for your preparation. TMs are also available to assist you with these topics, and are listed at the end of this training module as well as in the session outline above.

3. With regard to the case studies, you should select and have possible "answers" to the questions, prepared in advance. You may also wish to note key considerations and issues which should be part of the analysis of the case, and which you will want to highlight during the discussions.

4. Presentation 2: on Gender-Related Persecution: The readings provided in Part I of this chapter should be sufficient to prepare this presentation. Indeed, you may even decide to only use the UNHCR Guidelines on Gender-Related Persecution, which offer a concise analysis. Training materials (TMs), which may be used as overhead transparencies or power point presentations, are provided which reflect the above-mentioned UNHCR Guidelines and can be used to assist or complement your presentation. In addition to the materials in this chapter, you may also wish to draw on those provided in the Gender CD-ROM, and particularly the individual country guidelines on gender-related asylum claims (e.g. UK, USA, Canadian, Australian, Swedish, South African Guidelines etc).

In this presentation, you may wish to highlight some of the **major substantive issues relating to gender claims**, such as:

- How gender-related asylum claims fit into each of the five 1951 Convention grounds (as suggested above, do it one by one, and use TM nos. 124-135 if you wish);
- The lack of state protection (TM nos. 119, 124);
- How to deal with the issue of discriminatory laws in the country of origin or discriminatory implementation of these in practice (TM nos. 118-119);
- The issue of cumulative discrimination (TM no. 118);
- When the persecutory treatment is at the hands of private persons, even family members (TM nos. 114, 123, 124);
- The question of cultural justification for the treatment (TM nos. 115, 116);
- SGBV (TM nos. 113, 114, 115, 116);
- Imputed political opinion (TM nos. 126, 127, 128, 132, 133, 135);
- Procedural issues relating to claims by women asylum seekers (TM nos. 136-138).

However, as this is an intermediary level training you may also wish to draw on the individual country guidelines (on gender-related asylum claims) provided in the Gender CD-ROM (including the Swedish Guidelines on Sexual Orientation), the UNHCR Best Practices paper (also available in this chapter, Part I), and some of the more complex questions and issues related to gender-based asylum claims.

5. During the plenary discussion on the simulation exercise, you may encourage participants to discuss aspects of the exercise such as the following:
 - the arguments and analysis advanced by lawyers;
 - seating arrangements;
 - treatment of claimant and children;
 - the type of questions asked;
 - the decision and analysis provided by decision-makers etc.,
6. When doing the group exercises, try to ensure that participants are not in the same small groups all day. Vary the composition of the groups as much as possible.

Materials

Equipment: Flipcharts, markers, overhead projector, and computer if you wish to make a power point presentation.

Training Materials: Handout/ OHT/ PPP

TM no. 103: Training Session 16: Gender Sensitive Refugee Status Determination and Procedures: Objectives	Handout/ OHT/ PPP
TM no. 6: Exercise: Statements about Men and Women	Handout/ OHT
TM no. 2: Sex & Gender: Basic Definitions	Handout/ OHT/PPP
TM no. 3: Key Words: Sex and Gender	Handout/OHT/ PPP
TM no. 4: Gender Roles	Handout/ OHT/PP
TM no.48: Worksheet-Convention Profile: Where Does My Country Stand?	Handout/OHT
TM no. 49: Why were human rights instruments specific to women necessary?	Handout/OHT/PPP
TM no. 50: Why were human rights instruments specific to women necessary? (cont'd)	Handout/OHT/PPP
TM no. 51: CEDAW	Handout/OHT/PPP
TM no. 52: CEDAW (cont'd)	Handout/OHT/PPP
TM no. 53: The Optional Protocol to CEDAW	Handout/OHT/PPP
TM no. 54: DEVAW	Handout/OHT/PPP

You may also select from: (these are drawn from the UNHCR Guidelines on Gender-Related Persecution, 2002)

TM no. 105: What is Gender-Related Persecution?	Handout/ OHT/PPP
TM no. 106: General Principle of Interpretation In Refugee Law	Handout/OHT/PPP
TM no. 107: To understand gender-related persecution essential to define 'gender' and 'sex'.	Handout/OHT/PPP
TM no. 108: "Gender-related claims may be brought by either women or men	Handout/OHT/PPP
TM no. 109: Gender-related claims have typically encompassed	Handout/OHT/PPP
TM no. 110: Evolution of the Refugee Definition	Handout/OHT/PPP
TM no. 111: Developments with regard to gender-related asylum claims have run parallel to...	Handout/OHT/PPP

TM no. 112: The refugee definition, properly interpreted, covers gender-related claims.	Handout/OHT/PPP
TM no. 113: Well-founded fear of persecution	Handout/OHT/PPP
TM no. 114: Well-founded fear of persecution: there is no doubt	Handout/OHT/PPP
TM no. 115: Well-founded fear of persecution: a law to be persecutory	Handout/OHT/PPP
TM no. 116 Well-founded fear of persecution: State may have prohibited a persecutory practice but...	Handout/OHT/PPP
TM no. 117: Well-founded fear of persecution: "Where the penalty or punishment for non-compliance..."	Handout/OHT/PPP
TM no. 118: Discrimination amounting to persecution	Handout/OHT/PPP
TM no. 119: Discrimination amounting to persecution: State Failure to Extend Protection	Handout/OHT/ PPP
TM no. 120: Persecution on account of one's sexual orientation	Handout/OHT/PPP
TM no. 121: Persecution on account of one's sexual orientation	Handout/OHT/PPP
TM no. 122 Trafficking for the purposes of forced prostitution or sexual exploitation as a form of persecution	Handout/OHT/PPP
TM no. 123: Agents of Persecution	Handout/OHT/PPP
TM no. 124: The causal link: relation to one or more of Convention grounds	Handout/OHT/PPP
TM no. 125: Convention Grounds – Race	Handout/OHT/PPP
TM no. 126: Convention Grounds – Religion	Handout/OHT/PPP
TM no. 127: Convention Grounds – Religion	Handout/OHT/PPP
TM no. 128: Convention Grounds - Overlap of Religion and Political Opinion	Handout/OHT/PPP
TM no. 129: Convention Grounds – Nationality	Handout/OHT/PPP
TM no. 130: Convention Grounds -Membership of a Particular Social Group-Definition	Handout/OHT/PPP
TM no. 131: Convention Grounds - Membership of a Particular Social Group	Handout/ OHT/ PPP
TM no. 132: Convention Grounds - Political Opinion	Handout/OHT/PPP
TM no. 133: Convention Grounds - Political Opinion	Handout/OHT/PPP
TM no. 134: Convention Grounds - Political Opinion	Handout/OHT/PPP
TM no. 135 Convention Grounds - Political Opinion and factors to be taken into account	Handout/ OHT
TM no.139: Simulation Exercise: A Refugee Status Determination Hearing of a Gender-Related Asylum Claim	Handout
TM no. 136: Procedural Issues	Handout/OHT/PPP
TM no. 137: Procedural Issues	Handout/OHT/PPP
TM no. 138: Procedural Measures to be Taken	Handout/OHT

Case studies to select from:

TM no. 140: Case Study 18: Honour Crimes and Family Violence	Handout (FV)
TM no. 141: Case Study 19: Imputed Political Opinion / SGBV/ Membership in a particular Social Group	Handout (FV)
TM no. 142: Case Study 20: Political Opinion/ Social Group	Handout (FV)
TM no. 143: Case Study 21:Sexual Abuse within the Family	Handout (FV)
TM no. 144: Case Study 22: Homosexuality	Handout (FV)
TM no. 145: Case Study 23: Political Opinion / Discriminatory Laws and Practices	Handout (FV)
TM no. 146: Case Study 24: Forced Prostitution	Handout (FV)
TM no. 147: Case Study 25: Discrimination/ Adultery/ Contravening Social Mores	Handout (FV)
TM no. 148: Case study 26: Adultery	Handout (FV)
TM no. 149 Case study 27: Forced Marriage / Domestic Violence	Handout (FV)
TM no. 150: Case Study 28A: Female genital mutilation	Handout (FV)
TM no. 152: Supplementary Case Studies (include):	Handout (FV)
- Case Study 29:Domestic Violence / discriminatory laws re: custody	
- Case Study 30:Transsexuals	
- Case Study 31:Forced Marriage	

Documents to distribute: (Optional)

- TM no. 48 "Worksheet: Convention Profile: Where does your country stand?" already completed;
- Full text of CEDAW, and DEVAW, available in the Reference Section in this Gender Handbook;
- The UNHCR Guidelines on Gender-Related Persecution (2002), available in Part I of this chapter;
- The paper "UNHCR Best Practices: Refugee Status Determination", also in Part I of this chapter;
- "Minimum Standards for Gender Sensitive Asylum Procedures: a checklist", in Part I of this chapter.

Training Session No. 17

Session Title: Advanced training on gender-related asylum claims

Target Group: 15-20 decision-makers, legal counsellors or UNHCR protection staff. Participants may be from government, NGOs or UNHCR.

Level: Advanced. Participants must already possess a good understanding or experience of RSD, and preferably also have followed a more introductory training session on women's human rights or gender related asylum claims.

Time Duration: 1 full day

Session Objectives:

- To review some of the major issues and guidelines regarding gender-related asylum claims
- To raise awareness of the more complex legal and procedural issues which may arise in relation to certain gender-related asylum claims
- To increase knowledge of international case law relating to gender-based persecution
- To increase applied analytical skills, including the writing of legal opinions/decisions, in relation to gender-based asylum claims
- To increase awareness of areas in need of further clarification and guidance, and to address some of these gaps (particularly with regard to the analysis and procedural aspects of gender-based asylum claims)

Session Outline

1. Welcome, training objectives and/or outline of day's agenda (15 mins)
2. Introduction of participants, and/or ice-breaker. (15-20 mins)
Example of warm up activity: ask participants to finish the following sentence: "In X culture, a 'good' woman ...". Participants could refer to expectations about 'good' women in their culture or provide examples from other cultures they have encountered through their work or travel. Record the responses on a flip chart and then replace "women" by "men" and read out some of the more notable examples as follows: "In my culture, 'good' men ...". This often leads to results participants find humorous, but makes the point about gender roles effectively. Follow this up with a brief review of gender concepts, using TM nos. 2-4).
3. Presentation 1: on gender-related asylum claims (advanced level). See facilitator's notes for suggestions on content. (20-30 mins)
4. Case Study Exercise 1: (20 mins)
Distribute a case study of your choice and give participants five minutes to read it individually (see suggestions on preparation). In groups of 4-5, participants discuss and answer the questions at the end of the case study. They should select a group rapporteur.
5. Feedback in plenary by group rapporteurs. (25 mins)
- 6. Coffee / Tea Break (15 mins)**
7. Presentation 2: on international case law relating to gender-based asylum claims (see facilitator's notes for suggestions on content). (20 mins)
8. Discussion in plenary, following the presentation. (20 mins)
9. Distribute the compilation of "International Case Law Relevant to Gender-Based Asylum Claims" (available in Part I of this chapter), or your own shorter or more focused (e.g. thematic) compilation. Let participants know they will need it for the next exercise after lunch. (5 mins)
- 10. Lunch (1 ½ hours)**
11. Case Study Exercise 2: (20-30 mins)
Distribute a case study of your choice (see list) and give participants five minutes to read it individually. Then, in groups of 4-5, participants discuss and answer the questions at the end of the case study, including by referring to international jurisprudence (specific cases) to support

- their decision on the case study. They may draw on case law discussed in the oral presentation above or on the compilation already provided.
12. Feedback in plenary, by group rapporteurs (five minutes each), followed by a discussion during which facilitator highlights issues key to the analysis of the case and cites relevant international case law. (30 mins)
 13. Facilitator organises a game for all the participants. The game should involve groups of 3-4 persons (the same groups as will do the case study exercise 3 below see facilitator's notes). The result of the game will be that for the exercise to follow, the 'loser's' group must present their legal opinion in plenary. (15 mins)
 14. Case Study Exercise 3: Writing a Legal Brief / Decision: (50 mins)
Distribute the case study corresponding to TM no. 150 (case study 28 A on FGM), and give participants five minutes to read it individually. In working groups of 3-4, participants write a 1-2 page legal opinion/ decision supporting or rejecting the claimant's case. If not all members of the group agree on a decision, they can include a dissenting opinion in their brief/decision. The legal opinion may be in outline form but should contain a full justification with all necessary elements of the refugee definition.
 - 15. Coffee/ Tea Break (15 mins)**
 16. Continuation of group work: including discussion and further analysis of the case: (20 mins)
Working groups reconvene after the break, and you distribute as a handout to each group, the model legal opinion for the case study above, available as TM no.151 (Case Study 28 B on FGM). Groups take five minutes to read the model brief/opinion, and then discuss it in comparison to their own legal opinion, noting how these differ with regard to the identification and analysis of the major elements in the case.
 17. The group that lost in the game above, must now present in plenary the major elements of their legal opinion and discuss how it differed or not, from the model brief. (15 mins)
 18. Plenary discussion, with other groups also commenting on they feel they did in that exercise. (15 mins)
 19. In plenary, facilitator asks participants for their reflections on the following: what they got from this training; topics they would have wanted to focus more on; and related gender issues on which they feel they need more training. Record these answers on a flip chart, and include them in your report on the training as well as for the organisation of future trainings. (20 mins)
 20. Summary and closing of the training session. (10 mins)

Suggestions on Preparation

1. As preparation for this session you should carefully review the readings in this chapter. You may also wish to review the readings in chapter 3, and some of the following additional materials:
 - Some individual country guidelines on gender-related asylum claims, available in the Gender CD-ROM to this Kit (e.g., the UK Guidelines are fairly recent and very comprehensive).
 - Background documents such as the following: CEDAW, DEVAW, relevant ExCom Conclusions; and UNHCR policies and guidelines on the protection of refugee women (these are available in various places in the Kit, including the Reference Section of this Gender Handbook and the CD-ROM).
 - Crawley, H., *Women as Asylum Seekers: A Legal Handbook*- Immigration Law Practitioner's Association (ILPA). London.
 - *International Journal of Refugee Law* (Special Issue Autumn 1997) OUP, Oxford.
2. Try to ensure that participants are not in the same working groups all day. Vary the composition of the groups as much as possible.
3. You will need to know the background of the participants, as well as the refugee case load, in order to decide on the most appropriate case studies. You may select them from those provided in this chapter, or write your own. In either case, you will wish to provide cases that are not black and white, but rather that pose significant legal issues for debate and analysis- ensure they are suitable for an advanced training.

If you prepare your own case studies, besides ensuring that they are relevant to the local context, you may also wish to have cases which specify the country of origin, so that participants may have the opportunity to apply their country of origin information to the exercise. The case studies provided in this Kit are generally based on real cases but the names of the countries of origin are fictional.

Be sure to prepare in advance, possible “answers” and analysis of your own, including relevant international case law supporting the analysis. This way, you will have suggestions and elements of your own to offer participants during plenary discussions.

4. The exercise involving the writing of a legal brief/ decision, is intended to increase the analytical and writing skills necessary to decision-makers and persons representing asylum seekers who have gender-related claims. In both cases, legal writing and analytical skills are important: either to justify a decision on the case or to write a persuasive legal brief.

5. If you choose not to use the case study on FGM (TM no. 150) and the corresponding legal brief which is provided, then you must write your own case study, as well as a comprehensive legal opinion that you will provide as a model.

Facilitator’s Notes

1. For the presentation on gender-related asylum claims (advanced level): You could draw most of your elements for this presentation from the background readings in this chapter (see in particular, the UNHCR Guidelines on the topic), as well chapter 3 and the materials available in the Gender CD-ROM, such as the individual country guidelines on gender-related persecution.

1. A. You could choose to present an overview of advanced gender issues and analytical approaches to gender-related asylum claims: in this case, some examples of issues you may wish to address could include:

- procedural aspects relating to the protection of refugee women and asylum seekers with possible gender-related claims (e.g. ensuring women are afforded separate interviews, even when they are dependant claimants);
- the issue of state protection: when persecution is not for one of five grounds but lack of state protection is;
- an overview of best practices relating to RSD and gender-related claims. For example, good practices in other countries with comparable realities, within UNHCR (see the best practices paper on best practices in UNHCR Turkey in this chapter), and even within NGOs (in the country or region) providing legal services to refugees;
- the transgression of social mores (including traditional cultural practices), and relating them to the standards provided by women's international human rights instruments (CEDAW, DEVAW), as well as possible "membership in a particular social group";
- persecution by non-state actors, and the obligations of the state *vis a vis* the protection afforded to women (in this regard, also see international standards in CEDAW, DEVAW and an analysis of these, which is provided in "The International Human Rights Framework: the link with refugee protection and women's rights" in chapter 3, as well as the facilitator's notes to Training Session no. 10);
- violence within the family and especially domestic violence (refer also to the UK Guidelines on Gender-Related Asylum claims);
- persecution versus prosecution, and how to address discriminatory legislation;
- cases relating to persecution for reasons of sexual orientation;
- human rights violations and persecution based on cultural practices such as forced marriage, FGM, etc;
- the question of how to treat cases of spouses (and children) of principal claimants who have been excluded (e.g., separation of files?).

1. B. Or, if you prefer, you could focus on one or more particular themes, such as:

- gender claims and membership in a particular social group (see TM nos. 130-131)
- the issue of the agents of persecution in gender claims and in particular, the analysis to be applied when the agents of persecution are family or community members. You may even wish to focus exclusively on domestic violence (i.e., wife battery); (TM nos. 114; 119; 123-124);

- the analysis or treatment of 'discrimination' (e.g., discriminatory laws, cumulative discrimination, discrimination in implementation etc) in gender claims (TM nos. 115; 116; 117; 118-119);
- persecution on account of sexual orientation (TM nos. 120-121).

2. For the presentation on **international case law relevant to gender-related asylum claims:**

You could draw from the compilation of case law provided in this chapter (which you should update with the most important recent developments), and the recommended readings to this training session, as well as by conducting a little research on the web-sites provided at the end of this Handbook. Your approach to this presentation could be :

2.A. To provide **an overview** of international case law on different types of gender-related claims (based on method of persecution or the five 1951 Convention grounds a listing of which is provided in Part I of this chapter); or

2.B. To **focus** only on the interpretation provided by international case law on one or two of the **Convention grounds**, such as "membership in a particular social group", and/or political opinion as applied to gender-related asylum claims; or

2.C. To **focus** on international case law dealing with certain **types of harm** (e.g., rape, domestic violence, FGM, harsh or inhumane treatment, honour crimes).

If you decide to provide a focused presentation (on certain types of harm or Convention grounds), you may also wish to then pre-select case studies with the same focus.

3. The game mentioned in the session outline should preferably be one which involves physical activity of some type, so as to give participants a break from the concentrated work this afternoon. While the game should be fun, it should also be appropriate to the seniority and culture of participants, and if possible, also relevant in some way to the training. You should divide the participants into groups of 3-4 persons so that the groups can then play against each other. As mentioned in the session outline, the result of the game will be that the group which lost will have to present the results of their group work on the legal brief exercise (case study exercise 3 on FGM), in plenary. Alternatively you could have the "winners" group present their results.

Materials

Equipment: Flipcharts, markers, overhead projector, and computer if you wish to make a power point presentation.

Training Materials : Handout/ OHP/PPP

TM no. 104: Training Session 17: Advanced training on gender-related asylum claims: Objectives	Handout/OHT/PPP
TM no. 2: Sex & Gender: Basic Definitions	Handout/ OHT/PPP
TM no. 3: Key Words: Sex and Gender	Handout/OHT/ PPP
TM no. 4: Gender Roles	Handout/ OHT/PP

You may also select from: (these are drawn from the UNHCR Guidelines on Gender-Related Persecution, 2002)

TM no. 105: What is Gender-Related Persecution?	Handout/ OHT/PPP
TM no. 106: General Principle of Interpretation In Refugee Law	Handout/OHT/PPP
TM no. 107: To understand gender-related persecution essential to define 'gender' and 'sex'.	Handout/OHT/PPP
TM no. 108: Gender-related claims may be brought by either women or men	Handout/OHT/PPP
TM no. 109: Gender-related claims have typically encompassed	Handout/OHT/PPP
TM no. 110: Evolution of the Refugee Definition	Handout/OHT/PPP
TM no. 111: Developments with regard to gender-related asylum claims have run parallel to...	Handout/OHT/PPP
TM no. 112: The refugee definition, properly interpreted, covers gender-related claims.	Handout/OHT/PPP

TM no. 113: Well-founded fear of persecution	Handout/OHT/PPP
TM no. 114: Well-founded fear of persecution: there is no doubt	Handout/OHT/PPP
TM no. 115: Well-founded fear of persecution: a law to be persecutory	Handout/OHT/PPP
TM no. 116 Well-founded fear of persecution: State may have prohibited a persecutory practice but...	Handout/OHT/PPP
TM no. 117: Well-founded fear of persecution: Where the penalty or punishment for non-compliance...	Handout/OHT/PPP
TM no. 118: Discrimination amounting to persecution	Handout/OHT/PPP
TM no. 119: Discrimination amounting to persecution: State Failure to Extend Protection	Handout/ OHT/ PPP
TM no. 120: Persecution on account of one's sexual orientation	Handout/OHT/PPP
TM no. 121: Persecution on account of one's sexual orientation	Handout/OHT/PPP
TM no. 122 Trafficking for the purposes of forced prostitution or sexual exploitation as a form of persecution	Handout/OHT/PPP
TM no. 123: Agents of Persecution	Handout/OHT/PPP
TM no. 124: The causal link: relation to one or more of Convention grounds	Handout/OHT/PPP
TM no. 125: Convention Grounds – Race	Handout/OHT/PPP
TM no. 126: Convention Grounds – Religion	Handout/OHT/PPP
TM no. 127: Convention Grounds – Religion	Handout/OHT/PPP
TM no. 128: Convention Grounds-Overlap of Religion and Political Opinion	Handout/OHT/PPP
TM no. 129: Convention Grounds – Nationality	Handout/OHT/PPP
TM no. 130: Convention Grounds -Membership of a Particular Social Group-Definition	Handout/OHT/PPP
TM no. 131: Convention Grounds -Membership of a Particular Social Group	Handout/ OHT/ PPP
TM no. 132: Convention Grounds - Political Opinion	Handout/OHT/PPP
TM no. 133: Convention Grounds - Political Opinion	Handout/OHT/PPP
TM no. 134: Convention Grounds - Political Opinion	Handout/OHT/PPP
TM no. 135 Convention Grounds - Political Opinion and factors to be taken into account	Handout/ OHT
TM no. 136: Procedural Issues	Handout/OHT/PPP
TM no. 137: Procedural Issues	Handout/OHT/PPP
TM no. 138: Procedural Measures to be Taken	Handout/OHT

Case Studies to select from:

TM no. 140: Case Study 18: Honour Crimes and Family Violence	Handout (FV)
TM no. 141: Case Study 19: Imputed Political Opinion / SGBV/ Membership in a particular Social Group	Handout (FV)
TM no. 142: Case Study 20: Political Opinion/ Social Group	Handout (FV)
TM no. 143: Case Study 21:Sexual Abuse within the Family	Handout (FV)
TM no. 144: Case Study 22: Homosexuality	Handout (FV)
TM no. 145: Case Study 23: Political Opinion / Discriminatory Laws and Practices	Handout (FV)
TM no. 146: Case Study 24:Forced Prostitution	Handout (FV)
TM no. 147: Case Study 25: Discrimination/ Adultery/ Contravening Social Mores	Handout (FV)
TM no. 148: Case study 26: Adultery	Handout (FV)
TM no. 149 Case study 27:Forced Marriage / Domestic Violence	Handout (FV)
TM no. 150: Case Study 28A:Female genital mutilation	Handout (FV)
TM no. 152: Supplementary Case Studies	Handout (FV)
-Case Study 29:Domestic Violence / discriminatory laws re: custody	
-Case Study 30:Transsexuals	
-Case Study 31:Forced Marriage	

Documents to distribute:

- Compilation of “International Case Law Relevant to Gender-Based Asylum Claims”;
- The UNHCR Guidelines on Gender-Related Persecution (2002);
- The UNHCR Guidelines on Membership of a Particular Social Group (2002);
- The paper “UNHCR Best Practices: Refugee Status Determination”;
- Minimum Standards for Gender Sensitive Asylum Procedures: a checklist.

All of these documents are available in Part I of this chapter.



Chapter 6



Interviewing and Interpreting

In this Chapter:

Introduction

Part I: Background Readings

Theme 1: Interviewing: Gender Sensitive Interviewing in the Context of RSD

- Guidelines on the Protection of Refugee Women, UNHCR (excerpts)
- Interviewing Applicants for Refugee Status: UNHCR Training Module (excerpts)
- Evaluation and Care of Victims of Trauma and Violence, UNHCR (excerpts)
- On Obtaining Oral Evidence: IAA Gender Guidelines, UK (excerpts)

Theme 2: Interpreting: Gender Considerations in the Context of the RSD Interview

- Interpreting in a Refugee Context: UNHCR Training Module (excerpts)
- Guide for Interviewers: Working with an Interpreter in the RSD Interview

Part II: Training Sessions (for Themes 1 and 2)

- Training Session No.18: Conducting Gender Sensitive RSD Interviews
- Training Session No.19: Addressing Gender Needs in the Context of RSD Interviews

Links

- **Available in Gender CD-ROM** in this Kit, full text of:
 - Selected Individual Country Guidelines on Gender-Related Persecution (which also address the issue of interviewing procedures and techniques). For example:
 - Canada: *Guidelines for Women Refugee Claimants Fearing Gender-Related Persecution* (1993, update 1996), section D “Special Problems at Determination Hearings”.
 - Australia: Refugee and Humanitarian Visa Applicants: *Guidelines on Gender Issues for Decision-Makers* (1996), pp. 10-14 on “Interviews” (paras. 3.9 -3.33).
 - Sweden: Gender-based persecution: Guidelines for investigation and evaluation of the needs of women for protection, March 28, 2001, paras. “Choice of Investigator” to “Special considerations to take note of.”
 - UNHCR, Sexual Violence against Refugees: Guidelines on Prevention and Response, Geneva 1995. (See in particular, para. 3.6. and also 3.7)
- **Related Background Readings:**
 - Chapter 4 on Sexual and Gender-Based Violence: all the readings are recommended.
 - Chapter 5 on Refugee Status Determination: all the readings are recommended. However, in particular, see “Sexual Violence and Refugee Status Determination” and the UNHCR Guidelines on Gender-Related Persecution, (see section on ‘Procedural Issues’).
 - ExCom Conclusions No. 73: available in the Reference Section of this Gender Handbook or in the CD-ROM, under ‘UNHCR Policies and Documents’.
- **Related Training Sessions:** The following may be used for the purposes of / or in combination with trainings on interviewing and interpreting:
 - Training Session 12 in chapter 4;
 - All the Training Sessions in chapter 5.
- **Related Training Materials (TMs)**, available in binder (loose pages) in this Kit:
 - On SGBV and interviewing and interpreting: TM nos. 73, 74, 89, 95, 96.
 - On RSD and interpreting and interviewing: 105-109, 114, 136-138; and TM no.139 (simulation exercise of RSD hearing.)



Introduction

It is now widely acknowledged that women may experience persecution differently than men and also that gender, cross-cultural factors and trauma, particularly certain types experienced predominantly by women (such as sexual and gender-based violence), often affect RSD interviews in a profound way. Indeed, in addition to the UNHCR Guidelines, most individual country guidelines on gender-related persecution also speak to the special issues and problems experienced by women during these interviews and which may put them at a disadvantage in gaining protection.

In this chapter, we address the topic of gender sensitive interviewing and interpreting techniques within the context of refugee status determination hearings, and do not cover interviewing for the purposes of social or psychological counselling, for example. While considerations related to sensitivity and the establishment of an open, compassionate environment conducive to full disclosure and trust are common to both interviewing contexts, we focus primarily on the special aspects of interviewing and interpreting during refugee status determination procedures.

The majority of the background readings in this chapter have been drawn from UNHCR sources, with the exception of the text on “Obtaining Oral Evidence” which has been reproduced from the United Kingdom IAA Gender Guidelines (2000). In addition to these however, many of the readings in chapter 4 on Sexual and Gender-Based Violence, as well as those in chapter 5 on Refugee Status Determination are also directly relevant to the topic of interviewing and should be consulted as well. Of special note, is the section on “Procedural Issues” (which deals mostly with issues arising during the interview) provided in the recent UNHCR Guidelines on Gender-Related Persecution, available in chapter 5.

The training sessions in this chapter are based on a holistic and team approach, which demands that both interpreters and interviewers be present. For the same reason, one of the training sessions also includes social workers. The intention is that through this exchange and the use of role-plays all participants have the opportunity to gain insight into the RSD interview from the perspective of the other, i.e., from the perspective of the interpreter, interviewer, social worker and the applicant, and in this way improve their skills as well as their capacity to work effectively together. While the need for interviewers and interpreters to work well together during interviews and attend these types of trainings as a team is obvious, many important lessons to be learnt are also owed to the enormous added value and expertise offered by social workers and the perspective of the applicant.

As has been reiterated elsewhere in this Kit, it is recommended that the training sessions on gender sensitive interpreting and interviewing techniques be integrated as much as possible into mainstream training events (as appropriate). In this case, they would be best incorporated into broader training programmes or events dealing with sexual and gender-based violence, interviewing techniques generally, and refugee status determination. While the two training sessions in this chapter are full day sessions, they may easily be adapted (and shortened) for the purpose of combining them with the broader training programmes mentioned above. For example, the facilitator may select only the most appropriate activities and design a short half day session on gender sensitive interviewing to be conducted as part of a full day RSD or SGBV training.

Some of the issues dealt with in this chapter are very much of a procedural nature (e.g., ensuring separate interviews for women and the availability of same sex interviewers and interpreters), while others are intended to ensure that gender considerations are taken into account in the substantive analysis of the case. And finally, others address issues of attitude, cross-cultural communication, barriers to open communication, and methods for optimising and humanising the interview process. A key message being that creating a non-confrontational and compassionate environment, and simply acknowledging the revelations of pain and loss, already hold both therapeutic value and greatly increase the chances of an effective interview.

This chapter also addresses the need for stress-reduction and support structures for staff who frequently also suffer from secondary trauma.



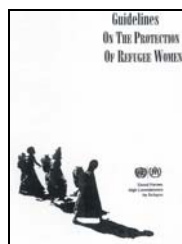
Chapter 6

Theme 1: Interviewing



Theme 1: Interviewing
Gender Sensitive Interviewing in the Context of RSD

Part I
Background Readings



UNHCR
Guidelines on the Protection of Refugee Women
 Geneva, July 1991
 (Excerpts on Interviewing)

Refugee Determination Interviews (p. 37)

- 58 Women face special problems in making their case to the authorities, particularly when they have had experiences which are difficult and painful to describe.
- 59 Persecution of women often takes the form of sexual assault. The methods of torture can consist of rape, the use of electric currents upon the sexual organs; mechanical stimulation of the erogenous zones; manual stimulation of the erogenous zones; the insertion of objects into the body-openings (with objects made of metal or other materials to which an electrical current is later connected); the forced witnessing of *unnatural* sexual relations; forced masturbation or to be masturbated by others; fellatio and oral coitus; and finally, a general atmosphere of sexual aggression and threats of the loss of the ability to reproduce and enjoyment of sexual relations in the future.
- 60 The female victim of such sexual torture obviously may be reluctant or find it very difficult to speak about it, particularly to a male interviewer. Rape, even in the context of torture, is seen in some cultures as a failure on the part of the woman to preserve her virginity or marital dignity. She may be shunned by her family and isolated from other members of the community. Discussing her experience becomes a further source of alienation.
- 61 A second problem arises when women are interviewed about the claims to refugee status made by male relatives. A wife may be interviewed primarily to corroborate the stories told by her husband; if she is unaware of the details of her husband's experiences (for example, the number of her husband's military unit), the entire testimony may be discounted as lacking in credibility. Yet, in many cultures, husbands do not share many details about military or political activities with their wives.

