

CHAPTER FIVE





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PROTECTION CONSIDERATIONS, AND THE IDENTIFICATION OF RESETTLEMENT NEEDS

Introduction

Properly identifying refugees in need of resettlement consideration is one of the most crucial, yet challenging, aspects of resettlement. It requires detailed knowledge of the refugee population, their protection risks and specific needs, as well as a comprehensive assessment of not only the prospects for durable solutions, but also the opportunities for using resettlement strategically.

The identification of refugees potentially in need of resettlement must be part of an ongoing, active and collaborative effort of all UNHCR staff and implementing partners to identify protection needs and provide the appropriate response, either in the country of asylum, or perhaps through resettlement. Tools have been developed to improve the identification of vulnerable individuals for whom resettlement is the most appropriate form of protection, as well as the identification of populations in need of resettlement as a durable solution.

Purpose

The purpose of this chapter is to:

- highlight key protection considerations in the identification process;
- draw attention to specific protection needs and potential vulnerabilities within refugee populations;
- explain the tools and methods to map and profile the refugee population to identify protection needs and vulnerabilities, and to identify appropriate durable solutions; and
- outline the importance of referral systems and cooperation with key partners in the identification of refugees in need of resettlement.

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5.1 KEY PROTECTION CONSIDERATIONS IN THE IDENTIFICATION PROCESS

While resettlement is not a right, the refugees who are most in need of resettlement should have access to the process in a timely manner. Efficient and transparent identification of refugees for resettlement consideration is essential to ensuring a continuum of refugee protection. An effective and consistent identification process is also critical to ensuring that refugees are provided with fair access to resettlement processing, and can decrease potential for the fraudulent use of the resettlement system or any perceptions of arbitrariness in resettlement decision making.

Resettlement is incorporated in the development of overall protection strategies as part of regional and country operational planning. However, the identification of refugees potentially in need of resettlement, and the subsequent assessment of individual cases must be an ongoing, active and systematic process. It requires detailed knowledge and documentation of the refugee population and of their specific needs and vulnerabilities, and collaboration between UNHCR Protection, Community Services and Durable Solutions staff and implementing partners to identify and implement appropriate responses.

The following sections will highlight overarching protection principles and considerations regarding specific needs and vulnerabilities of certain refugee populations to take into consideration as part of the process to identify resettlement needs.

Preconditions for resettlement consideration

- the applicant is determined to be a refugee by **UNHCR**;^{*} and
 - the prospects for all durable solutions were assessed, and resettlement is identified as the most appropriate solution.
- * Exceptions can be made for non-refugee stateless persons for whom resettlement is considered the most appropriate durable solution, and also for the resettlement of certain non-refugee dependent family members to retain family unity.

5.1.1 Age, gender, and diversity sensitive approach

UNHCR's mission to safeguard the rights and well-being of all persons of concern can only be achieved if women, men, girls and boys of all ages and backgrounds are able to benefit equitably from UNHCR's interventions. All groups must have equal access to UNHCR's protection, services and resources, and be able to participate equally in the making of decisions that affect them. UNHCR is committed to addressing discrimination and inequality not only to ensure equitable outcomes for all persons of concern, but also to safeguard against inadvertently contributing to further discrimination and injustice through the use of procedures and practices that neglect age, gender and diversity considerations.

To achieve this objective, UNHCR has adopted an age, gender and diversity sensitive approach and targeted actions to address protection gaps. The age, gender and diversity mainstreaming (AGDM) strategy promotes gender equality

and the rights of all persons of concern regardless of age or background, and calls for the meaningful participation of displaced girls, boys, women and men, so that their problems, initiatives and solutions can be incorporated into all of UNHCR's programmes and policies.

Age: Age refers to the different states in one's life cycle. It is important to be aware of where people are in their life cycle as their needs may change over time. Age influences and can enhance or diminish the capacity to exercise rights.

Gender: Social differences between men and women are learned, changeable over time and can vary within and between cultures. Gender often defines the roles, responsibilities, constraints, opportunities, and privileges of women and men in any context.

Diversity: Within each group of people there exist differences of age, gender, culture, different levels of mental and physical ability/disability, class, sexual orientation, ethnicity and other backgrounds. These differences must be recognized, understood and valued by UNHCR in order to ensure that all groups of people access protection equally.

There is often a misconception that gender refers only to women, and that gender mainstreaming largely refers to creating special projects for women. Age, gender and diversity mainstreaming is a key institutional commitment and an operational priority that includes men and women of all ages, including children.

Participatory assessments undertaken by multi-functional teams are key to the age, gender and diversity sensitive approach, and are part of UNHCR's operational planning. These assessments identify vulnerabilities specific to age, gender, or other diversity characteristics, such as sexual orientation or ethnicity, by recognizing challenges such as discrimination and power relations, as well as possible strengths and existing coping mechanisms within the community to help resolve such challenges.

Participatory assessments may help identify individuals in urgent need of intervention, who may be referred for resettlement consideration. The assessments may also uncover specific types of vulnerabilities that have not previously been recognized or considered.

A participatory assessment is a process of building partnerships with refugee women and men of all ages and backgrounds through structured dialogue. Participatory assessment includes holding separate discussions with women, girls, boys, and men, including adolescents, in order to gather accurate information on the specific protection risks they face, the underlying causes, their capacities to deal with the risks, and their proposed solutions. Participatory assessment forms the basis for implementing of a rights- and community-based approach and helps mobilize communities to take collective action to enhance their own protection. Participatory assessment is also a phase of a comprehensive situation analysis.¹

¹ UNHCR, *The UNHCR Tool for Participatory Assessment in Operations*, First edition, May 2006, p. 1-2

The **rights-based approach** integrates the norms, standards and principles of the international human rights system into policies, programmes and processes. It is founded on the principles of participation and of empowering individuals and communities to promote change and respect for rights.

A community-based approach ensures an inclusive partnership with communities of persons of concern that recognizes their resilience, capacities and resources. The community of persons of concern is central to all programme activities.²

5.1.1.2 Responses to sexual and gender-based violence

Sexual and gender-based violence (SGBV) is a widespread and systematic human rights violation. It is exacerbated by unequal gender relations within communities and used as a means of exercising power. SGBV is a serious, life-threatening health and protection issue predominantly affecting women and girls, but also men and boys albeit to a lesser extent. SGBV can be a cause of forced displacement, and it is often also an intolerable consequence of the breakdown of law and order, and family and community structures that accompany displacement.

UNHCR places the well-being of the survivor at the centre of any intervention. Individuals or groups who have suffered sexual and gender-based violence may be referred to as either victims or survivors. While victims should be treated with compassion and sensitivity, referring to them as survivors recognizes their strength and resilience. The word victim may imply powerlessness and stigmatization, characterizations that are to be avoided by all concerned parties.

Terminology

UNHCR's *SGBV Guidelines for Prevention and Response* (2003)³ use terminology based on the UN General Assembly *Declaration on the Elimination of Violence against Women* (1993)⁴. Sexual and gender-based violence (SGBV) refers to violence that is directed against a person on the basis of gender or sex. It includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty, whether occurring in public or in private life. Rape is one of the most serious forms of SGBV, and is considered torture under international human rights law.

Sexual violence (SV), gender-based violence (GBV), sexual and gender-based violence (SGBV) and violence against women (VAW) are terms that are used interchangeably. Each refers to violations of fundamental human rights that perpetuate gender-stereotyped roles, deny human dignity and the self-determination of the individual and hamper human development.

<http://www.unhcr.org/refworld/docid/462df4232.html>

² UNHCR, *UNHCR Manual on a Community Based Approach in UNHCR Operations*, March 2008, <http://www.unhcr.org/refworld/docid/47da54722.html>

³ UNHCR, *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons. Guidelines for Prevention and Response*, May 2003, <http://www.unhcr.org/refworld/docid/3edcdo661.html>

⁴ UN General Assembly, *Declaration on the Elimination of Violence against Women*, 20 December 1993, A/RES/48/104, <http://www.unhcr.org/refworld/docid/3boof25d2c.html>

Addressing SGBV is an integral part of UNHCR's protection mandate and requires both short and long term intervention strategies of prevention and response. UNHCR employs an inclusive conception of sexual and gender-based violence that recognizes that, although the majority of victims/survivors are women and children, boys and men are also targets of sexual and gender-based violence.

The ethical principles⁵ that underpin all actions with individuals are:

- **ensuring the physical integrity** of the survivor(s) and close family members and/or advocates or witnesses;
- guaranteeing **confidentiality and informed consent** to the extent possible;
- **respecting the wishes, the rights, and the dignity of the survivor(s)** and their close family members and/or advocates or witnesses;
- considering the **best interests of the child** when making any decision on the most appropriate course of action to prevent or respond to an incident of SGBV; and
- **ensuring non-discrimination** and access to health, protection and social services including education for children, as well as livelihoods and skills training for adolescents and adults.

Resettlement can be an important protection tool for refugees who have survived or are facing a threat of sexual and gender-based violence, including rape, assault against sexual minorities, trafficking for the purposes of sexual slavery, female genital mutilation (FGM) and forced marriage.

5.1.2 The principle of family unity

A fundamental principle of refugee protection, the unity of the family, derives directly from the universally recognized right to family life. UNHCR's promotion of the unity of the family is supported by the principle, set forth in both the *Universal Declaration of Human Rights* of 1948 and the *International Covenant on Civil and Political Rights* of 1966, which states: "*the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.*"⁶

The same principle is embodied in the 1989 *Convention on the Rights of the Child*, which states:

*"the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community."*⁷

⁵ UNHCR, *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response*, 2003, <http://www.unhcr.org/3f696bcc4.html>

⁶ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (II), <http://www.unhcr.org/refworld/docid/3ae6b371c.html> and UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, <http://www.unhcr.org/refworld/docid/3ae6b3aa0.html>

⁷ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, <http://www.unhcr.org/refworld/docid/3ae6b38fo.html> Articles 9 and 10 concern children separated from their families and emphasize that the reunification of children

In its Final Act, the Conference of Plenipotentiaries which adopted the 1951 *Convention relating to the Status of Refugees* unanimously approved the following recommendation on the subject of family unity in the case of refugees:

“The Conference,

Considering that the unity of the family, the natural and fundamental group unit of society, is an essential right of the refugee, and that such unity is constantly threatened, and

Noting with satisfaction that, according to the official commentary of the *ad hoc* Committee on Statelessness and Related Problems the rights granted to a refugee are extended to members of his family,

Recommends Governments to take the necessary measures for the protection of the refugee’s family, especially with a view to:

- (1) Ensuring that the unity of the refugee’s family is maintained particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country,
- (2) The protection of refugees who are minors, in particular unaccompanied children and girls, with special reference to guardianship and adoption.”⁸

In seeking to promote the unity of the family and the reunion of separated refugee families (as well as the right to found a family), UNHCR is guided by basic humanitarian considerations and also by its Statute which entrusts the organization, *inter alia*, with the functions of improving the situation of refugees and facilitating their integration⁹ within new national communities.

The Executive Committee of the High Commissioner’s Programme (ExCom) has adopted a number of Conclusions on family unity and reunification.¹⁰ Conclusion No. 9 on *Family Reunion* (1977), reiterated the fundamental importance of the principle of family reunion and reaffirmed the coordinating role of UNHCR with a view to promoting the reunion of separated refugee families through appropriate interventions with governments and with inter-governmental and non-governmental organizations. The *Conclusion on Children at Risk* of 2007

with their parents should be dealt with in a “positive, humane and expeditious manner.”

⁸ UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, *Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons*, 25 July 1951, A/CONF.2/108/Rev.1, <http://www.unhcr.org/refworld/docid/40a8a7394.html>

⁹ While both Article 34 of the 1951 Convention and UNHCR’s Statute make reference to “assimilation” rather than “integration”, the international community has otherwise generally rejected the notion that refugees should be expected to abandon their own culture and way of life, so as to become indistinguishable from nationals of the host community. See UNHCR, *Global Consultations on International Protection/Third Track: Local Integration*, 25 April 2002, EC/GC/02/6, <http://www.unhcr.org/refworld/docid/3d6266e17.html>

¹⁰ See also, for example, Executive Committee Conclusions Nos. 1, paragraph (f); 9; 15 paragraph (e); 24; 84 paragraph (b); 85 paragraphs (k), (u), (v), (w), (x); 88; 100 paragraph (d); 101 paragraph (n), 103 paragraph (n); 104 paragraph (n) (iv); 105 paragraph (k), and 107 paragraph (h). UNHCR, *Conclusions Adopted by the Executive Committee on the International Protection of Refugees*, December 2009, 1975 – 2009 (Conclusion No. 1 – 109), <http://www.unhcr.org/refworld/docid/4b28bf12.html>

recommends that States, UNHCR and other relevant agencies and partners “take a flexible approach to family unity, including through consideration of concurrent [resettlement] processing of family members in different locations, as well as to the definition of family members in recognition of the preference to protect children within a family environment with both parents.”¹¹

If one family member is being considered for resettlement (e.g. on protection grounds), **UNHCR will seek to ensure**, where possible and in line with the principle of family unity, **that all of the refugee’s family members, including dependent non-nuclear family members, are resettled together**. However, there is no single, universally agreed-upon definition as to what constitutes a family, which can make ensuring family unity through resettlement challenging, both in the context of initial resettlement and subsequent family reunification.

UNHCR recognizes the different cultural dimensions and societal norms that result in the variety of definitions of the family unit. It therefore promotes a path of cultural sensitivity combined with a pragmatic approach as the best course of action in the process of determining the parameters of a given refugee family.¹² The nuclear family is clearly the core, but the element of dependency among family members, physical and financial, as well as psychological and emotional, should find its appropriate weight in the final determination.

This culturally sensitive understanding of the family is important for refugees who have been forced to flee due to persecution and civil conflict. The refugee family is often severely reduced due to violence and flight, and extended relations may be the last line of defence for individuals who rely exclusively on the family unit for survival, psychological support, and emotional care.

Who is a member of the family?

A **nuclear family** is generally accepted as consisting of spouses and, their minor or dependent, unmarried children and minor siblings. UNHCR considers not only legally-recognized spouses (including same-sex spouses), but also individuals who are engaged to be married, who have entered a customary marriage (also known as “common-law” marriages), or who have established long-term partnerships (including same-sex partners), as spouses within the nuclear family.

Beyond this, the concept of **dependency** is central to the factual identification of family members.

Dependency infers that a relationship or a bond exists between family members, whether this is social, emotional or economic. For operational purposes, with regard to the active involvement of UNHCR offices in individual cases, the concept of dependant should be understood to be someone who depends for his or her existence substantially and directly on any other person, in particular for economic reasons, but also taking social or emotional dependency and cultural norms into consideration.



¹¹ UNHCR, *Conclusion on Children at Risk*, 5 October 2007. No. 107 (LVIII) 2007 <http://www.unhcr.org/refworld/docid/471897232.html>

¹² This approach is evident in the *Convention on the Rights of the Child* which uses differing concepts of family for different rights. See also UNHCR, *Family Protection Issues*, 4 June 1999, EC/49/SC/CRP.14, <http://www.unhcr.org/refworld/docid/4aegacao.html>



The relationship or bond between the persons in question will normally be one which is strong, continuous and of reasonable duration. Dependency does not require complete dependence, such as that of a parent and minor child, but can be mutual or partial dependence, as in the case of spouses or elderly parents. Dependency may usually be assumed to exist when a person is under the age of 18 years, but continues if the individual (over the age of 18) in question remains within the family unit and retains economic, social and emotional bonds. Dependency should be recognized if a person is disabled and incapable of self-support, either permanently or for a period expected to be of long duration. Other members of the household may also be dependants, such as grandparents, single/lone brothers, sisters, aunts, uncles, cousins, nieces, nephews, grandchildren; as well as individuals who are not biologically related but are cared for within the family unit.

Except for certain special programmes,¹³ eligibility for UNHCR assistance with family reunification requires that at least one person within the family unit which is to be reunited must be a refugee under UNHCR's mandate or a person otherwise of concern to the organization. In a case where a non-refugee is being resettled in order to join a family member who is a refugee, UNHCR considers that it is the refugee who is the recipient of the Office's assistance.

UNHCR activities to promote and support family unity while awaiting durable solutions

Refugee flight often results in family dispersal. Wherever possible, UNHCR Offices should promote the restoration of family unity within a country of refuge while the family awaits a durable solution. This applies to situations when family members are known to be either in different parts of the same country of temporary refuge, or dispersed to different countries of temporary refuge. See *Chapter 6.6.2* for more details on UNHCR's activities to promote family reunification.

If it is not possible to relocate family members to be together in a country of temporary refuge, close coordination should be maintained between offices during the process of assessing the prospects for durable solutions. In the resettlement context, it may be necessary for UNHCR field offices in those countries to intervene so as to ensure their admission to the same country of resettlement in accordance with the right to family unity. Such intervention is often required to prevent the separation of foster children, adult dependants, fiancé(e)s, or same-sex partners that form part of the basic family unit.

When the whereabouts of relatives is unknown, it may be necessary for UNHCR to facilitate tracing. Bio-data records, including UNHCR's *proGres* database and the records held by government authorities, are useful sources of information. The Central Tracing Agency of the International Committee of the Red Cross

¹³ One example is the Orderly Departure Programme (ODP) from Viet Nam, where UNHCR was requested to undertake special programmes which could even benefit persons not within its mandate who were in need of assistance with family reunification.

(ICRC) and its national counterparts have special competence in this area, and the International Organization for Migration (IOM) and various NGOs can also provide support. Experience has shown, moreover, that the efforts of refugees themselves, using their own contacts, are often a most effective method of tracing. Caution must be exercised in relation to the country of origin for tracing purposes as this may violate UNHCR policy on confidentiality and international principles on data protection.

Promoting the adoption of appropriate national policies

One of the main functions of UNHCR in facilitating family (re)unification is to obtain the overall cooperation of States resettling refugees to exercise flexibility in their criteria for family reunification, and to dedicate resources to the process. This ongoing task of laying the political, legal, administrative and operational groundwork for the smooth and orderly resolution of family reunification cases is a normal part of UNHCR's international protection activities. Besides urging States to adopt generous and flexible policies, the Office seeks, whenever appropriate, to ensure that family members are granted the same legal status and accorded the same standards of treatment as refugees.

Governments are particularly encouraged to adopt inclusive definitions of family members, in recognition of the severe hardship separation causes to individuals who depend on the family unit for social and economic support even if they are not considered by the prospective country of reception to belong to what is known as the “nuclear family”.

While there is justification in giving priority to safeguarding this basic unit, governments are encouraged to give positive consideration to the inclusion of other family members – regardless of age, level of education, marital status or legal status – whose economic and social viability remains dependent on the nuclear family. This includes non-refugee family members included in a resettlement submission due to their dependency on the family unit.

The definitions and policies set out in this Handbook, specifically as related to the concept of dependency in the identification of family members, are to be followed by UNHCR staff, despite the fact that UNHCR definitions may not always correspond with those applied by the State to which resettlement cases are submitted.