[Gender-Sensitive Interviewing Techniques]

Interviews (pp. 41-42)

72. It may be necessary to use a variety of gender-sensitive techniques to obtain information from women during the status-determination process. The recruitment and training of female interpreters is a precondition for the most effective interviewing:
- Study the training module that has been developed on interviewing refugees.
 - Be aware of gender differences in communication, particularly regarding non-verbal communications. As an interviewer, avoid intimidating gestures that inhibit responses. In assessing the credibility of the female applicant, for example, do not judge it on the basis of such Western cultural values as the ability to maintain eye contact.
 - Be patient with female applicants to overcome inhibitions, particularly regarding sexual abuse. Questions may need to be asked in a number of different ways before victims of rape and other abuses feel able to tell their stories. Enough time should be allowed during the interviewing process to permit the female applicant to build a rapport with the interviewer so she is able to recount her experiences. Do not ask for details of sexual abuse; the important thing in establishing a well-founded fear of persecution is to establish that some form of it has occurred.

- Recognise that women who have been sexually assaulted exhibit a pattern of symptoms that are described as Rape Trauma Syndrome. These symptoms include persistent fear, a loss of self-confidence and self-esteem, difficulty in concentration, an attitude of self-blame, a pervasive feeling of loss of control, and memory loss or distortion. These symptoms will influence how a woman applicant responds during the interview. If misunderstood, they may be seen wrongly as discrediting her testimony.
- Understand that women in many societies do not have specific information about the activities of the men in their families. Gaps in their knowledge should not be construed as lack of credibility unless there is other evidence of such lack of credibility.
- Provide women the opportunity to be questioned by themselves, out of the hearing of other members of their family. Victims of sexual abuse may not feel comfortable recounting their experiences in front of their fathers, husbands, brothers or children.

INTERVIEWING APPLICANTS FOR REFUGEE STATUS UNHCR Training Module RLD 4, 1995

Table of Contents (Excerpts)

INTRODUCTION

Why this module?
What does the module contain?
Who can use it?
Which other training tools to use?

CHAPTER ONE

Preparing for the Interview

Doing your homework
Knowing the content of the application
Preparing the interpreter
Preparing the physical setting
Planning your time
Recalling the objectives

CHAPTER TWO

✓ **Conducting the Interview**

- ✓ Opening the interview
- ✓ Maintaining the applicant's confidence
- ✓ Putting your questions
- ✓ Getting the true story
- ✓ Closing the interview

CHAPTER THREE

✓ **Barriers to Communication**

- ✓ The effects of trauma
- ✓ Your attitude as interviewer
- ✓ What if the applicant is unwilling or unable to participate in the interview ?

CHAPTER FOUR

✓ **Interviewing Women Refugee Applicants**

Sources of information
Eligibility criteria
Interviewing women refugee applicants

CHAPTER FIVE

Interviewing Children

Sources of information and determination procedures for interviewing refugee children
General Guidelines for conducting interviews

CHAPTER SIX

The Outcome of the Interview

Basic tasks and objectives
Documenting the interview
Assessing credibility
Preparing the assessment and your conclusions

CHAPTER SEVEN

Security Concerns

The importance of confidentiality
Security of documents
Conducting interviews in places of detention
Security recommendations when conducting interviews
Vicarious trauma and burnout

APPENDIX 1

UNHCR Basic Data / Registration Form
UNHCR Eligibility Determination Questionnaire

✓ **APPENDIX 2**

Excerpt from UNHCR Guidelines on Evaluation and Care of Victims of Trauma and Violence

APPENDIX 3

Practice Case Studies; Analysis of Practice Cases
Interviewing Applicants For Refugee Status, UNHCR (Excerpts)

Conducting the Interview

In this Chapter you will learn:

- ❑ how to introduce the interview:
- ❑ how to establish and maintain confidence:
- ❑ how to put your questions:
- ❑ methods that can help get to the true story:
- ❑ how to close the interview:

The purpose of the interview is to uncover the facts and to provide a picture of events that is as complete and objective as possible. As interviewer, there are two pitfalls to avoid:

- appearing judgmental or aloof;
- being overly sympathetic.

For persons with limited experience of interviewing asylum-seekers this is no easy task. Conducting interviews in the refugee context is a difficult and time consuming process. This chapter is intended to provide you with a suggested framework for conducting interviews.

❑ Opening the interview

The way you open the interview will set the tone for the rest of the proceedings. The message you must convey to the applicant from the outset is that:

- you are there to hear his or her story in a totally neutral way;
- as a representative of your organisation you are concerned and respectful of his or her distress;

but you work within a legal framework which imposes certain specific conditions when it comes to eligibility for refugee status.

STEP 1 Putting the applicant at ease

Take care to show courtesy and respect by:

- smiling and shaking hands (or some other appropriate gesture of greeting);
- using the applicant's family name (having already made sure that you know how to pronounce it correctly);
- introducing yourself;
- if the interview is not on time, apologising for the delay;
- asking if the applicant is prepared to be interviewed.

STEP 2 Introducing the interpreter

Having introduced the interpreter and having explained his or her role, you should check that the applicant and the interpreter understand one other. To do this invite the applicant to talk informally for a few moments with the interpreter, then ask if he or she is satisfied that they understand each other.

In the case of women applicants, every effort should be made to use a female interpreter and interviewer. This is especially important for claims that may involve aspects of sexual violence.

Care should also be taken if children are to be interviewed. In such circumstances you should arrange to have a trusted adult accompany the child during the interview.

STEP 3 Reviewing basic personal information

You should already have read the applicant's basic data or registration form. However, you may find it necessary to go over certain points to make sure that the information you have is accurate and complete.

STEP 4 Providing some background explanations

Before commencing the interview the applicant must be provided with certain information. This can be done by giving written information to the applicant during an

earlier contact with your office, or by providing it orally before starting the interview. In either case, the following information should be explained to the applicant:

- the applicable refugee definition;
- the procedures followed with respect to the determination of refugee status.

It is particularly important for the applicant to understand that the **following questions** must be established:

- Does the applicant fear persecution?
- Is this fear well-founded?
- Is the persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, or for reasons defined in the OAU Convention or Cartagena Declaration definition of a "refugee"?

This is why many of the questions that will be asked during the interview will concern:

- the conditions that exist in the country of origin, and more especially in the region where the applicant comes from;
- what kind of difficulties the applicant, members of his or her family, or similarly situated persons have experienced in the past;
- what difficulties might be expected if he or she were to return to that country;
- why these difficulties will arise.

Before proceeding, make sure that the applicant has understood the purpose of the interview, and of the questions you will be asking.

STEP 5

Reminding the applicant of his or her rights and obligations

Having by now explained your role as interviewer, it is important to outline the applicant's own rights and obligations. These mainly include:

- The right to **confidentiality**. Reassure the applicant that none of the information he or she will reveal to you will be shared with the authorities of the country of origin, or with any other third party without the applicant's express consent. You should reassure the applicant that both you and the interpreter will respect the confidentiality of the interview and are under oath to do so. This reassurance is indispensable in order that the applicant may feel that it is safe to talk openly about past experiences and events.
- The right to **counsel**. [...] Where national legislation provides for the participation of legal or other counsel to assist an applicant in presenting his or her claim, it is essential to allow such counsel to participate in the interview. The presence of a legal representative or other counsel who is familiar with the refugee criteria and local jurisprudence and the applicant's claim, is helpful not only to the applicant but also to the interviewer.
- The right and obligation to give **evidence**. The granting of refugee status depends upon the facts provided by the applicant. Only he or she can provide these facts. As an interviewer you have a vital role to play in helping and encouraging the applicant to bring to light the relevant details of his or her past experience and to present them convincingly. In order to substantiate the claim, and thereby assist the applicant, the interviewer may need to obtain supporting documentation such as newspaper articles, witness accounts or human rights reports. It is the duty of the interviewer to assist the applicant by drawing his or her attention to the importance of providing all available evidence in support of his or her claim to refugee status. However, the interview is for the applicant. Although the person conducting the interview should be in control, you should recall that the interview process is **an opportunity for the applicant to present his or her claim**. One way to help you and the applicant identify the main aspects of the claim is to have the applicant submit a short written statement. This statement can then be used as a preparatory tool before the substantive interview begins.
- The obligation to **be truthful**. Tell the applicant that giving an honest, open testimony is in his or her best interest. The applicant may have been told by others that the chances for recognition are greater if the story is told in a certain way. As an interviewer you must be aware of such realities. It is your job to

impress upon the applicant that the case must be based on true experiences and not on false information.

STEP 6 **Explaining the process**

Tell the applicant how long you expect the interview to last, whether you plan any breaks, and how the questions will be asked. Having explained the preceding steps 1 through 5, you should ask the applicant whether anything remains unclear and requires further explanation. Once everything has been well understood the interview can proceed.

- Summary checklist
- ✓ introduce yourself and explain the process to be followed in order to put the applicant at ease;
- ✓ introduce the interpreter and make sure the applicant and interpreter understand one another before proceeding with the interview;
- ✓ review the information provided on the basic data/registration form with the applicant to ensure it is accurate and complete;
- ✓ explain the refugee definition to the applicant and the type of questions you will be asking;
- ✓ remind the applicant of his or her right to confidentiality, obligation to provide evidence, and obligation to tell the truth.

□ **Maintaining the applicant's confidence**

The purpose of the various steps suggested above is to establish a degree of confidence on the part of the applicant. Your task throughout the interview will be to build on this confidence, remaining vigilant for any signs of incomprehension or tension that may arise and seeking to dispel them at once.

Two approaches can help achieve this;

➤ **Eye contact**

With the exception of certain cultures, where eye contact can have another significance, maintaining a steady and friendly visual expression and keeping eye contact with the applicant suggests that you are paying careful attention to what is being said. Avoid reading papers while the applicant is speaking. If you need to check on a document, wait until there is a pause.

Eye contact should be with the applicant, not with the interpreter. Ask your questions directly to the asylum-seeker and not "through " the interpreter.

For example:

NO! (addressing the interpreter) "Ask him what happened after the bomb exploded".

YES! (directly to the applicant) "What happened after the bomb exploded?"

Body posture

Like eye contact, the physical position you adopt can communicate your interest in what the applicant is saying. Be natural, attentive and relaxed. Keep your movements and facial expressions as neutral as possible. This will encourage the applicant to communicate.

DON'T!

- slouch or move about in your chair;
- put your feet on the interviewing table; look out of the window;
- make any gestures (such as shaking your head or rolling your eyes towards the ceiling) that suggest that you do not agree with or believe the story being told.

□ **Putting your questions**

Put your questions in a friendly manner and not too quickly. Allow the asylum-seeker adequate time to present his or her story as freely as possible. Although you may have a large number of cases to review, avoid pushing an applicant to come more quickly to the main point of the testimony as he or she may be about to reveal an important and relevant detail.

Questions should lead on naturally rather than be drawn from a list you have prepared in advance. If you are using an interview questionnaire or question checklist it will alert you to the essential elements which should be covered during the interview. However, do not confine yourself to a pre-set format or list of questions as this will unduly restrict the flow and scope of the interview.

Everyone has a way of speaking which varies according to such factors as speed, tone and rhythm. In order to put the applicant more at ease, and thereby encourage him or her to communicate, you should try to modulate your voice and pace your questions to suit the particular characteristics of the applicant. Throughout the interview you should be prepared to follow-up with questions on all relevant issues which are raised by the applicant. No reply or issue should be left in doubt when you finish the interview. This requires that you remain alert and intellectually active during the interview process.

Example:

A claimant has testified that she was arrested while attempting to distribute leaflets and was detained for three months. In order to clarify this statement you could follow-up with questions such as:

- "Why were you detained?"
- "How were you treated while in detention?"
- "Were you ever charged with an offence?"
- "Did you have any contact with your family while in detention?"
- "Can you describe the place where you were being detained?"

Following-up with these questions will provide an opportunity to obtain additional relevant information from the applicant. Such questions will also show that you are concerned and interested in learning about what happened.

Your reaction to silences

Allow the applicant time to think, especially after a general or open question (see below). Avoid the temptation to break the silence by adding a restricted question which may elicit a quick response, but may also prevent the applicant from revealing the full importance a specific event had for him or her.

Example:

Interviewer: "What happened to you after the military seized power?"

Silence

Interviewer: "Were you ever interrogated or arrested?"

A preferable approach, if the silence is too long, is to re-formulate the general question.

Taking the same example:

Interviewer: "What happened to you after the military seized power?"

Silence

Interviewer: "You mentioned earlier that your troubles began when the military overthrew the government. Could you tell me about some of the difficulties you experienced?"

Silence from the interviewer (provided it suggests that he or she is interested and awaiting the rest of the story) may encourage the applicant to talk. It gives time to consider a question carefully and can help the applicant recall past events. Considerable non-verbal communication also occurs during such pauses, to which you must be attentive.

Types of questions

As an interviewer you need to understand which types of questions will be most effective at each stage of the interview, as well as those which should be avoided as potential barriers to

communication. This knowledge will also help you overcome problems of hesitation or reluctance. In the following, two types of questions will be described: **open questions** and **closed questions**.

➤ **Open questions**

An open question is one that asks for general information and cannot be answered by "yes" or "no". It is used to gather information on personal opinions and reactions, and is therefore most appropriate at the beginning of an interview. By using open questions, the interviewer provides the applicant the opportunity to relate events in his or her own way.

Examples:

- What made you decide to leave your country?
- How did your life change after the war?
- Please describe any difficulties you have had with the authorities in your country?
- What happened when the Government changed?
- What reasons do you have to believe that you may have difficulties if you are sent back to your country?

Open questions can help give the interviewer a greater understanding of the background to the applicant's problems and unwillingness to return to his or her country of origin. Open questions are also used to encourage the applicant to talk more openly on an important topic.

Example:

Applicant: I didn't want to get into trouble with the authorities so I stopped going to the meetings. But it made no difference. I know they were still going to get me.

Interviewer: Could you help me understand why you felt that way?
This type of question is likely to elicit more important information.

When to avoid open questions

Open questions can be time-consuming. If the applicant is nervous, emotionally upset, or has misunderstood the type of information you are seeking he or she may become confused and talk at length about irrelevant details. If this occurs the interviewer must gain control of the interview by politely intervening and changing the line of questioning. When asking open questions you must also take into account the education level and cultural background of the applicant in order to assess whether he or she is capable of providing clear and relevant information in response to your questions.

➤ **Closed questions**

A closed question calls for a short response, usually "yes", "no", or a simple statement of fact.

□ **Getting the true story**

There are two methods that can help you achieve this essential objective.

➤ **Keeping the applicant talking**

We have already mentioned the importance of establishing and maintaining the confidence of the applicant. If this is achieved it will be relatively easy to keep him or her talking freely.

Don't break in: avoid introducing a new question before the applicant has finished replying to the previous question.

Give encouragement even if there are hesitations or silences. Nod and quietly prompt with phrases such as "...and then?"; "I understand..."; or repeat a few key words from the previous response.

Example:

Applicant: When I heard they were looking for me I didn't know what to do. I was afraid to go back to my house or to my job... (pause)

Interviewer: You were frightened...

Applicant: Every day people disappear... Sometimes their bodies are found and sometimes they just disappear... (pause)

Interviewer: I understand...

Applicant: I went to my friend's house. When I told him what had happened, he said that it was very dangerous for me to stay in the city. That is when I decided to leave.

Interviewer: And then what did you do...

By using this approach the applicant is reassured that the interviewer is listening carefully. The interviewer is perceived as encouraging, but remains neutral without taking a position either for or against the applicant's story. In this way the applicant is more likely to want to communicate further information.

➤ **Identifying discrepancies**

These may be of two kinds:

discrepancies in the written and spoken testimonies, or in other documents provided

Examples:

- When did you leave your country and when did you arrive here?
- Who paid for your voyage?
- Did you have a visa to enter this country?
- What route did you take to get here?
- Did you apply for refugee status in any other country?

Closed questions serve to **fill in information that is not clear from the applicant's story**, particularly when there are **contradictory details**.

Examples:

- While you were in detention were you interrogated? By whom? How often? How long did the sessions last? What questions were you asked?
- Where were you detained? How were you treated in prison? What did the prison authorities do to you? How big was your cell? Were you alone in the cell?
- You said that you hid with your brother but on your basic data form you have indicated that your only brother lives abroad. How many brothers do you have?

Here now are a few general hints on formulating questions. They are expressed in the following "do's" and "don't's":

DO Keep your questions short and uncomplicated.

Alternate between open and closed questions. This will help to reduce tension as the applicant will be able to express him or herself more freely during the interview. It will also help avoid making the applicant feel that you are deliberately pursuing confusing or contradictory points.

DON'T Ask a string of questions that will leave the applicant feeling confused. Interrogate as in a cross-examination, or use a harsh tone of voice when asking your questions.

An example of what you should avoid doing is as follows:

When you applied for your visa, you said you had a good job and could only take a two-week holiday. At the airport, you said you had no relatives in this country but your brother is also a refugee applicant, isn't he? Now you tell me you will be persecuted if you are sent back home. You lied to get your visa and you lied at the airport. Why should I believe you now?

Examples:

- An applicant states that he was detained for the last six months of 1992 but his passport was issued in October of that year.
This discrepancy may be due to a confusion of dates, or to the fact that the passport was obtained by a relative or friend (perhaps using a bribe).

- The applicant testifies that his brother was arrested for taking part in a student strike and is still in detention. His basic data form indicates that the applicant's only brother is living in the United States.

Here the use of the word "brother" may have a specific cultural meaning. Alternatively, the interpreter might simply have forgotten to add the second brother's name to the form.

discrepancies in the form of inconsistent behaviour

Examples:

- An applicant claims to have taken refuge at a friend's house for fear of being arrested. However, he also declares that he continued to go to work each day at the same job.

As interviewer, it is your responsibility to clarify this discrepancy. Ask a neutral question such as:

"Weren't you frightened of being arrested at work or followed to your hiding place?"

This will encourage the applicant to provide additional explanations. It may be that he consciously took the risk of going to his work place since he could not afford to leave the country at that time, and his main concern was to remain as long as possible for the safety of his family.

- An applicant states he received the first death threat in March, and then received them every two or three weeks. In May someone tried to run him over with a truck, yet he only left the country the following February.

As in the previous example this requires further explanation.

"You must have been very frightened. When did you decide that you had to leave the country?"

A question such as this will invite additional information. On the other hand, a direct question such as "Why did you take so long before deciding to leave?" may well create a guarded, defensive reaction and deprive you of the explanations you are seeking.

➤ **Confronting**

This does not necessarily imply a critical attitude by the interviewer. It is a means of clarifying statements that are confusing or appear contradictory. It is therefore an opportunity for the applicant to provide all relevant details.

Confronting is a complex skill requiring tact, patience and the ability to convince the applicant of the need to look objectively at his or her testimony and dispel any unclear points or contradictions. **Avoid at all costs adopting a critical or judgmental attitude** since this will destroy the atmosphere of confidence you have tried so patiently to establish.

As noted, if you are faced with contradictory or unclear statements allow the applicant the opportunity to provide an explanation. One technique you could use is to put the blame on yourself and say for example: "I'm sorry, I may have misunderstood you, can we check that part of your story together as I do not want to make any mistakes". In this way you can avoid making the applicant feel uneasy or nervous.

Another method is to try to reformulate your questions. You should recall that due to cultural differences, the translation provided, health problems, or lack of attention, the applicant may have misunderstood what was being asked. In such a case, the applicant may more readily understand your questions if they are reformulated or asked in another way.

If after going over a part of the story the inconsistencies remain, do not push the applicant to provide an explanation. If you cannot confirm or obtain satisfactory explanations at that stage of the interview, drop it, you can always return to that point at a later time. Be alert as there may be something that the applicant does not want, or is unable, to tell you. (See excerpt from UNHCR Guidelines on "Evaluation and Care of Victims of Trauma and Violence" in Appendix 2 to this Training Module and Chapter 3 "Barriers to Communication").

☞ POINTS TO REMEMBER

- Confronting is a necessary means of getting a true story. Yet it should not destroy the climate of confidence you have sought to establish and which is vital for good communication.
- Make sure to document any outstanding discrepancies and the responses and clarifications which are given by the applicant. This will be of assistance for preparing your assessment of the claim and will provide an important record of the proceedings which can be used during a further interview.
- Pay careful attention to each detail.
- Avoid phrasing your questions in a judgmental way. This will intimidate the applicant and block or distort communication.
- Be positive in your approach. Use phrases such as "Could you explain... ?" or "You seem to be saying...".

☐ **Closing the interview**

When it comes to closing the interview this brief checklist can help tie up loose ends:

- Have you asked the applicant if he or she has anything to add?
- Have you advised the applicant of what will happen following the interview?

It is important to be as specific as you can concerning:

- when the decision can be expected;
 - what will happen if the application is successful (concerning documentation, family reunification, the right to work, etc.);
 - what will happen if the response is negative (explain the right and procedure to appeal).
- Have you reassured the applicant that, whatever the circumstances of the case, you will include all the relevant information in the interview report that will accompany the request for recognition of refugee status?
 - Have you thanked the interpreter and given the applicant the opportunity to do likewise?

Interviewing Applicants For Refugee Status, UNHCR (Excerpts continued)

Barriers to Communication

In this Chapter you will learn:

- ❑ which are the common barriers to communication:
- ❑ how to overcome them:
- ❑ what to do in the case of hostile or threatening behaviour.

[...]

As we already know, interviewing applicants for refugee status has another dimension than interviewing in other contexts since so much is at stake. A successful outcome can mean a new start and fresh hope for the applicant and his or her family, while a negative result may spell despair and danger. This knowledge places a heavy responsibility upon the interviewer.

The first two chapters of this module have sought to provide a framework for preparing and conducting the interview. In this chapter we shall be looking closer at the barriers to communication, their origin, and how the interviewer can attempt to overcome them. We will also be looking at the issue of threatening behaviour on the part of the applicant and how to respond as an interviewer.

❑ The effects of trauma

It is not unusual for asylum-seekers to have difficulty in relating their story. They may falter, retreat into prolonged silence, or provide explanations that lack coherence and seem contradictory. Alternatively, they may recite an account that you suspect has been learned for the occasion. It is your task to patiently unravel the story and extract the true facts.

A person who has undergone a physical or mental shock may be particularly reluctant to re-live the emotions by relating events from which he or she has suffered. The unwillingness to talk may or may not be conscious. In more extreme cases, past experiences have been suppressed from the conscious mind. It is not unusual for an applicant to break down and become incapable of coherent expression, or be able to remember only certain events from his or her past.

The interviewer must also be aware that an applicant may have a mental or emotional disturbance which impedes a normal examination of his or her case. If it is considered that an applicant may have such a condition you should seek medical advice concerning the health of the applicant. Particular attention must also be provided for those refugee claimants who may be victims of torture or sexual violence or, due to their age or disability, require special care when being interviewed. (For further guidance see the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status, paras 206 -212, the Guidelines on Preventing and Responding to Sexual Violence against Refugees, and excerpt from the UNHCR Guidelines on Evaluation and Care of Victims of Trauma and Violence in Appendix 2 to this Training Module).

Omission and confusion

Forgetfulness affects us all and is one of the major obstacles in remembering events. For persons seeking asylum, dates, locations, distances, events, and even significant personal experiences can be forgotten or blurred due to mental shock or lapse of time.

Omissions or inaccuracies on the part of the applicant do not necessarily mean dishonesty. The interviewer must remain aware that the applicant cannot be expected to remember all the details of his or her personal history. The chronological order of events may be particularly difficult to reconstruct. Often the applicant remembers the events that affected him or her most in emotional or physical terms while retaining little of the time sequence.

Example:

"...People who were members of a death squad came to my house on several occasions looking for me... Two of my friends disappeared and another was found dead... I fled to my uncle's farm

and hid for five months until I felt it was safe to return. I received several anonymous threats... A stranger asked questions about me at my work... I decided I had to leave the country".

You may discover in the course of the interview that this chronology of events is incorrect. The body of the friend was found after the applicant had gone to live with the uncle. He applied for a visa before the employer was questioned by the stranger. Such confusions, in themselves, do not necessarily imply a deliberate fabrication.

Fear to share information

An asylum-seeker having left his or her country through fear of persecution is likely to carry this anguish with him or herself for some time. It may manifest itself in a number of ways, such as:

- fear of persons in authority (particularly those in uniform);
- fear of putting relatives or friends in danger;
- fear of the interview process;
- fear of the consequences if the application is rejected.

As an example, persons who have been involved in political movements that were illegal in their home countries are likely to have become suspicious towards outsiders. They were part of a social network largely founded on a set of values and practices which were crucial for the success of the organisation and the survival of its members. Such persons may have difficulty in communicating openly and expressing their feelings, beliefs and experiences to a non-member of the group. Suspicion of the interpreter may be another reason for an apparently fragmented and confusing story.

Loss of self-esteem

The applicant may seek to withhold information which he or she believes will lower the respect of others towards him or herself. In this context, gender, and cultural and societal expectations are factors to be considered. For example, a man may find it hard to admit to having experienced fear or to having been obliged to leave his wife and children unprotected. A woman who has been sexually assaulted may feel so deeply ashamed that she has not even told her family about her suffering.

"Culture shock"

Persons who move from one culture to another, especially if this implies a move from a less developed to a more developed environment, may experience bewilderment and anxiety. This in turn can affect their ability to make a clear and coherent statement. The asylum-seeker may speak in a confused and unconvincing manner not because he or she is lying, but because of the insecurity and anxiety caused by the difficulties of life in a new social and cultural environment. Unfamiliarity with the style of question-and-answer interview may be another factor which inhibits communication.

Disparities of notions and concepts

Quite common words can carry different meanings from one culture to another and be a source of misunderstanding. This problem can have serious repercussions for an asylum-seeker.

Example:

A Turkish asylum-seeker, applying for refugee status in Switzerland, stated that he had escaped arrest by hiding in the *mountains* near his home town. The application was rejected. Among the reasons given was the fact that the town was situated amid *hills*. For the Swiss interviewer there were no mountains in the region and thus the applicant was considered to be not credible. However, in Turkish, the term "mountain" also applies to hilly regions. Other common words that can give rise to misunderstanding include *brother* and *cousin*. For many Africans, for example, these words are not limited to close relatives but extend to all members of the tribe. Notions of *time*, of *truth* and *falsehood* can also vary from culture to culture and give rise to misunderstandings that put the asylum-seekers' credibility in doubt.

□ Your attitude as interviewer

The guidelines below concern general behaviour to adopt during an interview. You will recognise many of these recommendations as similar to those contained in earlier chapters of this module.

- Be aware of your responsibilities at all times. Never forget that an unfair decision can have serious consequences for the applicant.
- If you detect symptoms of trauma, try to avoid adding to the trauma by doing the following:

- make sure the room does not resemble a court room;
- avoid having persons in uniform;
- if the applicant is agitated or nervous try to pose your questions in a relaxed manner.
- Reassure the applicant that you are trying to help and can best do so if your questions are answered directly and truthfully;
- In order to support the information received during the interview, use whatever documentary evidence is available (documents received from the applicant, newspaper and human rights reports, medical reports, etc.);
- Reassure the applicant that any information provided will be kept strictly confidential. Clarify the role of the interpreter and inform the applicant that the interpreter is under oath to maintain the confidentiality of the interview proceedings.
- Always remain neutral. Refrain from posing questions that appear judgmental such as, for example:
"How could you leave the country without your family?"
"How could you leave your children with a stranger?"
- Take account of the cultural background of the applicant so as to avoid misunderstandings of communication during the interview. Be aware of any disparities of notions and concepts which may arise.
- A number of additional factors which can affect the applicant-interviewer, and applicant-interpreter, relationships are as follows: compatibility of age, gender, social class, education, race, belief, political and social values or disability. Throughout the interview you should be aware of these factors and how they may affect or complicate communication with the applicant. You should also brief the interpreter concerning these issues.

□ **What if the applicant is unwilling or unable to participate in the interview?**

It should be recalled that refugees may be victims of torture, violence or under great emotional stress. The interview process could in itself trigger off anxiety reactions which could be perceived as aggressive behaviour. The signs and symptoms of emotional disturbance need to be understood. The need for medical intervention should also be understood in order to assist the applicant with his or her mental state before any further interviewing can take place.

While keeping in mind the above considerations the interviewer may find him or herself having to deal with a refugee or asylum seeker who is uncooperative or displays hostile or aggressive behaviour. In such a situation one of the prime considerations is security. In all interviewing situations precautions should be taken to ensure that the interviewer, interpreter, and all staff members are protected against the possibility of physical assault. In field offices it is often the case that the local police, guards or other security arrangements (such as windows in interview rooms) are in place. However, in isolated locations organised security may be lacking and alternative steps, such as alerting the local authorities or other staff members to assist if problems arise, must be taken. (Further on this topic see Chapter 7 "Security Concerns").

Disruption of the interview

Uncooperative or hostile behaviour can take a variety of forms. In any case it can result in disruption of the interview. You may find that the applicant refuses or appears unable to answer questions, or he or she may display an intransigent attitude which makes continuing the interview difficult and time consuming. On this point a number of suggestions can be offered:

- at all times remain calm and try to ascertain why the applicant is displaying hostile or uncooperative behaviour. Perhaps due to personal difficulties the applicant is unwilling to participate in the interview;
- explain to the applicant that the interview cannot continue unless he or she is willing and able to answer your questions and fully co-operate;
- if available, request a trained counsellor or community services officer to intervene. This will show the applicant that you are trying to help and it may facilitate regaining his or her confidence so the interview can proceed.

If your attempts to calm the applicant and gain his or her confidence are unsuccessful and the behaviour of the applicant makes the continuation of the interview impossible, then as a last resort

you should terminate the interview and postpone it for another day, making it clear that the postponement is not a punishment but simply reflects the need for co-operation which you hope to obtain at a later date. This will allow the applicant some time to think about his or her behaviour with a view to returning at a later time in a more positive frame of mind. If deemed necessary, a different interviewer should see the applicant at the rescheduled interview.

At all times the interviewer must be aware that apparent hostile and uncooperative behaviour may be symptomatic of other troubles or an indication that the person is having serious difficulties coping with the stresses and difficulties of the interview process. If the applicant has a particular problem which can be addressed by counselling, medical or community services offered through your office, then an appointment should be made to see someone at the earliest opportunity. This course of action will not only demonstrate that you care about the person concerned and are ready to offer assistance, but it may also provide an opportunity to obtain important information concerning health or other problems the applicant is experiencing.

Interviewing Applicants For Refugee Status, UNHCR (Excerpts continued)

Interviewing Women Refugee Applicants

Access to an interview

When a woman is a part of a family unit and is not considered the principal applicant for refugee status it can happen that she is not interviewed, or only cursorily interviewed, even when it is possible that she rather than her male partner has been the target of persecution. With this in mind the interviewer should make every effort to ensure that the female members of a family unit, including spouses and dependants such as mature children, are provided an opportunity to be interviewed separately. Only in this way can the interviewer determine whether the female members of the family have an independent claim to refugee status.

Credibility problems

A common problem relating to credibility can occur when women are interviewed concerning the claims made by their male relatives. For example, if a woman is being interviewed to corroborate the claim of her husband, she may be unaware of certain details of her husband's experiences. At first glance, the interviewer may consider that this lack of corroborating knowledge on the part of the female family member undermines the credibility of the husband's claim. However in certain cultures men do not share the details of their professional, political, military or social activities with their female family members. As a consequence, spouses, daughters, or mothers may be unable to provide an answer when questioned about the experiences of their male relatives. The interviewer should be aware that lack of knowledge, or even contradictory answers, on the part of female family members does not mean the entire testimony should be discounted as lacking credibility.

Your role as an interviewer

The following practices are suggested for interviewing refugee women. Further information on conducting an interview can be found in the UNHCR Guidelines on Preventing and Responding to Sexual Violence against Refugees at pages 33-34 and 38-41.

- as discussed in earlier chapters of this module, you will have to gain the confidence of the applicant and establish a basic rapport with the person being interviewed. This is especially important in the case of victims of sexual violence. It is essential that the interviewer remain neutral, compassionate, sensitive, and objective during the interview;
- if at all possible, women refugee claimants should be interviewed by a female staff and female interpreter. In this way the applicant may feel more comfortable in telling her story. For claimants who allege to have been victims of sexual attack, a trained staff member of the same sex must always conduct the interviews unless the applicant requests otherwise. The same interviewer should remain involved in the case in order to avoid the applicant being handed from one person to another. This would include arranging for the applicant to have follow-up counselling or medical and legal assistance;
- be aware of gender differences in communication, especially regarding non-verbal communication. This is particularly important in the context of cross-cultural communication (e.g. a female may avoid eye contact with the interviewer due to her culture);
- provide women the opportunity to be interviewed alone without other family members present or within hearing distance;
- if you suspect that the applicant has been a victim of sexual violence, or if the applicant is unable or unwilling to discuss certain events relating to such an incident, you should ask discreet and indirect questions. Give the applicant time to tell her story in her own way and in her own words. Never force the applicant to communicate, but assure the person that you are available to assist her once she is ready to talk about the problem. There is no need to dwell in detail on the sexual abuse;
- recognise that women refugee claimants who have been subject to sexual violence can exhibit a pattern of symptoms as a consequence of the trauma related to rape. The symptoms exhibited may include a loss of self-confidence and self-esteem, difficulty concentrating, feelings of loss control, fear and memory loss, or distortion of facts. Women who have suffered domestic violence may be reluctant to speak about such incidents. In some cases, it may be appropriate to consider whether claimants should be allowed to provide their testimony in writing so as to avoid having to recount traumatic events in front of strangers. For further information refer to the excerpt from the

UNHCR Guidelines on Evaluation and Care of Victims of Trauma and Violence in Appendix 2 to this Training Module.

- in the case of a husband and wife or other family members being interviewed, the interviewer should be careful when trying to clarify contradictory statements. In general, the interviewer should be cautious if confronting an applicant concerning statements made by another family member in order to avoid adding to the already tense and difficult situation the family may be experiencing;
- lastly, the interviewer must familiarise herself with the practical protection measures for preventing and responding to sexual violence. In this regard, reference should be made to the “Guidelines on Preventing and Responding to Sexual Violence against Refugees”.

POINTS TO REMEMBER

- [for analysing gender-based asylum cases] familiarise yourself with relevant sources of information concerning refugee women, including protection guidelines and country of origin information; [and] employ the eligibility criteria related to gender-related persecution;
- [regarding interviewing:] ensure that women refugee applicants gain access to an interview and that, if possible, the interview is conducted by a female staff member and female interpreter;
- be aware of gender and cross-cultural differences in communication;
- make sure that women refugee applicants have an opportunity to be interviewed alone, and be aware of the credibility problems which may arise when women are interviewed about the claims of their male relatives;
- for claimants who are victims of sexual violence, ensure that they are interviewed by a trained staff member of the same sex;
- familiarise yourself with the pattern of symptoms which can be exhibited by victims of sexual violence and ensure that follow-up counselling and medical and legal assistance are made available.

UNHCR Guidelines

EVALUATION AND CARE OF VICTIMS OF TRAUMA AND VIOLENCE¹

Victims of Extreme Violence: Ex-Detainees,
Prisoners of War (POWs) and Victims of Torture and Sexual Violence

(Excerpts)

Overview

Violence has all too commonly become the accepted final mode of conflict resolution around the globe. Its effects on persons and populations are the subject of world-wide concern. Extreme violence, often targeted to special groups, i.e. detainees, POWs and women, is particularly reprehensible. Torture, rape and other forms of extreme violence impose upon their victims a particularly harsh sentence. For many, the social, psychological and psychosocial *sequelae* may remain with them for years, perhaps decades.

Such extreme violence affects people in different ways depending on personality, gender and culture. The *sequelae* of torture can appear immediately on a physical and/or psychological level, or can remain hidden and unrecognised for many years.

Experiences of torture and sexual abuse are not readily reported. The intense feelings of powerlessness, shame and guilt and the acute disruption of life, in which the beliefs of a person about the meaning of life are lost, compel people to hide them. The coping process is characterised by an alternating pattern of re-experience and denial of the traumatic events, with all associated psychological responses.

Such denial should not seduce caretakers into assuming that personal and family problems are being successfully managed. It is the responsibility of policy-makers, mental health workers and others involved in victims' protection and assistance to address their special needs, on a mass level and to involve all concerned parties (e.g. the victim himself, family, professionals, host and third countries) from the emergency phase to longer term programs.

Symptoms

In many cases, ex-detainees, victims of torture and victims of gender-based violence are usually very reluctant to speak about their experiences. It is of great importance to recognise that the empathetic way of conducting an interview will to a great extent determine the quality of the disclosure of violent acts. Ex-detainees and victims of torture often seek help for somatic problems. These can be caused by the bad conditions during detention (infections, under-nourishment) or brutal physical torture (fractures, wounds, nerve lesions) or can be part of the psychological consequences of the traumatic experiences. Somatic complaints can also be the starting point of disclosure. Taking these physical complaints seriously helps to lead progressively to the more insidious psychological *sequelae* of violence.

In general the consequences of the trauma of extreme violence can be very diverse. They can be looked at as being part of several categories:

- Recurrent Memory Phenomena:
 - flashbacks (sensory reliving of the trauma, smell, taste, sight, sound);
 - nightmares;
 - intrusive thoughts.
- Hyper-arousal:
 - sleeping problems;
 - irritability;
 - aggressiveness;

¹ Excerpts reproduced from: Appendix 2 in UNHCR training module *Interviewing Applicants for Refugee Status*, RLD 4, Training with UNHCR Series, 1995. The following are excerpts from the UNHCR Guidelines by the same title "Evaluation and Care of Victims of Trauma and Violence".

- concentration problems.
- Somatic Symptoms:
 - fatigue;
 - gastrointestinal complaints;
 - cardiac symptoms;
 - headaches;
 - diffuse aches and pains;
 - muscular and joint problems;
 - sexual dysfunction.
- Anxiety reactions:
 - panic attacks;
 - generalised anxiety (affecting physical, sexual, mental and social functioning).
- Sadness/Grief:
 - depressed mood;
 - loss of interest in previously pleasurable activities;
 - loss of appetite;
 - suicidal thoughts.
- Avoidance of situations which remind the victim of traumatic experiences (including talking about it):
 - phobias;
 - emotional numbness (being disconnected from family, friends and loved ones, self-medication, etc.);
 - body numbness (frigidity, not feeling one's own body, feeling body changes, feeling like outside one's own body, feeling "possessed").

Detection

As alluded to in the section on screening in the general population, detection efforts in vulnerable populations must be especially adapted in order to identify, with little error, individuals already affected and at high risk. In these groups, the danger of suffering long- lasting effects may be as high as 50%. The personal, social and economic costs of failing to identify and intervene with such individuals are devastating.

Where to Seek/Detect

Such individuals may appear through any of the means noted for the general population (i.e. primary and traditional health care, hospitals, schools, or through the family members, community leaders, field officers or camp officials).

Who to Seek/Detect

The nature of the effects of extreme violence on individuals is such that many may go undetected by the screening methods adapted for the general population. Identifying such individuals as noted below should lead immediately to more complete evaluation of the individuals' symptomatology and functioning:

- screen individuals who present the physical stigma of torture. The presence of such stigma is indicative of the nature and extent of torture; and
- screen people who are known to be at high risk for deprivation, torture or rape:
 - soldiers and ex-soldiers;
 - known POWs or detainees;
 - inhabitants of town or village subjected to organised violence;
 - members of a specifically persecuted group (ethnic, religious, political, etc.).

Methods

Simply acknowledging and inquiring about the realities of a refugee's experience has therapeutic value. The evaluator may be the first person to show caring and interest in their situation without being horrified.

- Individual evaluation, meant to get enough information about historical circumstances, functioning and symptoms to determine most appropriate treatment intervention.
- Standardised instruments, by acting as a simple medical test, may allow an individual to disclose more about their psychological state and trauma experiences than might otherwise be possible. Such instruments are readily available and have been scientifically demonstrated to be effective.

Treatment Approaches

The consequences of traumatic experiences impinge on every level of the individual's social organisation. In many cases, ex-detainees, victims of torture and victims of gender-based violence are very reluctant to speak about their experiences. Although this can be part of the coping process, it should be borne in mind that mobilisation of resources on a personal and group level is important and should be developed to help overcome the traumatic experience.

- The screening itself will acknowledge interest and knowledge of the survivor experience.
- Psychological support should be given through information about symptoms, debriefing and other social activities. Within this framework, support of the family system in its community provides an important stabilising background which can serve as a basis for further intervention.
- Psychological help can be provided by professionals, or under their supervision, at the group and individual level, according to needs and available services. In cases of large numbers of heavily traumatised persons, the approach should be directed to groups. This has the effect of strengthening already existing or creating new support networks.
- Special and individualised care remains necessary for very severe and life-threatening reactions. Seriously depressed or suicidal persons require such care to monitor their safety during their period of hopelessness.
- An outreaching, discrete and non-stigmatising approach is essential for care and assistance to ex-detainees and victims of torture and sexual violence. Particularly in instances of rape, maintenance of absolute confidentiality is essential to protect against damaging cultural stigma and to provide a trusting atmosphere in which adaptive change can be advocated.
- Mandated catharsis must be shunned. Even if help is actively offered, one must not give the impression that exploration of the trauma history is required.
- For many individuals the first step of every intervention is the healing of the body and other physical problems.

(excerpt pp. 92-96)

□ Principles of ethics in work with refugees and displaced persons

Ethical principles, explicit or implicit, must guide all protection and assistance activities for refugees and displaced persons. The very real, if only temporary, relationship of dependence formed between those requiring and those delivering aid demands adherence to the strictest ethical standards.

General Precepts

- **Respect:** respect for the person is evidenced in several ways: a) respect for the autonomy of those persons able to pursue their personal goals through self-directed means; b) respect for persons with reduced or impaired autonomy by providing care until they are able to regain their autonomy, and lastly c) respect for the social mores of others; a concept particularly important in the context of socio-cultural differences between those receiving and those providing aid.
- **Confidentiality:** a person's story of deprivation or flight or trauma is his or her personal property to possess or to deliver to others as he or she sees fit. Traumatized individuals must understand that they are under no obligation to make their personal stories known, or once known, to relinquish them to the public domain. Aid providers must never contravene confidentiality without explicit consent. Doing so may expose an already traumatised individual to further humiliation, stigmatisation and/or manipulation by others.
 - **Do No Harm:** never should the work or interests of providers or their proxies cause further suffering to those dependent on their aid.
 - **Justice:** allocation of resources and distribution of assistance should never be determined by the religion, nationality, race, politics or social standing of those in need.

Treatment

- Persons have the right to the best available treatment appropriate to their needs.
- Persons have the right to refuse treatment unless unable to comprehend the consequences of life-threatening events or illnesses or their refusal of treatment.
- Treatment programs must be monitored by relevant professional bodies for their attention and adherence to ethical precepts.
- Care givers may not participate in or condone practices resulting in harm or that contravene the ethical principles outlined in this chapter.

Research/Investigations

- **Informed consent:** informed consent must be adapted for survivors of trauma as they are generally unaware of the psychological pain involved in participating in such projects; there exists the real danger of re-traumatization, even if the individual's consent has been obtained. In addition, the dependent nature of the relationship between provider and receiver of aid means that informed consent must be given with the knowledge that such consent has no bearing on the provision of aid.
- **Research and investigation on traumatised refugees and displaced persons:** are ethically bound to maximise potential benefits to the individual and group while minimising potential risks. In no instance should the work of investigators take precedence over the well-being of the persons or population studied.
- When study involves exploring a person's trauma history, investigators are ethically bound to ensure that treatment opportunities exist for the pain and suffering that may result.

Though many of these ethical standards were originally characterised with respect to the medical profession, they equally apply to and set standards for all other professionals working in the field of mental health, protection and assistance to refugees. In this sense, the media, which by its investigation and reporting in conflict situations often delve into the personal histories of refugees and displaced persons, are equally bound to respect basic ethical principles as outlined here. The standard of objectivity which is paramount for the media must never be used to justify transgression of basic ethical codes.

❑ Vicarious trauma and burnout

Secondary trauma is the term that describes the range of psychological and physiological effects seen in those who work intensely with traumatised individuals. Experts have referred to these effects as vicarious trauma, burnout, exhaustion, and counter-transference, all of which are covered by the umbrella term secondary trauma, and all of which overlap in their intended descriptions. If, as in the view of many, no therapist is immune from these effects, the need for those in the helping professions to acknowledge and be aware of secondary trauma phenomena takes on particular importance.

Counter-transference, a concept rooted in psychoanalysis, describes a therapist's emotional re-connection to his own past triggered by exposure to a refugee's trauma material.

Burnout and exhaustion refer to the general psychological strain of working in overwhelming situations where demand for help is greatly disproportionate to its supply. Helpers trying to provide for the often infinite need of traumatised populations are typically unwilling to relinquish their posts until the point of physical exhaustion.

Vicarious trauma describes a substituted experience of trauma in therapists caused by intimate work with trauma survivors. It can manifest itself as short-term symptoms generally experienced in the period of therapy with individuals, or as long-term alterations in the therapist's own beliefs, expectations and assumptions about himself and others. Symptoms may often parallel those of the trauma survivors themselves. A provider's susceptibility to vicarious trauma is shaped by both the characteristics of the situation and the helper's unique psychological makeup.

Frequent symptoms

- fatigue, sadness, depression;
- cynicism, discouragement, loss of compassion;
- hyper-arousal, sleep disturbances, intrusive nightmares related to trauma material;
- somatic problems: headaches, joint pain, abdominal discomfort/diarrhoea;

- feelings of helplessness, denial and disbelief, anger and rage.

Contributing factors

- the correlation between refugee status and political and social problems may make the helper feel hopeless about the potential impact of his work upon the root causes of violence and war;
- conflicted feelings and issues of trust are typical where survivors may be both perpetrators and victims;
- communications difficulties, both lingual and cultural;
- inadequate resources and equipment.

Prevention and treatment

- supportive relationships with family and friends;
- relaxation techniques: formal methods such as meditation and deep-breathing exercises or informal methods such as listening to music;
- physical exercise;
- empathic response, heightened arousal, and often intense relationships may lead the helper to become keenly aware of grief, pain and anguish regarding refugee crises. If the feelings are not openly acknowledged and resolved, there is the risk that the helper may begin to feel numb or emotionally distant, thus unable to maintain an empathic and responsive approach to the refugees. Sharing in the suffering of others is indeed a substantial stressor regardless of one's training or skill in refugee trauma work. If a worker is unable to perform his duties because of secondary trauma, he should be given the possibility to rest and recuperate. Attention should be paid not to further traumatise the worker or his clients;
- rotation through different types of work activity;
- mandatory intermittent work-free periods (days, weeks);
- good nutrition and adequate sleep; avoid excessive use of stimulants such as sugar and caffeine;
- professional support systems: support groups where professionals who work with refugees and displaced persons can share and work through reactions that are painful and disruptive. It is important that group members do not pathologize the secondary trauma. Both the care provider and the trauma survivor are serviced poorly by such labelling; the care provider by loss of effectiveness in his work and damage to his self-image as a provider/therapist, the trauma survivor by losing trusted carers and feeling somehow responsible for this loss;
- psychological debriefing after crises: a forum for reviewing the experience of working with refugee and displaced populations and experiencing the conflicting feelings of fear, frustration and success that frequently accompany such work.

Immigration Appellate Authority Asylum Gender Guidelines² United Kingdom

(Excerpts: on “Obtaining Oral Evidence”, paras. 5.15 – 5.47. Full text of guidelines available in Gender CD-ROM.)

On Obtaining Oral Evidence

General

5.15 Women face particular difficulties in making their case to the authorities, especially when they have had experiences which are difficult and painful to describe³.

5.16 In the light of some of the particular difficulties which women may face the *judiciary* may wish to consider the procedures which *they* adopt during the hearing and note the options set out at 5.4 above. Adjudicators conducting first hearings may wish to raise these issues at a pre-hearing stage.

5.17 A non-confrontational exploratory interview is critical to allow for the full discussion of past experiences relating to a woman’s claim and to facilitate the giving of all evidence which may be relevant to her claim. Where such an interview has not taken place this may affect the nature and quality of the evidence presented at appeal⁴.

5.18 It is necessary to be aware that the manner in which the Home Office interview(s) was conducted and the manner in which the hearing is conducted may affect the evidence given. Evidence may be best obtained if during an asylum interview of a female asylum seeker the interview room and surrounding environment are conducive to open discussion, including providing ample time and ensuring that there are no disturbances⁵ and if interviewers and decision makers are aware of, and take into account, for example, women’s childcare responsibilities and schedules, distances to be travelled and issues of privacy. Failure to pay attention to such issues may affect the nature and quality of the evidence given⁶.

5.19 Even where the interviewer and the interviewing environment have been supportive of an asylum seeker and good practice has been followed, the interview process itself will impact on the manner in which an asylum seeker gives her testimony and the information which she reveals⁷.

5.20 Any indication that a woman’s claim may not be treated as confidential is likely to seriously hinder her ability to provide full details of her claim and may discourage her from making a claim⁸.

5.21 Emotional trauma and depression is likely to affect a woman’s ability to give testimony⁹, her demeanour and the nature of the evidence which she gives.

² Immigration Appellate Authority, Asylum Gender Guidelines, United Kingdom, dated November 2000, prepared by Nathalia Berkowitz, Senior Legal & Research Officer, and Catriona Jarvis, Immigration Adjudicator.

³ see *R v SSHD ex parte Ejon*, (QBD) [1998] INLR 195 a case in which the asylum seeker was unable to disclose her past experiences of sexual violence. See also ADIMA Guidelines at 3.12 and 3.13. See also Hinchelwood, Dr. G. (Medical Foundation for the Care of Victims of Torture), ‘Interviewing Female Asylum Seekers’ Paper delivered at UNHCR Symposium on Gender-Based Persecution 23 February 1998 and UNHCR Gender-Sensitive Techniques for Interviewing Women Refugees, 1991.

⁴ Goodwin-Gill, G., *The Refugee in International Law*, Oxford University Press (1996), page 355: ‘Research shows [...] that errors in testimony increase dramatically in response to specific questions (25% - 33% more errors) by comparison with spontaneous testimony given in the form of a free report. Such free reports also tend to be sketchy and incomplete, however, and can be most effectively filled out by using ‘open’, rather than ‘closed’ questions.’

⁵ ADIMA Guidelines 3.15.

⁶ see UNHCR Gender-Sensitive Techniques for Interviewing Women Refugees, 1991: ‘Be patient with female applicants to overcome inhibitions, particularly regarding sexual abuse. Questions may need to be asked in a number of different ways before victims of rape and other abuses feel able to tell their stories. Enough time should be allowed during the interviewing process to permit the female applicant to build a rapport with the interviewer so she is able to recount her experiences. Do not ask for details of the sexual abuse; the important thing in establishing a well-founded fear of persecution is to establish that some form has occurred.’

⁷ ADIMA Guidelines 3.21.

⁸ ADIMA Guidelines 3.13.

⁹ see *R v SSHD ex parte Ejon*, (QBD) [1998] INLR 195 in which it was accepted by the High Court that the applicant had been unable to disclose evidence because of psychological damage. See also Bremner et al *Deficits in Short-Term Memory in Post Traumatic Stress Disorder*, *Am J Psychiatry* 150:7, July 1993 - alterations and impairment of memory may be linked to post

5.22 Women may not realise that it is essential to disclose certain information. Where there are factors which would cause women not to disclose such information, they are unlikely to do so unless clearly asked about such experiences.

Effective Communication

5.23 The failure to appreciate cross-cultural differences may jeopardise the quality of the information revealed by a woman and prevent an effective interview taking place. For example the terms 'rape', 'assault', 'detain', 'charge', 'arrest', 'court' and 'hearing' may have different meanings or different connotations in different countries¹⁰.

5.24 Cultural and other differences and trauma play an important role in determining demeanour i.e. how a woman presents herself physically, for example, whether she maintains eye contact, shifts her posture or hesitates when speaking¹¹.

5.25 Body language can be interpreted in many different ways. It is important that interviewers ensure they avoid gestures which may be perceived as intimidating or culturally insensitive or inappropriate and therefore inhibit discussion¹².

Obtaining Oral Evidence: Presence of Family Members

5.26 Female victims of violence, discrimination and abuse often do not volunteer information about their experiences and may be particularly reluctant to do so in the presence of family members or members of their community¹³.

5.27 Women from all societies and especially from societies where the preservation of privacy in sexual or marital matters are important may be very reluctant to disclose certain information relevant to their asylum claim or that of other members of their family particularly where that information relates to sexual or family matters¹⁴. There are good reasons for women not to disclose information about

traumatic stress. Among the literature on the psychological effects of migration, war, etc. See Bathai P, *Stress in Exile*, Issues in Social Work Education Vol. 12.2, Summerfield and Toser, *'Low Intensity' War and Mental Trauma in Nicaragua*, Medicine and War Vol. 7, 84-99 (1991), Summerfield D., *Addressing Human Response to War and Atrocity*, in *Beyond Trauma* (Kleber RJ, ed. 1995). See also the discussion of these issues in *Prosecutor v Jean-Paul Akayesu* (ICTR) Case No. ICTR-96-4-T, 2 September 1998. See also UNHCR Gender-Sensitive Techniques for Interviewing Women Refugees, 1991.

¹⁰ ADIMA Guidelines 3.18, See also the discussion of this issue in *Prosecutor v Jean-Paul Akayesu* (ICTR) Case No. ICTR-96-4-T, 2 September 1998. See also UNHCR Gender-Sensitive Techniques for Interviewing Women Refugees, 1991.

¹¹ ADIMA Guidelines 3.29, See also UNHCR Gender-Sensitive Techniques for Interviewing Women Refugees, 1991: *'Be aware of gender differences in communication, particularly non-verbal communications. As an interviewer avoid intimidating gestures that inhibit responses. In assessing the credibility of the female applicant, for example, do not judge it on the basis of such Western cultural values as the ability to maintain eye contact.'* - See also the discussion of this issue in *Prosecutor v Jean-Paul Akayesu* (ICTR) Case No. ICTR-96-4-T, 2 September 1998: *'... it is a particular feature of the Rwandan culture that people are not always direct in answering questions, especially if the question is delicate. In such cases, the answers given will very often have to be "decoded" in order to be understood correctly. This interpretation will rely on the context, the particular speech community, the identity of and the relation between the orator and the listener, and the subject matter of the question.'*

¹² ADIMA Guidelines 3.23.

¹³ ADIMA Guidelines 3.12, 3.13, 3.27. See also UNHCR Gender-Sensitive Techniques for Interviewing Women Refugees, 1991.

¹⁴ The International Criminal Tribunal for Rwanda has noted 'the cultural sensitivities involved in public discussion of intimate matters and recalls the painful reluctance and inability of [Rwandan] witness to disclose graphic anatomical details of sexual violence they endured.' - see *Prosecutor v Jean-Paul Akayesu* (ICTR) Case No. ICTR-96-4-T, 2 September 1998. Moreover the reporting of rape to authorities is very low even in Western countries. Temkin, J., *Rape and the Legal Process*, 1987, Sweet and Maxwell discusses rape reporting rates in the UK, USA and New Zealand in some detail - see pages 8-16 and notes the very low reporting of rape in those countries. She records a number of surveys including: USA: United States National Crime Survey 1979 estimated that 50% of forcible rapes were reported to the police, a survey by Diana Russell of sexual assault in the San Francisco area in 1978 found that only 1 in 10 rapes (excluding marital rape) were reported to the police. New Zealand: it has been estimated, in 1982, that four out of five 'rape offences' are not reported. Britain: The British Crime Survey: Scotland (published by the Scottish Office 1984) noted that 92% of sexual offences were not reported to the police; in England and Wales the British Crime Survey (published by the Home Office 1982) estimated that only 46% of rape and indecent assault offences were recorded. A survey conducted by Women's Own magazine in 1986 found that 76% of women who claimed to have been raped did not report it to the police; according to the London Rape Crisis Centre 75% of women who reported sexual assault to them between 1976-80 did not report the offence to the police. In the UK the police have concluded that special interviewing techniques and procedures are necessary when dealing with the alleged victims of sexual violence. These initiatives are reported at pages 159-164 of Temkin, J., *Rape and the Legal Process*, 1987, Sweet and Maxwell and include special training for police officers dealing with alleged victims of sexual violence, rape suites, the use of female staff. Note also the pronouncements of the then Deputy Assistant Commissioner Jones of the Metropolitan Police (The Guardian, January 45, 1985) 'We want to kill the myth that rape is sexually motivated - it is usually intended to inflict violence and humiliation.' In relation to Uganda 'in a study of 107 Ugandan women who had been raped by soldiers, only half had told anyone about the rape

their experiences of sexual violence. These can range from the fact that it is very hard to do to the fear that her experiences may become known to others and lead to her being ostracised from her family and / or community¹⁵. Further “some women cannot bear to believe the facts of their having been raped and therefore not only deny it to outsiders but even deny their experience to themselves.”¹⁶

5.28 If family or community members are present during the giving of evidence / interviewing this may affect the nature and quality of the evidence given¹⁷. Good interviewing practice includes asking asylum seekers *privately* whether they want to be interviewed outside the hearing of other members of the family, especially male family members and children.

5.29 These factors apply to pre-hearing interviews and also to the giving of directions and the hearing of a woman’s asylum appeal at the IAA.

Obtaining Oral Evidence: Interpreters, Interviewers and Appeals

5.30 A woman may be reluctant, or find it difficult, to talk about her experiences through a male (or even female) interpreter or one who is a member of her community especially where these experiences relate to sexual or family issues¹⁸.

5.31 Many women have been abused by men. Coupled with a fear and distrust of authorities, this fact is likely to seriously inhibit the capacity of a woman to divulge details of her experiences to a man or through a male interpreter¹⁹.

5.32 The asylum applicant should be asked whether she would like a female interviewer and / or interpreter. The European Union Minimum Guarantees on Asylum Procedures state that: “Member States must endeavour to involve skilled female employees and female interpreters in the asylum procedure where necessary, particularly where female asylum-seekers find it difficult to present the grounds for their application in a comprehensive manner owing to the experiences they have undergone or to their cultural origin.”²⁰

5.33 Merely being a female does **not** guarantee an awareness of gender issues²¹ and even where the interviewer / interpreters have been female an asylum seeker may still not have fully disclosed all important features of her asylum claim²².

5.34 These factors may also apply to the giving of directions and the hearing of a woman’s asylum appeal at the IAA.

Obtaining Oral Evidence: Interviews and Appeals: Asking the Right Questions

5.35 The information revealed by an asylum seeker will reflect the ways in which questions are asked²³. Unless the correct questions are asked it is unlikely that full disclosure will be made either at

incident as many as 7 years after the rape, despite the fact that all still had problems related to the rape when they finally spoke of it.’ and ‘For Ugandan women, the experience of rape disrupted their sense of community; keeping this aspect of their lives secret alienated them from other people. These women often expressed the fear that they would be rejected by their partners and the rest of the community.’ Giller, JE, *War, Women and Rape*, London University 1995. Thesis; quoted in Swiss S and Giller JE, *Rape as a Crime of War: A Medical Perspective* in ‘The Journal of the American Medical Association’ August 4 1992 Vol. 470.

¹⁵ In Kosovo ethnic Albanian women consider that [rape] is the worst possible thing ... They would rather die than be raped, especially the unmarried, whose life is then essentially over.’ Indeed the subject is so fraught that counsellors and doctors have great problems in finding out who the victims are: ‘They cannot come and admit that they have been raped’, according to the humanitarian medical agency, *Medecins sans Frontieres*, reported in The Guardian, 19 October 1999 *Kosovo’s Wounded Women find no peace*; ADIMA Guidelines 3.12, 3.13, 3.28, 4.8.

¹⁶ Dr Hinchelwood, (Medical Foundation for the Care of Victims of Torture), see letter from Medical Foundation for the Care of Victims of Torture to the IAA dated 21 February 2000.

¹⁷ ADIMA Guidelines 3.12, 3.13.

¹⁸ ADIMA Guidelines 3.13. See also UNHCR Gender-Sensitive Techniques for Interviewing Women Refugees, 1991: ‘The recruitment and training of female interpreters is a precondition for the most effective interviewing.’

¹⁹ ADIMA Guidelines 3.13, 60. See also UNHCR Guidelines on the Protection of Refugee Women (‘UNHCR Guidelines’).

²⁰ see European Union Minimum Guarantees on Asylum Procedures, para. 28.

²¹ In Sierra Leone ‘Victims of sexual abuse frequently reported female rebels having taken part in rounding up operations [for rape and sexual abuse] and often singling out girls and women for their commanders.’ Human Rights Watch, *Sierra Leone: Getting Away with Murder, Mutilation, Rape, New Testimony from Sierra Leone*, July 1999

²² ADIMA Guidelines 3.21.

²³ For information on the conduct of Home Office asylum interviews see Crawley, H., *Breaking Down the Barriers: A report on the conduct of asylum interviews at ports*, ILPA (1999).

interview or during the appeal hearing. The use of interpreters exacerbates this problem - unless clear and precise questions are asked they may be interpreted with a different meaning or nuance²⁴.

5.36 Some knowledge about the status and roles of women in the country from which the applicant has fled may assist the questioner in asking the right questions²⁵.

5.37 Questions asked during asylum interviews and hearings sometimes reflect the dominant conception that a refugee is generally a man involved in conventional politics²⁶. It is important to ensure that the questions asked encompass the problems often faced by women. For example:

- a) Questions about political activities should not focus only on political activities as narrowly defined - such as office holding, but should be wider ranging as political activities may also include *but are not limited to* providing food or shelter, message taking, hiding people or refusing to conform to particular social norms.
- b) Where questions are asked about 'persecution' or 'torture' female asylum seekers may not give information about the particular ill-treatment which they have suffered. This may occur because the asylum seeker does not herself understand that the terms 'torture' or 'persecution' may include sexual violence, violence within the family, marriage-related harm, abortion and other forms of harm often suffered by women. A different approach might include asking whether an applicant had been, and feared being, 'treated badly'²⁷.

5.38 Non-confrontational open and / or indirect questions allow the questioner to establish the applicant's reasons for fleeing and to obtain indications about whether gender-related harm has occurred²⁸.

5.39 More direct follow-up questions should be asked to ascertain details of the woman's full experiences. It should be remembered that a woman may not know what information is relevant to her claim and the questioner must use their skills to ensure that the correct information is disclosed²⁹. Moreover the questioner may not be aware of what information is relevant until the end of the interview. In such circumstances steps should be taken to ensure that a woman is questioned about these issues.

'... while the burden of proof in principle rests on the [asylum] applicant, the duty to ascertain and evaluate all the relevant facts is shared between the applicant and the examiner. Indeed, in some cases, it may be for the examiner to use all the means at his disposal to produce the necessary evidence in support of the application...' - paragraph 195, UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status, Geneva (re-edited 1992)

'While an initial interview should normally suffice to bring an applicant's story to light, it may be necessary for the examiner to clarify any apparent inconsistencies and to resolve any contradictions in a further interview, and to find an explanation for any misrepresentation or concealment of material facts. Untrue statements by themselves are not a reason for refusal of refugee status and it is the examiner's responsibility to evaluate such statements in the light of all the circumstances of the case.' [paragraph 199, UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status, Geneva (re-edited 1992)]

Credibility

5.40 Women may face additional problems in demonstrating that their claims are credible³⁰. Information to support a woman's claim may not be readily available and the nature of women's

²⁴ ADIMA Guidelines 3.18.

²⁵ ADIMA Guidelines 3.14.

²⁶ Crawley, H., *Women as Asylum Seekers: A legal handbook*, ILPA (1997) paragraph 2.2.4 at p24 and also Crawley, H., *Breaking Down the Barriers: A report on the conduct of asylum interviews at ports*, ILPA (1999).