DNA testing

Whereas UNHCR recognizes that States have an interest in ensuring proper and accurate identification of family relationships, and in combating fraud to ensure that effective family reunion processes are preserved, UNHCR is concerned about the implications for privacy and family unity of increasing State reliance on DNA testing.

The *UNHCR Note on DNA Testing to Establish Family Relationships in the Refugee Context*¹⁴ provides guidance on “(i) the general issue of how DNA testing is to be conducted so as to safeguard dignity and human rights; and (ii) safeguarding of applicable principles of family unity where DNA testing is conducted to verify family links.

UNHCR promotes a **rights and dignity-based approach** to DNA testing. In general, DNA testing should only be used to verify family relationships where, after all other proof of relationships has been examined, serious doubts remain; or where DNA testing is the only recourse available to prove or disprove fraud. Moreover, in recognition of complex familial compositions that are often formed in the refugee context, negative DNA results should not be the sole determinative factor in establishing family relationships.

For these reasons, clear criteria should be established by States in regard to the circumstances in which DNA is required. Persons being tested must be given appropriate counselling both pre- and post-testing to ensure that they fully understand the purposes of the testing, their rights in the process, and the use of the test results. Testing must only take place after full and informed consent is given, and proper procedures must be followed in the collection, transmission and retention of DNA material and data to ensure confidentiality.



Essential reading

- UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, January 2008, <http://www.unhcr.org/refworld/docid/47cfc2962.html>
- UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, <http://www.unhcr.org/refworld/docid/3ae6b38fo.html>
- UNHCR, *Conclusion on Children at Risk*, 5 October 2007. No. 107 (LVIII) 2007, <http://www.unhcr.org/refworld/docid/471897232.html>
- UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180, <http://www.unhcr.org/refworld/docid/3boof2244.html>
- UNHCR, *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons. Guidelines for Prevention and Response*, May 2003, <http://www.unhcr.org/refworld/docid/3edcdo661.html>

Further reference

- UNHCR, *Family Protection Issues*, 4 June 1999, EC/49/SC/CRP.14, <http://www.unhcr.org/refworld/docid/4ae9acaoo.html>
- UNHCR, *UNHCR Note on DNA Testing to Establish Family Relationships in the Refugee Context*, June 2008, <http://www.unhcr.org/refworld/docid/4862oc2d2.html>

¹⁴ UNHCR, *UNHCR Note on DNA Testing to Establish Family Relationships in the Refugee Context*, June 2008, <http://www.unhcr.org/refworld/docid/4862oc2d2.html>

5.2 SPECIFIC PROTECTION NEEDS AND POTENTIAL VULNERABILITIES

The identification of refugees potentially in need of resettlement requires detailed knowledge of the refugee population and of their specific needs and vulnerabilities. However, the purpose of the various identification tools including registration, participatory assessments, and surveys is to assess the most appropriate type of *protection* intervention, not only to identify resettlement needs.

Furthermore, as active participants in their own quest for solutions, refugees must be seen as persons with specific needs and rights, rather than simply as members of “vulnerable groups”. Seeing only the vulnerabilities can lead to insufficient analysis of the protection risks faced by individuals, and, in particular, disregard for their capacities. An inclusive and empowering approach in the development of protection strategies, including the assessment of appropriate durable solutions, requires an understanding of specific needs related to age, gender roles and mental and/or physical condition, and recognition of refugees’ right to be actively involved in all action undertaken to protect them and determine their future. The specific protection needs and potential vulnerabilities within segments of the refugee population highlighted below could warrant resettlement intervention.

5.2.1 Women and girls

Conflict often serves to exacerbate discrimination and violence against women and girls. Such violence is endemic not only in conflict, but during its aftermath, as women and girls try to re-establish their daily lives. Sexual and gender-based violence – including rape, forced impregnation, forced abortion, trafficking, sexual slavery, and the intentional spread of sexually transmitted infections, including HIV/AIDS – is one of the defining characteristics of contemporary armed conflict and can constitute gender-related persecution.¹⁵ Its primary targets are women and girls. Women and girls also risk abduction and forced recruitment by armed groups, whether as fighters, for sexual exploitation or other tasks.

The impact of forced displacement on women and girls can be devastating. Risks of abduction, rape, sexual abuse, harassment and exploitation are just some of the problems experienced by refugee women, whether they are single, widowed, or accompanied by a male family member. Threats to a refugee woman’s safety may come from the host community, local government or military, other armed elements, or from within the refugee community itself. Members of her family or community may prove unable to address her concerns, or may even be unwilling to offer assistance due to social or cultural attitudes which do not recognize the rights of women. UNHCR and other aid agencies may also be unable to address these issues in the short-term in any effective way, due to the endemic nature of the problem or the difficulty in changing long-held cultural values and practices.

¹⁵ UNHCR, *Guidelines on International Protection No. 1: 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*, 7 May 2002, HCR/GIP/02/01, <http://www.unhcr.org/refworld/docid/3d36f1c64.html>

Displacement may also separate families, removing the support and protection the family used to provide. Remaining family members may have to assume different roles and women and girls may become sole providers for their children/siblings. The number of single- and/or child-headed households increase during conflict and female adolescent heads of household are particularly at risk of rights violations and marginalization.

As refugee women and girls often face challenges reaching UNHCR or partner staff, proactive outreach is required to identify and address the needs of refugee women, including protection needs which might most appropriately be addressed through resettlement.

In camps, women's freedom of movement and capacity to earn a livelihood may be more restricted, and increasingly lengthy stays in camps, lead to a host of protection risks for women and girls. Gender-based violence, including domestic violence and alcohol abuse, increases in such circumstances. For example, women and girls may be attacked as they look for firewood or water outside the camp. Lack of, or biases in, judicial systems and/or in traditional justice mechanisms often leave them with no redress or result in further stigmatization and discrimination. As financial resources are depleted, adolescent girls are married off at increasingly younger ages. For some women and girls, survival sex becomes the only way to support themselves and their families.

Forcibly displaced women and girls in urban areas may be less able to exercise their rights effectively, and have more difficulty reaching UNHCR or implementing partner offices to seek protection and support. Urban refugees often live in squalid conditions and lack access to fundamental services, such as education and health care. Without money to pay for rent or even food, women risk sexual exploitation. Some displaced women and girls are virtually imprisoned indoors, fearing arrest and deportation, or the wrath of their husband, father, male siblings or other relatives, if they leave their homes. If they are employed as domestic workers, they could face violence and/or exploitation at the hands of their employers and may be less well-equipped than their male counterparts to resist such treatment.

In a given refugee context, women and girl refugees may be more vulnerable than other refugees, finding themselves separated from their family members or traditional support mechanisms, or isolated from their communities. Some women and girls may have to assume new roles and status as a result. In addition to coping with the reasons for their flight, they may be confronted with new challenges, such as providing for themselves and their children in situations of particular hardship, as well as new forms of violence and risks, in the country of refuge.

An accurate and gender-sensitive assessment of the refugee's protection needs and particular vulnerabilities in the country of refuge is critical in determining her need for resettlement. In this regard, it is important to respect the diversity of women and girls and recognize that factors such as age, language, ethnicity, race, caste, culture, religion, disability, sexual orientation, family and socio-economic status, and rural or urban background can create additional barriers to gender equality and effective protection.

When assessing applications for resettlement, States should recognize the disproportionate impact of displacement on women, the violence and discrimination women and girls may experience at every stage of the displacement cycle, and the limitations on their economic options. For example, with few alternates and inadequate social protection, sex work may be a means of survival, and resettlement States should not discriminate against those refugee women and girls who have engaged in survival sex.

Furthermore, discriminatory selection criteria such as integration potential, age, family size, health status, ethnicity, religion and nationality can serve to limit vulnerable women's access to resettlement opportunities. In particular, requiring that refugees possess good "integration potential" in order to be resettled, discriminates against women who have already been disadvantaged through limited access to education and/or employment opportunities, as well as those considered too old, ill, or infirm for the labour market. States should remove any barriers to ensuring women's equal access to resettlement opportunities.

Essential reading

- UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, January 2008, <http://www.unhcr.org/refworld/docid/47cfc2962.html>
- UNHCR, *Conclusion on Women and Girls at Risk*, 6 October 2006, No. 105 (LVII) 2006, <http://www.unhcr.org/refworld/docid/45339d922.html>
- UN Committee on the Elimination of Discrimination Against Women [CEDAW], *CEDAW General Recommendation No. 21: Equality in Marriage and Family Relations*, 1994, <http://www.unhcr.org/refworld/docid/48abd52co.html>



5.2.2 Children and adolescents

Who is a child?

A "child" as defined in Article 1 of the UN *Convention on the Rights of the Child* (CRC),¹⁶ means "every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier". In terms of actions by UNHCR, the word "child" refers to all children falling under the competence of the Office, including asylum-seeking children, refugee children, internally displaced children and returnee children assisted and protected by UNHCR, as well as stateless children.



Refugee children face far greater dangers to their safety and well-being than the average child. The sudden and violent onset of emergencies, the disruption of families and community structures as well as the acute shortage of resources with which most refugees are confronted, deeply affect the physical and

¹⁶ The CRC is the treaty which sets the most standards concerning children. While the CRC is not a refugee treaty, refugee children are covered because all CRC rights are to be granted to all persons under 18 years of age (Article 1) without discrimination of any kind (Article 2). UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, <http://www.unhcr.org/refworld/docid/3ae6b38fo.html>

psychological well-being of refugee children. Infants and young children are often the earliest and most frequent victims of violence, disease and malnutrition which accompany population displacement and refugee outflows. In the aftermath of emergencies and in the search for solutions, the separation of families and familiar structures continue to affect adversely refugee children of all ages. Children should be among the first to receive protection and assistance, and early and continuous identification of children at heightened risk is a UNHCR priority. Participatory assessments have helped give a voice to children of concern and ensure the right of children to have their views heard, notably in the development and improvement of programmes and protection responses.

The 1989 *Convention on the Rights of the Child* (CRC) is the main legal instrument on the protection of children. Although the rights in the CRC cover almost every aspect of a child's life, there are three rights that are so fundamental that they can be thought of as underlying the entire CRC:

- The **best interests of the child** shall be a primary consideration in all actions affecting children (Article 3).
- There shall be **no discrimination** on the grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. (Article 2).
- Children shall be assured the **right to express their views freely** in all matters affecting them, their views being given due weight in accordance with the child's age and level of maturity (Article 12).

These three rights are so important and so interrelated that it is helpful to think of them as a "triangle of rights". The three rights of the triangle reinforce each other to reach the objective: "**the survival and development**" of children.

States Parties also recognize that every child has the inherent right to life and shall ensure to the maximum extent possible the survival and development of the child (Article 6).

The CRC applies to everyone below the age of eighteen years unless, under the applicable law, majority is attained earlier (Article 1). In common usage a **child** is a person who has not yet reached puberty or sexual maturity, and a person who is no longer a child but not yet an adult is considered an **adolescent**. In different cultural contexts, factors other than age may be important in determining who is a child or an adolescent: factors such as social roles, gender, marital status and the capacity to contribute economically may be more important than chronological age in shaping expectations of children. In some cultures, "adolescence" is not considered a developmental stage, and puberty marks the entrance to adulthood. Nevertheless, under international law everyone under 18 is a child.

In accordance with their international obligations States should promote the establishment and implementation of child protection systems, and ensure non-discriminatory access to all children under their jurisdiction. A comprehensive child protection system comprises laws, policies, procedures and practices designed to prevent and respond effectively to child abuse, neglect, exploitation and violence. The ExCom *Conclusion on Children at Risk* (No. 107, 2007) calls on UNHCR and other relevant agencies and partners to assist States by

strengthening and supplementing national child protection systems in areas where gaps exist.

UNHCR's comprehensive approach to child protection recognizes that *all* children of concern require protection from violence, exploitation, abuse and neglect. However, selected categories of children, including **unaccompanied and separated children**, have heightened risks and require targeted support.

Definitions

Unaccompanied children (also called unaccompanied minors) are children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

Separated children are those separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.

Orphans are children, *both* of whose parents are known to be dead.

Factors that put children in a situation of heightened risk can include both risks in the wider protection environment and risks resulting from individual circumstances. The ExCom *Conclusion on Children at Risk* lists individual risk factors, as including, but not limited to:

- unaccompanied and separated children, particularly those in child-headed households as well as those accompanied by abusive or exploitative adults;
- stateless children;
- adolescents, in particular girl mothers and their children;
- child victims of trafficking and sexual abuse, including pornography, pedophilia and prostitution;
- survivors of torture;
- survivors of violence, in particular sexual and gender-based violence and other forms of abuse and exploitation;
- children who get married under the age specified in national laws and/or children in forced marriages;
- children who are or have been associated with armed forces or groups;
- children in detention;
- children who suffer from social discrimination;
- children with mental or physical disabilities;
- children living with or affected by HIV and AIDS and children suffering from other serious diseases; and
- children out of school.¹⁷

¹⁷ UNHCR, *Conclusion on Children at Risk*, 5 October 2007, No. 107 (LVIII) - 2007, <http://www.unhcr.org/refworld/docid/471897232.html>

Key elements of case management for children at risk

Effective protection of unaccompanied and separated children, as well as other children at risk requires:

- measures to identify unaccompanied, separated and other children at risk;
- child-sensitive registration mechanisms;
- the appointment of a guardian;
- provision of temporary care arrangements and monitoring;
- refugee status determination;
- individual documentation;
- timely tracing, and verification of family relationship;
- family reunification; and
- identification and implementation of durable solutions.

5.2.2.1 Best interests of the child

The principle of best interests of the child must permeate all protection and care issues involving UNHCR and implementing partners, and should be applied in a systematic manner during every step of the displacement cycle, including considerations for durable solutions. All partner staff and communities need to be sufficiently informed about the best interests determination process and its purpose, and they must be trained on the identification and referral of children at risk.

The term “best interests” broadly describes the well-being of a child. Such well-being is determined by a variety of considerations, such as:

- individual factors including the age, sex, level of level of maturity and experiences of the child;
- social context factors such as the presence or absence of parents and quality of the relationships between the child and family/caretaker;
- physical and psychosocial situation of the child; and;
- the protection environment and security situation.

Depending on the circumstances, either a Best Interests Assessment or a Best Interests Determination is required in order to ensure the optimal implementation of the best interests principle in actions affecting individual children. UNHCR’s *Guidelines on Determining the Best Interests of the Child* outline the policies and procedures to be followed.¹⁸

Normally, States have child protection systems with provisions to determine the best interests of the child. UNHCR should *only* conduct a Best Interests Determination in the absence of competent State authorities or when States are unable or unwilling to carry out the BID.

¹⁸ UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, <http://www.unhcr.org/refworld/docid/48480c342.html>

The **Best Interests Assessment (BIA)** is a continuous process that starts from the moment of identification, and continues throughout the displacement cycle until a durable solution is reached. The best interests of the child should be assessed by the responsible officer for any decision or action affecting children of concern to UNHCR. Measures shall be taken to ensure that the child participates in the decision.

The **Best Interests Determination (BID)** is a formal process with specific procedural safeguards and documentation requirements conducted for certain children of concern to UNHCR. The decision maker is required to weigh and balance all the relevant factors of a particular case, giving appropriate weight to the rights and obligations recognized in the CRC and other human rights instruments, so that a comprehensive decision can be made that best protects the rights of children. More than one person has to be involved in the process and each step has to be documented.

Best Interests Assessment

A Best Interests Assessment (BIA) is an essential element of case management and general child protection work. As part of a BIA, the situation of the child is assessed, and recommendations on protection and care interventions are made. The BIA can result in a recommendation that a Best Interests Determination is required or recommended. Even if it is clear that a full BID will be required but kept pending, for instance to allow time for family tracing, a BIA is the first step. In such instances, a well-done BIA is the basis for the full BID and a tool for monitoring of progress in the situation of the child.

A BIA is required before any action affecting an individual child of concern to UNHCR is taken, although certain situations require a full BID.

A **BIA** is not limited to the following situations, but *must* be undertaken:

- as a **child protection assessment** for children at risk (e.g. unaccompanied or separated children, child subjected to sexual violence, child in hazardous labour, etc.);
- prior to **placement of a child in alternative care**, e.g. a foster family;
- prior to **family tracing**;
- prior to **family reunification** (NB: a BID is required in complex cases);
- to address a situation where a **child is denied access to education** by her/his caregiver;
- for **married child spouses** who are considered for resettlement together with a parent/caretaker (see [Chapter 5.3.6](#));
- when a child is considered for a **durable solution with just one parent** who does not have sole custody and the other parent cannot be reached.

Best Interests Determination

When is a BID required?

The following situations require UNHCR and/or partners to undertake a BID for actions affecting children falling under their competence:

- Temporary care arrangements for unaccompanied or separated children** in exceptional situations (BID Guidelines, pages 34-35):
 - in cases of (likely) exposure to abuse, neglect, exploitation or violence within a foster family or other care arrangement;
 - in cases where the care arrangement is not suitable for the child, e.g., regarding differences in cultural or ethnic background.
- The identification of **durable solutions for unaccompanied and separated children** voluntary repatriation, local integration or resettlement (BID Guidelines, pages 30-31).¹⁹
- The possible **separation of a child from her/his parents (or person holding custody rights by law or custom) against their will** if competent authorities are unable or unwilling to take action (BID Guidelines, pages 36-42):
 - in cases of (likely) exposure to abuse, neglect, exploitation or violence within the family.
- The **identification of durable solutions or decisions on care arrangements, in situations where the custody of the children remains unresolved** and national authorities are unwilling or unable to adjudicate on the custody (BID Guidelines, pages 40-44):
 - in cases of divorce/separation of the parents – and parents disagree as to which parents the child should stay with.²⁰
 - in situations where one parent is being resettled and custody disputes remain unresolved (ExCom Conclusion No. 107 (LVIII), para. h (xviii)).

IMPORTANT: UNHCR'S decisions in the above cases are limited to a best interests determination for the child. The BID is not a legal determination of custody.
- In complex cases, **prior to family reunification.**²¹

NOTE: The BID Guidelines (page 22) highlight three instances when a BID is required. The additional situations when a BID is required related to unresolved custody issues and family reunification are also in line with the BID Guidelines, but they are listed in separate sections of the BID Guidelines or in ExCom Conclusions as referenced.

¹⁹ Please note that two married child spouses travelling without either set of parents are unaccompanied or separated children (UASC) and therefore a BID is needed. Further details are provided in [Chapter 5.3.6](#).

²⁰ This also relates to separation or divorce in polygamous marriages.

²¹ UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, Annex 4, p. 78. <http://www.unhcr.org/refworld/docid/48480c342.html>

Application of the Best Interests principle when considering the resettlement of a child with only one parent

If the parent who is not travelling cannot be reached (is missing):

- A **BIA** must be conducted to determine if resettlement together with one parent is in the best interests of the child.
- Explore whether documentation that would confirm status and location of the absent parent is available (e.g. death certificate, documentation relating to divorce or custody arrangements document, etc.).
- Discuss with the child if he/she wishes to pursue a tracing request for the absent parent, and in case of very young children, this should be discussed with the parent who is with the child. Staff must also assess whether tracing is deemed to be in the best interests of the child, and whether tracing can be done safely.
- All information about tracing efforts or any information on his/her identity and whereabouts must be recorded.
- Explore and document reasons for the separation and in particular if domestic violence could have triggered the separation from the missing parent.
- Explore and document to what extent the absent parent has exercised his/her parental rights.²²
- The child's views on the possible separation from the absent parent must be taken into account.
- The child must receive age-appropriate information on longer-term implications of resettlement with just one parent, and be given an objective assessment of possible future family reunification in country of resettlement with the absent parent should he/she be found.

If the parent not travelling with the child can be reached:

- His/her informed written consent must be obtained.

If the parent not travelling with the child refuses to sign the consent form:

- Efforts must be made to engage competent national authorities to make a legal determination of custody.
- If local authorities are unwilling or unable, or procedures are inaccessible to refugees, UNHCR must undertake a BID to determine if resettlement together with one parent is in the best interests of the child.

Note: The parent who travels with the child should be advised to initiate procedures to acquire full custody rights upon arrival in the resettlement country.

A BID is essential in all cases in which the resettlement of one parent is based on a protection risk emanating from the family (e.g. domestic violence).²³



²² UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, pp. 42-43 <http://www.unhcr.org/refworld/docid/48480c342.html>

²³ UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, p. 41. <http://www.unhcr.org/refworld/docid/48480c342.html>

5.2.2.2 The BID process

Consult the *Field Handbook for the Implementation of UNHCR BID Guidelines*,²⁴ for details on establishing a BID process. A BID needs to be based on previous child protection assessments. Staff or partners with child protection, community services or child welfare expertise conduct further interviews and complete the BID report form. A UNHCR staff member must be designated as the BID supervisor, and is responsible for ensuring that Standard Operating Procedures are established and followed, including the signing of confidentiality oaths by all involved. A BID supervisor is responsible to review the BID report form before submitting it to a multi-disciplinary panel. The panel looks at cases on an individual basis.

For the integrity of the BID process, it is essential to adhere to the basic procedural safeguards as recommended in the Guidelines: adequate child participation; the involvement of persons with different relevant expertise; and the systematic documentation of each step of the procedure.



A BID process should be initiated early in the displacement cycle in order to avoid BIDs being conducted just prior to identification of a durable solution.

Best Interests Determination procedures should not be conducted in isolation but should be integrated into the overall protection programme which entails mechanisms for early identification of children at risk, appropriate response services and monitoring and follow-up, etc.

Gathering information

The process of gathering information by child protection staff must include:

- a verification of existing and documented information on the child;
- several interviews with the child using age-appropriate and gender-sensitive techniques and, if appropriate, observations;
- interviews with persons within the child's network including caregivers, family (extended and siblings), friends, neighbours, guardian, teachers, etc;
- background information on the conditions in the present location and in the location considered for the durable solution;
- where appropriate or necessary, views of experts.

Identifying the most appropriate durable solution for an unaccompanied or separated refugee child generally requires carefully balancing many factors. Decisions on voluntary repatriation, resettlement or local integration are likely to have a fundamental and long-term impact on the child. Before taking such decisions a BID must be carried out to ensure sufficient focus on the child's rights when identifying the most appropriate durable solution and the best time to implement it.

²⁴ UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, 2011, <http://www.unhcr.org/refworld/docid/4dda4cbo2.html>

Family tracing, reunification, and alternative long-term care arrangements

As soon as a child is identified as unaccompanied or separated, **tracing** efforts are started. All tracing activities are carried out in a manner that protects the personal security of the child and family members concerned. No action is taken that may hinder eventual family reunification, such as adoption, change of name or movement to places far from the likely locations of family reunification. Usually, “passive” and “active” tracing efforts are simultaneously implemented by organizations working at the local level.

Passive tracing involves comparing records of children and records of parents searching for lost children in order to match them. This is done both centrally and at the local level by each organization involved in the registration and documentation of separated family members. Active tracing involves actually pursuing investigations concerning the identity of the child, the identity and location of parents or other close family members. The International Committee of the Red Cross (ICRC) and the National Red Cross and Red Crescent Societies have a mandate to trace across international agencies, and cross-border tracing should be coordinated with these organizations.

During the tracing process, coordination and information-sharing between the ICRC and organizations dealing with unaccompanied children is essential. The *Inter-agency Guiding Principles on Unaccompanied and Separated Children* outline common procedures and standards to ensure the retention of confidentiality and the best interests of the child.²⁵

When tracing is successful, an assessment is undertaken to determine whether **family reunification** is in the best interests of the child. In some cases, such as after long term separation, when there are doubts about the relationship between the child and the traced individuals or in cases of past abuse, a BID needs to be conducted to determine if the reunification is in the best interests of the child. If assistance with family reunification is granted, follow-up with the reunited family should be undertaken by UNHCR or other qualified agents, including the host government departments.

However, **alternative long-care arrangements** should be made when tracing is unsuccessful, when family reunification is not possible within a reasonable period, or when the BID process determines that reunion would be harmful to the child’s interests. Records of the foster arrangements must be kept, and all concerned should be notified of the child’s movement so that the young person can be located in the event that family tracing is successful in the future.

Adoption

Adoption is not normally a resettlement possibility. In almost all cases where a child needs to be adopted there will be extended family members or others from the child’s community of origin or country of asylum that can fulfil this need.

²⁵ Inter-Agency, *Inter-Agency Guiding Principles on Unaccompanied and Separated Children*, January 2004, <http://www.unhcr.org/refworld/docid/4113abc14.html>

There is rarely a need for international adoption if efforts are made to locate these persons, and perhaps to provide some initial support services.

In the resettlement context, adoption might be sought by extended family members or by persons unrelated to the child. In such cases, strict compliance with legal standards must be observed. The *Convention on the Rights of the Child* requires that “*the best interests of the child shall be the paramount consideration*”, that is, the welfare of the child must never be compromised by competing interests, including those of the proposed adoptive parents. Furthermore, Article 21 of the Convention requires taking all necessary steps to: “*ensure that the adoption of the child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child’s status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary*”.

International adoption is also regulated by the 1993 *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* with respect to State parties to the treaty.²⁶

The Convention also requires that “due regard shall be paid to the desirability of continuity in a child’s upbringing and to the child’s ethnic, religious, cultural and linguistic background” (CRC Article 20.3). This article does not prohibit inter-ethnic, -religious, or -racial adoptions. Instead, all factors must be considered, with the final judgement made on a case-by-case basis, with the child’s best interests being the paramount consideration.

Adoption standards

Based on its experience, UNHCR has adopted standards which are applicable to all children of concern whenever **adoption** is being considered.

Refugee Children: Guidelines on Protection and Care states

“It is UNHCR’s policy that children in an emergency context are **not** available for adoption. Any adoption of an unaccompanied child of concern to the High Commissioner must be determined as being in the child’s best interests and carried out in keeping with applicable national and international law. It should not be carried out

- if there is a reasonable hope for successful tracing and family reunification in the child’s best interests;
- a reasonable period (normally at least two years) during which time all feasible steps to trace the parents or other surviving family members have been carried out has not elapsed;

²⁶ UNHCR’s policy on intercountry adoption is elaborated in UNHCR, *UNHCR Policy on Adoption*, 22 August 1995, <http://www.unhcr.org/refworld/docid/42f9c3714.html>. This document also contains relevant articles of the *Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (1993) and the *Recommendation concerning the Application to Refugee Children and other Internationally Displaced Children* (1994) of this Convention. See also, *Refugee Children*, Global Consultations on International Protection, 4th Meeting, UN Doc. EC/GC/02/9, 25 April 2002, in *Refugee Survey Quarterly*, Vol. 22, No. 2/3 2003, p. 267 f., para. 9, recommendations 6 and 7.

- it is against the expressed wish of the child or the parent; or
- voluntary repatriation in conditions of safety and dignity appears feasible in the near future and options in the child's country of origin would provide better for the psychosocial and cultural needs of the child than adoption in the country of asylum or a third country" (pages 130-131).²⁷

Essential reading

- UNHCR, *Summary of UNHCR's Executive Committee Conclusion on Children at Risk No. 107 (LVIII) - 2007*, 5 October 2007, <http://www.unhcr.org/refworld/docid/496630b72.html> full text at: <http://www.unhcr.org/refworld/docid/471897232.html>
- UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, <http://www.unhcr.org/refworld/docid/48480c342.html>
- UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, 2011, <http://www.unhcr.org/refworld/docid/4dda4cbo2.html>
- UNHCR, *International protection of children of concern*, 31 May 2010, C/61/SC/CRP.13, <http://www.unhcr.org/refworld/docid/4cbd4co42.html>
- Action for the Rights of Children, *ARC Resource Pack*, 2009, <http://www.savethechildren.net/arc/using/index.html> See specifically *Foundations Module: child rights-based approaches, and Critical issues: Separated children*.
- IASC *Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, Inter-Agency Standing Committee, 20 June 2007, <http://www.unhcr.org/refworld/docid/46c0312d2.html>
- UNHCR, *UNHCR Policy on Refugee Children*, 6 August 1993, EC/SCP/82, <http://www.unhcr.org/refworld/docid/3f9e6a534.html>



5.2.3 Older refugees

Crises and disasters have a disproportionate impact on older persons. Given that it is estimated that the number of older persons will increase globally from 11 per cent of the population to 22 per cent by 2050, and that over 80 per cent of older persons will be living in developing countries, the number of older persons in displacement will increase as well.²⁸ With significant numbers of refugees lingering in protracted refugee situations for decades, these refugee populations are also ageing. The definition of an older person adopted by the World Health Organization is a person over 60 years old. There is no fixed age to define an older refugee as elderly though, largely because life expectancy differs among groups, and the process of ageing is affected by a number of factors, such as an individual's physical and psychological health, along with family and social support, cultural background, living conditions and economic situation.

²⁷ UNHCR, *Refugee Children: Guidelines on Protection and Care*, 1994, <http://www.unhcr.org/refworld/docid/3ae6b3470.html>

²⁸ Inter-Agency Standing Committee, *Humanitarian Action and Older Persons. An essential brief for humanitarian actors*, October 2008, <http://www.unhcr.org/refworld/docid/490b0c102.html>

In both urban and camp environments, the challenges facing older persons can be considerable. Older refugees may be particularly vulnerable when confronted with the causes and effects of becoming a refugee. Frequently reluctant to leave, older persons are often the last to flee from danger. Some may have been separated from family, friends or community during their flight, or have witnessed the killing of family members. The loss of the family support network can have major impacts on older persons who need support. The physical hardship of exile, particularly for those without the support of family, may well take its toll on the older refugees, who, if already frail, may not have the strength to ward off disease and illness.

Whenever possible, older refugees should be reunited with their family or members of their community. An appropriate support should be found if the family members of an older refugee cannot be traced in the country of refuge (or in the country of origin). All efforts must also be made to retain family unity, and include older refugees dependent on family members in any considerations of durable solutions.

Older age can result in decreased mobility, sight, hearing and muscle strength, as well as in greater vulnerability to heat and cold. Minor conditions can quickly become major constraints that overwhelm older persons' ability to cope. They have more difficulty accessing services, and are less able to adjust to new situations. For instance, older persons have more difficulty accessing distribution points and carrying heavy supplies, while the loss of assistive devices can render them dependent on others.

Whereas in some instances older members might be seen as a community or family resource in terms of child care, traditional birth services, conflict mediation and the continuation of culture and wisdom, older persons may also be seen as a burden to their families and communities. Such treatment can result in depression, alcoholism, isolation and inattention to their specific needs. Older women can face double discrimination due to gender roles.²⁹

Vulnerability to abuse

Elder abuse is a significant protection concern yet unfortunately is notoriously under-reported across all cultures. Elder abuse includes physical, sexual, psychological, financial abuse and neglect; the results of which can be injury, illness, lost productivity, despair and isolation.

Coupled with elder abuse is an often unperceived risk for sexual and gender-based violence for older women. It is known that older women have suffered rape and sexual assault in mixed gender communal shelters and collection centers while gathering firewood outside of camps, and in other countries have been maimed, ostracized or killed when labeled as witches in response to unexplained natural phenomena affecting communities. The violations may go undetected for a number of complex reasons. Chiefly, the high level of stigma attached to these violations makes it even harder for older women to report younger community members.³⁰

²⁹ For further discussion see UNHCR, *The Protection of Older Persons and Persons With Disabilities*, 6 June 2007, EC/58/SC/CRP.14, <http://www.unhcr.org/refworld/docid/4693775c1c.html>

³⁰ See forthcoming 2011 UNHCR concise guidance note on "*Working with Older Persons in Forced Displacement*".

Durable solutions

In terms of solutions, older persons have fewer opportunities to integrate locally, due to factors such as the ability to speak the language, secure paid employment or access to regular pension, health and education schemes. In return situations, it can be a challenge to provide support to older persons wishing to return as international funding policies may focus on younger families, especially for the allocation of housing and land.

Resettlement opportunities may also be limited for older persons, as resettlement countries do not usually prioritize places for older persons. Furthermore, some resettlement countries set age limits for the admission of older dependent parents under their family reunification criteria or otherwise apply strict dependency criteria.

The interests and needs of older refugees within the family must be taken into account before a decision on resettlement is reached. Some older refugees are themselves the individuals with the strongest protection claim, and highest resettlement need in their family. However, other older refugees are reluctant to uproot themselves and leave an asylum country either with their families, or to join family members who are already living in a resettlement country.

Older refugees dependent on family members being resettled should be included in resettlement submissions, and resettlement States should be encouraged to accept the entire family unit.

There is no longer a separate resettlement submission category for Older Refugees. The submission category for cases of older refugees in need of resettlement should be selected according to their protection needs.

Essential reading

- UN World Health Organization, *Older people in emergencies: Considerations for action and policy development*, 2008, <http://www.unhcr.org/refworld/docid/493653482.html>
- Inter-Agency Standing Committee, *Humanitarian Action and Older Persons. An essential brief for humanitarian actors*, October 2008, <http://www.unhcr.org/refworld/docid/490b0c102.html>
- UNHCR, *The Protection of Older Persons and Persons With Disabilities*, 6 June 2007, EC/58/SC/CRP.14, <http://www.unhcr.org/refworld/docid/4693775c1c.html>
- Humanitarian Practice Network, *Protecting and Assisting Older People in Emergencies*, December 2005, Network Paper No. 53, <http://www.unhcr.org/refworld/docid/43cfa4364.html>
- UNHCR, *UNHCR's Policy on Older Refugees*, 19 April 2000, EC/50/SC/CRP.13, Annex II, <http://www.unhcr.org/refworld/docid/47036b502.html>



5.2.4 Refugees with disabilities

The United Nations *Convention on the Rights of Persons with Disabilities* defines persons with disabilities as: “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”³¹

Persons with disabilities, who may face difficulties in communication, concentration, understanding or mobility, are at increased risk of discrimination, exploitation and violence, and may also encounter serious barriers in accessing essential protection services. Refugee with disabilities may be unable to access transport, understand written and verbal information, register with institutions for documentation and support, or recall and recount with accuracy relevant details during interviews. Children with disabilities are also at a greater risk of abuse, neglect, abandonment, exploitation, health concerns, exposure to the risk of longer term psychosocial disturbances, family separation and denial of the right to education.

Persons with disabilities can be seen as a burden to their community, thereby increasing the sense of stigma and isolation, especially if there are no social services available to provide support.³²

Women, children, and older persons with disabilities, those who are housebound, and those “hidden” (and possibly even restrained) due to cultural stigma may be especially vulnerable to sexual and other forms of exploitation and abuse, but are often excluded from SGBV prevention and response programmes. SGBV also increases vulnerability to HIV/AIDS. Often persons with disabilities have difficulty accessing legal, HIV/AIDS, and reproductive health services, and many available services do not take their needs into account.³³

UNHCR’s 2010 ExCom *Conclusion on Refugees with Disabilities and other Persons with Disabilities protected and assisted by UNHCR*:

- recognizes that host States, which are often developing countries, have limited resources and face various challenges in providing services and facilities for persons with disabilities;
- reaffirms the international community and UNHCR’s role to assist States in fulfilling these responsibilities, in the spirit of international cooperation and responsibility sharing; and
- recommends measures such as providing training on the needs, rights and dignity of persons with disabilities, ensuring swift and systematic identification and registration of persons of concern with disabilities, ensuring programmes, services and procedures are accessible, enhancing

³¹ UN General Assembly, *Convention on the Rights of Persons with Disabilities : resolution /adopted by the General Assembly*, 24 January 2007, A/RES/61/106, Article 1(2), <http://www.unhcr.org/refworld/docid/45f973632.html>

³² For further discussion see UNHCR, *The Protection of Older Persons and Persons With Disabilities*, 6 June 2007, EC/58/SC/CRP.14, <http://www.unhcr.org/refworld/docid/4693775c1c.html>

³³ See forthcoming 2011 UNHCR concise guidance note on “*Working with Persons with Disabilities in Forced Displacement*”.

international cooperation for improving living conditions and ensuring equal opportunities for durable solutions and appropriate support.³⁴

Refugees with disabilities risk remaining “invisible” and excluded from support and services when repatriating, and from opportunities for self-reliance and local integration. Their prospects for resettlement may also be limited by overlooking their protection needs, as well as the restrictive policies of some resettlement States.

A disability is only one aspect of the attributes of any human being, and persons with disabilities should be considered for resettlement on an equal footing with other refugees. In those instances where their disabilities have led to increased protection risks, resettlement as a tool of protection may also be the most appropriate solution.

Essential reading

- UNHCR, *Conclusion on refugees with disabilities and other persons with disabilities protected and assisted by UNHCR*, No. 110 (LXI) - 2010, 12 October 2010, No. 110 (LXI) - 2010, <http://www.unhcr.org/refworld/docid/4cbeaf8c2.html>
- UN General Assembly, *Convention on the Rights of Persons with Disabilities: resolution / adopted by the General Assembly*, 24 January 2007, A/RES/61/106, <http://www.unhcr.org/refworld/docid/45f973632.html>
- Women’s Refugee Commission, *Disabilities among Refugees and Conflict-affected Populations*, June 2008, <http://womensrefugeecommission.org/programs/disabilities>



5.2.5 Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) refugees

In many parts of the world individuals are subject to serious human rights abuses because of their real or perceived sexual orientation, gender identity, gender expression and even their sexed bodies. Sexual minorities, including individuals who are lesbian, gay, bisexual, transgender or intersex (LGBTI) may become targets of hate crimes and face serious violations of their fundamental rights, including executions, imprisonment and sexual and gender-based violence. Due to discrimination and abuse, many LGBTI people, including some who are still minors, flee their home countries and seek protection elsewhere. Non-conformance to expected gender roles often leaves LGBTI refugees marginalized and without family or community support, exacerbating their challenges in accessing protection and basic services.