²⁷ Crawley, H., *Women as Asylum Seekers: A legal handbook*, ILPA (1997).

²⁸ see footnote 64 above.

²⁹ ADIMA Guidelines 3.27.

³⁰ Immigration and Refugee Board of Canada Gender Guidelines ('Canadian Guidelines') D.

experiences and position in society may make it difficult or impossible for them to document their claims or provide evidence.

Absence of Documentary Evidence

5.41 In many circumstances refugees do not have documentary evidence relating to events which have taken place or their fears of future persecution³¹. The nature of women's activities and place within society may lead them to have particular problems³².

The following are some examples (this list is not exhaustive):

- a) an asylum seeker who has been persecuted because she consistently refuses to wear the veil in protest against Islamisation is unlikely to have a document to show this;
- b) an asylum seeker who has been persecuted on the basis of her husband's membership of a political party may not herself hold a party membership card and may be unable to produce her husband's card or evidence of their relationship;
- c) an asylum seeker who has been persecuted on the basis of political activities such as running a soup kitchen for trade unionists, or providing shelter for politicians may not hold a party membership card;
- d) an asylum seeker who has been persecuted because of her sexual orientation is unlikely to have documentary evidence of her sexual orientation³³; and
- e) reports regarding circumstances in the asylum seekers country of origin may fail to document or address particular issues relating to women, even where a sub-section of the report pertains to women.

Corroboration

5.42 In many cases evidence given by an asylum seeker will not be corroborated; absence of corroboration does not mean that the account given is not credible. It is an error of law to require corroborative evidence in an asylum case³⁴.

Delay

5.43 Delay in claiming asylum or revealing full details of an asylum claim will not necessarily be due to the lack of credibility of a particular asylum claim or claimant.

- *A woman's priority is to achieve safety and security* (for herself and / or family members). She may not claim asylum whilst she is able to achieve safety, however temporary or illusory, through other means, whether legal or illegal. This may account for the delay in claiming asylum.
- Accepting that one is an exile is very difficult especially if it means leaving loved ones at home. This difficulty may be expressed as ambivalence about enduring exile; this is not an uncommon phenomena among women asylum seekers³⁵.
- Torture, sexual violence and other persecutory treatment produce feelings of profound shame³⁶. This 'shame response' is a major obstacle to disclosure. Many victims will never speak about sexual violence or will remain silent about it for many years³⁷.
- Delay in claiming asylum and / or in revealing full details about an asylum claim may also be validly occasioned by other factors including many procedural and evidential factors outlined in these guidelines (see, for example, access by women to the asylum

³¹ see, for example, UNHCR Handbook paragraphs 196-197, 203.

³² Canadian Guidelines C2: '...decision-makers should consider the fact that the forms of evidence which the claimant might normally provide ... of state inability to protect, will not always be either available or useful in cases of gender-related persecution.'

³³ Such cases may be considered either under the Convention ground of 'particular social group' (see paragraphs 3.34 - 3.38 above) or political opinion (see paragraphs 3.17-3.33).

³⁴ *Ackah* IAT (10953) "By making a general finding of lack of credibility and following that with a recording of statements made by the appellant with no reason as to why these should not be credible, apart from lack of substantiation, leaves open the distinct possibility that the reason for the lack of credibility was the lack of substantiation ... an appellant is entitled to know why an adjudicator disbelieves him or her, be it that the statements are inherently improbable, the evidence is contradictory or inconsistent, or the witness' demeanour and the way in which evidence is given. In this determination (apart from the lack of substantiation) there is no reason." *Kasolo* (IAT) (13190) 'It is a misdirection, in our view, to imply that corroboration is necessary.'

³⁵ Dr Hinchelwood, Letter from Medical Foundation for the Care of Victims of Torture to the IAA dated 21 February 2000.

³⁶ Dr. G., Hinchelwood, (Medical Foundation for the Care of Victims of Torture), Report to UN Experts Committee, 6 November 1997

³⁷ see, for example, Guler, J et al., *Uganda: War, Women and Rape*, The Lancet Vol. 337, March 9 1991 set out in full at footnote 37

determination process at paragraphs 5.7 - 5.14 above).

Demeanour

5.44 The level and type of emotion displayed by a woman during the recounting of her experiences should play a limited role in assessing her credibility. Individual, cultural and other differences and trauma³⁸ all play an important role in determining demeanour and make it difficult to assess credibility.

A lack of displayed emotion does not necessarily mean that the woman is not distressed or deeply affected by what has happened³⁹. Assessing demeanour of a witness may be particularly difficult where she is from a different country, is giving evidence either through an interpreter or in English which is not their first language.

'as Bingham MR said at various points of his article in "Current Legal Problems" 1985 Volume 38 at page 14:

"A second note of caution must also be sounded. An English judge may have, or think that he has, a shrewd idea of how a Lloyds Broker or a Bristol wholesaler, or a Norfolk farmer, might react in some situation which is canvassed in the course of a case but he may, and I think should, feel very much more uncertain about the reactions of a Nigerian merchant, or an Indian ships' engineer, or a Yugoslav banker. Or even, to take a more homely example, a Sikh shopkeeper trading in Bradford. No judge worth his salt could possibly assume that men of different nationalities, education, trades, experience, creeds and temperaments would act as he might think he would have done or even - which may be quite different - in accordance with his concept of what a reasonable man would have done"

There is then the further source of unreliability arising principally from the fallibility of human memory. Recollections are known to fade and to be recalled. Evidence from a witness who belongs to some other nationality giving evidence in a language other than English and through an interpreter ... again are a cause of uncertainty: a matter which an adjudicator should properly take into account in assessing credibility.... it is generally considered as central to the adjudicator's task that there is an assessment of credibility. In a cross-cultural situation, frequently through interpreters this is a formidable task.' [Kasolo (IAT) (13190)]

'I cite, for the purpose of adopting it as an expression of my own view, a passage from "The Judge as Juror: The Judicial Determination of Factual Issues", a lecture given by Bingham J at University College, London, on 7 February 1985 and published in Current Legal Problems, 1985, page 1. "...To rely on demeanour is in most cases to attach importance to deviations from a norm when there is in truth no norm." [R v SSHD ex parte Patel (QBD) [1986] Imm AR 208].

'In assessing the credibility of the female applicant, for example, do not judge it on the basis of such Western cultural values as the ability to maintain eye contact.' [UNHCR, Gender-Sensitive Techniques for Interviewing Women Refugees (1991)]

Evidence where persecution grounds are attributed / imputed and persecution as a family member

5.45 In some circumstances women may not be able to give full details of the reasons for their ill-treatment. This may be a particular problem where women are persecuted for an imputed / attributed convention reason or where they are persecuted because they are a member of a family. Women may not know details of the activities of the relatives, community members whose views / identity are imputed or attributed to them. In many cultures men do not share information about their political, military or even social activities with their female relatives, communities or associates⁴⁰.

³⁸ see, for example, Swiss, S., & Guler, J., 'Rape as a Crime of War, A Medical Perspective', in The Journal of the American Medical Association, see footnotes 36 and 37 above.

³⁹ ADIMA Guidelines 3.29.

⁴⁰ Canadian Guidelines D2; UNHCR, Gender-Sensitive Techniques for Interviewing Women Refugees (1991): 'Understand that women in many societies do not have specific information about the activities of men in their families. Gaps in their knowledge should not be construed as lack of credibility unless there is other evidence of such lack of credibility.'

Oral Evidence - discrepancies

5.46 When two (or more) people give separate accounts of the same set of circumstances it is inevitable that differences occur due to recall, emphasis and perspective. Such differences do not necessarily indicate that the witnesses are not giving a truthful account to the best of their recollection and belief.

5.47 There are many reasons, some of which are referred to above, why women in particular are not forthcoming with full information about their experiences which will be exacerbated if gender-sensitive interviewing procedures are not followed. Special care must be taken in relation to evidence pertaining to sexual violence; care must be taken before drawing any adverse inferences where an appellant, or other witness, has earlier described a rape as an attempted rape or as touching, beating or other ill-treatment or even as pain or illness⁴¹.

⁴¹ ‘... of 107 Ugandan women raped during war, only two presented with what could be called psychological symptoms (nightmares and loss of libido). Fifty-three percent described their distress in physical complaints (headaches, chest pain and rashes) and 57% in gynaecological symptoms. The persistence of perceived infestation in this group often despite multiple treatment for symptoms (approximately two thirds had no clinical findings of infection) reflects a common sequel to rape of feeling dirty and infected. For Ugandan women, the experience of rape disrupted their sense of community: keeping this aspect of their lives secret alienated them from other people. These women often expressed the fear that they would be rejected by their partners and the rest of the community.’ Swiss, S. and Giller J.E., *Rape as a Crime of War: A Medical Perspective* in ‘The Journal of the American Medical Association’ August 4 1992 Vol. 470.



Chapter 6

Theme 2: Interpreting



Theme 2: Interpreting

Interpreting: gender considerations in the context of the RSD Interview

Part I **Background Readings**

Interpreting in a Refugee Context UNHCR Training Module, June 1993 RLD 3

Table of Contents (Excerpts)

INTRODUCTION

CHAPTER ONE

Understanding the Context

Why was UNHCR created?

- ✓ What is its mandate?

Where and how does UNHCR operate?

What kind of work does UNHCR do?

What is meant by UNHCR's protection functions

- ✓ How does the determination process work?

CHAPTER TWO

Choosing the Type of Interpretation

The four types of interpretation (and their variations)

Typical situations where each apply

CHAPTER THREE

Taking Notes for Consecutive Interpretation

How note-taking can help you in consecutive interpretation

What you should find in your notes

What to avoid

How to proceed (in particular in choosing your symbols)

Basic points to remember

How to train on your own

CHAPTER FOUR

Some General Advice

Some general guidelines on quality

Tips on the delivery of consecutive interpretation

Maintaining accuracy and neutrality

Interpreting for refugee children

- ✓ Interpreting for refugee women

Guidelines on attitude and conduct

Interpreting in a Refugee Context

(Selected Excerpts pp. 7-12 adapted for the purpose of this Kit)

Understanding the Context

As an interpreter working in the refugee context, it is important to understand the broader context of this work. [...] Although the information provided here is brief, it is important that you read it carefully.

What is UNHCR's Mandate?

UNHCR has two basic functions, which are as follows:

- To provide international protection to refugees
- To seek lasting solutions to their problems.

How does the [refugee status] determination process work ?

The refugee definition contained in the 1951 Convention and in UNHCR's Statute provides that an applicant for refugee status must meet four main criteria:

1. [be] outside the country of origin;
2. [have] a well-founded fear;
3. [of] persecution;
4. [for] reasons [of]: (race, religion, nationality, membership in a particular social group, or political opinion)

The purpose of the interview is to establish whether the applicant meets these criteria. UNHCR's involvement in the determination of refugee status varies from country to country.

- It can confer refugee status in accordance with its Statute. This is what happens when the country is not a party to the 1951 Convention or other international treaties. It can also happen in a country which has signed and/ or ratified the Convention, but has not introduced national legislation to implement it;
- It can conduct the determination process on behalf of the national authorities, which prefer to leave this responsibility to UNHCR;
- It can participate in the determination process, as an observer/ adviser. This usually occurs at the appeal stage;
- Outside the procedure itself, UNHCR may review rejected applicants who are due to be expelled.

The need for your services may occur in any of these scenarios. It is the responsibility of the interviewer to explain which process applies, and the sequence of events. It is also the responsibility of the interviewer to listen carefully to the applicant's case, to ask questions and assess whether or not he/ she meets the legal criteria.

As interpreter, your role is to assist in this process by providing a channel for communication. Each party speaks through your voice. It is an important role that must be accomplished with a high degree of professionalism. [...]

Interpreting for refugee women

(Selected Excerpts pp. 34-38 adapted for the purpose of this Kit)

There exists a set of "Guidelines on the protection of refugee women" that should be available from the UNHCR field office, and which you may wish to consult, giving special attention to the section on legal procedures and the criteria for the determination of refugee status.

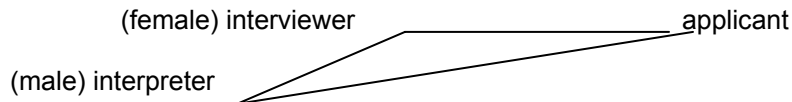
It is important for the interviewer and the interpreter to work together to create a setting that will allow the applicant to explain her story with the least difficulty possible. This is particularly true if the applicant has suffered traumatic experiences such as rape or physical abuse, since she may well be experiencing persistent fear, loss of self-confidence and self-esteem, and various other distressing symptoms that make it hard for her to communicate. Your task will of course be easier if you are also a woman, and the interviewer is female. If this is the case, you can follow the advice given earlier in a preceding section concerning seating arrangements. Here it is again, for easy reference.



This arrangement should change if the interpreter is male, or if the interviewer is male, since there will be another relationship between participants.

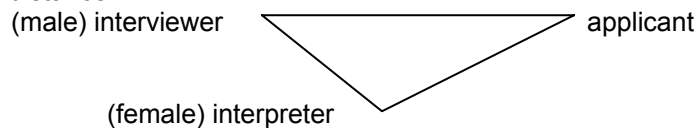
- **Male interpreter with female interviewer**

In this scenario, it is preferable for the male interpreter to take more distance from the interviewer, and for the latter to move closer to the applicant.



- **Female interpreter with male interviewer**

Here it is preferable for the female interpreter to move closer to the applicant, while the interviewer maintains more distance.



Guidelines on attitude and conduct

As we have been reminded throughout this module, the task of an interpreter is difficult in any circumstances. To do it well requires concentration, language skills, agility of mind as well as many personal qualities.

Interpreting in a refugee context can make even greater demands. The conditions in which you work may be noisy and uncomfortable, making concentration more difficult. There may be wide cultural gaps between the various parties, calling for more than a simple translation of the words that are spoken. You may need vocabulary or notions that are new or unfamiliar to you.

More serious still, the interviewer may make other demands on you, expecting you to run errands or perform tasks that are not those of an interpreter. [...] Alternatively, the applicants may seek to put pressure on you, using bribes or threats and demanding you to lie on their behalf.

It is therefore extremely important for you to be clear on your attitude and conduct as interpreter. What follows is a set of rights and responsibilities which we recommend you to use as a code of professional conduct. It is in your interest to remind yourself of this code as a means of guiding and protecting yourself.

YOUR RIGHTS AS INTERPRETER

- **Adequate briefing**

Ask to be given adequate briefing on the job to be performed. This must include the background of the case about to be heard. Time may be short, but you will perform more effectively if you are briefed on the purpose and context of your work. Ideally the interviewer will organise a training session before you start, but this will depend on individual circumstances.

- **Defining your role**

It should be standard practice for the interviewer to introduce you to the applicant, and define your role. This is not merely a matter of courtesy. It can also help to protect you against pressure from the applicant if the interviewer makes it clear that your role is to allow communication, but that you have no responsibility for the outcome of the interview.

- **Obtaining respect**

As interpreter, you are entitled to be treated as [a professional]. [...] There may of course be circumstances in which you will be asked to perform a task or make an enquiry which the interviewer is unable to do because of the language barrier. This should, however, be the exception rather than the rule [...]

- **Gaining the right support**

To perform effectively, you need the support of the interviewer. If things go wrong, and if misunderstandings arise, you must be given the opportunity to interrupt the interview and put things right. Even though the interviewer may be working against the clock, he/she must give you support in this way.

YOUR RESPONSIBILITIES AS INTERPRETER

The rights we have just defined are complemented by responsibilities. These are briefly described below.

- **Maintaining a high level of performance**

[...] As an interpreter your task is to be as accurate as possible. If in doubt as to the meaning of what has been said, it is preferable to ask for additional explanation. It is equally important to maintain your cultural sensitivity, since communication is much more than just words and phrases.

- **Remaining neutral**

As interpreter, it is not your role to take sides. You may well feel sympathy for the applicant, but you are not allowed to act as his/her advocate. As mentioned earlier, the applicant may even insist that you should invent or lie on his/her behalf. Never accede to such a request. Your credibility and that of the interpreter's function is at stake.

You may even feel compelled to refuse to act as interpreter if there are strong personal ties between yourself and the applicant. This could happen if, for example, you are of the same family or close community.

- **Maintaining confidentiality**

It is standard practice for professional interpreters to maintain strict confidentiality as to the content of any discussions to which they are party. This requirement must apply rigidly to interviews for refugee status. Revealing facts that concern an applicant's story could be of great danger, for example, for family members or relatives who are still in the country of origin. With this in mind:

- never discuss what you have heard during an interview with anyone outside the interview;
- destroy your written notes as soon as you no longer need them. If you need to keep them between interviews, always make sure they are inaccessible to anyone but yourself.

- **Refraining from abusing your power**

As interpreter, you are often the only person who can follow exactly what is going on in a given circumstance for which your services are needed. In addition to the constraints we have already defined, this situation brings with it a certain power. You owe it to your function to resist any temptation to abuse that power, but on the contrary to use it constructively.

In conclusion you will find a summary of these rights and obligations. Together they make up your code of conduct.

Rights	Responsibilities
Adequate briefing	Maintaining a high level of performance
Defining your role	Remaining neutral
Obtaining respect	Maintaining confidentiality
Gaining the right support	Refraining from abusing your power

Guide for Interviewers

Working with an Interpreter in RSD Interviews⁴²

The following are some key points interviewers should keep in mind when working with interpreters during RSD interviews, and in particular in relation to gender issues which may arise during the interviewing process.

I. General Reminders

1. The interview: a dynamic relationship between three persons:

When an interpreter is present, the interview does not just involve a relationship between the applicant and the interviewer. It becomes a dynamic relationship which involves three persons, with the interpreter relaying the information.

This dynamic is especially important to keep in mind in sensitive or gender-related asylum claims. In such cases, the applicant should be asked if he/she wishes to have female or male interpreter⁴³. If the sensitive nature of the case is known beforehand, the interviewer should inform the interpreter of this. Applicants may also find it difficult to speak through a member of their community when their experiences involve sexual or family issues.⁴⁴ To the extent possible, interpreters in cases involving sexual abuse or rape, should have an awareness of gender issues, and an understanding of cross-cultural experiences, especially in relation to sexual matters and the difficulties in interpreting words relating to acts of sexual violence (e.g. rape, assault) which have different connotations in the applicant's language.⁴⁵

In cases where the female applicant comes from a culture where it is not permitted to be alone with or speak with a man, or where she has had little exposure to the outside world or officials, having a female interviewer and interpreter may be critical to encourage her to be open and even attend the interview.

2. The role of the interpreter:

The interviewer should inform the interpreter of what his/her role is to be during the interview and fill out any other formalities (e.g. filling out a sworn statement, or confidentiality form etc). The interviewer should also introduce the interpreter to the applicant and explain his/her role, assuring him/her that the interpreter is also bound to the rule of confidentiality and has no influence on the outcome of the status determination.

3. Competency of the interpreter:

While it is better to determine the competence of an interpreter before the interview takes place, the interviewer may determine that the interpreter is not competent to translate the interview **at any time** during the course of the interview, and reschedule it, if they are unable to resolve the issue. A lack of competence may be due, for example, to insufficient language skills, or because there is good reason to believe that the interpreter is providing answers to the applicant or otherwise altering what is being said (e.g., embellishing, changing the questions and answers).

Particularly in cases involving information about sexual violence, it is important to have a knowledgeable and capable interpreter; the applicant should not have to repeat or unduly explain this sensitive information due to the interpreter's lack of skill.⁴⁶

4. Factors affecting the accuracy of interpretation include:

⁴² . Prepared by Rosa Da Costa, UNHCR, legal consultant. 2002.

⁴³ Male applicants should in certain circumstances also be given a choice about the sex of their interviewer and interpreter. For example, in cases involving sexual abuse or sexual orientation, some male applicants may actually feel more comfortable speaking to female staff.

⁴⁴ UK, *IAA Gender Guidelines*, at 48 (in footnote 119).

⁴⁵ Australia, *Guidelines on Gender Issues for Decision Makers*, at 11, para. 3.16.

⁴⁶ Sweden, *Gender-based persecution: Guideline for investigation and evaluation of the needs of women for protection*, at section on "choice of interpreter".

- **Language ability:** the interpreter may not be sufficiently fluent in the language of the interviewer or applicant. Interpreters may in some cases be a friend or relative of the applicant, and even the language of “professionals” varies considerably. Even if the interpreter is fluent, the language of the interviewer is often not his/her native language, so that subtleties of that language and idiomatic expressions will not be completely understood by the interpreter;
- Many **terms** used during an asylum interview, such as “persecution”, “torture”, “threats”, may not be words usually employed by the interpreter if the interviewing language is his second language;
- If the interpreter is not a “professional”, he/she may not have had any or much experience translating and may **not understand the role of an interpreter**;
- The applicant may not know **how to communicate effectively** through an interpreter (e.g., by pausing, avoiding idioms);
- The interpreter and applicant may never have met before the interview and may be **unfamiliar** with each other’s accent, pronunciation, and mannerisms;
- **Cultural factors** also influence interpretation. Interpreters and applicants are usually from a culture different from that of the interviewer; the exchange of information is therefore, not only from one language to another but also from one culture to another. If the applicant and interpreters are also each from different cultural backgrounds, this adds yet another cultural layer through which the information must be passed.

Cultural factors, together with the effect of trauma, play a particularly important role in gender-related asylum claims involving **sexual and gender-based violence**. For example, in order not to “bring shame” on herself and her family, an applicant may use vague terms, indirect references, or otherwise use terms which minimise (and even change the nature of) the acts of sexual violence against her. This may also occur if it is taboo in the applicant’s culture to openly discuss such acts, or rape.

Moreover, even if the applicant chooses to discuss this aspect of his/her claim, the interpreter may not feel comfortable and may substitute the words used. For example, by using “harm” or “hurt” instead of “rape”, or “harassed” instead of “violated me”.

- **Disposition of the Interpreter:** can influence the interpretation, and even distort the testimony. Interpreters are rarely perfectly neutral, and their disposition towards either the applicant or interviewer can affect the communication and accuracy of the translation. For example, the interpreter may try to impress the interviewer with his/her language abilities, distance him/herself from the applicant if they feel the person is from a lower socio-economic group, or put their country or culture in a more favourable light.

II. Ways to Facilitate the Interpretation Process

There are many ways in which the interviewer can facilitate the interpretation process, including the following:

- **Addressing the applicant directly**, including by facing and directing questions or comments to the applicant. The interviewer should not tell the interpreter to ask the applicant a question or refer to the applicant in the third person;(e.g., “what did you do next?” directed at the applicant-is proper. Whereas, “Ask her what she did next” looking at the interpreter-is not proper);
- **Avoid conversations with the interpreter** which are not translated to the applicant;
- **Be conscious of speech patterns** and consider how they may or may not facilitate the interpretation (e.g. speaking quickly, too softly, changing thoughts in mid-sentence). Work to avoid patterns which impede a good interpretation;

- **Choose words carefully** and avoid idioms: choose words which have clear meanings, are easily understood, and in cases involving sexual violence, be aware of cultural connotations of certain words;
- Be conscious of **certain pronouns** and avoid them if possible: when posing questions such as : “what did he do?”, use “what did the policeman do” instead. This avoids confusion, since the interpreter or applicant may not be clear on who you mean by “he”;
- **Speak clearly**, and when necessary, slowly: particularly at the beginning of an interview;
- Ask **straightforward questions**, and avoid making statements which sound like questions : (e.g., “so you were never at the demonstration” . The answer could be “yes” –as in, yes, you are right I was never at the demonstration”. Or it could be “yes” – I was at the demonstration);
- Keep questions clear and simple and **ask specific questions** one at a time, not several questions at once;
- Break down what is to be said into **reasonable amounts of information**;
- **Ask the applicant** to break his/her statements into short segments so that they can be interpreted accurately;
- **Repeat the question** slowly or rephrase it if the interpreter or applicant does not appear to understand;
- **Check with the interpreter** to ensure that he/she understands what is being said –especially at the beginning of the interview. You can do this by asking the interpreter if he/she is having any problem understanding him or the applicant, or if they are speaking too quickly. Be aware that the interpreter may be reluctant to admit difficulties due to embarrassment, pride etc. To verify, have the interpreter repeat back to you what he/she said to the applicant, or what the applicant said to him/her. Watch for signs that the interpreter or applicant are experiencing difficulties and try to resolve the difficulties at the beginning of the interview;
- **Remind the interpreter of his/her role** when necessary during the interview. This may be necessary for example, if the interpreter is stepping out of his/her role and “taking over” parts of the interview.



Interviewing and Interpreting Themes 1 and 2

Part II Training Sessions

Training Session No. 18

Session Title: Conducting Gender Sensitive RSD Interviews

Target Group: 15-20 UNHCR staff, NGO lawyers, government officials, interpreters and interviewers.

Time Duration: One Day

Session Objectives:

- To raise awareness of the special problems and issues refugees who experienced trauma, including women, may face in making their case to the authorities.
- To increase awareness of the possible barriers to communication experienced by women during the interview, as well as the procedures and methods to address these.
- To increase understanding about the roles, rights and responsibilities of all actors during the interview process.
- To gain insight into the RSD interview process from the perspective of the different actors involved
- To improve interviewing /interpreting skills through role-play and exchange with colleagues.

Note: RSD interviews, especially those involving trauma cases, often trigger strong emotions and a considerable amount of stress for interviewers and interpreters. These emotions may be brought up during training sessions. For this reason, it is advised that facilitators handle the sessions carefully in order not to illicit strong emotions when they do not have the time or possibility to address them properly and offer closure to participants.

Session Outline

1. Welcome, facilitator introduces him/herself, and outlines the day's agenda (10 mins)
2. Ask participants to speak to person next to them, telling them basic facts about themselves, and the best experience of their lives. (10 mins)
3. Participants introduce person next to them (this exercise may be done even if most participants know each other, but is not necessary if the facilitator also knows them). (15 mins)
4. Ask participants: What are your expectations of this training session? Record answers on a flip chart. (10 mins)
5. Training Session Objectives: Make the training objectives visible by using TM no.153 and ask a participant to read them. Add any relevant expectations mentioned by participants which could realistically be included as objectives. (10 mins)
6. **Exercise 1:** Think of the worst experience of your life : (5-10 mins)
Ask someone to close the lights in the room, and ask participants for total silence for 2 minutes. Tell them to close their eyes and think of the worst experience of their lives during this time. Once the time is up, open the lights and ask them to open their eyes. Ask participants if anyone would like to share their experience with the group. Most probably, no one or few people will volunteer to do this. If someone does volunteer, make sure you acknowledge their experience and thank them.⁴⁷
7. Make the link with the next presentation, by noting how this is what refugees are expected to do when we interview them, i.e., tell a stranger (or two, if it involves an interpreter) they have never met, about what may be the most traumatic, painful (and therefore private) events of their lives. Refugee women and other persons who have suffered trauma may experience particular difficulties during interviews. For this reason it is important to ensure the best possible conditions for the interview The first step in this process is ensuring effective communication and team work between interpreters and interviewers. (5 mins)
8. Introduce the next topic: **Roles, Rights and Responsibilities** of Interviewers and

⁴⁷ . This exercise is borrowed from a Hinshelwood Gill (1997) "Interviewing Female Asylum Seekers" p.159 in *International Journal of Refugee Law Special Edition Autumn 1997* OUP, Oxford.

Interpreters: (25 mins)

Comment that in order to get the interview right, we must first be clear about our respective roles, rights and responsibilities during RSD interviews. Ask participants for ideas on these, and record answers on a flip chart, with a different column for interviewers and interpreters. Then proceed to provide some further details and guidance on the topic. (See TM nos. 155-159 which may assist you in this).

9. **Coffee/ Tea Break (15 mins)**

10. **Brainstorming in Plenary:** Special problems faced during RSD interviews by refugees, including women, who have suffered trauma. (10-15 mins)

Record answers by participants on a flip chart, and use this to lead into your next presentation.

11. **Presentation:** Gender-Related Issues and Standards in RSD Interviews. (20 mins (See facilitator's notes, and TM nos. 105-106, 108-109, 114; 160-165 (women); 166-171 (trauma))

Before you take the lunch break ask for seven volunteers to do the two role-plays in the afternoon session. Role- plays 1 and 2 correspond to TM nos. 172, 173. There should be 5 women, and 2 men (though you may decide to change this). Break the session for lunch and have the volunteers stay behind so that you may give them each their scenario and specific instructions for their role (see facilitator's notes for further details). (10 mins)

12. **Lunch Break (1 hour)**

13. **Enactment of the Role-Play 1:** (15 mins)

Ask the volunteers to act out the scene to this role-play. You should stop the role-play once there is enough 'material' for you to draw the key messages for this exercise (these are indicated in TM no. 172).

14. **Feedback from participants, in plenary:** (15 mins)

Once the role-play is complete, ask: "From the very beginning of the interview, what went well, what didn't go well?" "Why?" and "What could have been done differently". Ensure you ask the participants who enacted the role-play for their impressions also. (See facilitator's notes, and also TM no. 172 for helpful suggestions).

15. **Five Minute Break**

During the short break, ask the volunteers for the next role-play (no. 2) to set up the sitting arrangements and prepare for enacting their roles.

16. **Enactment of Role-Play 2:** (10-15 mins)

17. **Discussion on the role-play, in plenary:** (15 mins).

Once the role-play is finished, ask all participants, "What went well in the interview?" What didn't go well? Why? What options are there open to you as the interviewer in this sort of situation? What could/should have been done differently? Make sure you also ask participants doing the role-play for their impressions of how it went. (See facilitator's notes and also some suggestions on issues to highlight in TM no. 173).

18. **Small Group Exercise:** Dealing with Stress. (20 mins)

In groups of 4-5 (mixed interpreters and interviewers) ask participants to discuss how they deal with the stress of interviewing and interpreting, particularly in cases involving trauma and violence. How do they know when they or their colleagues are stressed? (See facilitator's notes).

19. **Feedback in plenary by group rapporteurs, followed by discussion session.** (30 mins)

21. **Presentation by local psychologist: identifying and dealing with stress (for staff).** (20 mins)

22. **Followed by discussion in plenary:** How to build support for staff. Record answers on a flip chart, and mention that these recommendations will be compiled and sent to their

organisations and all participants at the training within the next two weeks. (30mins)
23. Review of the day and closing of the session.

Suggestions on Preparation

1. The readings included in Part I of this chapter are essential to your preparation for this training session. In addition, it is also recommended that you review the following:
 - UNHCR *Interviewing Applicants for Refugee Status*, Training Module RLD 4, Training with UNHCR Series, 1995.
 - UNHCR, *Sexual Violence Against Refugees: Guidelines on Prevention and Response*, Geneva, 1995.
 - UNHCR, *Interpreting in a Refugee Context*, Training Module RLD 3, Training with UNHCR Series, June 1993.
 - **You may also find the following helpful:**
 - The readings in Part I of chapter 4 on Sexual and Gender-Based Violence (in this Gender Handbook).
 - The readings in Part I of chapter 5 on Refugee Status Determination, and particularly “Sexual Violence and Refugee Status Determination” (in this Gender Handbook).
 - Hinshelwood, Gill, “Interviewing Female Asylum Seekers” p.159 in *International Journal of Refugee Law Special Edition Autumn 1997* OUP, Oxford.
2. Review the role-plays carefully before the training in order to ensure that you understand the instructions and key messages the exercise is intended to highlight. You must also decide if the particular role-plays provided are appropriate in your context, or if perhaps you should select from the others provided in this Kit or make up your own scenario.
3. You will need to prepare individual information/ instruction sheets for each volunteer involved in the role-plays. At the moment, all the roles, facts and instructions are contained in a single TM, so that you will have to individualise these in advance of the training (you can do so by photocopying each role while covering the others with a blank paper, for example).
4. Ensure you identify an appropriate psychologist for the session, preferable one who is acquainted with work in the refugee context and the nature of RSD interviews, or who specialises in the area of stress management. You should give him a copy of the training agenda in advance, and brief him on the fact that participants will be asked to discuss support mechanisms after his presentation. He may have some ideas and helpful suggestions on how to proceed with that discussion session. If possible, it would be valuable to have him present throughout the day of training. Discuss with the psychologist the need for ‘closure’ at the end of the training session.