An understanding of the multiple forms of harm and discrimination experienced by LGBTI persons throughout the displacement cycle is vital in order for States, NGOs and UNHCR to adequately respond to their protection needs.

³⁴ UNHCR, *Conclusion on refugees with disabilities and other persons with disabilities protected and assisted by UNHCR*, No. 110 (LXI) - 2010, 12 October 2010, No. 110 (LXI) - 2010, <http://www.unhcr.org/refworld/docid/4cbeaf8c2.html>

Terms

Sexual orientation refers to each person's capacity for emotional, affectional and sexual attraction to, and intimate relations with, individuals of a different or the same gender or more than one gender.

Gender identity refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth.

Gender expression refers to each person's external manifestation of gender, which can correspond or not with culturally normative expectations in terms of masculinity or femininity.

Sexed bodies (defined basically by each person's chromosomes, genitals and gonads) can vary from culturally established standards of maleness and femaleness, and constitute a key component of bodily diversity.

LGBTI is an umbrella term used to describe a diverse group or community of people who do not conform to traditional notions of male and female gender roles existing in most societies.

A **lesbian** is a woman whose enduring physical, romantic and/or emotional attraction is to other women.

Gay is often used to describe a man whose enduring physical, romantic and/or emotional attraction is to other men, although the term gay can be used to describe both gay men and lesbians.

Bisexual describes an individual who is physically, romantically and/or emotionally attracted to both men and women.

Transgender is an umbrella term for people whose gender identity and/or gender expression differs from the sex they were assigned at birth.

Intersex is an umbrella term covering bodily variations in regard to culturally established standards of maleness and femaleness, including variations at the level of chromosomes, gonads and genitals, and variations produced by medical interventions aimed to normalize intersex bodies.³⁵

LGBTI persons are entitled to all human rights on an equal basis with others. The human rights principle of non-discrimination in relation to sexual orientation and gender identity is applicable in the refugee context, including in regard to the interpretation and application of the 1951 Convention. The 2007 *Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity* set out the human rights protection framework as applicable to LGBTI individuals, including in the refugee context.³⁶

³⁵ See forthcoming 2011 UNHCR concise guidance note on "*Working with Lesbian, Gay, Bisexual, Transgender and Intersex Persons in Forced Displacement*." See also UNHCR, *UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*, 21 November 2008, <http://www.unhcr.org/refworld/docid/48abd566o.html> and UNHCR, *The Protection of Lesbian, Gay, Bisexual, Transgender and Intersex Asylum-Seekers and Refugees*, 22 September 2010, <http://www.unhcr.org/refworld/docid/4cff9a8f2.html>

³⁶ International Commission of Jurists (ICJ), *Yogyakarta Principles - Principles on the application of*

Protecting LGBTI individuals is particularly challenging in countries with laws criminalizing same-sex relations, cross-dressing, or sex work. LGBTI asylum-seekers are exposed to potential further persecution, as making a refugee claim on the basis of their sexual orientation or gender identity in these countries is also an admission to “illegal behaviour”. Morality laws aimed at public indecency and lewdness are also often used disproportionately against LGBTI individuals. Even when these laws are not enforced, their existence often reflects and promotes a culture of intolerance which can result in abuse and discrimination. Hostile societal attitudes to LGBTI persons, even within refugee or immigrant communities, further contribute to marginalization and exclusion.

A number of intersecting factors contribute to discrimination experienced by LGBTI asylum-seekers and refugees, including their sexual orientation, gender identity, age, nationality, race, and possibly also their HIV status, and general health. Full account needs to be taken of diverse gender expressions, evolving identities and the actual circumstances of the individual and their partners or other family members when assessing responses to their protection needs. Resettlement may be the only viable durable solution for LGBTI refugees facing intolerance and heightened risk in countries of first asylum, and emergency processing or evacuation may be required as lengthy processing can exacerbate the security risks.³⁷

Essential reading

- UNHCR, *UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*, UNHCR Geneva, 21 November 2008, <http://www.unhcr.org/refworld/docid/48abd566o.html>
- International Commission of Jurists (ICJ), *Yogyakarta Principles - Principles on the application of international human rights law in relation to sexual orientation and gender identity*, March 2007, <http://www.unhcr.org/refworld/docid/48244e602.html>
- UNHCR, *The Protection of Lesbian, Gay, Bisexual, Transgender and Intersex Asylum-Seekers and Refugees*, 22 September 2010, <http://www.unhcr.org/refworld/docid/4cff9a8f2.html>



5.2.6 Refugees from minorities and indigenous groups

A minority is broadly understood to be a group of people with a common identity, based on ethnicity, language or religion, which is different from that of the majority group around them. The term “minority” as used in the United Nations human rights system usually refers to **national or ethnic, religious and linguistic minorities**.³⁸

international human rights law in relation to sexual orientation and gender identity, March 2007, <http://www.unhcr.org/refworld/docid/48244e602.html>

³⁷ UNHCR, *Summary Conclusions: Asylum-Seekers and Refugees Seeking Protection on Account of their Sexual Orientation and Gender Identity*, November 2010, <http://www.unhcr.org/refworld/docid/4cff99a42.html>

³⁸ UN General Assembly, *Declaration on the Rights of Persons Belonging to National or Ethnic*,

Indigenous groups are descendants of the peoples who inhabited land or territory prior to colonization or the establishment of state borders. They often have strong attachment to their ancestral lands and natural resources, an attribute that can distinguish them from other minority groups. They may also have distinct social, economic and political systems, languages, cultures and beliefs. Their right to self-determination has frequently been impeded by subsequent migration of other ethnic groups into the territory where they reside.

Minorities and indigenous groups are usually in a non-dominant position in the society in which they live. This unfavourable position can lead to a lack of power to affect the decisions that concern them, and place them at risk of marginalization, discrimination and abuse. Particularly in situations of active conflict, this discrimination may take extreme and violent forms that ultimately lead to their flight. This may include:

- denial of their right to identify as a minority;
- barriers to freely practice their culture, language and religion, and persistent and systematic discrimination due to these identifying factors;
- multiple or intersectional discrimination i.e. on the ground of two or more identifying factors such as age, gender, disability, religion, language, or culture;
- a denial of the right to participate in the political and economic decisions that affect them;
- removal of possessions, land or property;
- scapegoating, violent attacks, mass killing, rape, displacement, or genocide.

In situations of forced displacement, persistent power differentials leading to discrimination may exacerbate the marginalization and abuse suffered by minority and indigenous people. Resettlement may be the most appropriate protection tool to address serious human rights violations suffered by a minority or indigenous group.³⁹



Essential reading

- UN Office of the High Commissioner for Human Rights, *Minority Rights: International Standards and Guidance for Implementation*, February 2011, HR/PUB/10/3, <http://www.unhcr.org/refworld/docid/4db80ca52.html>
- United Nations, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, 20 December 1993, A/RES/48/138, <http://www.unhcr.org/refworld/docid/3boof302c.html>
- International Labour Organization (ILO), *Indigenous and Tribal Peoples Convention, C169*, 27 June 1989, C169, <http://www.unhcr.org/refworld/docid/3ddb6d514.html>
- UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples: resolution /adopted by the General Assembly*, 2 October 2007, A/RES/61/295, <http://www.unhcr.org/refworld/docid/471355a82.html>

Religious and Linguistic Minorities, 18 December 1992, A/RES/47/135, <http://www.unhcr.org/refworld/docid/3ae6b38do.html>

³⁹ See forthcoming 2011 UNHCR concise guidance note on “Working with National or Ethnic, Religious and Linguistic Minorities, and Indigenous Groups in Situations of Forced Displacement.”

5.3 SPECIFIC PROTECTION RISKS AND CONSIDERATIONS

Beyond the potential vulnerabilities of certain segments of the refugee population, there are other specific protection risks and considerations that arise in the context of identifying refugees and other persons of concern in need of resettlement. These issues have an impact both on considerations of urgency, and appropriateness of resettlement.

5.3.1 Non-refugee stateless persons

Persons of concern to UNHCR include stateless persons who are not refugees. In its *General Conclusion on International Protection* No. 95 (LIV) of 2003, the Executive Committee of UNHCR recommends that States consider resettlement of *non-refugee stateless* persons under certain exceptional circumstances:

States are encouraged “...to cooperate with UNHCR on methods to resolve cases of statelessness and to consider the possibility of providing resettlement places where a stateless person’s situation cannot be resolved in the present host country or other country of former habitual residence and remains precarious”.⁴⁰

Generally, solutions for stateless persons should be sought in a State with which they have links and of which they could ultimately acquire or reacquire nationality. In almost all cases, this will be either the State of birth or of current or former habitual residence (or a successor State).

Nonetheless, in some situations, despite repeated efforts made by the international community, it is clear that neither the present State of residence nor any former State of residence or of nationality will grant its nationality or a stable residence status in the foreseeable future. This leaves a stateless individual without the enjoyment of basic rights. In such circumstances, acute protection needs may arise, in particular where individuals are outside of a State with which they have links, and cannot return to that State.

Based on the foregoing, resettlement may be considered for cases where the individual:

- does not have in the current or a former State of habitual residence a secure, lawful residence status which brings with it a minimum standard of treatment equivalent to that set out in the 1954 Convention relating to the Status of Stateless Persons; and
- has no reasonable prospect of acquiring such a residence status or nationality; and
- has acute protection needs which cannot be addressed inside the country of current or former habitual residence.

Field offices considering resettlement of non-refugee stateless persons in these circumstances should consult the Resettlement Service prior to submission. *Guidance on the submission of such cases is provided in [Chapter 7.2.2](#).*

⁴⁰ UNHCR, *General Conclusion on International Protection*, 10 October 2003, No. 95 (LIV) - 2003, para. (v), <http://www.unhcr.org/refworld/docid/3f93aede7.html>

5.3.2 Human trafficking⁴¹

Trafficking in persons is prohibited by international law and criminalized in the national legislation of a growing number of States. Although States have a responsibility to combat trafficking and to protect and assist victims of trafficking, UNHCR has a responsibility to ensure that persons of concern do not fall victim to trafficking, and to ensure that individuals who have been trafficked or who fear trafficking have access to the asylum procedures. The specific protection needs or risks facing refugees who have been trafficked, or who risk being trafficked, may indicate a resettlement need.

By definition, victims of human trafficking have been exploited for profit – either through prostitution or other type of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.⁴²

A victim of trafficking who has been determined to be a refugee may additionally fear reprisals, punishment or re-trafficking in the country of asylum. Victims who have escaped from their traffickers could be in fear of revealing the real extent of the persecution they have suffered. Some may be traumatized and in need of protection responses including medical and/or psychosocial assistance, as well as expert counselling.

Women in particular may feel ashamed of what has happened to them, may suffer from trauma caused by sexual abuse and violence, and, additionally, may fear rejection by their family or community.

Children also require special attention, and the impact of reprisals by members of the trafficking network, social exclusion, ostracism and/or discrimination against a child victim of trafficking needs to be assessed in a child-sensitive manner. For example, a girl who has been trafficked for sexual exploitation may end up being rejected by her family and become a social outcast in her community if returned. A boy who has been sent away by his parents in the hope and expectation that he will study, work abroad and send remittances back to his family likewise may become excluded from his family if they learn that he has been trafficked into forced labour. Such child victims of trafficking may have very limited possibilities of accessing and enjoying their human rights, including survival rights, if returned to their families.⁴³

As part of a broader international response to improve the range of protection and assistance options available to victims of trafficking, UNHCR has also developed a stronger cooperation framework with IOM with the aim of combining the available expertise, capacities, and potential of both agencies. Options for the protection of *non-refugee* victims of trafficking, including the possibility of

⁴¹ For further guidance see UNHCR, *Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked*, 7 April 2006, HCR/GIP/06/07, <http://www.unhcr.org/refworld/docid/443679fa4.html>

⁴² UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000, Article 3, <http://www.unhcr.org/refworld/docid/4720706co.html>

⁴³ UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A) 2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, <http://www.unhcr.org/refworld/docid/4b2f4f6d2.html>

humanitarian evacuation, are also being explored, but these are outside the context of refugee resettlement.⁴⁴

Essential reading

- UNHCR, *Considerations on the Issue of Human Trafficking from the Perspective of International Refugee Law and UNHCR's Mandate*, March 2009, <http://www.unhcr.org/refworld/docid/49ca275d2.html>
- UNHCR, *Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked*, 7 April 2006, HCR/GIP/06/07, <http://www.unhcr.org/refworld/docid/443679fa4.html>
- International Labour Organization (ILO), *Understanding child trafficking, Textbook 1, Training Manual to Fight Trafficking in Children for Labour, Sexual and Other Forms of Exploitation*, September 2009, <http://www.unhcr.org/refworld/docid/4acc55ef2.html>
- UNHCR, *International protection for trafficked persons and those who fear being trafficked*, 20 December 2007, ISSN 1020-7473, <http://www.unhcr.org/refworld/docid/4c247bc32.html>



5.3.3 Female Genital Mutilation

Female Genital Mutilation (FGM) is a form of gender-based violence that inflicts severe harm, both mental and physical, which UNHCR considers to amount to persecution.⁴⁵ The term “female genital mutilation” (also called “female genital cutting” and “female genital mutilation/cutting”) refers to all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons.⁴⁶

Female genital mutilation has been reported to occur in all parts of the world, but it is most prevalent in the western, eastern, and north-eastern regions of Africa, some countries in Asia and the Middle East, and among certain immigrant communities in North America and Europe. Although the practice varies, there is a very high incidence in some refugee camps. To take one example among Somali refugees, UNHCR estimates that 97 per cent of girls under the age of eight in Dadaab camp in Kenya have had FGM performed on them.⁴⁷

⁴⁴ UNHCR, *Developing Standard Operating Procedures to Facilitate the Protection of Trafficked Persons*, December 2009, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4b5876442.html>

⁴⁵ UNHCR, *Guidelines on International Protection No. 1: 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*, 7 May 2002, (HCR/GIP/02/01), para. 9. See also UNHCR, *Guidance Note on Refugee Claims relating to Female Genital Mutilation*, May 2009, <http://www.unhcr.org/refworld/docid/4a0c28492.html>

⁴⁶ Inter-Agency, *Eliminating Female Genital Mutilation: An Interagency Statement*, February 2008, <http://www.unhcr.org/refworld/docid/47c6aa6e2.html>

⁴⁷ UN General Assembly, *Assistance to refugees, returnees and displaced persons in Africa: report of the Secretary-General*, 26 August 2009, A/64/330, <http://www.unhcr.org/refworld/docid/4ac379512.html>

UNHCR is actively involved in campaigns against the practice, but recognizes that female genital mutilation is a manifestation of gender inequality that is deeply entrenched in social, cultural, economic and political structures. Where female genital mutilation is widely practiced, it is supported by both men and women, usually without question, and anyone departing from the norm may face condemnation, harassment, and ostracism.

It is difficult for families to abandon the practice without support from the wider community. In fact, it is often practiced even when it is known to inflict harm upon girls because the perceived social benefits of the practice are deemed higher than its disadvantages. Often, FGM is committed with the direct and active participation of family members in addition to the “cutter”, thus designating a large proportion of affected societies as FGM – and thereby SGBV – perpetrators.

From the standpoint of international human rights law, UNHCR cannot condone FGM, and must not take a stance that is seen as acquiescing to the practice. However, it is not UNHCR’s role to apply legal sanctions, or to invoke such sanctions as exist in a particular country of asylum for individual cases.⁴⁸ The responsibility for prosecuting such cases lies with the country of asylum. This must be treated separately from consideration of a refugee’s protection needs, which fall within UNHCR’s mandate. Regardless of whether a refugee has perpetrated FGM, resettlement is still a crucial protection tool and may, in practice, present the only available durable solution. Girls and women who have been subjected to FGM should additionally not be penalized for the actions of their family members, nor should their rights to family unity be violated by deprioritizing family member perpetrators for resettlement.

Resettlement may be an appropriate protection tool for girls *at risk* of FGM. However, cases must be carefully assessed in context, and require a BID if there is consideration of removing the child from her family.

5.3.4 SGBV perpetrators

Refugees must be protected from sexual and gender-based violence. When refugees are perpetrators of sexual and gender-based violence (SGBV), UNHCR encourages the host country to hold them accountable. At the same time, UNHCR recognizes that refugee perpetrators, as refugees, are entitled to international protection.⁴⁹

⁴⁸ As of 2009, eighteen countries – Benin, Burkina Faso, Central African Republic, Congo, Côte d’Ivoire, Djibouti, Egypt, Eritrea, Ethiopia, Ghana, Guinea, Kenya, Niger, Senegal, South Africa, Sudan, Tanzania, and Togo – have enacted laws specifically criminalizing FGM, whereas Chad, the Democratic Republic of the Congo, Gambia, and Mauritania have not enacted specific provisions, but FGM may be penalized under sections of the Penal Code. Penalties range from a minimum of three months to a maximum of life in prison, and many States also impose monetary fines. However, in most of the named countries, with the exception of Kenya, there have been no convictions for commission of FGM, and in most cases, no charges were ever filed. See United Kingdom: Home Office, *Female Genital Mutilation (FGM)*, 20 June 2008.

⁴⁹ Some individuals may indeed be found *undeserving* of international protection and may be excluded from international protection because of SGBV-crimes of particular magnitude under Article 1F(a) (“a war crime, or a crime against humanity”, or Article 1F(b) (“serious, non-political crime committed outside the country of refuge”). However, many SGBV-crimes, particularly – but not exclusively – crimes committed in the domestic sphere may not achieve the threshold of

Resettlement is a protection tool for refugees facing serious protection risks or vulnerabilities, and priority for resettlement consideration is given on the basis of need. For refugees facing acute protection problems, including for refugees who are alleged perpetrators of SGBV, or family members of alleged perpetrators, resettlement may be identified as the most appropriate durable solution for ensuring the protection of a refugee or his/her family.

Resettlement is also used to provide a durable solution for refugees in protracted situations, and other group resettlement contexts. In these circumstances, UNHCR assesses resettlement priorities within populations facing similar protection needs and vulnerabilities. Therefore, operational circumstances lead UNHCR to consider resettlement cases of individuals against whom allegations related to SGBV may exist, or where certain forms of SGBV—in particular domestic violence and harmful traditional practices such as female genital mutilation (FGM)—may be widespread in the population.

In the context of determining whether to submit a refugee who is suspected of having perpetrated SGBV, UNHCR works to balance the appropriateness of submission for resettlement and the integrity of the resettlement operation, while also applying a fair and coherent resettlement approach that respects the principles of protection, due process and family unity.

The *Resettlement Assessment Tool: Alleged Perpetrators of Sexual and Gender-Based Violence (SGBV)*⁵⁰ has been developed to harmonize procedures for assessing cases of refugees against whom there are allegations of sexual and gender-based violence and determining whether or not to submit the case for resettlement, and which details of SGBV should be included in the resettlement submission.

The tool guides staff to ensure that all considerations and procedural safeguards are taken into account to reach a final decision in accordance with UNHCR's responsibility to provide international protection to persons of concern, and with fundamental principles of international human rights law.

In view of the serious consequences for refugees, *all allegations need to be investigated, and if found to be substantiated, the nature of the act/crime fully clarified*. The refugee and his/her family members must also be informed of UNHCR's decision whether to submit the case and the details that UNHCR will share with the country of resettlement about the incident, and should be *individually counselled* regarding the implications of these decisions.

a “widespread, systematic attack against a civilian population” as required for crimes against humanity, may not be considered as a war crime, or may have been committed *within* the country of refuge (thereby not engaging Article 1f[b]). While some of the more serious allegations will trigger exclusion considerations, the majority of incidents brought to the Office's attention do not warrant exclusion under Article 1f.

⁵⁰ UNHCR, *Resettlement Assessment Tool: Alleged Perpetrators of Sexual and Gender-Based Violence*, June 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4dc7a99d2.html>



Essential reading

- Inter-Agency, *Eliminating Female Genital Mutilation. An Interagency Statement*, February 2008, <http://www.unhcr.org/refworld/docid/47c6aa6e2.html>
- UNHCR, *UNHCR Policy on Harmful Traditional Practices* (Annexes), 19 December 1997, <http://www.unhcr.org/refworld/docid/3efc79f34.html>
- UNHCR, *Resettlement Assessment Tool: Alleged Perpetrators of Sexual and Gender-Based Violence (SGBV)*, June 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4dc7a99d2.html>

5.3.5 Polygamous marriages

Polygamous marriages, where a husband has more than one wife (polygyny), or more rarely, a wife has more than one husband (polyandry), raise both serious concerns from an international human rights law perspective about abuse or serious discrimination, and also policy challenges from a resettlement perspective.

Under international law, polygamy is considered a violation of the principle of equality of men and women in marriage. The Human Rights Committee determined that polygamy violates a woman's dignity and should be abolished as an inadmissible discrimination.⁵¹ The Committee on the Elimination of Discrimination against Women determined that polygamy is a violation of Article 5 of CEDAW and that it has serious implications for the emotional and financial well-being of a woman and her dependants.⁵²

However, UNHCR aims to respect the culturally diverse interpretations of family membership and ensure the protection of members of polygamous families, and recognizes polygamy in its criteria for eligible unions. Therefore, where a polygamous marriage is contractually valid, all family members are eligible for UNHCR assistance, including consideration for resettlement. Where a relationship of dependency exists, particularly when children are concerned and when the marriage has been validly contracted according to the laws of the country of origin or asylum, UNHCR respects and promotes the unity of the family during resettlement.

Most resettlement States have national laws that prohibit such marriages and therefore refuse to admit such cases for resettlement. However, States may recognize a person engaged in polygamy (the "partner") as having only one legal spouse (the "legally recognized spouse"). Such resettlement country legislation frequently has led to families choosing to separate for purposes of admission to the resettlement country. In cases where *the spouses are dependent on*

⁵¹ See para 24, UN Human Rights Committee (HRC), *CCPR General Comment No. 28: Article 3 (The Equality of Rights Between Men and Women)*, 29 March 2000, CCPR/C/21/Rev.1/Add.10, <http://www.unhcr.org/refworld/docid/45139c9b4.html>

⁵² UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No. 21: Equality in Marriage and Family Relations*, 1994, para. 14, <http://www.unhcr.org/refworld/docid/48abd52co.html> See Article 5, UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180, <http://www.unhcr.org/refworld/docid/3boof2244.html>

the partner, this requirement can result in the subsequent separation or abandonment of dependent family members for purposes of resettlement, which contravenes the right to family unity and the rights of the child.

Also, in other cases, where a partner separated from, but never officially divorced, one spouse and then married and cohabited with another, there may still be social stigmas or other legal and protection issues that might arise should the partner be resettled with only the spouse with whom s/he is currently living. In both these situations, the spouse(s) and their children remaining behind in the asylum country are rendered more vulnerable to protection risks, and resettlement may need to be pursued separately.

Therefore, careful consideration is required when there is more than one spouse dependent upon a partner in a family, or when there is a protection issue that might arise for any separated spouses. In principle, UNHCR should avoid a situation where one wife is chosen over the other(s) in order for a man and his chosen family members to be submitted to a resettlement State, thereby putting the unity of the polygamous family at risk.

However, UNHCR has responsibilities to seek durable solutions for its persons of concern, and there may be circumstances where refugees in polygamous families present protection needs or vulnerabilities which warrant resettlement consideration. Given specific and serious social and legal protection challenges that resettlement of refugees in polygamous families would entail, additional considerations and procedural safeguards are required when assessing the resettlement needs of refugees in polygamous families. Important considerations include the current composition of the family and the principle of family unity, the best interests of the child, the protection needs, wishes and informed consent of each family member, as well as the prospective resettlement country legislation.

UNHCR's *Resettlement Assessment Tool: Polygamous Families*⁵³ has been developed to harmonize UNHCR's procedures for assessing polygamous families for resettlement consideration and to guide staff on the processing if it is decided to proceed with a resettlement submission.

In order to maintain family unity and to ensure that the non-legally recognized spouses and their children do not become more vulnerable to protection risks, UNHCR may consider separating a polygamous family into two or more cases and submitting them as cross-referenced cases to suit certain resettlement country requirements.

Where UNHCR determines that one case should not be accepted without the other, it is important to reinforce with resettlement countries the need to resettle non-legally recognized spouses and their children to the same country (and preferably the same municipality or community) as the partner and the legally recognized spouse. To avoid children being separated from one parent, a Best Interests Determination (BID) could be undertaken to advocate for the right of the children to remain with both parents.⁵⁴

⁵³ UNHCR, *Resettlement Assessment Tool: Polygamous Families*, June 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4dc7a9032.html>

⁵⁴ UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, p. 41., <http://www.unhcr.org/refworld/docid/48480c342.html>

The submission of cross-referenced cases of a polygamous family separated for purposes of resettlement should be based upon a dependency link between the partner and his/her spouses, best interests of the child, the consent of all of the spouses to separate the case for resettlement purposes and to be submitted for resettlement, and, most critically, the understanding of the non-legally recognized spouses that their relationship with the partner will not be legally recognized and the impact that will have on their rights and the rights of their children in the resettlement country.

Operational guidance on the submission of cases of polygamous families can be found in [Chapter 7.3.6](#) and [Chapter 7.4.4](#).

5.3.6 Child marriages

Child marriage, or the union of two persons at least one of whom is under 18 years of age, has been recognized as a harmful traditional practice.⁵⁵ However, child marriages are common in many parts of the world, especially in sub-Saharan Africa, South East Asia, and among some groups in the Middle East and other parts of Africa and Asia. International human rights bodies have consistently called for States to take measures to end harmful traditional practices, such as early marriage, that violate children's rights and affect the health of children, and this obligation is embedded in the *Convention on the Rights of the Child (CRC)*.⁵⁶

To promote the protection of refugee children, the UNHCR Executive Committee has asked UNHCR, in conjunction with States, other relevant agencies and partners, to “*take effective and appropriate measures [...] to prevent and eliminate traditional practices that are harmful to children taking into account the physical and mental harm caused to the child, and the different impact on girls and boys.*”⁵⁷

Where a case of child or forced marriage comes to UNHCR's attention, UNHCR works with national authorities and community leaders to prevent it and, if this fails, takes appropriate action to ensure that the child's best interests are taken into account.⁵⁸

Prevention activities include:

- awareness-raising with parents, girls and boys and other people in the community on protection risks for children subjected to early marriage (violence and exploitation, school drop-out, premature pregnancy and related health consequences, etc.);
- promote access to education for girls and boys;

⁵⁵ See UNHCR, *UNHCR Policy on Harmful Traditional Practices (Annexes)*, 19 December 1997, <http://www.unhcr.org/refworld/docid/3efc79f34.html>

⁵⁶ See UN General Assembly, *Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages*, 7 November 1962, <http://www.unhcr.org/refworld/docid/456d89064.html> and UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, UN Treaty Series, vol. 1577, art. 24(3), <http://www.unhcr.org/refworld/docid/3ae6b38fo.html>

⁵⁷ UNHCR, *Conclusion on Children at Risk*, 5 October 2007, No. 107 (LVIII)-2007 para. (h) (vii), <http://www.unhcr.org/refworld/docid/471897232.html>

⁵⁸ UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, January 2008, section 5.2.2, <http://www.unhcr.org/refworld/docid/47cfc2962.html>

- income-generating activities to prevent negative coping strategies such as early marriage;
- long-term protection strategies and close cooperation with communities and national authorities to develop appropriate child protection legislation, policies and practices in collaboration with the United Nations Children’s Fund (UNICEF) and other relevant partners.

Advocacy, awareness-raising and monitoring should be part of the broader child protection programme to prevent and respond to child marriage. Yet it may be extremely challenging to address child marriage, as it may be widespread and deeply rooted in cultural and societal practices and beliefs, which may only change in the long term. In addition, interventions in individual cases of child marriage may not always lead to solutions, as sometimes there are no favourable alternatives for the child.

When there are *clear indications that there are risks or signs of abuse, neglect, exploitation or violence and the child is at imminent risk*, measures should be taken to ensure the safety of the child, e.g. through referral to a safe house. The BID needs to determine if the “care situation” is in the best interests of the child. Married children often lack the care, protection and support of their parents. They should be regarded as an unaccompanied child who is facing multiple risks. Sometimes family mediation or support could help to reintegrate the child. Yet it may be very difficult to identify appropriate solutions, and the BID may just determine what is least harmful for the child.

Each case is different and therefore requires a case-by-case assessment. All decisions and procedures should be guided by the principle of best interests of the child. However, the **following general considerations should be assessed:**

- age and maturity of the married child;
- age difference between the child and the adult spouse;
- signs of abuse, neglect, exploitation or violence against the child;
- duration of the marriage and circumstances surrounding the marriage and/or elopement;
- whether the marriage is formal or informal (in some circumstances formalization of the marriage improves the situation of the girl, e.g. entitlement to certain benefits, etc.);
- possible risks and consequences for the child, if he/she was to be separated from the spouse;
- national legislation relating to age of marriage and separation/divorce (in country of origin, asylum and potential country of resettlement);
- existing support for the child outside the marriage; and
- possible children of girl mothers.

Best interests process for married children in the context of resettlement

UNHCR does *not* normally submit cases of married children for resettlement unless there are compelling protection risks that warrant resettlement, and resettlement is in the best interests of the child. A Best Interests Assessment (BIA) or a full Best Interests Determination (BID) must be conducted in these circumstances:

- **Two married child spouses**, being considered for resettlement without a parent/caregiver are considered separated children and require separate **BIDs**.
- **Two married child spouses**, when being considered for resettlement **together with a parent/caretaker** require only **BIAs**.
- **A child married to an adult** requires **either a BIA or a BID**, depending on the circumstances and the general considerations listed above.
- If the married child couple has a child, the best interests of that child should also be considered in the BID process.

The *Resettlement Assessment Tool: Married Children*⁵⁹ is designed to assist UNHCR staff to assess the protection needs, legal situation and social context of refugees in child marriages, and to process the resettlement submission in cases where it is determined that resettlement is in the child's best interests. *Protection considerations related to child marriages and the requirements for Best Interests Determinations (BID) are also discussed in Chapter 5.2.2 of this Handbook.*

A resettlement submission for a married refugee child together with their spouse may be warranted when:

- a married refugee child has a compelling protection need or vulnerability; *or*
- a member of the refugee family upon which the married refugee child is dependent has a compelling protection need or vulnerability; *and*
- resettlement is considered the most appropriate option for addressing the specific protection need or vulnerability; *and*
- the married refugee child wishes to be resettled together with her/his spouse; *and*
- a Best Interests Assessment or formal Determination (BID) has determined that the refugee child should be submitted for resettlement with her/his spouse.

As recommended through the BIA/BID process, the resettlement of married refugee children may be necessary in order to:

- maintain family unity and prevent separation of the child from her/his parents/legal guardians;

⁵⁹ UNHCR, *Resettlement Assessment Tool: Married Children*, June 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4dc7a79f2.html>

- ensure that the refugee or members of the child’s family do not become more vulnerable to protection risks by having to wait until the child reaches the age of 18 years old to be submitted for resettlement;
- protect the child from sexual and gender-based violence or other violations of her/his human rights.

Family unity considerations

The principle of family unity should be applied only to the extent that it does not violate the rights of the child under international law. Under the *Convention on the Rights of the Child*, children have the right to know and be cared for by both parents, should not be separated from their parents against their will, and have the right to maintain relations and direct contact with both parents unless it has been determined contrary to their best interests.⁶⁰ A separation may only be carried out if it is in the best interests of the child.

The child’s rights should be paramount in the process of assessing best interests, both for the refugee child and any children s/he may have. Where a refugee child who is married has children, these children’s rights to family unity and to not be separated from their parents are also primary considerations.

While family unity is a guiding principle in determining both case composition and durable solutions, in the context of child marriage, maintaining family unity or promoting family reunification may not always be in the best interests of the child where a child may risk SGBV at the hands of a spouse or other family members.

Therefore, all protection concerns must be carefully identified and addressed in making a determination of whether resettlement is the most appropriate solution for a child who is married.

5.3.7 HIV and AIDS

The impact of the human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) on refugee protection continues to be an issue of concern. UNHCR has articulated an overview of how principles of refugee protection and human rights, including access to durable solutions, apply to those living with HIV and AIDS.

⁶⁰ *Convention on the Rights of the Child*, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, Entry into force 2 September 1990, in accordance with article 49, Arts. 7, 9, and 10.

10 Key Points on HIV/AIDS and the Protection of Refugees, IDPs and Other Persons of Concern⁶¹

1. **Non-Discrimination:** Persons living with HIV and AIDS are entitled to live their life in dignity, free from discrimination and stigmatization.
2. **Access to HIV and AIDS Health Care:** Refugees, IDPs and other persons of concern to UNHCR benefit as any other individual from the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”
3. **Access to Asylum Procedures and Protection from Expulsion and *Refoulement*:** The HIV status of an asylum-seeker does not constitute a bar to accessing asylum procedures. HIV status is not a ground for any exception to the right to be protected against *refoulement*.
4. **Protection from Arbitrary Detention and Unlawful Restrictions on Freedom of Movement:** Detention or restrictions on the freedom of movement of persons living with HIV and AIDS would be in violation of the fundamental rights to liberty and security of the person, as well as the right to freedom of movement, if carried out solely on the basis of a person’s actual or suspected HIV status.
5. **Respect for Confidentiality and Privacy:** In principle, personal data is confidential and should not be shared without the consent of the individual concerned; this includes data on the health status of the person.
6. **Provision of Voluntary Counselling and Testing (VCT):** VCT programmes play an important role in preventing HIV transmission by providing people with accurate information about the virus.
7. **Freedom from Mandatory Testing:** UNHCR strictly opposes mandatory HIV testing of asylum-seekers, refugees, IDPs and other persons of concern as this is at variance with relevant human rights standards.
8. **Access to Durable Solutions:** The attainment of a durable solution should not be jeopardized by the HIV-status of a refugee or a family member. In the context of resettlement, although UNHCR opposes HIV testing as a prerequisite for such, certain resettlement countries require pre-departure health-screening, including HIV testing. Where testing is done, human rights should be respected and voluntary counselling and testing standards should be met. Where States deny entry to individuals who are HIV-positive or have AIDS, automatic waivers should be given for resettlement cases.
9. **HIV-related protection needs of women, girls and boys:** Women and girls are disproportionately affected by HIV and AIDS and gender inequality can play a significant role in the protection problems they face, including increased exposure to violence. Appropriate measures need to be taken to ensure their protection against sexual or physical violence and exploitation.
10. **Access to HIV information and education:** The right to health includes access not only to HIV treatment, but also to HIV-related education.

⁶¹ UNHCR, *Note on HIV/AIDS and the Protection of Refugees, IDPs and other Persons of Concern*, 2006, <http://www.unhcr.org/refworld/docid/4444fo884.html>

The fact that a refugee has HIV should not adversely affect a resettlement claim based on core protection grounds unrelated to their HIV status. Whereas States may exclude people living with HIV, if those people have a legitimate need for asylum, UNHCR stresses that the need for asylum overrides any concerns about potential costs associated with treatment and care.

UNHCR's policies on *Antiretroviral Medication Policy for Refugees*⁶² and on *HIV Testing and Counselling in Health Facilities*⁶³ provide guidance on access to treatment and HIV testing and counselling issues, including HIV testing for resettlement purposes. See [Chapter 6.4.3](#) for considerations related to resettlement submission.

Some resettlement countries require pre-departure health screening, including HIV testing. UNHCR and IOM urge that any HIV testing in this context:

- be implemented under the conditions of the **three C's**: informed Consent, Confidentiality and Counselling;
- not prejudice the right to seek asylum and the provision of resettlement as a durable solution;
- involve adequate resources and quality assurance, including appropriate pre- and post-test counselling.⁶⁴

A key area of concern is the need to respect an individual's right to privacy and to confidentiality of all information relating to his or her HIV status. Procedural safeguards should be put in place to ensure that HIV test results are kept confidential and are only shared with third parties, including family members, implementing partners and UNHCR staff, after the concerned individual has given his or her informed consent.⁶⁵

Children require special attention to ensure that their best interests are protected, and that they are not subjected to procedures such as mandatory HIV testing. The Committee on the Rights of the Child has explicitly stated that States must refrain from imposing mandatory HIV testing of children in all circumstances and to ensure protection against it.