Facilitator’s Notes

1. For your guided discussion session and introduction to “Roles, Rights and Responsibilities of Interviewers and Interpreters in RSD interviews” : the TMs provided will likely be sufficient to assist you in preparing and guiding this discussion, but if you prefer, you may draw from the background readings recommended above. For your immediate reference, the TMs already prepared (TM nos. 155-159) highlight some of the following:
 - **The interview is a dynamic relationship between three persons:**
When an interpreter is present, the interview does not just involve a relationship between the applicant and the interviewer. It becomes a dynamic relationship which involves three persons, with the interpreter relaying the information
 - **Cultural factors** also influence interpretation
 - **Rights and Responsibilities of the interpreter**
 - Rights and Responsibilities of the **interviewer** (vis a vis the interpreter)
 - Responsibilities and Protocol: of the **interviewer** (vis a vis the applicant).
 - **Tips** for facilitating communication: when using an interpreter
2. Presentation: Gender-Related Issues and Standards in RSD Interviews. (20 mins)

For this presentation you may wish to proceed as follows:

- (i) Highlight the nature and 'definition' of gender-related claims in the RSD context (see TM no. 105, 106, 108, 109, 114).
- (ii) Highlight some of the special challenges and barriers to communication that women may face in making their case in an RSD hearing (see TM nos. 160-163)
- (iii) Present UNHCR's position with regard to procedural issues in gender-related claims and claims by refugee women (see TM no. 136-137, and 164-165)
- (iv) If you wish, in addition, to address the specific issue of persons suffering from trauma then see TM nos. 166-171.

If you prefer to prepare your own presentation, then the readings in this chapter as well as those in Part I of chapter 4 and 5 (SGBV and RSD) should be sufficient for this purpose.

3. For the preparation of the role-plays: Once you have recruited the seven volunteers to enact the two role-plays in the afternoon session, ask them to stay behind before going for lunch so that you may give them each their scenario and specific instructions for their role. Ask them to prepare and read their roles for 10 minutes or so during the lunch break. They should not share their role-play instructions with the others, and the person playing the interviewer should ensure he/she has enough time to also set up the sitting arrangements for the interview. The role-plays corresponding to TM nos. 172 and 173 have been selected for this session, but you may choose others from the list provided at the end of this training module.

4. When recruiting volunteers to enact the role-plays, you should keep the following in mind:

- (a) how many men and how many women are required ?
- (b) whether you want the interviewer and interpreter to be acted by a woman or a man – this will depend on the role-play itself but also on the point that you will want to make (i.e., about determining when female staff should be provided to the applicant).
- (c) whether the interpreter and the applicant have a second language in common, so that they may enact their roles as realistically as possible. The interpreter and applicant should ideally be able to speak a different language than that used by the interviewer, although this may not always be strictly necessary.
- (d) Ensure you tell participants doing the role-plays that they are not to share their information with the others, unless told otherwise.
- (e) Participants in the role-plays should only be given the information relevant to their role. You must therefore prepare the materials in advance.

5. For the first role-play 1, you should consult the corresponding TM no. 172 in order to determine when you should stop the role-play exercise. Some suggestions on key issues you may wish to point out with regard to this role-play are also provided in the TM. With regard to feedback from participants, you may wish to have them focus on the preliminary and procedural aspects of this interview. For example, the seating arrangements, introductions, is an interpreter required, how did the interviewer deal with the issue of using the interpreter, was the woman interviewed separately, who did the interviewer address when asking questions?

6. For role-play 2 (TM no. 173), once the role-play is finished, ask all participants: "What went well in the interview?" What didn't go well? Why? What options are there open to you as the interviewer in this sort of situation? What could /should have been done differently? Make sure you also ask participants doing the role-play for their impressions of how it went. TM no. 173 provides suggestions on issues you may wish to highlight.

7. Discussion in plenary: On how to build support for staff (for dealing with stress):

Some of the answers that may be suggested by participants or that you may wish to add yourself, could include the following:

- **Establishing systems and providing trainings which increase knowledge and practical skills-base:** For example: providing trainings focused on country conditions affecting women in major countries of origin (of that asylum country); applied trainings on interviewing techniques; and 'coaching and shadowing' training techniques (eligibility officers participate in these from time to time in order to increase their confidence and skills). You may wish to mention to participants that before implementing these it is useful to first conduct a survey among interviewers and

interpreters in order to identify what weakness and gaps (in knowledge or skills) they feel they need to address.

- **Establishing systems to assist in the decision-making process:** this may include ‘checks and balances’ systems related to the decision-making process, but which actually reduce stress by sharing responsibility and being able to discuss the case with a colleague. For example, this may take the form of a ‘discussion officer’ system whereby the decision in each case is automatically discussed with a second officer before a final decision is taken; or periodic ‘discussion groups’ on complex issues –these provide guidance to decision-makers and also increase knowledge and competence of staff. For more examples of systems to increase knowledge, skills, and provide ‘checks and balances’ in the decision-making process, see “UNHCR Best Practices on RSD”, available in chapter 5 in this Gender Handbook.
- Establish a **rotation system** whereby staff are provided (on a rotation basis) a day off from their regular tasks (for example, to work on updating country of origin information, instead of conducting interviews or writing decisions), or when they can work at home (writing decisions, for example).
- Establish periodic staff retreats.
- Promote stress reduction activities by negotiating gym or yoga class discounts for staff (if there is sufficient interest).
- Have a psychologist provide a training at least once a year on stress reduction techniques for the staff, and also provide trainings on other themes which reduce the stress of difficult cases by increasing skills and knowledge (e.g., trainings on recognising mental or emotional disorders in applicants, interviewing techniques for traumatised applicants, handling threats of suicide and other crisis situations, and so on).

7. Ensure you follow up on the recommendations relating to staff support systems by compiling the above recommendations and sending the report to all the organisations and participants at the training, within the next two weeks.

Materials

Equipment: Flipchart, markers, overhead projector, and computer, if you wish to make a power point presentation.

Training Materials (TM): Handouts/ OHT/ PPP

TM no. 153: Training Session 18: Conducting Gender Sensitive RSD	
Interviews: Objectives	Handout/OHT/PPP
TM no. 155: The Dynamic during the Interview	Handout/OHT
TM no. 156: Interpreter Rights and Responsibilities	Handout/OHT
TM no. 157: Interviewer Rights and Responsibilities	Handout/OHT
TM no. 158: Interviewer Responsibilities and Protocol	Handout/OHT
TM no. 159: TIPS for Facilitating Communication When using an Interpreter	Handout/OHT
TM no. 105: What is Gender-related Persecution?	Handout/OHT/PPP
TM no. 106: General Principle of Interpretation in Refugee Law	Handout/OHT/PPP
TM no. 108: “Gender-related claims may be brought by either Women or men	Handout/OHT/PPP
TM no. 109: Gender-related claims have typically encompassed	Handout/OHT/PPP
TM no. 114: Well-founded fear of persecution: there is no doubt	Handout/OHT/PPP
TM no. 160: Interviewing Refugee Women: Special Difficulties and Barriers to Communication	Handout/OHT/PPP
TM no. 161: Interviewing and Interpreting for refugee Women in the RSD context: barriers and difficulties	Handout/OHT
TM no. 162: Psychological and Cultural Barriers faced by Women	Handout/OHT
TM no. 163: Reasons why women do not wish to disclose information about their experiences of sexual violence	Handout/OHT
TM no. 164: Procedural Measures to be Taken	Handout/OHT
TM no. 165: Procedural Measures to be Taken (cont’d)	Handout/OHT
TM no. 136: Procedural Issues	Handout/OHT/PPP
TM no. 137: Procedural Issues	Handout/OHT/PPP
TM no. 166: Interviewing Applicants Who have Suffered Trauma	Handout/OHT
TM no. 167: Trauma Symptoms	Handout/OHT
TM no. 168: Trauma Symptoms (cont’d)	Handout/OHT
TM no. 169: Detecting Traumatised Persons	Handout/OHT

TM no. 170: How do I respond to a person suffering from trauma? Handout/OHT
 TM no. 171: How do I respond to a person suffering from trauma? (cont'd) Handout/OHT

Role-Plays:

TM no. 172: Role-play 1: A case involving a Husband and Wife Handout (FV)
 TM no. 173: Role-play 2: Dealing with Silence and Trauma Handout (FV)

Other Role-Plays you may select from:

TM no. 174: Role-play 3 A: Gender sensitive Interpreting and Interviewing Handout (FV)
 TM no. 175: Role-play 3 B: Gender sensitive Interpreting and Interviewing Handout (FV)
 TM no. 176: Role-play 4: Gender sensitive Interpreting and Interviewing Handout (FV)
 TM no. 177: Supplementary Role-plays: Interviewing and Interpreting
 in a Refugee context Handout (FV)
 -Role-play 5: Domestic Violence
 -Role-play 6: Coping with Silence
 -Role-play 7: Dealing with Threat of Suicide
 -Role-play 8: Threat of Forced Marriage

Readings and other Materials to Distribute: (Optional)

- You should review the readings in chapters 4, 5 and 6 in order to determine which readings you wish to provide participants. For example, some of the annexes in chapter 4 on SGBV may be especially helpful to participants.
- Some of the TM listed in this training session would also be helpful to provide as readings. For example TM nos. 155-159; and 161-162; 164-165; 168-171.

Training Session No. 19

Session Title: Addressing Gender Needs in the Context of RSD Interviews

Target Group: 15-20 persons involved in the RSD process, UNHCR protection staff, NGO staff providing legal and social counselling, and interpreters.

Time Duration: 1 full day

Session Objectives:

- To raise awareness of special needs of refugee women and gender-related cases in the interviewing process, and methods for addressing these.
- To allow participants to practice and learn practical lessons about interviewing through role-playing.
- To gain insight into the difficulties and issues related to interviewing/interpreting from the perspective of different actors (interpreters, social counsellors, legal counsellors and RSD interview officers).
- To improve interviewing and interpreting techniques through the sharing of 'good practices' with different actors involved in the interviewing process.
- To identify issues in current interviewing procedures and practices in need of attention, and prepare preliminary recommendations for addressing these.

Session Outline

1. Welcome, facilitator introduces him/herself, and goes over day's agenda. (10 mins)
2. Ask participants to introduce themselves to the person sitting next to them. They have 10 minutes to speak to each other. They should find out each other's names, occupation, and what they would like to achieve during this training. (10 –15 mins)
3. Participants introduce each other. During this time, facilitator records responses on expectations for the training session. (20 mins)
4. Briefly summarise these responses, in particular, what participants would like to achieve and link these to the training session objectives. Use TM no. 154 to display the objectives, and add any new relevant ones that might have been suggested by the participants. Emphasise that one of the goals of this training session is to learn about both the difficulties and the interviewing techniques from the vantage point of different actors. This is the reason why we have a mix of interviewers, social and legal counsellors and interpreters here today. (15 mins)
5. **Guided Plenary Discussion:** on the following question: (20 mins)
Q: In your experience, are there groups of asylum seekers who require special attention during interviews? Facilitator enlists a participant to record answers on a flip chart, and provides any necessary guidance and additional comments to complement answers by participants. (See facilitator's notes, and TM nos. 73; 89, 108-109; 114; 136-137; 160; 167-169).
6. **Coffee/ Tea Break (15 mins)**
7. **Working Group Exercise:** On the following two questions (30 mins)
What are some concrete measures and techniques that may be used to ensure:
 - (a) effective communication and team work between interpreters and interviewers; and
 - (b) the conditions necessary for an open, fair, sensitive and effective RSD interview (for refugee women and persons with gender-related claims, as well as victims of trauma).
 In groups of 4-5 persons divided between interpreters and interviewers (with social workers divided between each group), participants brainstorm on the two questions above and create a checklist for each question. Working groups should focus on creating checklists from their particular vantage point as interviewers or as interpreters. These should be recorded on a flip chart sheet. Each working group should elect a

rapporteur. (See facilitator's notes).

8. Feedback in plenary by group rapporteurs on results of their group work, followed by a discussion session. (45 mins)
9. Enlisting of volunteers for the role-plays in the afternoon session: Before the lunch break, ask participants for 5 volunteers for the role-play to be enacted after the lunch break. There should be 3 women and 2 men. One of the women and the two men volunteers should have a second language in common (if possible, a language other than that used by interviewer). Provide volunteers with instructions and the notes specific to their roles (see TM no. 174 "Role-play 3A"), and ask that they spend some time during the lunch hour to prepare their individual roles (they should not share them with each other). (5 mins)

10. Lunch Break (1 hour)

11. **Presentation:** Addressing gender consideration and special needs of refugee women in the RSD Interview. (20 mins)
Begin by summarising the discussions held before lunch, and then proceed with the presentation. (See facilitator's notes, and TM nos. 105; 106; 109; 160-165; 166-171 (optional, related specifically to trauma)).
12. **Enactment of role-play 3 A** (corresponding to TM no. 174). (15 mins)
13. Plenary discussion on Role-play: (20 mins)
Get feedback from participants on what went well and what could have been improved in the interview. Proceed by asking about the different stages and components of the interview (preliminary aspects of the interview, procedural issues, and substance). See TM no. 174 for more details on key areas to explore. Ensure you also ask the participants doing the role-plays about how they felt it went.
14. Announce the next role-play 3B. The same participants as in the previous role-play exercise (i.e., role-play 3A) play the role of the refugee woman, and interviewer. Ask for a new volunteer (should be female). Give each volunteer the new scenario and relevant notes, and ask them to prepare their roles over the coffee break. See TM no. 175. (5 mins).

15. Coffee/Tea Break (15 mins)

16. **Enactment of role-play 3 B** (TM no. 175). (15 mins).
17. Plenary Discussion on the role-play. (20 mins)
Ask participants what important issues relating to interviewing refugee women were raised in this role-play. You may also proceed by asking them how they felt the preliminary aspects of the interview were dealt with, followed by the procedural and substantive aspects. See TM no. 175, containing notes for the facilitator on key issues to explore with participants in this respect. Make sure you ask the role-players how they felt throughout the interview.
18. **Plenary Exchange: Learning from Each Other – Sharing Interviewing Techniques and Experiences.** Begin this plenary exchange of experience with the following **question:** In your particular job, what is your experience with regard to what should be avoided (negative practices), and what 'good practices' or techniques should be employed and promoted (i.e., positive interviewing techniques for refugee women and sensitive cases that have worked for you in the past)? Have a participant record answers on a flip chart while you facilitate this exchange period. The answers should be recorded according to different categories (e.g., RSD interviewers, social counsellors, legal counsellors, interpreters). (See facilitator's notes). (30 mins)
19. **Working Groups :** Preparation of Checklist on Issues to be Addressed and Recommendations: (20 mins)
Divide participants into working groups of interpreters, interviewers, and social workers. Each working group prepares a checklist of issues and measures (related to RSD

- interviews) which from their particular perspective (as interpreters, interviewers and social workers) still need to be addressed or further improved upon. A list of preliminary recommendations is then also prepared. The results should be recorded on a flip chart sheet. (See facilitator's notes).
20. Feedback in plenary of results of working groups, by group rapporteurs. (40 mins)
21. Review of the day: (10-15 mins)
Highlight in particular, some of the key lessons and 'good practices' shared during the session, as well as the recommendations, and how these may be followed up.
22. Thank participants and close the session. (5 mins)

Suggestions for Preparation

1. The readings included in Part I of this chapter are essential to your preparation for this training session. In addition, it is also recommended that you review the following:
 - UNHCR, *Interviewing Applicants for Refugee Status*, Training Module RLD 4, Training with UNHCR Series, 1995.
 - UNHCR, *Sexual Violence Against Refugees: Guidelines on Prevention and Response*, Geneva, 1995.
 - UNHCR, (1993) *Interpreting in a Refugee Context*, Training Module RLD 3, Training with UNHCR Series, June 1993.
 - **You may also find the following helpful:**
 - The readings in Part I of chapter 4 on Sexual and Gender-Based Violence, (in this Gender Handbook).
 - The readings in Part I of chapter 5 on Refugee Status Determination, and particularly "Sexual Violence and Refugee Status Determination", (in this Gender Handbook).
 - Hinshelwood, Gill., "Interviewing Female Asylum Seekers" p.159 in *International Journal of Refugee Law Special Edition Autumn 1997*, OUP, Oxford.
2. Review the role-plays carefully before the training in order to ensure that you understand the instructions and key messages the exercise is intended to highlight. You must also decide if the particular role-plays provided are appropriate in your context, or if perhaps you should select from the others provided in this Kit or make up your own scenario.
3. You will need to prepare individual information/ instruction sheets for each volunteer involved in the role-plays. At the moment, all the roles, facts and instructions are contained in a single TM, so that you will have to individualise these in advance of the training (you can do so by photocopying each role while covering the others with a blank paper, for example).

Facilitator's Notes

1. As the participants for this training programme are likely to come from a range of backgrounds, it is important to start the day with an icebreaking activity which allows them to get to know each other first. The first introductory exercise in pairs will help with this.
2. Plenary Discussion on: What groups of asylum seekers require special attention during the RSD interview? Point out how violence can happen throughout the refugee cycle, prior to flight, during flight, and in the country of asylum. Briefly refer to sexual and gender-based violence, explaining how women often experience persecution differently than men, i.e., the harm inflicted on women is often different. Provide some examples such as: forced marriage, FGM, different forms of sexual violence including rape, domestic violence, honour crimes etc. If you wish, you may also provide an introduction to issues relevant to trauma victims in particular. You may refer to TM nos. 73; 89; 108-109; 114; 136-137; 160; 167-169, both for your preparation and also to assist you in introducing these topics to participants. In addition, you may wish to refer to chapter 4 on sexual and gender-based violence as well as the corresponding TMs for that chapter, for further details.
3. Feedback in plenary and discussion on results of "Working Group Exercise":

Note that social counsellors have a double role in this exercise. They are participants (since they will gain insight into the nature of RSD interviews, which will be helpful to their own work) but they will also function as ‘resource persons’, who will assist the interviewers and interpreters prepare and respond to the special challenges of interviewing the groups of refugees discussed.

During these discussions, provide guidance and an introduction to the topics covered by both questions (a) and (b). In particular:

On Question (a): on measures and techniques for ensuring effective communication, and team work between interpreters and interviewers: you may use TM nos. 155-159 for this purpose.

Question (b): the conditions necessary for an open, fair, sensitive and effective RSD interview (for refugee women, persons with gender-related claims, and victims of trauma): for this question you may discuss participants’ responses, but then tell participants that you will continue on this topic after the lunch break.

4. Presentation: Addressing gender consideration and special needs of refugee women in the RSD Interview.

The readings provided in this chapter, as well as those contained in chapter 4 and 5, should be sufficient for your preparation. In addition, the TMs listed below may also assist you, both with your general preparation and with this presentation.

You may wish to proceed as follows:

- Begin by **summarising** the discussions held before lunch.
- Highlight **possible differences** relating to the objectives and perspectives of the different participants at the training with regard to the interviewing process: for example, RSD interviewers wish to make an accurate refugee status determination and ensure protection for those who need it; social counsellors interview for therapeutic and other ‘support’ and ‘assistance’ related services; interpreters wish to ensure accurate and effective communication, across language and culture.
- But also point out the **common objectives** they may have and the common issues they may face. If possible, draw links with some of the participants’ answers during the previous discussion period. For example, all actors recognise the importance of the following: a non-adversarial procedure; of establishing an open, non-judgmental, and ‘safe’ environment and rapport; responding in a sensitive, humane, and yet professional manner to applicants who have suffered trauma or other difficult experiences; being careful not to inflict further harm or damage; and of providing the necessary assistance (both before and after the interview, and as required immediate assistance for cases where there is a danger to the person, or others).
- Then proceed to :
 - Highlight the nature and definition of gender-related claims in the RSD context (See TM no. 105, 106, 108, 109, 114).
 - Highlight some of the special challenges and barriers to communication that women may face in making their case (see TM nos. 160-163).
 - UNHCR’s position with regard to procedural issues in gender-related claims and claims by refugee women (see TM no. 136-137, and 164-165).
 - If you wish in addition to address the specific issue of persons suffering from trauma, then see TM nos. 166-171.

A slightly shorter presentation could include only TM nos. 105; 106; 109; 160-165; 166-171 (the last items are optional as they relate specifically to trauma).

5. Plenary Exchange: Learning from Each Other - Sharing Interviewing Techniques and Experiences. The results of all the working groups and the exchange of interviewing techniques during this session should be compiled and circulated 1-2 weeks after the session is over. This document could be used as a resource and future training tool, or ‘best practices’ reference document.

6. Working Groups : Preparation of Checklist of Issues to be Addressed (gaps) and Recommendations: (20 mins)

If there are various organisations present at the session, then the working groups could further be divided into smaller working groups (subdivided by organisation - for example, interpreters working for the government, interpreters working for NGOs, for UNHCR etc; and the same for interviewers, social workers, and NGO staff). With regard to social workers, they should focus on areas where there is a natural link between their work and that of interviewers and interpreters, such as the following: counselling provided before and after an interview; ensuring referral and follow up after the interview;

'rapid reaction services' for cases of persons posing a danger to themselves or others; and other co-ordination measures and systems, particularly with regard to the relaying of information (for example, social workers knowledgeable about a particularly vulnerable case may inform the RSD unit and ask about the possibility of an expedited interview etc., or other special needs for the interview).

During the wrap up of the session, discuss with participants how this checklist of gaps and preliminary recommendations could be followed up within their own organisations and sectors, and decide on a common (or separate) action plan for the follow up.

Materials

Equipment: Flipchart, markers, overhead projector, and computer, if you wish to make a power point presentation.

Training Materials (TM): Handouts/ OHT/ PPP

TM no. 154: Training Session 19: Addressing Gender Needs in the Context of RSD Interviews: Objectives	Handout/OHT/PPP
TM no. 73: Sexual Violence during the Refugee Cycle	Handout/OHT
TM no. 89: ExCom Conclusion no. 73: Refugee Protection and Sexual Violence	Handout/OHT
TM no. 108: Gender-related claims may be brought by either women or men	Handout/OHT/PPP
TM no. 109: Gender-related claims have typically encompassed	Handout/OHT/PPP
TM no. 114: Well-founded fear of persecution: there is no doubt	Handout/OHT/PPP
TM no. 136: Procedural Issues	Handout/OHT/PPP
TM no. 137: Procedural Issues (continued)	Handout/OHT/PPP
TM no. 160: Interviewing Refugee Women: Special Difficulties and Barriers to Communication	Handout/OHT/PPP
TM no. 105: What is Gender-related Persecution?	Handout/OHT/PPP
TM no. 106: General Principle of Interpretation in Refugee Law	Handout/OHT/PPP
TM no. 109: Gender-related claims have typically encompassed	Handout/OHT/PPP
TM no. 160: Interviewing Refugee Women: Special Difficulties and Barriers to Communication	Handout/OHT/PPP
TM no. 161: Interviewing and Interpreting for refugee women in the RSD context: barriers and difficulties	Handout/OHT
TM no. 162: Psychological and Cultural Barriers Faced by Women	Handout/OHT
TM no. 163: Reasons why women do not wish to disclose information about their experiences of sexual violence	Handout/OHT
TM no. 164: Procedural Measures to be Taken	Handout/OHT
TM no. 165: Procedural Measures to be Taken (cont'd)	Handout/OHT
TM no. 166: Interviewing Applicants Who have Suffered Trauma	Handout/OHT
TM no. 167: Trauma Symptoms	Handout/OHT
TM no. 168: Trauma Symptoms (cont'd)	Handout/OHT
TM no. 169: Detecting Traumatized Persons	Handout/OHT
TM no. 170: How do I respond to a person suffering from trauma?	Handout/OHT
TM no. 171: How do I respond to a person suffering from trauma? (cont'd)	Handout/OHT

Role-Plays:

TM no. 174: Role-play 3 A: Gender Sensitive Interpreting and Interviewing	Handout (FV)
TM no. 175: Role-play 3 B: Gender Sensitive Interpreting and Interviewing	Handout (FV)

Other Role-Plays you may select from:

TM no. 172: Role-play 1: A Case involving a Husband and Wife	Handout (FV)
TM no. 173: Role-play 2: Dealing with Silence and Trauma	Handout (FV)
TM no. 176: Role-play 4: Gender Sensitive Interpreting and Interviewing	Handout (FV)
TM no. 177: Supplementary Role-plays: Interviewing and Interpreting in a Refugee context	Handout (FV)
- Role-play 5: Domestic Violence	
- Role-play 6: Coping with Silence	
- Role-play 7: Dealing with Threat of Suicide	
- Role-play 8: Threat of Forced Marriage	

Documents for Distribution: (Optional)

- You should review the readings in chapters 4, 5 and 6 in order to determine which readings you wish to provide participants. For example, some of the annexes in chapter 4 on SGBV may be especially helpful to participants.
- Some of the TMs listed in this training session would also be helpful to provide as readings. For example TM nos. 155-159; and 161-162; 164-165; 168-171.



Chapter 7



Gender Issues in Emergencies

In this Chapter

Introduction

Part I: Background Readings

- UNHCR Handbook for Emergencies: Gender Considerations (excerpts)
- Assessment and Planning: Gender Issues (excerpts from UNHCR, Guidelines on the Protection of Refugee Women)

Links

- **Full text of the UNHCR Emergency Handbook is available at the following web-site:**
<http://www.unhcr.ch>
- **Related Background Readings :**
 - Chapter 2: in Theme 1: all readings and in particular the UNHCR policy papers and “Refugee Women” (Global Consultations)
 - Chapter 4: all readings, but of particular importance are the following texts:
 - Lessons Learned –Multi-Sectoral Framework, especially “Lessons Learned –by Sector”
 - Prevention
 - Sexual Violence against Refugee
 - Chapter 6: see in particular the following texts:
 - UNHCR Guidelines on Evaluation and Care of Victims of Trauma and Violence (excerpts)
- **Available in Gender CD-ROM in this Kit, full text of:**
 - Domestic Violence against Women and Girls, *Innocenti Digest* 6, June 2000, UNICEF Innocenti Research Centre, Florence, Italy. Web-site: www.unicef-icdc.org
 - UNHCR Guidelines on Sexual Violence (1995)
 - UNHCR Guidelines on Protection of Refugee Women
 - UNHCR Policy on Refugee Women (also available in chapter 2, Theme 1)
 - Full text of DEVAW, and ExCom Conclusion no.73 “Refugee Protection and Sexual Violence” provided in the Reference Section in this Gender Handbook (and in Gender CD-ROM)
- Practical Tools in this Kit: (in addition to those in this chapter, also see)
 - Annexes to chapter 4 (there are 9 in all)
 - TM no. 95: Checklist for Responding to an Incident of Sexual Violence
 - TM no. 96: Practical Guidelines on Responding to Incidents of Sexual Violence
 - TM no.97: Sexual Violence Needs Assessment and Programme Framework
- **Related Training Sessions:**
 - Training Sessions Nos. 8, 9, 10 related to human rights and SGBV awareness for refugee participants. Appropriate for instance, as part of a broader programme for awareness-raising and education (prevention) on these issues in an emergency setting.
 - Training Sessions/ Workshops Nos. 12, 13, 14 on SGBV: these may be appropriate to address SGBV issues in a refugee emergency setting. In particular, they would be most relevant during the development and co-ordination stages of a SGBV prevention and response programme.



Introduction

Given the wide variety of possible emergency contexts and the fact that addressing all the gender considerations that might emerge in different refugee situations would not be possible within the scope of this Kit, this chapter has remained purposively generic.

The background readings in this chapter consist of excerpts from the UNHCR *Handbook for Emergencies* which relate to gender and/ or refugee women (and which have been organised according to their original chapters and themes in the publication), as well as excerpts from the UNHCR *Guidelines on the Protection of Refugee Women* (1991). These latter materials were selected for their relevance and practical application to emergency situations and because they may also be effectively used as tools or checklists. For example, some of the material in the Guidelines may be used to facilitate – in relation to refugee women and gender - the identification of issues and measures to be taken, the drafting of situation assessments, refugee profiles, and the initiation of the [strategic] planning process.

In addition to the above, however, this Kit also contains many more background readings, training sessions and tools which complement and indeed, complete this chapter. For example, both the background readings and the trainings in Chapter 4 on Sexual and Gender-Based Violence should be considered as a natural complement to this chapter on emergencies. The Gender CD-ROM with its expanded readings and reference documents also provides useful additions such as the People-Oriented Planning (POP) Manuals, and the Reference Section in the Gender Handbook offers references for those wishing to do further research.

For similar reasons as mentioned above, this chapter does not include training session modules specifically relating to emergency situations. However, some of the training sessions in Chapter 4 especially, but also those in Chapter 3 and 6, may be adapted for this purpose.



Gender Issues in Emergencies

Part I Background Readings

UNHCR Handbook for Emergencies:



Gender Considerations

“A gender approach is important to identify men’s and women’s differing vulnerabilities to crisis as well as their different capacities and coping strategies, in order to build on these, in order to design effective relief programmes.”¹

The following materials are excerpts from the UNHCR *Handbook for Emergencies*, Second Edition (referred to as the Emergency Handbook). The chapters of the Handbook are indicated and the content has been selected to highlight gender issues. When responding to an emergency, the complete Emergency Handbook should be obtained for use as a reference.

Each excerpt is identified with a chapter and paragraph reference which corresponds to those in the Emergency Handbook.

Chapter 1: Aim and Principles of Response

Ensure the Measures are Appropriate / Identify Needs

20. An appropriate response in the provision of protection and material assistance requires an assessment of the needs of refugees that takes into account not only their material state and the resources available, but also their culture, age, gender and background and the culture and background of the nationals in whose country they are granted asylum. The provision of protection and of essential goods and services must be provided to refugees in ways which actually meet their needs.

Identify Standards

23. As a general principle, the standards of assistance must reflect the special needs of the refugees based on their condition, physical situation and experiences. At the same time account must be taken of the standards planned for and actually enjoyed by the local population.

Involve the Refugees and Promote Self-reliance

27. In order to ensure that the assistance provided to refugees is appropriate, the refugees must be involved from the outset in the measures taken to meet their needs. In addition, all components of the operation must be planned in such a way as to promote their self-reliance. Obvious as this principle is, the pressures of an emergency often make it easier to organise an operation from the outside for, rather than with, those whom it is to benefit.

28. If the emergency operation involves the refugees in this way from the start, its effectiveness will be greatly enhanced. Furthermore, such an approach will allow the refugees to maintain their sense of

¹ BRIDGE, *Gender, Emergencies and Humanitarian Assistance*, 1995; *Weaving Gender in Disaster and Refugee Assistance*, Interaction, July 1998.

dignity and purpose, encourage self-reliance and help avoid dependency. In emergencies, refugees are often regarded as helpless and passive recipients of external assistance. In the long term this sets a pattern of dependency. Refugees must be encouraged to help themselves by using their own skills and resources from the beginning of an emergency.

It is important to encourage refugee participation at all stages of planning and implementation.

29. Refugees are often most able to help themselves, and thus be least reliant on out-side assistance, if they are not grouped together in highly organised camps, but rather reside in small, less formal groups.

30. The interests and needs of specific groups of refugees, particularly vulnerable ones, are better cared for and such efforts are more sustainable if community support and involvement is harnessed right from the start. In addition, refugee involvement helps ensure that the emergency response addresses social, human and emotional needs, and goes beyond the provision of material relief.

Be Aware of Social and Economic Roles

To plan and manage an emergency response effectively, the social and economic roles of refugee women, men and children must be properly analysed and understood to see how these roles will affect and be affected by, planned activities. [See, A Framework for People-Oriented Planning in Refugee Situations Taking Account of Women, Men, and Children, UNHCR, Geneva, 1992.]