The Committee on the Rights of the Child reiterates that children also enjoy the right to privacy, including within the health setting. Counselling and testing services would, however, have to pay due attention to the evolving capacities of children, and parental consent would normally be required subject to the best interests of the child and with due regard to applicable national legislation. Although information on the HIV status of children should not be disclosed to

⁶² UNHCR, *Antiretroviral Medication Policy for Refugees*, 17 January 2007, <http://www.unhcr.org/refworld/docid/45b4af612.html>

⁶³ UNHCR, *UNHCR/WHO/UNAIDS Policy Statement on HIV Testing and Counselling in Health Facilities for Refugees, Internally Displaced Persons and other Persons of Concern to UNHCR*, 2009, <http://www.unhcr.org/refworld/docid/4b13ba212.html>

⁶⁴ UNHCR, UNAIDS, IOM – *Joint Statement on HIV Testing in the context of resettlement*, 2006, <http://www.unhcr.org/refworld/docid/46822d001c.html>

⁶⁵ See UNHCR's *Confidentiality Guidelines*, 1 August 2001, IOM/71/2001-FOM/68/2001, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html> and *UNHCR Note on HIV/AIDS and the Protection of Refugees, IDPs and other Persons of Concern*, 5 April 2006, <http://www.unhcr.org/refworld/docid/4444fo884.html>, IOM 30/2006 - FOM/30/2006, 5 April 2006 (Internal) <http://swigea56.hcrnet.ch/refworld/docid/44ae7ca20.html>

third parties, including parents, without the child's consent, this, of course, is subject to the age and maturity of the child as well as to a determination of his or her best interests.⁶⁶

5.4 THE PROCESS FOR IDENTIFYING RESETTLEMENT NEEDS

Efficient and effective identification of refugees in need of resettlement is essential to ensuring a continuum of refugee protection. Pursuant to UNHCR's priority to use resettlement as a protection tool and as part of a comprehensive durable solutions strategy, UNHCR country offices undertake a yearly exercise of proactive planning for resettlement as an integral part of the overall planning process. UNHCR country offices forecast overall refugee resettlement needs for specific populations, as well as refugee resettlement needs for the next calendar year and UNHCR's capacity to address them. Each office's Comprehensive Needs Assessments should reflect resettlement planning to help ensure that resettlement activities do not occur in a vacuum, but rather are coordinated with the work done in other areas of protection.⁶⁷

UNHCR offices seek to identify protection needs systematically, so that relevant data is available to develop durable solutions strategies. In principle, the most effective data-gathering activities are multi-functional exercises to facilitate identification of refugees' needs generally; identifying refugees in need of resettlement is one among a number of outcomes.

a. Initial Identification of resettlement needs

The initial identification of resettlement needs encompasses two main aspects:

1. **Strategic planning**, via such tools as *proGres* and *Focus*,⁶⁸ give an indication of overall needs and allows proactive durable solutions planning to provide a holistic picture of an operation's resettlement needs for current and subsequent years.
2. **Individual identification**, through use of participatory assessments, the *Heightened Risk Identification Tool*,⁶⁹ and referrals from partners or from other UNHCR units (Protection or Community Services, for example) can help augment registration data and identify the most vulnerable individuals for resettlement consideration.

⁶⁶ See Committee on the Rights of the Child *General Comment, No 3 (2003) on HIV/AIDS and the rights of the child*, <http://www.unhcr.org/refworld/docid/4538834e15.html>, paragraphs 22-24.

⁶⁷ UNHCR issues annual instructions and guidelines on planning, reporting and implementation. These instructions are available on the UNHCR Intranet. (Internal)

⁶⁸ *Focus* is Results Based Management (RBM) software used in UNHCR for de-centralized budgeting, monitoring and reporting on Field Operations.

⁶⁹ UNHCR, *The Heightened Risk Identification Tool*, June 2010, Second Edition, <http://www.unhcr.org/refworld/docid/4c46c686o.html>; *User Guide*, <http://www.unhcr.org/refworld/docid/46f7c0cd2.html>

b. Identification of a case for resettlement submission

Moving forward with the identification of an individual case for resettlement submission requires another step of ensuring that refugees fall within one of the resettlement submission categories, which are discussed in detail in [Chapter 6](#).

This section outlines some of the overall considerations regarding the establishment of effective identification system and referral systems, mapping and profiling of needs, identification tools and methodologies including partnerships, and the overall considerations for proactive resettlement planning within protection and durable solutions strategies.

5.4.1 Establishing identification systems

The demand for effective methods of identification has grown as UNHCR increases its attention to developing comprehensive approaches to durable solutions, and as the strategic use of resettlement expands.

UNHCR Country offices must consider how to approach resettlement identification appropriately and effectively in their particular situation. Different identification challenges arise in refugee camps than in less structured settings, such as in urban areas, and staff need different approaches for refugees recognized through individual status determination than for those recognized on a *prima facie* group basis. Identification systems can be put in place even with limited resources, by linking them to other ongoing activities organized by UNHCR or by partners (e.g. registration, renewal of documentation, counselling, workshops, etc.).

Identification systems should be designed and implemented to suit specific operational contexts as well as to mitigate the risks associated with unplanned resettlement delivery, such as unrealistic expectations, fraud, irregular secondary movements and inconsistent approaches to resettlement delivery. They should allow for proactive and systematic identification by UNHCR and its partners and ensure the early identification of refugees who are at risk of serious harm, including the refugees who may have the most challenges in having their needs made known. The identification systems should also be integrated into the overall protection and durable solutions strategy of the office and the region.

UNHCR identifies refugees for resettlement based on a refugee's objective *need* for resettlement and not on their subjective *desire* for it. Identification should not be based on the desire of any specific actors, such as the host State, resettlement States, other partners, or UNHCR staff themselves. Identification based on need also means that identification should not be limited by the expected capacity of the office, the number of resettlement places presumed available, additional criteria (whether formal or informal) introduced by resettlement States, or restrictions imposed by the country of asylum. UNHCR must cooperate with asylum and resettlement States for resettlement to succeed, but they should not influence UNHCR's identification process itself.

A designated officer oversees all identification efforts for resettlement purposes. An interrelated working environment and team dynamic should be fostered in

offices to maximize synergies between resettlement and other work areas (e.g. protection, field and community services) to strengthen case management and the search for durable solutions for refugees. It is also vital that UNHCR staff cooperate and coordinate with NGOs and other external partners to identify needs. While various actors may be involved in the identification of refugees in need of resettlement, it is essential that these actors are well managed and monitored by the UNHCR officer accountable for resettlement, as well as by senior management within the office, to ensure transparent and consistent identification.

Given the number of partners potentially involved in needs assessments and eventual resettlement identification, regular and effective communication will help ensure coordination of activities. It is also crucial to document the identification process well and to develop and implement transparent identification procedures in accordance with the *Baseline Standard Operating Procedures on Resettlement*.⁷⁰ Safeguards also need to be introduced into any identification mechanisms to mitigate the risk of fraud, abuse and threats to refugee and staff safety. Fear of such risks, however, should not prevent engaging in resettlement, since the establishment of an effective system for identifying refugees in need of resettlement will mitigate those risks.



Resettlement must be integrated into the overall protection and durable solutions strategy of the office and the region. Identification systems must be designed to ensure consistent delivery of resettlement and mitigate risks such as fraud and abuse.

5.4.2 Proactive planning for resettlement within operational planning

Assessment of the needs of populations of concern, and the design of the most appropriate strategy and means of bringing about changes in the condition and situation of the population of concern, are core UNHCR protection processes; as such, each fully concern and engage the management of the operation and the whole operations team. Incorporating resettlement into the planning process and the overall protection strategy of the office helps to ensure that all durable solutions are assessed comprehensively, and that any negative impacts either of resettlement on other activities, or vice-versa, are mitigated.

For the annual Regional/Country operation planning process in *Focus*, UNHCR teams conduct comprehensive assessments of the protection problems and needs of the population of concern, and record the results as a Summary Protection Assessment. These results are analyzed in order to design and develop their operations plan. Selecting the most appropriate goals for population groups, and developing or revising the protection and solutions strategy for that population are critical planning steps. As durable solutions strategies are often most effective when planned within a regional context, dialogue at the

⁷⁰ UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html>

assessment stage with UNHCR offices in neighbouring countries of origin and asylum helps to ensure that the causes of displacement, as well as problems associated with finding durable solutions, are consistently reflected across their comprehensive assessments. Proactive planning for resettlement is an integral part of this annual process, which ensures that global resettlement needs are both assessed, and addressed, comprehensively.

Summary Protection Assessments aim to offer a concise narrative snapshot of the core protection problems currently affecting each type of population of concern (i.e. Refugees, Stateless persons, Returnees and IDPs) that can serve as a baseline for operational planning. Operational targets are set to reduce identified gaps between the baselines and the conditions UNHCR considers to be the minimum acceptable standard, and eventual impacts are measured against these indicators. Use of indicators in assessment is fundamental to results-based management.

Each Country Office that identified resettlement as one of the possible durable solutions for its population(s) of concern is requested to analyze total and immediate resettlement needs, protection and durable solutions strategies, and capacities and constraints. Country offices draw on various data sources and follow standard methodologies to reach an estimate of the number of refugees in need of resettlement for the following calendar year in the Country Operations Plan. Although offices are also requested to estimate or project their capacity to process cases within the programme year, the overall resettlement needs are based not on the office capacity, but the actual resettlement needs and, where applicable, involving the strategic use of resettlement. Country offices are asked to provide information including analysis of the use of resettlement within the protection framework and solutions strategy; implementation considerations and constraints; and identified resettlement needs and capacities.⁷¹

UNHCR Projected Global Resettlement Needs document

The information provided is compiled by the Resettlement Service in close consultation with relevant Bureaux and Regional Hubs/Offices into the *UNHCR Projected Global Resettlement Needs* document which reports on the resettlement needs for each country operation for the following calendar year. This document is the key document for planning the resettlement activities of the Office as it provides the rationale and scope of UNHCR's resettlement operations worldwide. This document is shared with the resettlement countries and NGO partners and serves as the primary reference document for dialogue on resettlement needs, priorities, likely gaps and challenges in programme delivery, allowing informed decisions on quota and resource allocations for the following year.

⁷¹ See UNHCR Intranet for Instructions and Guidelines on the annual planning exercise.

5.5 TOOLS AND METHODOLOGIES TO ASSIST WITH IDENTIFICATION OF NEEDS

Operational planning on a global level, including resettlement planning is highly contingent on quality data from individual operations. The development of the *proGres* database has provided UNHCR with an essential resource not only for registration, but also for managing protection interventions, including resettlement.

Over the years, UNHCR has also developed a range of tools to strengthen assessments, participatory planning, strategic consideration, age, gender and diversity analysis, and capacity-building, as well as to enhance resource mobilization mechanisms. These have all helped to increase UNHCR's ability to identify needs, and respond better to them.

Assessment itself is best understood as data gathering from various sources, followed by analysis. Data comes from reports, from dialogue with refugees, governmental and non-governmental partners, visiting experts or community representatives, from registration or profiling information, from systematic studies of the situation of specific sub-groups of the population, or from the direct observations of UNHCR staff in the course of regular field visits.

For their part, individual operations must collect and maintain quality data on their populations of concern and individual specific needs starting with quality registration data, which should ideally be captured and updated in *proGres* (or an operation's alternate database for those operations without *proGres*).

In addition to making effective use of *proGres* and/or other databases, the projection of resettlement and other protection needs will depend on information gathered during participatory assessments with refugees and other interactions with persons of concern. The annual summary protection assessments provide important information for forward planning, and these data sources can also be further assessed to assist in the identification of individual cases. Use of the *Heightened Risk Identification Tool* (HRIT)⁷² as well as establishing effective internal and external referral systems will further help ensure that vulnerable refugees in need of resettlement are identified. An effective case management framework that can ensure action is taken on identified cases also needs to be put in place. One such effort that may be initiated in an inter-agency fashion is the identification of psychosocial needs of a population. The Inter-Agency Standing Committee, including UNHCR, has issued *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*,⁷³ which is useful in this regard.

The sections below examine UNHCR's tools and methodologies for data collection and needs assessments. Sources include:

⁷² UNHCR, *The Heightened Risk Identification Tool*, June 2010, Second Edition, <http://www.unhcr.org/refworld/docid/4c46c686o.html> User Guide, <http://www.unhcr.org/refworld/docid/46f7c0cd2.html>

⁷³ Inter-Agency Standing Committee, *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, 20 June 2007, <http://www.unhcr.org/refworld/docid/46c0312d2.html>

- *proGres* and registration data;
- participatory assessments;
- internal and partner reports and dialogue;
- data from the *Heightened Risk Identification Tool* (HRIT); and
- internal and external referral systems.

5.5.1 Registration as a starting point for identification

A particularly important source of information is registration data. Registration is a systematic method of collecting and recording individual and family details. Registration data is used to identify a person, to confirm a person's identity, or to provide information pertaining to an individual's refugee or other status. This data is a principal means to know the population of concern on an individual basis, and is thus fundamental to effective protection.

UNHCR registration standards require that a core set of information be gathered about all members of the population of concern at an individual level as soon as possible and ideally within the first three months after the arrival of the person of concern. The timing or the extent of registration may, however, vary depending on the refugee situation. When dealing with a mass influx of refugees, any registration is likely to be quite basic. Other issues, such as security considerations, may also cause difficulties in obtaining registration data. Initial registration includes basic facts such as age, gender, and family size statistics for the refugee population. Factors that may also be captured are duration of stay in the country of asylum, national, ethnic and religious characteristics and, where possible, livelihoods, place of residence and specific needs.

With registration, resettlement staff can have access to at least basic biographical data on the refugee population. Where more detailed registration data is available (i.e. concerning specific protection and assistance needs), it may be possible to identify refugees not only for protection interventions but also for potential resettlement consideration. The more detailed registration data is, the more helpful it will be for purposes of identification.

UNHCR may undertake registration with the government and partners of the country of asylum, or only with NGOs. The *Multilateral Framework of Understandings on Resettlement*⁷⁴ emphasizes the importance of refugee registration to resettlement and why it should be available to all refugee populations.

Registration is, in principle, an ongoing process with continuing verification and registration of any changes in the data relating both to any individual or family/household, and to specific needs. Data verification is particularly important when the population is believed to have changed considerably, or registration data is otherwise not thought to be accurate. This is particularly important at all stages of the resettlement referral process to ensure that the information about the principal applicant and all family members is accurate and to prevent possibilities for misrepresentation.

⁷⁴ UNHCR, *Multilateral Framework of Understandings on Resettlement*, 16 September 2004, FORUM/2004/6, <http://www.unhcr.org/refworld/docid/41597doaa4.html>

Updated and accurate registration data helps to identify individuals at risk and those with specific needs. Correct registration data can help to protect a person from protection concerns such as *refoulement*, SGBV, unlawful detention, prolonged detention because of status, and forcible recruitment.

Registration can also help identify groups at risk and their specific needs. Specific protection programmes such as tracing, legal representation and family reunification can only be adequately implemented if current and reliable data is available. Registration needs to be a continuous process that records and updates essential information – such as births, deaths, marriages, divorces, new arrivals and departures – as it changes over time.

proGres and the UNHCR Handbook for Registration

UNHCR has made considerable advances in data management at the global level. The UNHCR database *proGres* is a key tool not only for registration, but also for the management of resettlement activities. The origin is Project Profile, which was initiated to implement the registration standards agreed upon in the ExCom *Conclusion on Registration of Refugees and Asylum-seekers* (No. 91, 2001).⁷⁵ The aim of the Project was to develop unified standards, procedures and tools to support the registration process of persons of concern to UNHCR. It also sought to establish a comprehensive system based on a unified approach which encompasses data collection, documentation and management. The *UNHCR Handbook for Registration*, which was provisionally issued in 2003, is another useful outcome of this project which serves to support more uniform global registration standards.⁷⁶

UNHCR has placed emphasis on ensuring that registration data is collected with a view to the needs of all UNHCR activities. However, it is of critical importance for subsequent work on resettlement that the utility of the data is maximized. Resettlement staff members need to build effective liaisons with other units, and ensure that early and regular consultations are held during the registration design and implementation phases.

The *UNHCR Handbook for Registration* provides for three broad levels of registration. The levels are distinguished by the amount of data collected, the degree to which the generic process is respected, and the measure of compliance with the operational standards. The levels are not mutually exclusive or rigid categories, but rather suggest the progression that an operation's registration strategy should go through over time:

⁷⁵ ExCom *Conclusion 91* (LI): reiterates the fundamental importance of early registration as a key protection tool and the critical role of material, financial, technical and human resources in assisting host countries in registering and documenting refugees and asylum-seekers, particularly developing countries confronted with large-scale influxes and protracted refugee situations; welcomes in this context the significant progress achieved in the area of registration as evidenced by the ongoing roll-out of registration and documentation activities under the auspices of Project Profile; and encourages States and UNHCR to continue their work in this regard with the assistance of other relevant actors as appropriate. UNHCR, *Conclusion on Registration of Refugees and Asylum-seekers*, 5 October 2001, No. 91 (LI) - 2001, <http://www.unhcr.org/refworld/docid/3bd3e1d4.html>

⁷⁶ See: UNHCR, *UNHCR Handbook for Registration*, September 2003, <http://www.unhcr.org/refworld/docid/3f967dc14.html>

- **Level 1** – Household-based registration to be conducted immediately in emergency operations with limited resources and/or capacity;
- **Level 2** – Individual registration augmenting Level 1 information to be conducted within 3 months in *prima facie*, camp management or voluntary repatriation operations with some resources/capacity;
- **Level 3** – Individual registration forming “profile” of a person augmenting Level 1 information to be conducted within 12 months in individual status determination, local integration or resettlement operations with adequate resources/capacity.

Individual specific needs are captured at all three registration levels. Early and accurate registration at Level 2 can itself be of considerable use in profiling for resettlement purposes, as it provides for identification of specific protection and assistance needs. These include categories such as:

- persons manifestly in need of protection;
- survivors of torture and persons suffering trauma;
- unaccompanied or separated children;
- single women or single parents;
- physically and mentally disabled persons; and
- persons requiring medical assistance.

Level 2 does not, however, contain the detailed information of Level 3, which is the most useful for resettlement purposes. In addition, information on specific needs likely requires verification, since registration staff are unlikely to be experts in identifying or confirming medical or psychosocial needs. Such persons should thus normally be referred to protection or community services staff for follow-up, who may be able to learn more information.

Registration is an ongoing process with continuing verification and registration of any changes in the data relating both to any individual or family/household, and to specific needs. Information should be regularly verified and updated.

The Office’s SOPs should specify who has access to changing data in *proGres* and on the files.



Data verification is particularly important when the population is believed to have changed considerably, or registration data is otherwise not thought to be accurate. This is particularly important at all stages of the resettlement referral process to ensure that the information about the principal applicant and all family members is accurate and to prevent possibilities for misrepresentation.

Use of *proGres*

Registration data should normally be contained in a database, and thus searchable. Where *proGres* is in place, it must be used proactively by all colleagues including protection, RSD, field, community services and resettlement colleagues. Only then can its full potential for identification be realized.

Multivariate data analysis can show patterns within the population that may give rise to protection considerations, and that may assist with the design and implementation of participatory assessments and targeted surveys. It may be necessary to cross-check the data, particularly for specific needs and vulnerabilities, as these may be recorded in the database without verification. As a central depository of data from registration, RSD/protection, community services and resettlement staff, the *proGres* database greatly facilitates this task.

***proGres* in partnership**

Under project PROFILE, *proGres* was first developed in 2003 to meet UNHCR's refugee registration and population data management requirements. As of 2010, *proGres* is used in over 75 countries and has become the main repository for the storing and management of personal data of persons of concern to UNHCR. *proGres* databases worldwide contain records of some 4.8 million individuals, of which 2.8 million records are active. The “*proGres* in Partnership” project developing version 4 of the software will take *proGres* to a new level of population data management. Some of the improvements foreseen for version 4 include a centralized data structure, data sharing and exchange among UNHCR offices and with external partners, and functionalities to enhance fast and efficient registration during emergencies and in urban settings.

5.5.2 Participatory assessments

Refugees must be at the centre of decision making concerning their protection and well-being. In order to gain a deeper understanding of the protection problems they face, it is essential to consult them directly and to listen to them. This tool provides an outline and steps for a structured dialogue and assessment with persons of concern.

Participatory assessments done in an age, gender and diversity sensitive approach produce critical data and may help identify individuals in urgent need of intervention or uncover specific types of vulnerabilities that have not previously been recognized or considered. The participatory assessments UNHCR and its partners conduct with the population of concern consider the problems the population is experiencing and the obstacles it is encountering in achieving protection or solutions. In this process, teams typically record detailed notes of the issues mentioned in discussion with groups of either mixed, or distinct, sex or age, or write down directly the words that people use because this is often the clearest way to describe their situation and to communicate it to others.

A participatory assessment is a process of building partnerships with refugee women and men of all ages and backgrounds through structured dialogue. Participatory assessment includes holding separate discussions with women, girls, boys, and men, including adolescents, in order to gather accurate information on the specific protection risks they face, the underlying causes, their capacities to deal with the risks, and their proposed solutions. Participatory assessment forms the basis for implementing a rights- and community-based approach and helps mobilize communities to take collective action to enhance their own protection. Participatory assessment is also a phase of a comprehensive situation analysis.⁷⁷

Resettlement needs are not the primary focus of the assessments, but they provide important information to assist with forward planning, especially with regard to the challenges and opportunities to promote resettlement, scope for working with partners, staffing and resources, and making effective use of resettlement tools to identify refugees at heightened risk. Indeed, the more a particular identification effort is distinguished from resettlement as a durable solution, the less likely it is that information obtained is skewed towards resettlement; this also mitigates the risk of fraud. Nevertheless, resettlement staff should be involved in the design of any assessment efforts to ensure that the needs for resettlement are properly identified.

5.5.3 Mapping and profiling refugee needs

Mapping or profiling the socio-demographic characteristics and protection needs and challenges of the refugee populations is an essential management tool, and provides invaluable data for the annual planning exercise.

Mapping identifies groups or categories of refugees with common needs and characteristics, and provides UNHCR a clearer picture of the population profile. This facilitates the proactive identification of individuals or groups likely to need priority intervention, as well as refugees for whom resettlement may be the most appropriate durable solution. Mapping allows for pre-emptive risk mitigation, and as an important planning exercise, its results should be reflected in the Regional/Country Operation Plans. UNHCR offices should seek to identify protection needs systematically by population group so that relevant data is available to develop durable solution strategies.

Any mapping and profiling of refugee populations should also include refugees who are difficult to access. The most detailed information is normally available for refugees living in camps, but efforts must be made to access refugees in urban or other areas.⁷⁸



⁷⁷ UNHCR, *UNHCR Tool for Participatory Assessment in Operations*, First edition, May 2006, p. 1-2, <http://www.unhcr.org/refworld/docid/462df4232.html>

⁷⁸ See UNHCR, *UNHCR Policy on Refugee Protection and Solutions in Urban Areas*, September 2009, <http://www.unhcr.org/refworld/docid/4ab8e7f2.html>

Mapping and protection profiling also provides the oversight to ensure that the “universal imperative” is respected in the national assessments of resettlement needs and considered in regional operational planning. Thus, mapping serves as a mechanism to focus and prioritize protection and resettlement interventions by population group.

Ideally, more than one method of mapping and profiling is used, to ensure that the resettlement needs reflect the actual and updated needs. A multidisciplinary approach also helps bridge potential gaps and mitigates the risk of data bias. Identifying refugees in need of resettlement, however, should not add to the risks faced by individuals and groups, but rather should be sensitive to cultural and community dynamics and accurate in their portrayal of refugee situations. Confidentiality should be respected, and an individual’s consent should be received before information is shared with other actors. Even then, information should only be shared when required for a specific purpose.⁷⁹

The profile of the population in need of resettlement identified through mapping the protection needs and risks faced by individuals should be documented as comprehensively as possible, and the *proGres* database will prove a useful tool.

5.5.4 The Heightened Risk Identification Tool

Another methodology which is useful for identifying individuals and groups in need of protection intervention is the *Heightened Risk Identification Tool* (HRIT). This methodology, involving a multidisciplinary team approach to identification, was developed to enhance UNHCR’s effectiveness in identifying refugees at risk by linking community-based and participatory assessments with individual assessment methods. The *Heightened Risk Identification Tool* (HRIT) and accompanying *User Guide* have been designed for UNHCR staff, (principally those involved in community services and protection, including resettlement), and for implementing partners to identify individuals at risk who require immediate intervention. The tool should be used comprehensively and not only for identification of refugees in need of resettlement.

The HRIT was initially developed in 2007 with three goals in mind:

- to implement ExCom *Conclusion on Women and Girls at Risk* (No. 105, 2006) and UNHCR’s Global Strategic Objectives for 2007-09;
- to strengthen needs-based planning, identification methodologies and case management systems; and
- to promote age, gender and diversity mainstreaming.⁸⁰

The HRIT is designed to be flexible and simple, yet comprehensive. It can be used in different ways and operational contexts, including:

⁷⁹ UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html>

⁸⁰ The concept of “age, gender and diversity mainstreaming” implies that the significant participation of refugee girls, boys, women and men of all ages and backgrounds is integral to the design, implementation, monitoring and evaluation of all UNHCR policies and operations so that these impact equitably on people of concern.

- prior to and following RSD;
- in conjunction with a participatory assessment exercise;
- as a stand-alone methodology involving community-based consultations and individual assessments;
- as a tool to sample survey the refugee population to measure risk levels;
- as an interview format or checklist for case workers; and,
- as a checklist tool for roving officers to use in refugee camps or in urban settings.

Since the issuance of its first edition in 2008, the HRIT has been widely used and field-tested in UNHCR operations worldwide. Feedback from users led to the release of the second edition of the HRIT in 2010. The second edition is a simplified and more user friendly tool, with easy interface to UNHCR's registration database *proGres* to enhance case management.⁸¹

5.5.5 Consultation with internal and external partners in the identification process

Identifying resettlement needs, gaps, and capacities can be enhanced in many operations. Given UNHCR's focus on strengthening accountability and performance indicators, efforts to improve identification of resettlement needs are likely to increase. The responsibility of identifying refugees at risk, however, does not rest with resettlement staff alone, nor should resettlement be the only party pushing for enhanced identification efforts. Internal colleagues, external partners such as NGOs, and refugees themselves may have important information and access that can support identification of those at risk and in need of protection intervention.

Consultation with partners helps UNHCR gain insight into a refugee's particular vulnerabilities in the country of asylum, and provides access to additional data that can be used to cross-check available registration data. Participatory assessments, community consultations and surveys may also be useful sources of information against which to cross-check available data. All available sources of information – including standard reports and data from partners and refugees, reports from protection, community services and resettlement coordination and strategic planning meetings – should be used for verification. Country of origin information (COI) can also be a useful tool, not only for RSD purposes, but also for the identification and assessment of resettlement needs.

Internal coordination among UNHCR staff

Colleagues undertaking registration and RSD are likely to have information not only about who is a refugee, but also who might have suffered from torture, trauma, or other specific vulnerability. Refugee status determination data itself can be useful in identifying resettlement needs, and staff should automatically

⁸¹ UNHCR, *The Heightened Risk Identification Tool*, June 2010, Second Edition, <http://www.unhcr.org/refworld/docid/4c46c686o.html> User Guide, <http://www.unhcr.org/refworld/docid/46f7c0cd2.html>

review the files of newly recognized refugees (whether recognized under the 1951 Convention or under the broader definition) in order to identify any individuals with particular vulnerabilities, such as women at risk, medical cases, security cases, and survivors of violence and torture. This screening requires organization and coordination within the office, and may be undertaken by RSD, resettlement or other protection staff. As discussed in [Chapter 3.1.4](#), however, there should be a clear separation between the steps of refugee status determination and the identification of resettlement need, not least because it adds an additional safeguard to manage expectations and risks associated with fraud and abuse.

Where refugees have been recognized on a *prima facie* group basis, field protection colleagues will likely have information on persons with particular vulnerabilities that will be useful for initial mapping and protection profiling of the refugee population for resettlement purposes. Submitting a *prima facie* case requires either an individual examination to reaffirm refugee status, or a less formal substantiation of the *prima facie* recognition depending on the context and on the resettlement country.⁸² Close cooperation between RSD and resettlement staff on these cases is vital to ensure the credibility of UNHCR and the resettlement process.

Resettlement needs are not predicated on refugee status alone, but also on specific protection needs in the asylum country. Cooperation with protection colleagues is thus needed to identify, for example, which vulnerabilities cannot be dealt with in the asylum country, or which refugees may be at heightened risk.

Where community services units or officers exist, they may be helpful in identifying problems faced by people with specific needs, and highlighting vulnerabilities in local contexts. They may also be helpful in identifying specific cases for resettlement,⁸³ and may have access to information useful for mapping the protection needs or risks within a refugee population.

In small operations, there are no distinct units dealing with protection, community services and resettlement. It is still useful to understand the links between the different sectors of UNHCR's protection work in order to ensure attention to the larger context and avoid negative impacts of one activity on the other. In a larger operation, where separate units exist for each activity outlined above, good communication and cooperation between the different staff involved is particularly important.

Collaboration with external partners

External partners, such as non-governmental organizations (NGOs), also have access to refugees and potentially important information. These include implementing partners, and other organizations such as legal aid institutions, religious or charitable organizations and local foundations. Information from organizations not necessarily targeting refugees, especially those working with women, children, medical and social services may also be very useful.

⁸² See [Chapter 3.1](#) for more details on this point.

⁸³ For transparency and accountability, internal referrals should follow standard operating procedures. See [Chapter 5.6.1](#) for more detail on referrals.

NGOs may be engaged as implementing partners specifically for the purpose of identification or may have identification included in their sub-agreement with UNHCR as a secondary protection function because their main activity is likely to bring them in close contact with persons who may be in need of resettlement. In other cases, NGOs may be unwilling to enter into a formal referral arrangement with UNHCR, but may be willing to share information informally and thus may help identify people at risk.

The *UNHCR-NGO Toolkit for Practical Cooperation on Resettlement*⁸⁴ provides practical guidance for UNHCR and NGO cooperation in all aspects of resettlement work, including identification. See [Chapter 8](#) for more details on partnership.

In any arrangement, it is important to remain cognizant of the kinds of community pressures NGOs may face if refugees become aware that they are conducting resettlement identification activities, particularly if any NGO staff are also members of the refugee community. This needs to be addressed in developing a referral system.



5.6 REFERRAL OF INDIVIDUAL CASES FOR RESETTLEMENT CONSIDERATION

Ensuring that refugees most in need of protection and resettlement have access to those services is a fundamental aspect of UNHCR's mandate responsibility. Some especially vulnerable refugees may not be identified through mapping or other data analysis, but may be in particular need of access to resettlement. It is therefore essential for UNHCR to have effective referral systems in place that involve internal and external partners who bridge gaps in protection and resettlement delivery.

Referrals for resettlement consideration may be made internally by other UNHCR staff, by external partners, or directly by the concerned refugee as a self-referral. The most effective and responsive resettlement procedures will consider referrals from all three sources and will encourage proactive identification. However, to ensure consistency and reduce possibilities for fraud, the processing of all referrals, regardless of the source, must follow standard procedures as detailed in the Office's Resettlement SOPs.

Each office should have a designated focal point for receiving internal, external and self-referrals, and established procedures for documenting, forwarding and assessing the resettlement needs. Depending on the capacity of a given field office, the focal point for external and internal referrals may be the same individual.

The task of making, receiving and assessing referrals is facilitated through the use of a standard referral form. A sample resettlement consideration form is annexed to the Baseline SOPs, and many field offices have adapted internal and external referral forms to their operation's needs.

⁸⁴ The *UNHCR-NGO Toolkit for Practical Cooperation on Resettlement* is available from the UNHCR website www.unhcr.org. See [Chapter 8.2.2](#) for more information on the Toolkit.

The focal point for receiving referrals will raise any preliminary queries with the referring staff member or partner, and will document receipt of the referrals in *proGres* and the existing case file. If the Field Office does not hold a file for the refugee under consideration, an individual file should be created for the refugee at this stage, in accordance with the guidelines outlined in [Chapter 4.7.2](#).

Operational guidelines regarding the assessment of referrals are covered under Chapter 7 of this Handbook.



Effective and well-managed referral systems bridge gaps in resettlement identification.

5.6.1 Internal referrals

Various sections within a field office may be well-placed to make resettlement referrals on the basis of their day-to-day contact with refugees. The Protection Unit can identify refugees with persistent protection problems and Community Service members are well placed to identify and refer vulnerable refugees for resettlement considerations. In principle, however, all UNHCR staff members, who come into contact with refugees, including those working with education, health issues, food distribution or other field activities, may identify individuals and families with protection issues or specific resettlement needs.

Coordination and training are essential within a field office to ensure that internal referrals are effective in identifying refugees in need of resettlement consideration. Field office staff must be well informed of the nature and limitations of resettlement to ensure that only appropriate referrals are made, and that unrealistic resettlement expectations are not raised.

To ensure that referrals are made primarily for legitimate and deserving refugees, those making referrals should be reminded of the following:

- All referrals must be made in writing and should contain the following basic information:
 - basic biodata;
 - the reason for the referral;
 - the immediacy of the need;
 - steps already taken to address the need;
 - the name and title of the referring staff member, and
 - the date of referral.
- Family composition should be verified in a non-resettlement context, either by registration data, home visits (preferably by community service staff), or reports from other staff members.
- The need for consistency in practice, and respect for the universal imperative. A case should only be referred if cases with the same profile are generally submitted.

The focal point for receiving referrals will raise any preliminary queries with the referring staff member, and will document receipt of the referrals in *proGres* and

the existing case file. A thorough search of *proGres* must be conducted before creating a new record, in order to avoid duplicate records.

5.6.2 External referrals

External referrals are usually made by NGO partners assisting UNHCR with implementation, NGOs who are otherwise involved in refugee work and other external partners such as governmental agencies. Some NGOs make resettlement referrals directly to resettlement States and/or to UNHCR for its assessment and submission to the resettlement country.

UNHCR supports the active involvement of NGOs and international organizations in resettlement. Given their expertise and knowledge of the refugee population, NGOs are particularly well-suited to make important contributions to the identification of vulnerable refugees facing protection problems.

External referrals are an important means of expanding access to resettlement and increasing capacity for identification, but they should not negate UNHCR's own efforts to proactively identify refugees in need of resettlement. UNHCR should maintain a central role in the resettlement process. As the internationally mandated agency for seeking solutions to refugee problems, UNHCR should retain responsibility for analyzing the protection context to ensure that resettlement is integrated into a larger protection and durable solutions strategy. NGO partnerships in resettlement must be coordinated in order to be effective, to prevent fraud and malfeasance, to ensure transparency and consistency in UNHCR resettlement submission categories, and to ensure that refugees' expectations do not result in protection problems in the field. Involving and counselling refugees has also been, and will continue to be, an integral part of resettlement work and its strategic use.

The relationship between UNHCR and external partners generally follows three primary arrangements through which partners play an active role in identifying potential resettlement cases. The local situation and the availability and willingness of partners to engage in the process determine which arrangement is used. A combination of approaches may be most useful in any operation.

Types of arrangements to receive external referrals

Formal arrangements

Through a specific project sub-agreement or a Memorandum of Understanding, NGOs or governmental agencies may run projects to assess protection and other needs in refugee populations. These formal arrangements usually include a framework for cases to be referred to UNHCR for appropriate follow-up, including for resettlement intervention. Given the complexities involved in operational projects and the need for cohesion with UNHCR's protection work, especially in large, protracted *prima facie* refugee situations, such arrangements usually involve consultation with UNHCR Headquarters.

Partnerships with secondary protection functions

Refugee assistance programmes benefit greatly from the contribution of partners who, by the terms of their sub-agreements with UNHCR or other less formal arrangements, provide services in refugee camps and settlements. The possibility of writing protection and heightened risk identification functions into these sub-agreements, especially in the case of NGOs working with particular groups of vulnerable refugees, may be explored. The development of any such arrangement must, however, involve the officer accountable for resettlement in addition to other protection staff and senior management, including the UNHCR country representative, and the NGO's country representative, where applicable.

Case-by-Case referrals

In many field operations, NGOs working with refugees may not wish to incorporate formal protection components or resettlement referral systems into their programmes for fear of compromising the purpose of the original programme. In such cases, mechanisms could be set up to receive informal referrals on a case-by-case basis. Such mechanisms could also be established with other external partners.

The success of these three possible types of arrangements, individually or as part of a combined approach, will depend on the field situation, the urgency and nature of the resettlement need, and the field capacities of NGOs and UNHCR. All three approaches do, however, hold significant potential and are, to a certain degree, already employed in various forms.

To ensure accountability and oversight, all arrangements should specify in writing the roles and responsibilities of the NGO and UNHCR, and these should be detailed in the Office's Resettlement SOPs.

The formal development of any external referral mechanisms must be authorized by the officer accountable for resettlement activities and must incorporate a number of important elements:

- **Training:** Any resettlement referral mechanisms involving actors external to UNHCR must be preceded by appropriate training on resettlement procedures and criteria.
- **Accountability and oversight:** Any referral mechanism must be formalized to the extent that it operates according to accountable and transparent standards. To this end, all arrangements must specify, *in writing*, guidelines on the specific roles and responsibilities of the NGO and UNHCR, responsibilities of feedback to the NGO and to the refugee, a definition of the relationship between the NGO and UNHCR, and recognition of the submission categories contained in the Resettlement Handbook. Oversight must also be ensured through regular meetings between representatives of the NGO and UNHCR to discuss activities and concerns and to conduct spot-checks on the referral activities.
- **Standardization:** Standard Operating Procedures (SOPs) must be developed detailing the referral, reception, treatment and follow-up on NGO-referred cases and measures must be implemented to ensure that all cases are referred according to these SOPs.

- **Safeguards:** In the interest of maintaining the integrity of not only the resettlement activities of the Field Office, but also the original NGO programme, safeguards must be incorporated into the mechanisms to ensure that possibilities for abuse are reduced. It must be clearly stated that all services are free of charge.
- **Managing expectations:** Any increase in identification activities will likely result in heightened resettlement expectations within the refugee population. As such, a common strategy must be developed for the management of resettlement expectations (see *Chapter 5.5*).
- Where appropriate, multiple **focal points** may be identified for **receiving external referrals**, depending on the nature of the external referral source. These focal points would be responsible for documenting receipt of the referral in the resettlement database or registry, retrieving any file or documentation held by the Field Office on the refugee in question, and forwarding the referral and documentation to the designated officer responsible for conducting a resettlement needs assessment (see *Chapter 7*).
- These focal points would retain responsibility for **liaising with the external referral source** throughout the resettlement process, and providing the referral source with regular updates on the status of the resettlement case.

5.6.3 Self-referrals

Self-referrals are approaches directly to UNHCR, generally in writing, by refugees, their relatives or friends, or refugee groups or committees. These unsolicited requests have become a common feature of resettlement activities in most UNHCR field offices around the world.