31. It is essential to understand socio-economic factors when planning and implementing the emergency response to avoid unintentionally depriving some refugees of the benefits of assistance. This is often true for women, children, the elderly and the disabled. UNHCR pays particular attention to the needs of these groups, especially in emergencies. It is important that the basic needs of vulnerable groups (physically, mentally, or socially disadvantaged) are met. Thus in the designing and implementation of an emergency response, vulnerable groups must be identified and monitored systematically to ensure that they are not further disadvantaged. If necessary, special measures should be taken to meet their particular needs.

32. Even in an emergency, refugees are likely to have some form of representation, through a community or group organisation.

It is important to find out exactly what kind of leadership structure exists.

It is also through an effective use of their representation that refugees' rights can be better promoted. However, be aware that leaders may sometimes not be representational, or may have an agenda or objectives that could have adverse consequences on other refugees.

Do Not Treat Issues in Isolation

33. In all stages of an emergency, the problems and needs of refugees must be seen comprehensively, and sector-specific tasks be set within a multi-sectoral framework, since action in one area is likely to affect others. For example the real solution to a health problem might be found in improving the water supply. Ensure the correct balance in resource allocation between the different sectors.

Chapter 2: Protection

Women and Children

47. Refugees, and in particular women and children, travelling alone or in small groups in remote border areas, are very vulnerable to extortion, abuse and sexual violence. A proactive approach is needed to ensure that protection needs are met.

[...]

Note that gender-related persecution can be considered a ground for recognition under the definition of a refugee.

UNHCR's Guidelines on the Protection of Refugee Women, and Refugee Children:

Guidelines on Protection and Care (see key references) are essential reading for those designing a protection programme. More information on the procedures noted below is contained in section III of the Emergency Handbook, in particular chapter 10 on community services.

48. Prevent protection problems for refugee women and children through good programme design in all sectors, including:

- Obtaining a good knowledge of the population profile, especially the breakdown by sex and age;
- Preserving the original family and community structures;
- Consulting women on the design of the assistance programme, in particular on the design of the refugee camp and on the commodity distribution system;
- Locating services so as not to expose refugee women to additional risk when using them;
- Providing lighting in the camp especially along paths to latrines;
- Ensuring an adequate number of women staff, particularly protection, community services and health staff;
- Forming security patrols among the refugees themselves having the protection of women as a priority;
- Providing training for police and military personnel on the rights of women and children, especially in circumstances where there is a heavy military or police presence;
- Initiating tracing as soon as possible. Appropriate measures must be taken for identification, documentation, tracing, interim support and family reunion of separated children (see chapter 10 on community services for more information on unaccompanied children);
- Providing structured activities and primary schools for children (this can be important as a protection tool as it can help reduce recruitment into the armed forces);
- Targeting assistance to remove the need for child labour;
- Issuing birth certificates. Birth registration may be a prerequisite for obtaining nationality, enrolling in school and may be a vital tool for tracing. It can be important in preventing military recruitment and other forms of exploitation.

Help Children by Helping the Family; Support Women to Preserve Family Unity.

The single best way to promote the protection, well-being and safety of children is to support their families.

Actively work to preserve family unity. Measures to promote the health and physical security of refugee women can help prevent separation of mother and child. A family, whose members have become separated or who are under serious stress, puts children at particular risk. Give priority to helping parents and other child care-givers meet the needs of their children. Also, recognise the parents' own needs. Families may need assistance in using their own coping techniques and rebuilding their support networks. Make every effort to preserve or reconstitute family help networks. Family groups wishing to live together should be helped to do so.

Monitoring and Reporting

49. Once immediate protection is secured, arrangements must be made to monitor the situation and ensure continuing respect of the rights of the refugees.

50. Immediate, clear and regular reports of developments, action taken and intended to be taken are important, whether from the Field Officer to the Head of Office or from the latter to Headquarters. Guidance must be requested as necessary and Headquarters level interventions recommended as appropriate. See Annex 3 to chapter 8 on implementing arrangements, for a standard situation report.

51. A prerequisite for intervention with a government, or for mobilisation of international support, is accurate situation reporting.

Physical Safety of Refugees

60. Even after they have been admitted to a country of refuge, refugees may still face serious threats to their safety. In emergencies, some basic human rights are particularly threatened and will need to be specially protected by law as well as by action. These threats may originate from the country of origin or of asylum or from groups among the refugees themselves.

Camp Security

61. Threats of military attacks originating from the country of origin may be reduced by locating or relocating camps or settlements a reasonable distance from the border (see chapter 14 on site planning). In addition the authorities of the country of asylum may have to increase their military presence in the border area and around refugee settlements. However, military presence inside refugee camps or settlements should be avoided.

62. In the country of refuge, threats to physical safety of refugees (refoulement, unlawful detention, sexual violence, etc.) may emanate from officials dealing with the refugees.

The authorities of the country of asylum must be made aware of the fact that they retain primary responsibility for security and must ensure the safety and well-being of refugees.

63. Corrective action is in the hands of the authorities and must be taken resolutely. UNHCR must maintain contact with the refugees and the authorities to ensure that there is adequate response.

64. Criminal attacks and banditry against refugees should be addressed by civil authorities and security forces of the host country in close co-operation with UNHCR and the refugee community.

65. In situations where armed individuals are part of the refugee population, UNHCR should encourage the screening of the whole population and the separation of refugees from armed individuals, as well as their disarmament.

66. In all cases of military and police presence, general measures as described in paragraph 48 such as awareness campaigns and training for protection of the rights of refugee women and children are important in order to prevent sexual violence against them.

67. In cases of internal conflicts among the refugee population UNHCR should initially encourage a mediation by the refugee community. If this fails, UNHCR should request the authorities of the host country to resolve the conflict.

Chapter 7: Co-ordination and Site Level Organisation

Organisation at the Site Level

Community Involvement

32. The refugees must be involved in planning measures to meet their needs and in implementing those measures. The way the community is organised can help ensure that the refugees' specific skills are made use of and that the personnel for services at the site will come from the refugees.

33. There are three levels to the involvement of refugees. The first is in the overall planning and organisation, for example the determination of what is the best and culturally most appropriate solution to a problem, given the constraints of the situation. This level requires that the refugees have a social organisation within their community that is properly representative. As the previous social structures may have been severely disrupted, this may take time to redevelop but will be important to the success of the emergency operation and for the future of the refugees. Meanwhile, urgent action to meet evident needs must of course be taken.

34. The second level of involvement is in the practical use of the refugees' skills and resources wherever possible for the implementation of the operation. The refugees themselves should run their own community to the extent possible. Where suitably qualified or experienced refugees exist, such as nurses, teachers and traditional health workers, they must obviously be used. Where they do not, outside assistance should ensure that refugees are trained to take over from those who are temporarily filling the gap. Other services include feeding programmes, sanitation, (maintenance and cleaning of latrines, drainage, garbage disposal, vector control, etc.) construction (shelters and communal buildings) education, tracing and general administration. Note that women and adolescents often have the necessary skills but lack the confidence or language skills to come forward—an outreach programme to identify them might be necessary.

35. At the same time, other traditional skills— for example in construction or well-digging should be harnessed. While specific measures to develop self-reliance will vary with each situation, their aim should always be to avoid or reduce the refugees' dependence on outside assistance. The more successful measures are generally those based on methods and practices familiar to the refugees.

36. The third level is the education of the community on life in their new situation, which may be markedly different from their previous experience. Public health education in such matters as the importance of hygiene in crowded conditions, mother and child care and the use of unfamiliar latrines is an example. As another example, if unfamiliar foods or preparation methods have to be used, immediate practical instruction is essential. Education and guidance of this sort are best given by the refugees themselves (including women and youth), with outside assistance.

Refugee Representation

37. Refugee settlements are not, typically, simple replicas of former community life, and large numbers of refugees may be living temporarily outside their traditional community leadership structures. However, in nearly every emergency, some refugee leaders, spokespersons, or respected leaders will be present. It will be necessary to define with the community the method of choosing leaders to ensure fair representation and proper participation in both the planning and implementation of the emergency programme. The more the settlement differs from former community life, the more important this action is likely to be to the success of the programme.

However, be aware that some new power structures might emerge, for example through force, and may exercise *de facto* control over the population, but may not be representative.

38. The system of refugee representation should:

- i. Be truly representative of the different interests and sectors of the community, and of both men and women;
- ii. Include various levels of representatives and leaders to ensure adequate representation and access for individual refugees;
- iii. Avoid unconscious bias, for example on the basis of language. Bear in mind that there is no reason why a refugee should be representative of the community simply because he or she has a common language with those providing outside assistance;
- iv. Be based on traditional leadership systems as much as possible but provided these allow proper representation (for example, if the traditional leadership system excludes women, there should nevertheless be women representatives);

v. Be consistent with the physical divisions in the layout of the site.

Chapter 10: Community Services and Education

Women

57. While it is not correct to see women as a vulnerable group, women do have specific needs which, if not met, can put them at risk, such as vulnerability to exploitation and sexual abuse, sexual discrimination and restricted access to basic services. In addition, many decisions in camp management which affect women are made without them being consulted. Not including refugee women in decision making about camp management may put them at risk and add to their workload. In addition, the effectiveness of the assistance programme may be reduced because the problems and needs of all the beneficiaries have not been properly identified.

58. However, when seeking women's participation in decision-making, it is also wise to remember that measures which challenge the status quo may be threatening to traditional leaders. Special efforts may be needed to overcome resistance to change.

Culture and tradition cannot be used as reasons to exclude refugee women from participation in decision-making.

To Ensure Women's Participation:

- Include refugee women in leadership functions and give them responsible roles in the community including participation in decision making bodies;
- Ensure that women have equal access to services and facilities, particularly health and reproductive health care services, and inform persons concerned about these resources;
- Encourage activities such as adult literacy classes which will help empower women and bring them together for mutual support;
- Provide community support to women by organising recreational and educational activities for children;
- Develop preventive protection mechanisms with the community to ensure protection of women against all forms of abuse;
- Work with the elders and other influential groups to gain their support for the participation of women in camp management.

Single Parent Households

59. In refugee emergencies, the majority of single parent households are female-headed. However, community services must be sensitive to the needs of both male and female single parents. Men may have to be supported in the functions of rearing children and organising household responsibilities. Women who have to manage the family needs on their own are at risk as they are vulnerable to exploitation and harassment, especially if they are young. They may be exposed to pressures attached to provision of food and material resources. Women must therefore be included in food management and other committees. Some women may have to resort to prostitution in order to provide for their families, particularly if they do not have any skills to earn a livelihood.

Survivors of Violence

60. Men, women and children can be victims of violence in conflict situations (including torture, rape or solitary confinement) and suffer consequent trauma. Rape is a crime of violence, and is sometimes used as a systematic method of intimidation. Survivors of rape can be any age from the very young to the very old and belong to any social group. It should be remembered that survivors of sexual violence

including rape can be men as well as women. It is important to recognise that the consequences of sexual violence on children and adolescents will differ from that on adults.

61. Where there is a high risk of violence, steps can be taken to reduce exposure and vulnerability. Crimes of sexual violence may be more likely to occur where women and/or children are exposed and vulnerable, such as when they collect firewood or water from distant points. The level of risk of violence including sexual violence from within or outside the community, should be reflected in taking increased precautions in camp security, and in creating mechanisms to allow people to travel outside the camp in safety e.g. fuel-wood gathering in groups.

Take the Following Action

- Establish services for survivors of violence which are integrated into other community and health care services;
- Ensure confidentiality is maintained;
- Organise counselling support services using trusted, supportive refugee staff, including female staff;
- Organise support groups with people who are trusted;
- Provide a safe place for survivors to stay, with friends if possible;
- Ensure appropriate legal and medical services are established and accessible, including access to female staff;
- Mobilise community support by discussing the general problem with them to ensure more compassionate treatment. Religious heads and community leaders in particular can influence attitudes to survivors of violence;
- Ensure that site layout, fencing and lighting promote physical safety. Good site planning, including location of services, will help create conditions where violence will be less likely (see chapter 12 of the Emergency Handbook on site planning);
- Sensitise the community to the problem and the seriousness of domestic violence. An emergency situation often triggers an increase in levels of domestic violence, particularly in the early stages. However, in the later stages of an emergency, incidents of domestic violence may remain high and on occasion escalate, if the situation generates high levels of stress.

62. Urgent medical treatment must be provided to any person who has been raped to help deal with the physical trauma. A protocol for management of such persons, based on host country laws, should be adopted.

63. Post trauma reactions to sexual violence include feelings of shame and guilt, anger, humiliation, nightmares, withdrawal, depression and suicidal tendencies. Family, friends and community support groups must be alerted to these possible reactions so that they can understand and assist the survivors of violence.

64. Social attitudes to rape are usually very judgmental. A woman who becomes pregnant by rape may need help in being accepted by her family and the community or in placing a child for adoption. In some cases a man or a woman who has been raped may have to leave their present location in order to lead a normal life. This is especially the case of a woman with a child, who may then be left without family support. Additionally, she may feel hostile towards the child, a common post trauma reaction.

65. Any documentation of a case should be undertaken with the utmost confidentiality. It is the survivors choice whether or not to take legal action; there may be very strong considerations not to do so. If legal action is taken, the survivor will need support and protection in every step of what is a painful process, and should be made aware of exactly what degree of protection and care will be available.

66. Community services, protection and health staff must work together for survivors of rape and sexual violence. Protection staff can provide information on legal action and monitor the legal process if charges are pressed. Health personnel should make necessary treatment facilities and documentation available. Community services should work directly with the survivor concerned, and with the family of the survivor, as well as establish support groups and more generally sensitise refugees to the problems of rape. A refugee team, which could complement the UNHCR community services team, may be established to provide outreach to women reluctant to come forward.

Isolated Social Groups

72. Every society has its social, religious, political or ethnic groups whose access to services is restricted even under normal conditions. They become particularly vulnerable during emergencies as assistance is likely to be channelled through the leaders of the majority groups. Immediate assessment should be made of any of these groups to determine if they can be integrated into the refugee community, or whether special provision must be made.

In the early stages of an emergency, cultural and traditional customs that may be harmful to particular groups of refugees such as genital mutilation, early marriages and other abusive practices should be addressed and appropriate action taken.

[...]

Annex 1 - Community Services Checklist

The following chart covers the three phases of community services in an emergency. In each phase activities are identified and quantitative and qualitative indicators listed which can be used to assess the effectiveness of the community services programme.

CS = Community services

CSO = Community Services Officer

PHASE 1. ASSESSMENT, ACTION PLAN, GUIDELINES

Major Activities	Community Service Checklist
1.1. Assists with overall programme management	<ul style="list-style-type: none"> <input type="checkbox"/> Are CS resources available through LOI? <input type="checkbox"/> Does the CSO participate in the UNHCR management team and support other sectors - water, sanitation, shelter, health, food and nutrition, programme, protection and environment?
1.2. Helps meet basic refugee survival needs	<ul style="list-style-type: none"> <input type="checkbox"/> Have CS considerations been included in the needs and resource assessment? <input type="checkbox"/> Have refugee leaders been identified and involved in assessment? <input type="checkbox"/> Do vulnerable groups have access to initial assistance? <input type="checkbox"/> Have relevant local government and other local resources (NGOs, host families) been identified? <input type="checkbox"/> Have CS standards and guidelines been set? <input type="checkbox"/> Is there an action plan based on the above?

PHASE 2. FOUNDATION OF COMMUNITY SERVICES PROGRAMME

Major Activities	Community Service Checklist
2-1. Facilitates refugee participation and self-management	<ul style="list-style-type: none"> <input type="checkbox"/> Have refugee committees and information networks been established with women's

	<p>participation as well as men and are vulnerable groups represented?</p> <ul style="list-style-type: none"> <input type="checkbox"/> Is community awareness building and information dissemination undertaken? <input type="checkbox"/> Is there a CS coordination mechanism with refugees, implementing partners and government?
--	---

PHASE 3. BUILDING UP COMMUNITY SERVICES

Major Activities	Community Service Checklist
<p>3.1. Assistance to groups at risk, promoting their self-sufficiency</p>	<p>Unaccompanied minors</p> <ul style="list-style-type: none"> <input type="checkbox"/> Are they protected from exploitation by provision of information centres etc.? <input type="checkbox"/> Are reception points established for reunifying parents and children? <input type="checkbox"/> How many UAMs are identified? <input type="checkbox"/> Is the community mobilized to provide foster care? <input type="checkbox"/> Is information disseminated on the reunification programme? <p>Traumatized children and adults</p> <ul style="list-style-type: none"> <input type="checkbox"/> Do children attend clinics, child care services, schools or organized play? <input type="checkbox"/> Is there a system of identification and referral of acute cases to local facilities and are volunteers identified? <input type="checkbox"/> Are there special programmes established and are children participating in these therapeutic activities? <p>Single parent households</p> <ul style="list-style-type: none"> <input type="checkbox"/> Are neighbours or volunteers mobilized for support? <input type="checkbox"/> Have interest groups formed? <p>Survivors of violence</p> <ul style="list-style-type: none"> <input type="checkbox"/> Are means of safety and security identified and implemented? <input type="checkbox"/> Are activities established to provide a supportive environment and re-establish normal life? <p>Disabled</p> <ul style="list-style-type: none"> <input type="checkbox"/> Are preventative measures established? <input type="checkbox"/> Are children immunized? <input type="checkbox"/> Have health education messages been identified and disseminated? <input type="checkbox"/> Are the disabled referred for identification and treatment? <input type="checkbox"/> Are their families supported? <input type="checkbox"/> Are the disabled receiving education? <p>Unaccompanied older persons</p> <ul style="list-style-type: none"> <input type="checkbox"/> Do they receive assistance in daily survival? <input type="checkbox"/> Are they involved in community activities? <input type="checkbox"/> Has a skills inventory of elderly been established? <p>Ethnic minorities and mixed couples</p> <ul style="list-style-type: none"> <input type="checkbox"/> Is their safety and security ensured through

	<p>site planning?</p> <ul style="list-style-type: none"><li data-bbox="813 246 1417 311"><input type="checkbox"/> Have community activities been developed to foster peace and reconciliation?
--	--

Major Activities	Community Service Checklist
	<p>Adolescents</p> <ul style="list-style-type: none"> <input type="checkbox"/> Are they involved in community activities? <p>Single Females</p> <ul style="list-style-type: none"> <input type="checkbox"/> Are they protected? <input type="checkbox"/> Have neighbours and volunteers been identified to offer support? <input type="checkbox"/> Have community activities been organized? <input type="checkbox"/> Have females been accommodated in a physically secure place in the refugee community? <p>Other specific groups</p> <ul style="list-style-type: none"> <input type="checkbox"/> Is there a system of emergency support for urban refugees, co-ordinated with programme and protection?
3.2 Establishment and maintenance of reproductive health services	<ul style="list-style-type: none"> <input type="checkbox"/> Has consultation been held with refugees groups? <input type="checkbox"/> Have needs and priorities been identified within categories - safe motherhood, family planning, HIV/AIDS, STDs, sexual and gender-based violence, special needs of adolescents? <input type="checkbox"/> Have clinics and services been established? <input type="checkbox"/> Have refugee health workers been mobilized and trained? <input type="checkbox"/> Are women attending the services?
3.3. Promotion of refugee self-reliance and durable solutions	<p>Self-help activities</p> <ul style="list-style-type: none"> <input type="checkbox"/> Have projects been established for community development? <p>Training</p> <ul style="list-style-type: none"> <input type="checkbox"/> Are refugee training programmes developed, have refugees been trained? <input type="checkbox"/> Has capacity building (on-the-job or orientation training) been organized for government, NGO, CS workers? <p>Education</p> <ul style="list-style-type: none"> <input type="checkbox"/> Are schools established (especially primary) and students enrolled? <input type="checkbox"/> Is non-formal education established? Is the education of girls taken into consideration? <p>Capacity building of refugee infra-structure</p> <ul style="list-style-type: none"> <input type="checkbox"/> Are structures established (including community centres, clinics, housing)? <input type="checkbox"/> Have some programmes been handed over to refugee groups? <input type="checkbox"/> Are women included as part of the refugee leadership structure?

Chapter 12: Site Selection, Planning and Shelter

Gender Considerations

57. In emergencies there may be a loss of normal community participation and the changes in demographic proportions may have altered values and principles. This may mean disruption of traditional mechanisms for the protection and assistance of women. This change of social patterns in refugee communities may also result in:

- i. Increased numbers of female headed house-holds;
- ii. Large numbers of unaccompanied children;
- iii. Shortage of men;
- iv. Disruption of the extended family, with its role as social care taker

58. It is important that the needs of women are taken into account in site planning. It may be difficult to reach women if they do not traditionally form part of the leadership structure of the community. In such cases the community extension workers should be able to assist in obtaining views on the protection and security of women.

59. Among the refugees may be those who are unable to build their own shelters because of vulnerabilities. Specific actions should be taken to ensure that the refugee community themselves are organised to assist the more vulnerable refugees with their shelter construction.

Administrative and Communal Services

67. Buildings for administrative and communal services should be traditional structures, if possible of a multipurpose design to facilitate alternative uses. For example, buildings for initial emergency services could later be used as schools or other community facilities. The following list includes administrative and communal services most often needed, the division is indicative only – the importance of maximum decentralisation has already been stressed. Whether centralised or decentralised, administrative and other facilities should be located and designed so as they are accessible to women as well as men.

68. Services and facilities likely to be centralised are:

- i. Site administrative office;
- ii. Services co-ordination offices for health care, feeding programmes, water supply, education, etc.;
- iii. Warehousing and storage;
- iv. Initial registration/health screening area;
- v. Tracing service;
- vi. Therapeutic feeding centre (if required).

69. Services and facilities likely to be decentralised:

- i. Bathing and washing areas;
- ii. Supplementary feeding centres (if required);
- iii. Education facilities;
- iv. Institutional centres (e.g. for the disabled and unaccompanied children, if required);

v. Recreation areas;

vi. Commodity distribution centres.

70. The location of the centralised services will depend on the specific situation and in particular on the space available. Where sufficient space is available, there may be clear advantages in having the centralised services in the centre of the camp. Where space is scarce, it may be better to have the centralised services located near the entrance to the camp. In particular, this will avoid the trucks delivering supplies having to drive through a densely populated site, with the attendant problems of dust, noise and danger to pedestrians. If some form of closed camp is unavoidable, at least the centralised administrative services will probably have to be located near the entrance. The warehouses should always be near the administrative office for reasons of security.

Chapter 13: Commodity Distribution

Components of Distribution Systems

General Considerations

6. The ideal distribution system should be safe and easily accessible to the intended beneficiaries.

- Safe:** Distribution should be organised in such a way that the system is safe for all who use it. Particular attention should be given to women and the vulnerable;
- Accessible:** Distribution points should be close to where people live and located so that the access of particular groups is not restricted. The timing of distributions should suit the beneficiaries.

7. The refugees themselves can provide the most effective monitoring and control of the distribution system. In order to do this they must be informed as to the type and quantity of commodities to be distributed and method and timing to be used.

A system needs to be put in place whereby the refugees can be continuously informed of changes in the quantity, type or method of distributions.

8. In the early stages of a new operation, particularly in large emergencies, effective control over distribution may not be possible. However, from the start, each action taken should contribute to a process whereby control by UNHCR is progressively established. For example the provision of plastic sheeting, tents and other shelter material is very important because it reduces the mobility of the population. Once it is issued, the population can settle and commodity distribution and other services will be easier to organise.

Refugee Involvement

9. Ensure the refugees are well informed (both women and men). They must know what they should receive, how much, when and how. This information should come to them directly rather than through their leadership.

The refugees should be able to see the distribution process for themselves as they are the best monitors and controllers of the process.

Ensure that the refugees participate at all levels of the distribution process. However, be aware of the dangers of non-representational leadership (see chapter 7 on co-ordination and site level organisation).

10. Irregularities in the distribution cycle undermine the confidence of the beneficiaries and increase their need to circumvent the system.

The Role of Refugee Women UNHCR Policy

19. UNHCR's policy is to ensure the maximum possible appropriate involvement of refugee women in all aspects of distribution. Determining the nature of this involvement requires consultation with refugee women and men and a careful evaluation of the totality of the needs and responsibilities of refugee women and their families. Failure to take these considerations into proper account can have negative implications that go well beyond the distribution system itself.

20. In the great majority of refugee communities, the objective of fair distribution will be best served by having an appropriate balance of men and women. However, it is normally women, and in particular single female heads of household, who are either under-represented or excluded.

Areas of Women's Involvement

21. There are three areas where refugee women can be involved:

- In the decision-making processes and monitoring;
- In the distribution itself (women supervise and/or hand out the commodities); and,
- In collecting the commodities (where they are distributed to women not men).

22. Women must be directly involved in decision making and monitoring, including being involved in planning the system and determining their own participation in its implementation. Women should be members of the commodity distribution or food committees.

23. Women should choose representatives who will be involved in the distribution itself. The extent and nature of this participation will depend on factors specific to that situation.

24. If women themselves feel that the most effective way to ensure that they receive their fair share and to retain control of its use thereafter, is by actually collecting, or at least being present at the distribution of food and non-food items for their household (whether or not they are its head), this should be ensured.

Monitoring

25. Monitoring the distribution system is an important management responsibility of UNHCR. General principles of monitoring are described in chapter 8 on implementing arrangements. Monitoring distribution includes monitoring the actual distribution of the commodity and spot checks in the camps on distribution days. See chapter 15 on food and nutrition, and "Commodity Distribution: A Practical Guide For Field Staff" for more details about monitoring distribution systems.

Chapter 14: Health²

Reproductive Health³

45. Reproductive health care in refugee situations should be provided by adequately trained and supervised staff and should be guided by the following principle:

Reproductive health care should be available in all situations and be based on refugee, particularly women's, needs and expressed demands. The various religious, ethical values and

² . [Further guidelines on reproductive health are also provided in this chapter, in this Gender Handbook].

³ See: United Nations High Commissioner for Refugees. An Inter-agency Field Manual on Reproductive Health in Refugee Situations, 1995. UNFPA have developed a set of reproductive health kits which can be used as part of a program to deal with reproductive health problems and the Health and Nutrition Unit or the Supplies and Transport Section at Headquarters should be contacted for details.

cultural backgrounds of the refugees should be respected, in conformity with universally recognised international human rights.

46. The provision of quality reproductive health services requires a collaborative effort by a number of sectors (health, community services, protection, education) and organisations, which should provide reproductive health services based on their mandates.

47. While resources should not be diverted from addressing the problems of the major killers (measles, diarrhoeal diseases, acute respiratory infections and malaria), there are some aspects of reproductive health which must also be dealt with in the initial phase of an emergency. The major objectives of reproductive health care in an emergency are to:

- i. Prevent and manage the consequences of sexual violence;
- ii. Decrease HIV transmission by respecting universal precautions and guaranteeing the availability of free condoms (“Universal precautions” means procedures and practices by health workers to limit transmission of disease);
- iii. Prevent excess neonatal and maternal morbidity and mortality by providing clean home delivery kits, ensuring clean and safe deliveries at health facilities and managing emergency obstetric complications by establishing a referral system;
- iv. Plan for provision of comprehensive reproductive health services, integrated into Primary Health Care, as soon as possible;
- v. Identify a person responsible to co-ordinate reproductive health activities under the responsibility of the overall health co-ordinator.

48. As soon as feasible, when the situation has stabilised, comprehensive reproductive health services based on the needs of refugees should be put in place. These services should be integrated within the primary health care system and should address the following aspects:

Safe Motherhood

49. This should cover antenatal care, delivery care and postnatal care. All pregnant women should receive antenatal care services during pregnancy. A trained health care provider should accompany all deliveries. A referral system to manage obstetric emergencies should be put in place. Within the first 4-6 weeks, mothers and their new babies should visit the health services and receive nutritional supplements, counselling on child spacing, and education about breast-feeding and infant care.

Prevention and Response to Sexual Violence⁴

Please refer to chapter 10 on community services in the Emergency Handbook.

Sexually Transmitted Diseases including HIV/AIDS⁵

50. Experience shows that HIV spreads fastest in conditions of poverty and social instability – conditions which typify refugee emergencies. The priority should be on preventing HIV transmission: ensure there is respect for universal precautions and work closely with the community to promote HIV prevention strategies including condom education and distribution. Where blood transfusions are provided, ensure they are safe. Treatment of sexually transmitted diseases should be a routine part of the health services and should include appropriate follow up of partners.

⁴ . [Please note that additional guidelines on this topic are also provided in this chapter, as well as in chapter 4 in this Gender Handbook].

⁵ *United Nations High Commissioner for Refugees, UNAIDS and WHO. Guidelines for HIV Interventions in Emergency Settings, 1996.*

Mandatory HIV testing in refugee circumstances, with the single exception of testing blood for transfusion, is not justified, and WHO has determined that, as a matter of policy, such testing should not be pursued.

Family Planning

51. Family planning services should be initiated as soon as feasible. Ensure that the refugees are informed and understand their free choice in the matter.

Other Reproductive Health Concerns

52. Women who have complications such as spontaneous or unsafe abortion should be cared for by the referral system.

53. Programmes to eradicate harmful traditional practices including female genital mutilation should be implemented once the situation has stabilised. It is crucial to work closely with the refugee community in tackling this issue. Culturally appropriate sanitary supplies should be distributed to women as soon as possible. Inadequate sanitary protection may prevent women from collecting material assistance.

Reproductive Health and Young People

54. Health workers should pay particular attention to meeting the reproductive health needs of young people as they may be at greater risk and have more limited access to appropriate services.

55. It is important to ensure that sufficient female health workers are trained in reproductive health in order to provide culturally appropriate health services including education in the community and at the health facilities. At least some of these health workers should be recruited from among the refugee community.

(continued)

Annex 1 – Health Information System

7. Main Health Programmes

7.1 Reproductive Health

7.1.1 Safe motherhood

a. Deliveries: Birth

Table 7.1.1

Camp names	Number	Crude Birth Rate*
Total A: a1 + a2 + a3		

*Crude Birth Rate = $\frac{\text{Number of births in a year} \times 1,000}{\text{Total population}}$

Total population

- a1: total # and % of birth in health centre or hospital:
- a2: total # and % of birth assisted by a **Trained** Birth Attendant (but outside health centre or hospital):
- a3: total # and % of other births (i.e. A - (a1 + a2):
- total number and % of complicated deliveries:
- total # of cases of neonatal tetanus:
- total # and % of deliveries with adequate Tetanus Toxoid (TT) coverage:

b. Ante-natal care (ANC)

- total # of expected pregnancies per year:
- total # of new ANC consultations (last 3 months) and % compared to expected:
- % of women with three ANC visits at delivery:
- are supplements given to pregnant women? specify criteria and supplements provided:
- RPR test (syphilis test): % of positive tests:

c. Other information

- maternal mortality: # and incidence per 100,000 live birth per year:
- Peri/neonatal mortality: # and incidence per 1,000 live birth per year:
- # of abortions and % per number of pregnancies:
- low birth weight (below 2.5 kg): provide # and percentage per total number of births:
- # and percentage of total number of births having a post-natal consultation:

7.1.2 Sexual and gender based violence

- # of cases of sexual and gender based violence per month (incidence per 10,000):
- is there any special programme for Female Genital Mutilation (where prevalent)? if yes, give brief description.

7.1.3 STDs including HIV / AIDS

- enforcement of universal precautions:
- % of blood tested for HIV positive before transfusion:
- % of HIV positive among blood tested:
- distribution of condoms, # and percentage of acceptance:

7.1.4 Family Planning (every three months)

- number of new acceptors in last three months, per method:
- total # and % of acceptors per method:

7.1.5 Adolescents

Is there any special programme for adolescents ? if yes, give a brief description:

Assessment and Planning: Gender Issues⁶



UNHCR Guidelines on the Protection of Refugee Women

(Excerpts)

Purpose of the assessment and planning process

21. Efforts to prevent or address protection problems will be enhanced by a more informed understanding of the demographic composition of the refugee population, the protection situation faced by each category of refugee (men, women and children), and the mechanisms traditionally used by that society to ensure the safety of vulnerable groups. The planning process takes this information into account and includes it with other practical considerations such as available human, financial and material resources, in proposing activities for refugees.