While the credibility of some written resettlement requests, including emails, may be considered questionable, they have proven to be both an effective means of identifying vulnerable refugees and providing refugees with direct access to the resettlement process.

However, extensive reliance on self-referrals raises a number of concerns in resettlement identification:

- **potential bias** against refugees who cannot express their protection needs in writing, or who otherwise have difficulty accessing UNHCR;
- **lack of control** over the type of information received affects whether informed decisions on resettlement eligibility can be made;
- **credibility** of self-referrals may be more questionable; and,
- **possibility of fraud**, such as brokers charging fees to present written claims to UNHCR.

Dealing with unsolicited requests can also prove to be a time-consuming task. Offices should ensure that time dedicated to unsolicited requests does not detract from internal and external referrals.

Clear and standardized procedures must be established to respond to self-referrals, including a process of verifying the details provided (through an interview, home-visit or file study), and managing the expectations raised. Care

must also be taken to adhere to UNHCR's *Confidentiality Guidelines* in answering requests made by third parties (provide no individual information about the refugee in question without obtaining the refugee's consent).⁸⁵

Refugees submitting resettlement requests must be advised that the submission of a request will not necessarily result in the opening of a resettlement case, and will certainly not necessarily result in the resettlement of the refugee. Refugees submitting unsolicited requests for resettlement should also be advised on the processing times for such requests or if, in fact, all unsolicited requests will receive a response. There should be prior agreement on these issues with senior protection staff, and they should be covered in the Resettlement SOPs.

Refugees may request resettlement in response to a need that can and should be met by other units within UNHCR, or by a partner organization. Unsolicited requests should consequently be screened upon receipt to possibly identify a unit or partner organization that would be better suited to address the need conveyed by the refugee – typically the Protection Unit or the Community or Social Services Unit.

A resettlement programme's heavy reliance on self-referrals as a means to identify resettlement needs may indicate systemic problems or gaps in the protection framework of the operation.

5.7 IDENTIFYING GROUPS IN NEED OF RESETTLEMENT

Identifying resettlement as the most appropriate durable solution for entire groups of refugees is part of the development of protection and durable solutions strategies. The process of identifying an eligible group encompasses a series of steps which are outlined below. *The operational aspects of processing group submissions are included in Chapter 7.*

Identifying groups in need of resettlement through UNHCR's group methodology⁸⁶ supplements individual identification and serves as an additional component of UNHCR's resettlement and durable solution activities. Group resettlement can be an important component of a comprehensive approach to solutions for a specific population, often with respect to a protracted refugee situation. It must be noted, however, that group resettlement does not replace the responsibility and accountability of UNHCR offices for the identification and processing of individual resettlement cases based on established resettlement criteria and procedures.

The group resettlement methodology aims to expand resettlement opportunities whilst achieving operational efficiencies and, where possible, making strategic use of resettlement.

In practice, group processing involves a simplified large-scale processing of cases by UNHCR and resettlement States without requiring the full completion

⁸⁵ UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/071/2001 - FOM/068/2001, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html>

⁸⁶ UNHCR, *Methodology for Resettlement of Groups*, IOM/67 - FOM 67/2003, (Internal) <http://intranet.hcrnet.ch/support/policy/iomfom/2003/iom6703b.htm>

of individual Resettlement Registration Forms (RRFs). Considerable time is saved through the use of standardized abridged RRFs for groups,⁸⁷ or direct transmission of data without RRFs in the case of groups designated under Priority 2 processing to the United States of America.⁸⁸

Group resettlement is generally considered for large numbers of refugees, where a number of conditions are met to minimize the risks associated with this type of approach. In this connection, it is important to underscore the requirement that all group resettlement proposals must be discussed with, and cleared by, UNHCR Headquarters (Resettlement Service and relevant Bureau) prior to finalization.

Operational procedures for group resettlement methodology are likely to vary depending on local circumstances, the nature of the eligible refugee group, the complexity of their cases, and the countries of resettlement.

Group resettlement within protection strategies

The group resettlement process begins with the consideration of the potential use of group resettlement methodology as part of the Field Office's planning of their protection and durable solutions strategies. Durable solutions strategies are often most effective when planned within a regional context. Dialogue with UNHCR offices in neighbouring countries during the assessment stage helps to ensure that the potential impact of launching a group resettlement programme is thoroughly considered.

5.7.1 Identifying a “group”

The Field Office considering use of group resettlement should examine certain parameters to identify potential refugee populations in protracted and other situations. The following parameters are a guide:

- Members of a group should ideally, but not necessarily, have the same nationality, a shared refugee claim and need for resettlement.
- The group of refugees should share some common characteristics, e.g., gender, age, political, ethnic or religious background, vulnerability, or any other characteristic which might distinguish them easily from other groups present in the country or region.
- A group must be clearly delineated and finite, so as to avoid infinite replenishment of the group and increased possibilities for fraud.
- The location(s) of the group should be known and established.

⁸⁷ See UNHCR, *Operational Guidance Note: Preparing Abridged Resettlement Registration Forms (RRFs) for Expedited Resettlement Processing*, 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4ddde4702.html>

⁸⁸ For information on “Priority 2”, see the United States of America's Country Chapter linked to this Handbook at <http://www.unhcr.org/resettlementhandbook>. For further details on direct transmission of data from *proGres* to WRAPS see Chapter 7.6.3 or consult: *Interface between proGres and WRAPS: Standard Operating Procedures for UNHCR Offices that are not covered by a UNHCR Resettlement Hub*, July 2007, Annexed to UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html>

- Ideally, members of the group should already possess some form of identification (e.g. UNHCR/government attestations, ID cards with photos, ration cards, travel documents).

The group might be defined by the situational context (e.g. all persons in a camp) and/or specific characteristics such as nationality, refugee claim, flight history, and experience in the country of origin or host country, or political, ethnic, or religious background that might help easily distinguish the group from other refugees present in the country or region. Preferably, the characteristics used to define group membership should be verifiable by some concrete or objective data. Facts such as nationality, date of arrival, or residence in a certain camp during a certain period of time, can frequently be determined from information UNHCR has gathered in a non-resettlement context.

Identification methodology

The identification methodology adopted by a field office will depend on local needs and circumstances. Any combination of the following sources can help identify the potential groups for resettlement:

- **Internal** (e.g. participatory assessments and community consultations, risk assessments, social surveys and population needs-based mapping, protection assessments, RSD and Community Services-based data, *proGres* data);
- **External** (e.g. refugees, refugee hosting States, NGOs, embassies; the requirements of emergency circumstances);
- **Joint activities** (e.g. Annual Tripartite Consultations on Resettlement and Working Group on Resettlement/strategic use of resettlement initiatives).

Proposing a group

Once the Head of Office has approved the preliminary consideration of a group, the concerned Field Office must complete a preliminary group proposal (Step 1 of the Group Profile and Proposal Document). This document should be approximately two to four pages long and include:

- a basic description of the potential group (including estimated size, demographic data);
- the protection rationale for proposing the resettlement of the potential group;
- identification of the common characteristics of the members of the group;
- possible constraints to successful resettlement;
- preliminary resource implications for UNHCR and resettlement countries;
- recommended processing modality (e.g. verification exercise to determine membership and obtain consent from members of the group, expedited processing such as abridged RRFs and other local arrangements etc.);
- proposed timeline for implementation; and
- suggested countries for submission.

Evaluation and analysis

The preliminary group proposal must be submitted to the concerned Regional Resettlement Hub/Regional Office, the Resettlement Service and relevant Bureau at Headquarters for preliminary feedback, analysis and evaluation. The Resettlement Service should provide a substantive and consolidated response from UNHCR Headquarters within one month. One of the following four possible responses may be proposed to the field:

1. The concerned refugee population should be pursued as a “group” (proceed to feasibility stage).
2. Additional information about the proposed group is required before its feasibility can be determined. This may include field, Regional Resettlement Hubs/Regional Offices, Resettlement Service or inter-agency exploratory missions, or gathering of additional information as requested by Headquarters.
3. The proposal is not appropriate to be processed under group methodology, but the refugee population should be processed for resettlement on an individual basis. Staff are encouraged to explore the use of the abridged RRF for individual submission in order to streamline resettlement processing.⁸⁹
4. The proposal is not appropriate for further action and resettlement of the proposed refugee population should not be pursued.

In determining which of the above responses is the most appropriate, the Resettlement Service will take into account:

- possible strategic value of the group resettlement within a comprehensive solutions strategy, and impact that group submission would have on the office’s protection strategy;
- size of the proposed group, and stable or fluid nature of the population;
- whether or not the proposed group has undergone RSD; and commonality and complexity of refugee claims (resettlement countries emphasize common refugee claims, whereas complex refugee claims may not be appropriate);
- quality and accuracy of registration, and resources required for verification (level of assistance required by the Field Office);
- consistency with regional approach to a given refugee population and potential for pull factors;
- security concerns, (as well as access to population by UNHCR and resettlement partners);
- nature of local cooperation between UNHCR, IOM, embassies and partners (extent of cooperation, existence of established expedited processing mechanisms, processing capacity);
- existence of alternatives to group submission; and whether group or expedited processing is most efficient and economical (in terms of time and resources); and
- resettlement country preferences and capacities.

⁸⁹ UNHCR, *Operational Guidance Note: Preparing Abridged Resettlement Registration Forms (RRFs) for Expedited Resettlement Processing*, 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4ddde4702.html>

5.7.2 The Group Profile and Proposal Document

Following a response by the Resettlement Service, and provided indications are positive about the proposal, the Field Office should prepare a full and complete Step 2 of the Group Profile and Proposal Document (GPPD).⁹⁰ The Field Office should submit this complete document to UNHCR Headquarters (Resettlement Service and relevant Bureau) through Regional Resettlement Hubs/Regional Offices for final clearance.

Depending on the resettlement country, the group profile document serves in lieu of individual RRFs, or replaces the refugee claim and resettlement need on abridged RRFs. It should address the general issues and questions resettlement country officials typically must examine in the context of resettlement selection.

Submitting the group proposal to resettlement countries

Once Headquarters has accepted the group proposal, the Field Office should coordinate with the Resettlement Service for submission of the group proposal to one or more resettlement States. Detailed discussions may already have taken place, but it is important to note that the Resettlement Service makes the formal approach to the appropriate resettlement State(s).

Normally only the Group Profile and Proposal Document (GPPD) will be shared, but in limited situations the Resettlement Service may also include an indicative list of the individuals belonging to the group – provided the group verification is completed, and the refugees have individually provided consent to have their details shared with a resettlement State for resettlement consideration.

5.7.3 Plan of action

Following a resettlement State's clear indication of interest in processing a particular group, the Field Office should prepare a Group Resettlement Plan of Action on the basis of consultations with the Regional Resettlement Hub/Regional Office and Headquarters (Resettlement Service and relevant Bureau), resettlement countries, and local and implementing partners. Although plans will widely vary depending on local circumstances, they should include:

- processing modalities (agreement concerning contents of individual files, agreement with resettlement countries concerning the definition and process for dealing with dependency issues);
- procedures to mitigate risks (e.g. fraud) and to manage refugee expectations;
- a detailed description of the type of documentation to be provided in the submission and the form this will take;
- roles and responsibilities;
- timelines and work plan for verification exercise;

⁹⁰ A sample is annexed to the Baseline SOPs. See UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html>

- resources needed (number and nature of personnel, logistical support including transportation and other arrangements, costing and budget);
- problem resolution mechanisms (including strategy for handling rejected cases, strategies for ensuring the best interests of children, integration issues specific to the group); and
- basic assumptions upon which processing will proceed.

In all cases, the Plan of Action should give special attention to the best interests of unaccompanied, separated and other children at risk. Similarly, possible reception and integration issues peculiar to the group should, where possible, be flagged for the attention of the resettlement State(s).

5.7.4 Verification and consent

Verifying who qualifies for inclusion in the group, and obtaining the consent of the refugees involved is an important phase of the group resettlement process. Care must be taken to ensure that only those cases that meet the definition of the group are presented for consideration to a resettlement country. The timing of this exercise will depend on the circumstances of the refugees, the existing data, and the definition and resettlement needs of the group.

The sophistication of the verification exercise is also likely to vary depending on how recently registration was conducted and the commonalities of the refugee claims. Where comprehensive, accurate, recent registration has taken place and group members can be identified through this information, verification exercises may not have to be elaborate. Care should be given to ensure that only those cases that meet the definition of the group are presented for consideration to a resettlement country.

Objectives of the verification exercise are to:

- ascertain preliminarily identified individuals for registration in the group (including identifying actual interest in resettlement among members of the group);
- verify that the refugees presenting themselves (e.g. for interview) are the rightful holders of ration cards, and that their dependants are genuine;
- verify family composition (and conduct BIDs if necessary);
- identify and remove persons not belonging to the group (e.g. potential imposters and exclusion cases); and
- obtain refugees' consent for UNHCR to share information with resettlement countries and, if applicable, partners.

Field offices may need to develop specific SOPs relating to this stage, in order to ensure that all necessary steps are followed, and that confidentiality and fraud safeguards are respected. Depending on the context, maintaining confidentiality with respect to the criteria for group members until relevant decisions have been taken may be a crucial fraud prevention measure.

The verification exercise is generally jointly undertaken by UNHCR and one or more partners: host governments, IOM, implementing partners or resettlement

countries. While the respective roles of the actors in the verification exercise is set out in the GPPD abstract, it will likely be supplemented by local meetings and agreements, which should be put in writing and kept on file. A verification exercise may require:

- manual pre-verification comparison of older lists of names with re-registration lists, to prioritize applicants meeting the “double-identification” test;
- pre-verification training of staff, and assignment of responsibilities (with respect to UNHCR staff and, if applicable, partner staff);
- reliance on a recent registration (sometimes, if appropriate, in lieu of interviews);
- interviews (including call-out for interviews, and notification that applicants should appear with their dependants);
- mass information campaigns (with sufficient time to provide general information to the entire group concerned with respect to eligibility, the resettlement country, the proposed resettlement and verification process, information-sharing, anti-fraud, and other important information);
- special case filing and tracking systems, security and anti-fraud measures; and
- tailored review and follow-up procedures.

This verification exercise also provides an opportunity to seek any additional information or requirements of resettlement processing. Standard questions and forms can be helpful in this regard.

Information and counselling

Information campaigns must be complemented by meetings and counselling to ensure that the composition of the group and the anticipated processing steps are understood and that the resettlement expectations are managed. The Field Office should make itself available to meet with individual refugees, groups of refugees, leaders and local authorities, etc. at all stages of the process to discuss specific needs, address issues related to the group composition (such as unregistered dependants), provide information, and answer questions.

5.8 CHALLENGES IN IDENTIFICATION

Identification is arguably the most crucial and challenging aspect of the resettlement process. UNHCR’s focus on multi-year planning, the strengthened role of resettlement in comprehensive solutions strategies and improvements in the identification procedures have led to a substantial growth in the number of refugees identified as in *need* of resettlement. However, those refugees identified as in need of resettlement now far outnumber the current number of available places. This introduces new challenges related to prioritizing among those identified as in need of resettlement, establishing an order for resettlement submission, and advocating for the allocation of quotas and resources.

However, the identification of refugees potentially in need of resettlement and the assessment of cases must continue to be an active and systematic process. Close cooperation among all concerned staff across functional units and when applicable with implementing partners, is of considerable importance. Failure to identify a refugee in need of resettlement in a correct and timely manner will result in an unnecessary continuation of insecurity for that refugee. Incorrect identification of a refugee for resettlement could result in the development of unobtainable expectations.

Resettlement staff must consider how to approach resettlement identification appropriately and effectively in their particular situation. Identification systems can be put in place even with limited resources, by linking them to other ongoing activities or by developing a needs-mapping proposal that may then be used to obtain the required resources.

5.8.1 Managing expectations

As outlined in [Chapter 4.5](#), one of the main challenges of any resettlement operation is managing expectations. Increasing identification activities often results in heightened and unrealistic expectations within the refugee population. Offices thus need to explore ways to collect information on protection and on the characteristics of the population without raising expectations of resettlement.

An effective method of limiting expectations is collaboration to link the process of identifying the needs and protection vulnerabilities of refugees to other protection interventions, not just to resettlement. The purpose of the various tools and methods for identifying refugees – registration, surveys, community consultations and participatory assessments – is thus not only to identify resettlement needs, but also to assess when other types of interventions are necessary.

Counselling and disseminating clear information on resettlement also helps to manage expectations and reduce fraud and malfeasance. It is therefore important for each office to develop an information strategy, which may include: regular public meetings that maximize reach to different groups of refugees, including women and children; standardized information on resettlement presented in brochures, signs and posters, TV and radio broadcasts; and individual counselling when refugees make specific enquiries to UNHCR or are interviewed concerning protection needs or assistance.

Transparency in the procedures, including the fact that identification, or self-identification, does not necessarily result in being submitted for resettlement, is crucial for maintaining realistic expectations.

Improving the ways UNHCR and its partners communicate with refugees, as well as by addressing their specific needs through participatory assessments, surveys and individual interviews can help to reduce misunderstandings and foster trust in the process. Finally, actively involving refugees in identifying their own needs and realistically assessing their potential solutions is one of the most effective methods of managing expectations.

5.8.2 Importance of training

All staff and partners need to understand that resettlement decisions are made according to the policies and procedures outlined in this Handbook. Incorrect identification of refugees for resettlement can result in unfairness, unrealistic expectations, frustration and perceptions of mismanagement and fraud. They should further understand how to integrate identification systems into their respective activities, including ways to improve access to the most vulnerable refugees. Finally, they should be able to distinguish between cases requiring emergency or urgent intervention and cases in which the need is less pressing.

Joint information-sharing and training sessions should focus on specific aspects of resettlement case identification and management, UNHCR's code of conduct and confidentiality considerations, ways to mitigate risks such as fraud and abuse, and how to manage refugee expectations.

Training must be considered an important part of establishing identification systems, ensuring consistency, transparency and accountability, and countering any negative or ill-informed views regarding resettlement. All staff – junior and senior, international and national, internal and external – that may potentially be involved in identification and referrals should be trained on special needs criteria, and UNHCR resettlement policy and practice. See *Chapter 4.8* for more details on training.



Essential reading

- UNHCR, *The Heightened Risk Identification Tool*, June 2010, Second Edition, <http://www.unhcr.org/refworld/docid/4c46c686o.html>; *User Guide*, <http://www.unhcr.org/refworld/docid/46f7c0cd2.html>
- UNHCR, *UNHCR Tool for Participatory Assessment in Operations*, May 2006, First edition, <http://www.unhcr.org/refworld/docid/462df4232.html>
- UNHCR, *Baseline Standard Operating Procedures on Resettlement*, revised version 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/48b6997d2.html>
- UNHCR, *UNHCR-NGO Toolkit for Practical Cooperation on Resettlement*, 2011, <http://www.unhcr.org/ngotoolkit>