22. Assessment and planning is needed through every stage of a refugee situation, from the initial emergency through care and maintenance to durable solutions. Early assessment of protection issues affecting refugee women is crucial for two major reasons. First, refugee women may be particularly vulnerable to protection violations as they cross the border into an asylum country. The sooner an assessment of the dangers they face can be made, the sooner these protection problems can be addressed and their security enhanced. Second, decisions made early in a refugee emergency regarding such fundamental issues as camp lay-out and food distribution mechanisms can have long-term ramifications for the protection of refugee women. If the impact on groups with specific needs is assessed, decisions may be taken that will avoid many future problems.

Questions to be answered by assessment

23. Understanding the protection problems facing refugee women requires a two-pronged approach. First, the protection situation facing all the refugees must be assessed. Since women and their dependent children account for a majority of refugees in most countries, these general protection issues by definition will affect them. Second, issues related to refugee women only need to be identified.

⁶ The following are excerpts from the UNHCR *Guidelines on the Protection of Refugee Women*, Geneva, 1991, Section II, pp. 15-21.

KEY ISSUES – EMERGENCY STAGE

- ☐ Prevention of attacks on refugee women in crossing the border.
 - ☐ General knowledge of the demographic profile of the refugee population by gender and age.
 - ☐ Participation of refugee women in planning and implementation of assistance services and protection measures.
 - ☐ Physical organisation and location of camps to ensure greater protection.
 - ☐ Assistance policies that ensure that single refugee women and women-headed households gain access to food, shelter, health care, clean water, firewood, etc.
 - ☐ Access of women to registration documents in their own names.
 - ☐ Access of women asylum applicants, where applicable, to a fair hearing to determine their refugee status.
 - ☐ Identification of particularly vulnerable populations to ensure that their protection receives special attention.
 - ☐ Reunification of families separated during flight.
 - ☐ Ensuring staff are sufficiently aware of needs of women to include social factors in planning.
- Ensuring an adequate number of women staff, particularly as protection workers and health workers.

Key ISSUES – LONG-TERM REFUGEE SITUATIONS

- ☐ Demographic profile of the refugee population by gender and age.
- ☐ Participation of refugee women in planning and implementation of assistance, services and protection measures.
- ☐ Prevention of attacks on refugee women in refugee camps.
- ☐ Physical organisation and location of camps to ensure greater safety and security for refugee women.
- ☐ Assistance policies that ensure that single refugee women and women-headed households gain access to food, shelter, health care, clean water, firewood, etc.
- ☐ Access of women to registration documents in their own names.
- ☐ Access of women to income-generation and skills-training programs to ensure their ability to support themselves and their families.
- ☐ Accessed refugee women to programs for voluntary repatriation, resettlement and local integration and the information needed to make informed choices about durable solutions.
- ☐ Recruitment and training of staff, including women, who are sensitive to incorporating women's issues in planning and implementation of programs.

24. The questions to be answered in assessing the protection problems faced by refugee women cover a great number of areas. Not all of the questions need be asked at the same time, however. Nor do all have the same import.

25. The assessment may require the involvement of a number of UNHCR staff, in consultation with and assisted by non-governmental organisations, host-country governments and refugees. Some of the questions can best be answered by protection officers while others will require the input of social service officers, health workers and others.

26. More specifically, the questions to be asked in assessing the protection situation of refugee women include:

Circumstances of the Movement

- Why have they moved?
- Are they still moving? If so, at what rate? Are further movements likely?
- Do the reasons for movement indicate particular vulnerability of any given group among the refugees? If so, who and for what reasons?
- How have they arrived in this location — on foot, by boat, by plane, by other means?
- Did they face protection problems in getting across the border? If so, what specific protection problems did the refugee women encounter:
 - physical attacks
 - sexual harassment
 - rape
 - abduction
 - sexual abuse
 - other?
- Who was responsible for perpetrating the offence? Are these problems likely to continue?
- Are protection officers deployed along the border? If so, by whom? Are women staff among the protection officers?
- Is displacement expected to be short or long term?
- Do people move as individuals, in families or in larger groups? Are single women incorporated into family units or other groups during flight?
- Have families been separated or divided? Are there single parents or families headed by women?
- Have the refugees suffered casualties either before or during flight? If so, in what numbers and from what causes? Are women among those who have suffered casualties? Are they responsible for providing assistance to those who have suffered casualties?
- What resources, if any have they been able to bring with them? Do women have access to these resources?
- What is their physical condition on arrival?

Characteristics of the Refugee Population

- What is the ethnic, cultural and language background of the people?
- What are their major traditions, social organisation and life styles, particularly regarding the role of women?
- What are the percentages of men and women?
- What is the age distribution by gender of the population?

Local Reception and Attitudes

- How are they received by the indigenous population of the area?
- How are they received by the government of the country of asylum? How are they received by the military or police forces in the area?
- Are there any local customs in the country of asylum regarding the role of women that may affect the safety or legal status of the refugee women?
- Are the refugees placing strain on the area's resources (including water, food and cooking fuel) and services? Is the local population being adversely affected? If so, who within the local population is most affected? Are women among these?

Physical Organisation and Location of Camps

- ☐ How far from the border are the refugees being settled? Are the camps in danger of armed attacks?
- ☐ How is the camp or other place of settlement physically organised? Is the camp organised in a manner similar to what the refugees are accustomed to in their villages and townships? Have refugees been consulted?
- ☐ Are different ethnic/tribal groups inter-mixed or are they in separate sections?
- ☐ Is the camp or other place of settlement isolated from neighbouring communities or is it integrated into the local population?
- ☐ Can the people move freely into and out of the camp? If there are restrictions on free movements, what are they? Are men and women affected equally by these restrictions? Are men and women equally able to afford themselves of opportunities to move?
- ☐ Is the camp guarded? If so, by whom? Through what physical means?
- ☐ Do the guards receive any training regarding the rights of women and their responsibilities towards the protection of refugee women?
- ☐ Is the camp lit at night? If so, by what means? Are all parts of the camp lit?
- ☐ Where are the latrines and washing facilities relative to the living quarters? Do the latrines/washing facilities ensure privacy? Are there specific access times for women and children? Is there safe access for women on their own, particularly at night?
- ☐ Where do people collect water and firewood relative to the living quarters? Do they need passes or permission to go to where the water and firewood is located? Do they need to exit the boundaries of the camp to collect water and firewood? Are the means of exit safe? Is there safe access for women to collect these items, given that women in many societies have primary responsibility for these tasks?
- ☐ Where do the refugees obtain assistance and services relative to the living quarters? Do they need passes or other permission to go to the service/assistance locations? Do they experience any protection problems in reaching the locations of services and assistance?

Social Organization

- ☐ What social and other structures exist? Who are the apparent leaders? What is the basis of their influence? To what extent do they have the confidence and support of different population groups?
- ☐ Are women included in the overall leadership structures? Are there separate women-run social structures? If neither is true, are there other avenues for the participation of women in planning and programming?
- ☐ What tensions/rivalries exist within the population? To what extent will these tensions spill over into security problems for refugee women?
- ☐ What are the traditional mechanisms for ensuring the safety of vulnerable groups within the population? Have any of these mechanisms carried over to the refugee camp or settlement? Have any new protection mechanisms been developed?

Physical Safety

- ▣ Within the camp or other place of settlement do women face any of the following safety problems:
 - ◆ physical attack
 - ◆ rape
 - ◆ abduction
 - ◆ threats
 - ◆ sexual harassment
 - ◆ obligation to grant sexual favours in return for documentation and/or assistance
 - ◆ forced prostitution
 - ◆ forced sale of children
 - ◆ other?
- ▣ Are these situations frequent? On what scale do they occur?
- ▣ Are there specific groups of women who are more vulnerable than others to these situations?
- ▣ When do these most often occur? Who are the perpetrators?
- ▣ Who reports these incidents and to whom? Are there rumours of unreported incidents? What happens to the information?
- ▣ What actions are taken to protect women from becoming victims of these situations?
- ▣ What actions can be taken and by whom to punish the perpetrators?
- ▣ Are refugee women engaged in prostitution? If so, in what numbers? Are specific groups of women more likely to become prostitutes? Why? Are there alternative economic opportunities for them?

Access to Assistance and Services

- Do single women, single-parent families and/or wives have access to basic assistance supplies (food, water, shelter, firewood, clothing, etc.) on the same basis as men?
- Do women heads of households and single women have access to assistance supplies on the same basis as male-headed households?
- Does food distribution offer specific protection problems for women (for example, can women be put in the situation of having to offer sexual favours in exchange for food)?
- Do women face security problems in securing water (for example, do women have to bribe guards or cross minefields in order to obtain water)?
- Do women have equal access to health services? Are the services provided appropriate to the health needs of women (for example, are gynaecological services offered)? Are counselling services provided, particularly for victims of trauma? Are public health workers employed to provide health education to refugee women (for example, regarding breast-feeding, sanitation, family planning)? Are these services offered in a culturally sensitive way? Are traditional birth attendants recognised and trained?
- Do women have equal access to skills-training and income-generation programs?
- Do girls have equal access to primary education programs?
- Are female staff employed in these various services, particularly health and counselling services, in proportion to the number of female clients?
- Do women refugees have equal access to employment in programs operated by international agencies and non-governmental organisations?

Reference Section

Includes:

- Reference Documents
 - CEDAW
 - DEVAW
 - Selected ExCom Conclusions (Nos. 39, 54, 60, 64, 73)
 - Selected International and Regional Human Rights Instruments
 - Beijing Platform for Action
 - Bibliography
 - Other Useful References
 - Useful Web-sites
-
- Feedback Questionnaire : on Gender Training Kit and Resource Handbook

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979
entry into force 3 September 1981, in accordance with article 27 (1)

"...the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields."

PREAMBLE

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal right of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women.

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, of all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, relaxation of international tension, mutual cooperation among all States irrespective of their social and economic systems, general and complete disarmament, and in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination Against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

PART I

ARTICLE 1. Discrimination

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

ARTICLE 2. Policy Measures

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- a. To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- b. To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- c. To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- d. To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- e. To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- f. To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- g. To repeal all national penal provisions which constitute discrimination against women.

ARTICLE 3. Guarantee of Basic Human Rights and Fundamental Freedoms

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

ARTICLE 4. Special Measures

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

ARTICLE 5. Sex Role Stereotyping and Prejudice

States Parties shall take all appropriate measures:

- a. To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- b. To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

ARTICLE 6. Prostitution

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

PART II**ARTICLE 7.**

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- a. To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- b. To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- c. To participate in non-governmental organizations and associations concerned with the public and political life of the country.

ARTICLE 8.

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

ARTICLE 9.

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

PART III**ARTICLE 10.**

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- a. The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in preschool, general, technical, professional and higher technical education, as well as in all types of vocational training;
- b. Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- c. The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- d. The same opportunities to benefit from scholarships and other study grants;
- e. The same opportunities for access to programmes of continuing education including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- f. The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- g. The same opportunities to participate actively in sports and physical education;
- h. Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

ARTICLE 11.

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
 - a. The right to work as an inalienable right of all human beings;
 - b. The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
 - c. The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
 - d. The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
 - e. The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
 - f. The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.
2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:
 - a. To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
 - b. To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
 - c. To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;
 - d. To provide special protection to women during pregnancy in types of work proved to be harmful to them.
3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

ARTICLE 12.

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

ARTICLE 13.

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- a. The right to family benefits;
- b. The right to bank loans, mortgages and other forms of financial credit;
- c. The right to participate in recreational activities, sports and all aspects of cultural life.

ARTICLE 14.

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.
2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
 - a. To participate in the elaboration and implementation of development planning at all levels;
 - b. To have access to adequate health care facilities, including information, counselling and services in family planning;
 - c. To benefit directly from social security programmes;
 - d. To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
 - e. To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;
 - f. To participate in all community activities;
 - g. To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
 - h. To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications

PART IV**ARTICLE 15.**

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

ARTICLE 16.

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
 - a. The same right to enter into marriage;
 - b. The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
 - c. The same rights and responsibilities during marriage and at its dissolution;
 - d. The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
 - e. The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

- f. The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
 - g. The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
 - h. The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

PART V

ARTICLE 17.

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination Against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.
6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.
7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.
8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.
9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

ARTICLE 18.

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:
 - a. Within one year after the entry into force for the State concerned; and
 - b. Thereafter at least every four years and further whenever the Committee so requests.
2. Reports may indicate factors and difficulties affecting the degree of fulfillment of obligations under the present Convention.

ARTICLE 19.

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.

ARTICLE 20.

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.
2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

ARTICLE 21.

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.
2. The Secretary-General shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

ARTICLE 22.

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

PART VI**ARTICLE 23.**

Nothing in this Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- a. In the legislation of a State Party; or
- b. In any other international convention, treaty or agreement in force for that State.

ARTICLE 24.

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

ARTICLE 25.

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE 26.

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

ARTICLE 27.

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

ARTICLE 28.

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

ARTICLE 29.

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State Party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.
3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Declaration on the Elimination of Violence against Women

United Nations, Resolution Adopted by The General Assembly
[on the report of the Third Committee (A/48/629)], Forty-eight session, Agenda item 111
A/ RES/48/104, 23 February 1994

The General Assembly,

Recognizing the urgent need for the universal application to women of the rights and principles with regard to equality, security, liberty, integrity and dignity of all human beings,

Noting that those rights and principles are enshrined in international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Recognizing 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 and that the Declaration on the Elimination of Violence against Women, set forth in the present resolution, will strengthen and complement that process,

Concerned that violence against women is an obstacle to the achievement of equality, development and peace, as recognized in the Nairobi Forward-looking Strategies for the Advancement of Women, in which a set of measures to combat violence against women was recommended, and to the full implementation of the Convention on the Elimination of All Forms of Discrimination against Women,

Affirming 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, and concerned about the long-standing failure to protect and promote those rights and freedoms in the case of violence against women,

Recognizing that violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men,

Concerned that some groups of women, such as women belonging to minority groups, indigenous women, refugee women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women and women in situations of armed conflict, are especially vulnerable to violence,

Recalling the conclusion in paragraph 23 of the annex to Economic and Social Council resolution 1990/15 of 24 May 1990 that the recognition that violence against women in the family and society was pervasive and cut across lines of income, class and culture had to be matched by urgent and effective steps to eliminate its incidence,

Recalling also Economic and Social Council resolution 1991/18 of 30 May 1991, in which the Council recommended the development of a framework for an international instrument that would address explicitly the issue of violence against women,

Welcoming the role that women's movements are playing in drawing increasing attention to the nature, severity and magnitude of the problem of violence against women,

Alarmed that opportunities for women to achieve legal, social, political and economic equality in society are limited, inter alia, by continuing and endemic violence,

Convinced that in the light of the above there is a need for a clear and comprehensive definition of violence against women, a clear statement of the rights to be applied to ensure the elimination of violence against women in all its forms, a commitment by States in respect of their responsibilities, and a commitment by the international community at large to the elimination of violence against women,

Solemnly proclaims the following Declaration on the Elimination of Violence against Women and urges that every effort be made so that it becomes generally known and respected:

Article 1

For the purposes of this Declaration, the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Article 2

Violence against women shall be understood to encompass, but not be limited to, the following:

- (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
- (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Article 3

Women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, *inter alia*:

- (a) The right to life;
- (b) The right to equality;
- (c) The right to liberty and security of person;
- (d) The right to equal protection under the law;
- (e) The right to be free from all forms of discrimination;
- (f) The right to the highest standard attainable of physical and mental health;
- (g) The right to just and favourable conditions of work;
- (h) The right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.

Article 4

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

- (a) Consider, where they have not yet done so, ratifying or acceding to the Convention on the Elimination of All Forms of Discrimination against Women or withdrawing reservations to that Convention;
- (b) Refrain from engaging in violence against women;
- (c) Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons;
- (d) Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms;
- (e) Consider the possibility of developing national plans of action to promote the protection of women against any form of violence, or to include provisions for that purpose in plans already existing, taking into account, as appropriate, such cooperation as can be provided by non-governmental organizations, particularly those concerned with the issue of violence against women;

- (f) Develop, in a comprehensive way, preventive approaches and all those measures of a legal, political, administrative and cultural nature that promote the protection of women against any form of violence, and ensure that the re-victimization of women does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions;
- (g) Work to ensure, to the maximum extent feasible in the light of their available resources and, where needed, within the framework of international cooperation, that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counselling, and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation;
- (h) Include in government budgets adequate resources for their activities related to the elimination of violence against women;
- (i) Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women;
- (j) Adopt all appropriate measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women;
- (k) Promote research, collect data and compile statistics, especially concerning domestic violence, relating to the prevalence of different forms of violence against women and encourage research on the causes, nature, seriousness and consequences of violence against women and on the effectiveness of measures implemented to prevent and redress violence against women; those statistics and findings of the research will be made public;
- (l) Adopt measures directed towards the elimination of violence against women who are especially vulnerable to violence;
- (m) Include, in submitting reports as required under relevant human rights instruments of the United Nations, information pertaining to violence against women and measures taken to implement the present Declaration;
- (n) Encourage the development of appropriate guidelines to assist in the implementation of the principles set forth in the present Declaration;
- (o) Recognize the important role of the women's movement and non-governmental organizations world wide in raising awareness and alleviating the problem of violence against women;
- (p) Facilitate and enhance the work of the women's movement and non-governmental organizations and cooperate with them at local, national and regional levels;
- (q) Encourage intergovernmental regional organizations of which they are members to include the elimination of violence against women in their programmes, as appropriate.

Article 5

The organs and specialized agencies of the United Nations system should, within their respective fields of competence, contribute to the recognition and realization of the rights and the principles set forth in the present Declaration and, to this end, should, inter alia:

- (a) Foster international and regional cooperation with a view to defining regional strategies for combating violence, exchanging experiences and financing programmes relating to the elimination of violence against women;
- (b) Promote meetings and seminars with the aim of creating and raising awareness among all persons of the issue of the elimination of violence against women;
- (c) Foster coordination and exchange within the United Nations system between human rights treaty bodies to address the issue of violence against women effectively;
- (d) Include in analyses prepared by organizations and bodies of the United Nations system of social trends and problems, such as the periodic reports on the world social situation, examination of trends in violence against women;

- (e) Encourage coordination between organizations and bodies of the United Nations system to incorporate the issue of violence against women into ongoing programmes, especially with reference to groups of women particularly vulnerable to violence;
- (f) Promote the formulation of guidelines or manuals relating to violence against women, taking into account the measures referred to in the present Declaration;
- (g) Consider the issue of the elimination of violence against women, as appropriate, in fulfilling their mandates with respect to the implementation of human rights instruments;
- (h) Cooperate with non-governmental organizations in addressing the issue of violence against women.

Article 6

Nothing in the present Declaration shall affect any provision that is more conducive to the elimination of violence against women that may be contained in the legislation of a State or in any international convention, treaty or other instrument in force in a State.

85th plenary meeting, 20 December 1993

SELECTED EXCOM CONCLUSIONS

ExCom Conclusion No. 39 (XXXVI) REFUGEE WOMEN AND INTERNATIONAL PROTECTION* 1985 (Executive Committee - 36th Session)

The Executive Committee,

- (a) *Welcomed* the initiative of the Office in organizing the Round Table on Refugee Women in Geneva in April 1985;
- (b) *Welcomed* further the recommendations regarding the situation of refugee and displaced women adopted by the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women held in Nairobi (Kenya) in July 1985;
- (c) *Noted that* refugee women and girls constitute the majority of the world refugee population and that many of them are exposed to special problems in the international protection field;
- (d) *Recognized that* these problems result from their vulnerable situation which frequently exposes them to physical violence, sexual abuse, and discrimination;
- (e) *Stressed* the need for such problems to receive the urgent attention of Governments and of UNHCR and for all appropriate measures to be taken to guarantee that refugee women and girls are protected from violence or threats to their physical safety or exposure to sexual abuse or harassment;
- (f) *Noted* with satisfaction the measures already undertaken by UNHCR to address the protection problems of refugee women and to ensure that they are adequately protected;
- (g) *Called upon* States to continue to support UNHCR programmes established with a view to securing protection for refugee women, and UNHCR assistance programmes for refugee women, especially those aimed at helping refugee women become self-sufficient through educational and income-generating projects;
- (h) *Recommended* that States, individually, jointly and in co-operation with UNHCR, redefine and reorient existing programmes and, where necessary, establish new programmes to meet the specific problems of refugee women, in particular to ensure the safeguard of their physical integrity and safety, and their equality of treatment. Women refugees should participate in the formulation and implementation of such programmes;
- (i) *Stressed* the importance of a more detailed knowledge and understanding of the special needs and problems of refugee women in the international protection field and of gathering statistical, sociological and other data concerning refugee women and girls in order to identify and implement appropriate mechanisms to ensure their effective protection;
- (j) *Requested* the High Commissioner to report regularly to members of the Executive Committee on the needs of refugee women, and on existing and proposed programmes for their benefit;
- (k) *Recognized* 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 their 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.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

**ExCom Conclusion
No. 54 (XXXIX) REFUGEE WOMEN*
1988 (Executive Committee - 39th Session)**

The Executive Committee,

Expressed appreciation for the Note on Refugee Women (A/AC.96/XXXIX/CRP.1), particularly its emphasis on the inter-dependence of the problems and special needs of refugee women in regard to assistance, protection and durable solutions ;

Recognised that with regard to international protection, there are situations in which refugee women face particular hazards, especially threats to their physical safety and sexual exploitation;

Called for reinforcement of the preventive measures initiated by the Office and concerned agencies to enhance the physical security of refugee women;

Called on host Governments to strengthen their support of the Office's protection activities as they relate to women, and for relevant Governments to support the Special Resettlement Programme for Women-at-Risk;

Supported the High Commissioner's recognition of Refugee Women as a vital economic force and of the need to promote their participation as agents as well as beneficiaries in the planning of protection and assistance programmes;

Requested the High Commissioner to introduce further effective measures towards the integration of women's issues within the programme-planning cycle at all stages, in particular: check lists within technical sector guidelines, gender issues in the Executive Committee chapters, detailed reference in the UNHCR Programme Manual.

Also requested that all project documents submitted for funding purposes include a paragraph on its impact on the problems and special needs of refugee women and that the periodic narrative reports refer to this aspect as well;

Stressed the ongoing need for an active senior level Steering Committee to co-ordinate, integrate and oversee the process throughout UNHCR;

Urged the High Commissioner to explore and build upon the experience obtained by other United Nations organizations, donor community and NGO's and adapt this information to UNHCR's specific orientation;

Encouraged the High Commissioner to develop training modules to be offered to UNHCR staff and implementing partners to increase their awareness of the specific needs of refugee women and practical means of addressing these needs;

Requested the High Commissioner to provide, at the fortieth session of the Executive Committee a detailed progress report on the implementation of the Office's programmes and policies for refugee women, including an evaluation of the effectiveness of the UNHCR internal guidelines relating to the international protection of refugee women;

Called upon host countries, the donor community and NGO's to actively support the High Commissioner in the implementation of this programme.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES.

**ExCom Conclusion
No. 60 (XL) REFUGEE WOMEN*
1989 (Executive Committee - 40th Session)**

The Executive Committee,

- a) *Expressed* appreciation for the Report on Refugee Women (A/AC.96/727) and Commended the Office of the High Commissioner on progress towards promoting the participation of refugee women as agents as well as beneficiaries in the planning and implementation of protection and assistance programmes;
- b) *Noted* with serious concern that the basic rights of refugee women continue to be violated in a number of situations, including through threats to their physical safety and sexual exploitation;
- c) *Called* for the reinforcement of preventive measures and for States and concerned agencies to strengthen their support of UNHCR's protection activities relating to refugee women, inter alia, by providing resettlement places for women at risk;
- d) *Noted* UNHCR's intention to include the subject of refugee women in agenda of the Sub-Committee of the Whole on International Protection of the Forty-first Session of the Executive Committee, and on the Sub-Committee on Administrative and Financial matters under the item 'Major Trends' ;
- e) *Requested* the High Commissioner to provide at the Forty-first Session of the Executive Committee, a policy framework and organizational work plan for the next stages in mainstreaming of refugee women's issues within the organization with particular attention to the need for female field workers to facilitate participation of refugee women. In addition, requested the High Commissioner to provide a detailed progress report on the implementation of his Office's policies and programmes for refugee women, on both protection and assistance activities. Requested particularly that the High Commissioner prepare a revised and expanded version of the internal guidelines relating to the international protection of refugee women;
- f) *Reaffirmed* the conclusions regarding refugee women of the Thirty-ninth of the Executive Committee, and stressed the ongoing need for active senior management support to co-ordinate, integrate and oversee the implementation of those conclusions. In this regard fully encouraged the participation of senior managers in the forthcoming gender impact and analysis orientation seminar;
- g) *Noted* with satisfaction the recruitment of a Senior Co-ordinator for Refugee Women, the production of guidelines to field offices to identify the special needs and encourage participation of refugee women, and the publication of the revised bibliography on refugee women;
- h) *Urged* the High Commissioner to develop a methodology for systematically addressing gender issues in refugee programmes and, as a basis for this, requested the High Commissioner to collect and analyse demographic, anthropological and socio-economic information on refugee population, in particular, data on gender roles and responsibilities and to ensure that such information is used in planning UNHCR programmes;
- i) *Encouraged* the High Commissioner in his development of training materials and courses to increase awareness of the specific needs and potential of refugee women and his initiative to involve non-governmental organisations in this training; called upon him to expand this area in the future with a view to improved programme and project planning and in particular to further develop components to address the special protection concerns of refugee women;
- j) *Encouraged* the High Commissioner to make additional efforts to raise public awareness of the specific situation of refugee women and recommended the fortieth anniversary as an opportunity to emphasize refugee women as active participants of UNHCR's programmes;
- k) *Encouraged* the High Commissioner to share his experience in this sector with other United Nations agencies and strongly supported him in taking a lead role in presenting the situation of refugee women at the Thirty-fourth Session of the Commission on the Status of Women in 1990;
- l) *Stressed* the need for ongoing attention to the systematic collection and dissemination of documentation with regard to refugee women, both within UNHCR and in co-operation with other organizations;

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

m) *Called* on operational partners to support the High Commissioner by: expanding their own activities in gender impact training, including provision for an assessment of impact on refugee women in their project agreements and self -evaluation reports, and exchanging information with other organizations having experience in women's issues.

**ExCom Conclusion
No. 64 (XLI) REFUGEE WOMEN AND INTERNATIONAL PROTECTION*
1990 (Executive Committee- 41st Session)**

The Executive Committee,

Noting with serious concern the widespread violations of the rights of refugee women and their specific needs;

Underlining the potential of refugee women and the need to ensure their full participation in analysing their needs and in designing and implementing programmes which make appropriate use of their resources;

Reaffirming its Conclusions No.39 (XXXVI) on Refugee Women and International Protection;

Stressing that all action taken on behalf of women who are refugees must be guided by the relevant international instruments relating to the status of refugees as well as other human rights instruments, in particular, for States parties thereto, the United Nations Convention on the Elimination of all Forms of Discrimination Against Women;

Recognising that ensuring equal treatment of refugee women and men require specific action in favour of the former;

Recalling the special relevance of the Nairobi Forward-Looking Strategies on the Advancement of Women and the obligation of the United Nations Systems as a whole to give effect to its provisions;

Reiterating the importance of collecting data which allows for the monitoring of progress achieved in meeting the needs of refugee women,

a) *Urges* States, relevant United Nations organisations, as well as non-governmental organisations, as appropriate, to ensure that the needs and resources of refugee women are fully understood and integrated, to the extent possible, into their activities and programmes and, to this end, to pursue, among others, the following aims in promoting measures for improving the international protection of refugee women:

- i) Promote energetically the full and active participation of refugee women in the planning, implementation and evaluation/monitoring of all sectors of refugee programmes;
- ii) Increase the representation of appropriately trained female staff across all levels of all organisations and entities which work in refugee programmes and ensure direct access of refugee women to such staff;
- iii) Provide, wherever necessary, skilled female interviewers in procedures for the determination of refugee status and ensure appropriate access by women asylum-seekers to such procedures even when accompanied by male family members;
- iv) Ensure that all refugees and the staff of relevant organisations and authorities are fully aware of, and support, the rights, needs and resources of refugee women and take appropriate specific actions;
- v) 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 and redress instances of physical and sexual abuse as well as other protection concerns at the earliest possible moment;
- vi) Extend professional and culturally appropriate gender-based counselling as well as other related services to refugee women who are victims of abuse;
- vii) Identify and prosecute persons who have committed crimes against refugee women and protect the victims of such crimes from reprisals;
- viii) Issue individual identification and/or registration documents to all refugee women;
- ix) Provide all refugee women and girls with effective and equitable access to basic services, including food, water and relief supplies, health and sanitation, education and skills training, and make wage-earning opportunities available to them;
- x) Provide for informed and active consent and participation of refugee women in individual decisions about durable solutions for them;

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

xi) Ensure that resettlement programmes make special provisions for refugee women at risk.

b) *Invites* UNHCR to develop comprehensive guidelines on the protection of refugee women as a matter of urgency in order to give effect to its policy on refugee women as contained in document A/AC.96/754.

**ExCom Conclusion
No. 73 (XLIV) REFUGEE PROTECTION AND SEXUAL VIOLENCE*
1993 (Executive Committee – 44th Session)**

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

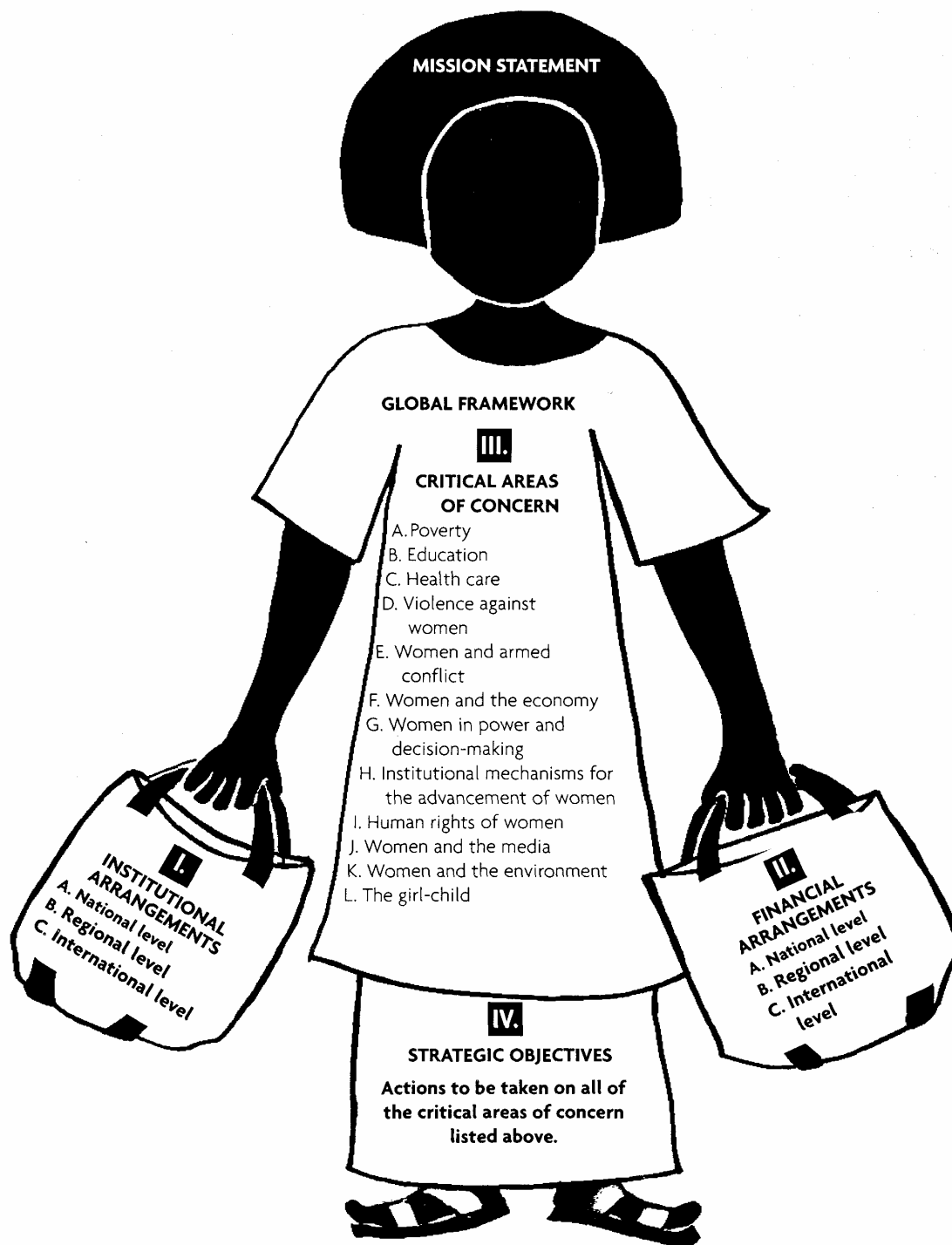
* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

- (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.

Selected International and Regional Human Rights Instruments

Selected Instruments	Year adopted
Universal Declaration of Human Rights (UDHR)	1948
International Covenant on Civil and Political Rights (ICCPR)	1966
Optional Protocol to International Covenant on Civil and Political Rights (OPICCPR)	1966
International Covenant on Economic, Social and Cultural Rights (ICESCR)	1966
Declaration on the Elimination of Violence against Women (DEVAW)	1994
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	1979
Optional Protocol to CEDAW	1999
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	1965
Convention on the Rights of the Child (CRC)	1989
UNESCO Convention against Discrimination in Education (CDE)	1960
Equal Remuneration Convention (ERC)	1953
Maternity Protection Convention (MPC)	1955
Discrimination (Employment and Occupation) Convention (DC)	1960
Workers with Family Responsibilities Convention	1983
Convention on the Political Rights of Women (CPRW)	1953
Convention on the Nationality of Married Women (CNMW)	1957
Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (CCM)	1962
Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others (CSTPEP)	1949
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (SCAS)	1956
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	1984
Convention relating to the Status of Refugees and Protocol thereto (CRSR)	1951/ and 1967
OAU Convention governing specific aspects of refugee problems in Africa	1969
Cartagena Declaration on Refugees	1984
Convention Relating to the Status of Stateless Persons (CSSP)	1954
Convention on the Reduction of Statelessness (CRS)	1961
European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)	1950
American Convention on Human Rights, "Pact of San Jose, Costa Rica" (ACHR)	1969
African Charter on Human and Peoples' Rights (ACHPR)	1981

Anatomy of the Beijing Platform for Action



Reproduced from: The International Women's Tribune Centre, *Rights of Women: A Guide to the Most Important United Nations Treaties on Women's Rights*, NY, 1998.

The Beijing Platform for Action at a Glance

The Platform for Action is an international guideline for women's policies. It outlines many of the emerging rights we've discussed earlier in the book. Here is an abbreviation of the key actions to be taken by governments in the twelve critical areas of concern.

PLATFORM FOR ACTION

Strategic Objectives and Actions (Chapter IV)

A. Women and Poverty

1. Review, adopt and maintain macroeconomic policies and development strategies that address the needs and efforts of women in poverty.
2. Revise laws and administrative practices to ensure women's equal rights and access to economic resources.
3. Provide women with access to savings and credit mechanisms and institutions.
4. Develop gender-based methodologies and conduct research to address the feminization of poverty.

B. Education and training of women

1. Ensure equal access to education.
2. Eradicate illiteracy among women.
3. Improve women's access to vocational training, science and technology, and continuing education.
4. Develop non-discriminatory education and training.
5. Allocate sufficient resources for and monitor the implementation of educational reforms.
6. Promote lifelong education and training for girls and women.

C. Women and health

1. Increase women's access throughout their life cycle to appropriate, affordable and quality health care, information and related services.
2. Strengthen preventive programmes that promote women's health.
3. Undertake gender-sensitive initiatives that address sexually transmitted diseases, HIV/AIDS and sexual and reproductive health issues.
4. Promote research and disseminate information on women's health.
5. Increase resources and monitor follow-up for women's health.

D. Violence against women

1. Take integrated measures to prevent and eliminate violence against women.
2. Study the causes and consequences of violence against women and the effectiveness of preventive measures.
3. Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking.

E. Women and armed conflict

1. Increase the participation of women in conflict resolution at decision-making levels and protect women living in situations of armed and other conflict or under foreign occupation.
2. Reduce excessive military expenditures and control the availability of armaments.
3. Promote non-violent forms of conflict resolution and reduce the incidence of human rights abuse in conflict situations.
4. Promote women's contribution to fostering a culture of peace.
5. Provide protection, assistance and training to refugee women, other displaced women in need of international protection and internally displaced women.
6. Provide assistance to the women of the colonies and non-self-governing territories.

F. Women and the economy

1. Promote women's economic rights and independence, including access to employment and appropriate working conditions and control over economic resources.
2. Facilitate women's equal access to resources, employment, markets and trade.
3. Provide business services, training and access to markets, information and technology, particularly to low-income women.
4. Strengthen women's economic capacity and commercial networks.

5. Eliminate occupational segregation and all forms of discrimination.
6. Promote harmonization of work and family responsibilities for women and men.

G. Women in power and decision-making

1. Take measures to ensure women's equal access to and full participation in power structures and decision-making.
2. Increase women's capacity to participate in decision-making and leadership.

H. Institutional mechanisms for the advancement of women

1. Create or strengthen national machineries and other governmental bodies that advance women.
2. Integrate gender perspectives in legislation, public policies, programmes and projects.
3. Generate and disseminate gender-aggregated data and information for planning and evaluation.

I. Human rights of women

1. Promote and protect the human rights of women through the full implementation of all human rights instruments, especially the Convention on the Elimination of All Forms of Discrimination Against Women.
2. Ensure equality and non-discrimination under the law and in practice.
3. Achieve legal literacy.

J. Women and the media

1. Increase the participation and access of women to expression and decision-making in and through the media and new technologies of communication.
2. Encourage and recognize women's media networks, including electronic networks and other new technologies of communication, as a means for the dissemination of information and the exchange of views, including at the international level, and support women's groups active in all media work and systems of communication to that end.
3. Promote a balanced and non-stereotyped portrayal of women in the media.

K. Women and the environment

1. Involve women actively in environmental decision-making at all levels.
2. Integrate gender concerns and perspectives in policies and programmes for sustainable development.
3. Strengthen or establish mechanisms at the national, regional and international levels to assess the impact of development and environmental policies on women.

L. The girl-child

1. Eliminate all forms of discrimination against the girl-child.
2. Eliminate negative cultural attitudes and practices against girls.
3. Promote and protect the rights of the girl-child and increase awareness of her needs and potential.
4. Eliminate discrimination against girls in education, skills development and training.
5. Eliminate discrimination against girls in health and nutrition.
6. Eliminate the economic exploitation of child labour and protect young girls at work.
7. Eradicate violence against the girl-child.
8. Promote the girl-child's awareness of and participation in social, economic and political life.
9. Strengthen the role of the family in improving the status of the girl-child. *Reproduced from: International Women's Tribune Centre, Rights of Women: A Guide to the Most Important United Nations Treaties on Women's Human Rights, New York, 1998.*

Bibliography

Academy International, Materials on Training provided during *UNHCR Training of Trainers on Gender and Protection*, 11-15 June 2001, held in Ankara, Turkey, and organised by Academy International (Ankara) and the UNHCR Senior Regional Advisor for Refugee Women and Gender Equality for Europe and Central Asia, RO, Turkey. Academy International web-site: www.academy.gen.tr

Amnesty International, *The UN and refugees' human rights: A manual on how human rights mechanisms can protect the rights of refugees*, AI and International Service for Human Rights, London, August 1997.
Canada, Immigration and Refugee Board, "Guidelines for Women Refugee Claimants Fearing Gender – Related Persecution", updated November 13, 1996.

Carr D.A., *How to Facilitate*, American Society for Training and Development, Issue 9406, June 1994.

Charlesworth, Hilary, "What are 'Women's International Human Rights'?" *Human Rights of Women, National and International Perspectives*, Cook, Rebecca J., (Editor), University of Pennsylvania Press, Philadelphia, 1994.

CIDA, "Questions about Culture, gender, equality and development co-operation", Schalkwyk, Johanna, Canadian International Development Agency, Gender Equality Division, February 2001.

CIDA, *CIDA's Policy on Women in Development and Gender Equity*, Canadian International Development Agency (CIDA), Canada, 1995.

Da Costa, Rosa, "Institutional Empowerment on Gender Issues: UNHCR Best Practices", UNHCR Turkey, March 2002.

Da Costa, Rosa, "Proposed Guidelines for Gender Sensitive Legal Clinics and Other Legal Aid Providers", a paper submitted on the occasion of the Refugee Law Clinic: European Seminar II entitled "Legal Aid 2000: Challenges Facing Legal Aid Providers: the refugee law clinic as a protection solution", Budapest, 3-5 December 2000.

Daubian-Delisle, S., *UNHCR Guide to Women's Human Rights Awareness Training: A practical Tool for UNHCR and NGOs, How to Organise Training on Women's Human Rights and Legal Awareness for Refugees*, (UNHCR, draft version, internal, undated).

del Rosario, Virginia, "Mainstreaming gender concerns: aspects of compliance, resistance and negotiation" *IDS Bulletin* 26(3): 102-109 (*Special Issue: Getting Institutions Right for Women in Development*) (1995).

Eitington, J., *The Winning Trainer: Winning Ways to Involve People in Learning*, Gulf Publishing Company, Houston, Texas, 1996.

El-Bushra, J., "Gender and Forced Migration" (editorial), in *Forced Migration Review, Vol. 9*, (December 2000). Available at: <http://fmreview.org/1frames.htm>

Equality Now, "Words and Deeds: Holding Governments Accountable in the Beijing + 5 Review Process", *Women's Action* 6.1, July 1999.

From Welfare to Empowerment: The Situation of Women in Development in Africa, a Post-UN Women's Decade Update and Future Directions, Working paper #204, Women in International Development, Michigan State University, March, 1990.

Gender Mainstreaming in Science and Technology, A Reference Manual for Governments and Other Stakeholders, McGregor, Elizabeth, Bazo, Fabiola, Commonwealth Secretariat, London, June 2001.

Gooneskere, Savitri, *A Rights -Based Approach to Realising Gender Equality*, prepared in the context of the Workshop on Rights-Based Approach to Women's Advancement, Empowerment and Gender Equity, 5-8 October 1998, FAO Rome.

Greig, A., Kimmel, M. & Lang, J., "Men, Masculinities and Development: Broadening our work towards gender equality", Monograph #10, May 2000, part of *Gender in Development Monograph Series*, UNDP/GIDP, 2000. You may access this paper in: www.undp.org/gender/programmes/men/undp_men_andmasculinities.pdf

Haines, Rodger, "Gender Related Persecution", UNHCR Background Paper, prepared in the context of the Global Consultations, San Remo Roundtable, 10 August 2001.

Heise, L., "Violence Against Women: The Hidden Health Burden", *World Bank Discussion Papers*, No.255, The World Bank, Washington, DC, 1994.

Heise, L., Gottemoeller, M., "Ending Violence against Women", *Population Reports*, Series L, No. 11, Johns Hopkins School of Public Health, Baltimore, 1999.

Hinshelwood, Gill, "Interviewing Female Asylum Seekers", in *International Journal of Refugee Law*, Special Issue (UNHCR Symposium on Gender-Based Persecution, Geneva, 22-23 February 1996), Oxford University Press, Autumn 1997.

International Women's Tribune Centre, *Rights of Women: A Guide to the Most Important United Nations Treaties on Women's Human Rights*, New York, 1998. (A copy of this publication is available from: Women, Ink, at E-mail: wink@womenink.org)

Joint WHO/UNICEF/UNFPA statement, "Female Genital Mutilation" , Geneva 1997.

Kerr, Joanna (ed.), *Ours by Right: Women's Rights as Human Rights*, Zed Books & The North-South Institute, Ottawa, 1993.

M. Macdonald, E.Sprenger & I. Dubel, "Models and responses in organisational change processes", , *Gender and Organisational Change: Bridging the Gap Between Policy and Practice*, Royal Tropical Institute, Amsterdam, 1997.

McGregor, E., and Fabiola Bazo, *Gender Mainstreaming in Science and Technology: a reference manual for governments and other stakeholders*, Gender Management System Series, Commonwealth Secretariat, London, June 2001.

Ministry of Children and Family Affairs Norway, *Gender mainstreaming in Norway: Guide to Gender Impact Assessment to Government Policy*, Barne-og Familiedepartementet, Norway, May 2000.

Montgomery County, Maryland, Department of Addiction, Victim, and Mental Health Services, Health Education Unit/ Sexual Assault Services 2-89, various materials on responding to sexual assaults.

Morgan, Nicole, *The Equality Game: Women in the Federal Public Service (1908- 1987)*, Ottawa, Canadian Advisory Council on the Status of Women, 1988.

OECD, *DAC Source Book on Concepts and Approaches Linked to Gender Equality*, OECD, Paris, 1998. It is also available at: <http://www.Oecd.org/dac>

OECD, *DAC Source Book: Prepared in Conjunction with the Draft Principles for Development Cooperation on Equality Between Women and Men*, OECD-DAC (Expert Group on Women in Development), prepared by Johanna Schalkwyk & Beth Woroniuk, March 1997.

OHCHR, "Special Issue on Women's Human Rights, Women's Rights are Human Rights", *Human Rights: a review of the Office of the United Nations High Commissioner for Human Rights*, OHCHR, Geneva, Spring 2000.

Ramirez, Andres (Head of Mission / Gender Coordinator, UNHCR Office, San José, Costa Rica), Involving Men in Securing Gender Equality and Improved Refugee Protection, a paper presented in the context of the UNHCR "Training of Trainers on Gender Protection", June 11-15, 2001, Ankara, Turkey.

SIDA, "Gender Equality Action Plans and Mainstreaming: A Strategy for Achieving Equality between Women and Men". Prepared for SIDA by B. Woroniuk and J. Schaikwyk, Department for Policy and Legal Services, Swedish International Development Agency, 1996.

SIDA, "On men and gender equality strategies in development cooperation", adapted from draft materials prepared for SIDA's Gender Equality Unit by Johanna Schalkwyk, Beth Woroniuk, and Helen Thomas, 1997.

SIDA, "SIDA Equality Prompt Sheet # 10: Participatory Processes and Equality between Women and Men", *TIP Sheets for Improving Gender Equality*, Swedish International Development Agency, 1998.

SIDA, "SIDA Equality Prompt Sheet # 15: Organisational change and equality between women and men", *TIP Sheets for Improving Gender Equality* (prepared by B. Woroniuk and J. Schalkwyk), Swedish International Development Agency, December 1998. Also see in: www.sida.se

Staudt, Kathleen, "Gender politics in bureaucracy: theoretical issues in comparative perspective," in Staudt, Kathleen (ed.) *Women, International Development and Politics. The Bureaucratic Mire*, Temple University Press, Philadelphia, 1990.

Steiner, Henry J., & Alston, Philip, *International Human Rights in Context: Law Politics and Morals*, Clarendon Press, Oxford, (New York) 1996.

UN Economic and Social Council (ECOSOC), "Agreed Conclusions on Coordination of Policies and Activities of the Specialised Agencies and Other Bodies of the United Nations System Related to the Following Theme: Mainstreaming the Gender Perspective into all Policies and Programmes in the United Nations System", E/ 1997/ 1.30, 14 July 1997. Text available at website: <http://www.un.org/documents/ecosoc/docs/1997/e1997-66htm>

UN Economic and Social Council (ECOSOC), "Integration of the Human Rights of Women and the Gender Perspective: The question of integrating the human rights of women throughout the United Nations System", report of the Secretary General, Commission of Human Rights, 55th Session, E/CN.4/1999/67, 28 January 1999.

UNDP, "UNDP Guidance Note on Gender Mainstreaming: Appendix 1". Available at the following site: <http://www.undp.org/gender/policies/guidance.html>

UNDP, *Gender Mainstreaming in Practice: a Handbook*, prepared by Astrida Neimanis, consultant, 2000/2001, for UNDP (RBEC), version in use as of March 2002.

UNDPKO, *Mainstreaming A Gender Perspective in Multidimensional Peace Operations*, United Nations, Lessons Learned Unit, Department of Peacekeeping Operations, NY, July 2000.

OHCHR & UN, Training Manual on Human Rights Monitoring, Professional Training Series No. 7, New York & Geneva, 2001 (see in particular pp. 167-245 on Refugees and IDPs)

UNHCR and Save the Children, *Action for the Rights of Children (ARC) Resource Pack*, August 2001. (UNHCR Resource packets cover a broad range of topics concerning children's rights. Packets include reading, workshop materials, and references. The 'Exploitation and Abuse' packet may be the most relevant in considering SGBV programming).

UNHCR ExCom Conclusion No 54 (XXXIX) Refugee Women, 1988 (Executive Committee – 39th Session).

UNHCR ExCom Conclusion No, 73 (XLVI) Refugee Protection and Sexual Violence, 1993 (Executive Committee –44th Session).

UNHCR ExCom Conclusion No. 39 (XXXVI) Refugee Women and International Protection, 1985 (Executive Committee-36th Session).

UNHCR ExCom Conclusion No. 60 (XL) Refugee Women, 1989 (Executive Committee –40th Session).

UNHCR ExCom Conclusion No. 64 (XLI) Refugee Women and International Protection, 1990 (Executive Committee –41st Session).

UNHCR, "Guidelines for Mainstreaming a Gender Equality Perspective in UNHCR Reporting Mechanisms in the Field and at Headquarters", Senior Coordinator for Refugee Women and Gender Equality Unit, UNHCR, Geneva (Internal document, draft), undated.

UNHCR, *“Refugee Women and Mainstreaming a Gender Equality Perspective”*, Executive Committee of the High Commissioner’s Programme, Standing Committee 21st. Meeting, EC/51/SC/CRP.17, May 20, 2001 (Restricted Distribution).

UNHCR, ” Progress Report on Refugee Women”, SC/1998/INF.1, 25 May 1998. Available from following website: <http://www.unhcr.org/refworld/unhcr/excom/standcom/1998/REFW.html>

UNHCR, *A Framework for People-Oriented Planning in Refugee Situations Taking Account of Women, Men and Children*, UNHCR, Geneva, December 1992.

UNHCR, *Basic Training Skills: Trainer’s Guide*, Geneva, 1990.

UNHCR, *Chairing and Facilitating Meetings*, TRS 3, Training with UNHCR Series, Geneva, 1990.

UNHCR, *Competency-Based Catalogue of Training Materials*, Training with UNHCR Series, Geneva, undated.

UNHCR, *Guidelines on Evaluation and Care of Victims of Trauma and Violence*, Geneva, 1995.

UNHCR, *Guidelines on International Protection: “Membership of a particular social group” within the context of Article 1A(2) of the 1951 Convention and/ or its 1967 Protocol relating to the Status of Refugees*, (HCR/GIP/02/02), Geneva, 7 May 2002.

UNHCR, *Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and / or its 1967 Protocol relating to the Status of Refugees*, (HCR/GIP/02/01), Geneva, 7 May 2002.

UNHCR, *Guidelines on the Protection of Refugee Women*, Geneva, July 1991.

UNHCR, *Handbook for Emergencies*, Geneva, Second Edition, 1998.

UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status: under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, UNHCR, Geneva, 1992.

UNHCR, *How to Organise a Training Workshop*, TRS 5 (Second Edition), Training with UNHCR Series, Geneva, 1993.

UNHCR, *Human Rights and Refugee Protection Part II: Specific Issues*, Training Module RLD 5, Training with UNHCR Series, Geneva, June 1996.

UNHCR, *Human Rights and Refugee Protection: Part I*: Training Module RLD 5, Training with UNHCR Series, Geneva, October 1995.

UNHCR, *Interpreting in a Refugee Context*, Training Module RLD 3, Training with UNHCR Series, 1993.

UNHCR, *Interviewing Applicants for Refugee Status*, Training Module RLD 4, Training with UNHCR Series, Geneva, 1995.

UNHCR, *Learning to Train: An Introduction to Training Skills*, TRS 1, Training with UNHCR Series, Geneva, 1990.

UNHCR, *Making Effective Presentations*, TRS 2, Training with UNHCR Series, Geneva, 1990.

UNHCR, *Middle Management Learning Programme, Phase I*, Learning with UNHCR.

UNHCR, *Minimum Standards For Gender Sensitive Asylum Procedures: a checklist* (CIS/Eastern Europe And Turkey) UNHCR Regional Office, Ankara, 1999.

UNHCR, *People-Oriented Planning at Work: Using POP to Improve UNHCR Programming*, Geneva, December 1994.

UNHCR, *Policy on Harmful Traditional Practices*, UNHCR/IOM/83/97, UNHCR/FOM/90/97, 19 December 1997.

UNHCR, *Policy on Refugee Women*, Geneva, August 1990.

UNHCR, *Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations, Inter-Agency Lessons Learned Conference Proceedings, 27-29 March 2001*, Geneva.

UNHCR, *Refugee Children, Guidelines on Protection and Care*, Geneva, 1994.

UNHCR, *Refugee Women*, Global Consultations on International Protection, 4th Meeting, EC/GC/02/8, 25 April 2002.

UNHCR, *Reproductive Health in Refugee Situations: an Inter-agency Field Manual*, UNHCR, (and UNFPA & WHO) Geneva, 1999.

UNHCR, *Respect our Rights: Partnership for Equality (Report on the Dialogue with Refugee Women)*, Geneva, 20-22 June 2001.

UNHCR, *Sexual and Gender-Based Violence Prevention and Response: Situation-Planning Workshop*, (draft for field-testing) UNF / Turner Grant, December 2000.

UNHCR, *Sexual Violence against Refugees: Guidelines on Prevention and Response* UNHCR, Geneva, 1995.

UNHCR, *UNHCR and Human Rights: a policy paper*, AHC/97/325, 6 August 1997.

UNICEF (Innocenti Research Centre, IRC), *Domestic Violence against Women and Girls, Innocenti Digest*, UNICEF, IRC Florence, 2000. Web-site: www.unicef-icdc.org

UNICEF, "UNICEF Gender, Partnerships and Participation: Events to be organised by or in collaboration with UNICEF during Beijing +5", 2000. Available at the following site: <http://www.unicef.org/programme/gpp/new/beijing5/events.html>

UNICEF, *Gender Equality & Women's Empowerment* (Training Package), June 1994.

UNIFEM, Longwe, Sara Hlupekile, "The Evaporation of Policies for Women's Advancement" in Noeleen Heyzer (ed.), *A Commitment to the World's Women: Perspectives on Development for Beijing and Beyond*, UNIFEM, New York, 1995

United Kingdom, *Asylum Gender Guidelines*, Immigration Appellate Authority, November 2000.

Williams S. et al, *The Oxfam Gender Training Manual*, Oxfam, UK and Ireland, 1994.

Yassen, Janet, "Sexual assault survivor patient information" Victims of Violence Program, Outpatient Department of Psychiatry, the Cambridge Hospital, Cambridge, MA.

Other Useful References

Training / Gender Training

(1) **General Training**

Burns, S., *Artistry in Training: Thinking Differently about the Way you Help People to Learn*, Business & Professional Publishing Pty Limited, Warriewood, NSW Australia, 2000

(2) **Gender Training**

UNIFEM, Parker, A. Rani, *Another Point of View: A Manual of Gender Analysis Training for Grassroots Workers*, UNIFEM, New York, 1993. Also available from Women Ink, web-site: www.womenink.org

Overholt, Catherine et al., *Gender Roles in Development Projects: A Case Book*, Kumarian Press, West Hartford, CN, USA, 1985.

Pearson, Ruth, "Bringing it all back home: Integrating Training for Gender Specialists and Economic Planners", *World Development* 23 (11), 1995.

Gender Concepts, Mainstreaming and Male Involvement

UNDP, *Building Capacity for Gender Mainstreaming: UNDP's Experience*, UNDP, New York, 1998

UNICEF, *Role of Men in the Lives of Children: A Study of How Improving Knowledge About Men in Families Helps Strengthen Programming for Children and Women*, UNICEF, New York, 1997.

Council of Europe, "Gender Mainstreaming: Practice and Prospects", Report prepared by Mieke Verloo, Consultant (University of Nijmegen, Netherlands), EG (99) 13, Council of Europe, Strasbourg, 7 January 2000.

Council of Europe, "Gender Mainstreaming: Conceptual Framework, Methodology and Presentation of Good Practices", EG-S-MS (98) 2, Strasbourg, May 1998.

InterAction, "Best Practices: For Gender Integration In Organisations and Programs From the InterAction Community - Findings from a Survey of Member Agencies", published by Inter Action (American Council for Voluntary International Action), the Commission for the Advancement of Women, Washington, DC, 2nd Printing June 1998.

Indra, D., *Engendering Forced Migration: Theory and Practice*, Berghan Books, New York, 1999.

Sen, A., *Development as Freedom*, Knopf, New York, 1999.

Women's Human Rights

See bibliography provided.

Sexual and Gender-Based Violence

UNHCR, *How To Guide: Community-based Response to Sexual Violence: Crisis Intervention Teams -Ngara, Tanzania*, UNHCR, Geneva, 1997.

UNHCR, *How To Guide: Developing a Team Approach to Prevention and Response to Sexual Violence-Kigoma, Tanzania*, UNHCR, Geneva, 1998.

UNHCR, *How To Guide: From Awareness to Action: Eradicating FGM in Somali Refugee Camps in Eastern Ethiopia*, UNHCR, Geneva, December 1997.

WHO, *WHO Multi-country study of women's health and domestic violence*, Core protocol, WHO/EIP/GPE/99.3 Geneva, (1999).

Refugee Status Determination

Australia, Dept. of Immigration and Multicultural Affairs, *Refugee and Humanitarian Visa Applicants: Guidelines on Gender Issues for Decision-Makers*, July 1996.

South Africa, *Gender Guidelines for Asylum Determination*, National Consortium on Refugee Affairs, South Africa, 1999.

Sweden, Migration Board, *Gender-based persecution: Guidelines for investigation and evaluation of the needs of women for protection*, March 28, 2001.

Refugee Women's Legal Group, *Gender Guidelines for the Determination of Asylum Claims in the United Kingdom*, July 1998.

United States, *Considerations for Asylum Officers Adjudicating Asylum Claims from Women*, U.S. Immigration and Naturalization Service, 26 May 1995.

ECRE, *Position on Asylum Seeking and Refugee Women* by the European Council on Refugees and Exiles (ECRE), London, UK, December 1997 (<http://www.ecre.org/archive/women.html>)

Interviewing and Interpreting

Barsky, Robert F., "The Interpreter as Intercultural Agent in Convention Refugee Hearings", *Translator*, Vol. 2, Nr.1, pp 45-63, Manchester, St. Jerome, (1996).

Fenton, Sabine, "Expressing a Well-Founded Fear: Interpreting in Convention Refugee Hearings", 2001. Available at: <http://www.refugee.org.nz/Sabine.html>

Emergencies

UNHCR, *Coping with Stress in Crisis Situations*, OMS 3, Training with UNHCR Series, July 1992.

UNHCR/WHO, *Guidelines for Early HIV Intervention in Emergency Settings*, Geneva, 1995.

UNHCR, Materials prepared for "Workshop on Emergency Management for Emergency Response Teams" (similarly for Emergency Managers), UNHCR Emergency Preparedness and Response Section, updated regularly. These materials are available to workshop participants.

Morris, Patricia (ed.), *Weaving Gender in Disaster and Refugee Assistance*, Interaction, Washington DC, July 1998.

UNHCR, *Protection of Refugees in Mass Influx Situations: Overall Protection Framework*, Global Consultations on International Protection, EC/GC/01/4, 19 February 2001.

Oxfam, The Sphere Project, McConnan, I.(ed.), *Humanitarian Charter and Minimum Standards in Disaster Response*, Oxfam, UK, 2000.

List of Useful Web-Sites

The UNHCR public web-site: www.unhcr.org

Other relevant web-sites:

1. <http://www.un.org>

In this general site for the UN, you will find news of UN events, documents, general information and more. You can search for whatever information you need by subject, popular name, official title or document number. At <http://www.un.org/womenwatch> you can find all official documents of the UN Commission on the Status of Women, UN Global Conferences on Women and more. Under the heading UN Working for Women, you will find copies of the Declaration on the Elimination of Violence against Women (1993), CEDAW (1979), the draft of the Optional Protocol to CEDAW, and the Declaration on the Protection of Women and Children in Emergencies. Under UN Conference documents you will find the Beijing Platform for Action (1995).

2. <http://www.unhchr.ch>

This site for the Office of the UN High Commissioner for Human Rights in Geneva contains the human rights conventions and optional protocols in French and Spanish as well as English. It also has documents from the Commission on Human Rights annual sessions, including all reports of the Special Rapporteur on Violence Against Women.

3. <http://www.unicef.org>

The site of the United Nations Children's Fund. Also see, www.unicef-icdc.org, the UNICEF (Innocenti Research Centre, (IRC) based in Florence, Italy and producing documentation on issues including domestic violence.

4. <http://www.undp.org>

The general site of the United Nations Development Program, the UNDP site can also be used to access UNIFEM which promotes women's economic and political empowerment in developing countries. Or use www.unifem

5. <http://www.umn.edu/humanrts>

This is the site of the Human Rights Library of the University of Minnesota. It contains a collection of documents on women's human rights, including the conventions, in English, French and Spanish. The library's site also offers a bibliography on honour crimes, including annotations on books and journals, followed by case summaries, at www1.umn.edu/humanrts/bibliog/honor.html

6. <http://www.hurinet.org>

This human rights information service is comprised of multilingual information on all aspects of human rights on an international level. It also provides general UN information, official UN documents and information on international law.

7. <http://www.womenink.org>

This site of the International Women's Tribune Centre provides resources including *Rights of Women: A Guide to the Most Important U N Treaties on Women's Human Rights*. Women Ink E-mail: wink@womenink.org

8. www.rhrc.org

The Reproductive Health for Refugees Consortium. This site includes, among other resources, a comprehensive bibliography on sexual and gender-based violence.

9. <http://www.uchastings.edu/cgrs/>

University of Hastings, Center for Gender and Refugee Studies, offers legislation (and country guidelines), international jurisprudence, model briefs and other assistance regarding gender-related refugee issues.

10. <http://www.ids.ac.uk/bridge>

Based at the Institute of Development Studies in the UK, Bridge attempts to close the gap between policy and practice in gender mainstreaming issues connected to development.

11. www.Equalitynow.org

Equality Now, a human rights organisation that addresses the civil, political, and social rights of girls and women, and endeavours to develop appropriate interventions in collaboration with local experts. This site offers information on gender related human rights violations.

12. www.acdi-cida.gc.ca

The site includes tools, resources and trainings concerning gender analysis and equality.

Feedback Questionnaire: on The Gender Training Kit on Refugee Protection and Resource Handbook

Respondant

Name: _____ Sex:____
Agency: _____ Date: _____
Email or postal address: _____

The context in which I used the Kit is (are) the following:

- Training (Trainer)___
- Resource book for self-learning___
- Resource book for operational guidance___

Questions

1. The most useful topics for me in the Kit are:

2. The Kit should also include the following topics:

3. Comments on background readings / reference materials:

4. Comments on training sessions, either on content or format:

5. Comments on training materials (case studies, OHT, PPP, etc.):

6. Comments on CD-ROM, including content and /or presentation:

7. Any additional comments or suggestions:

Please send your comments and suggestions to: the Office of the Senior Co-ordinator for Refugee Women and Gender Equality, UNHCR Case Postal 2500, CH-1211, Geneva 2 Depot, Switzerland