

CHAPTER SIX





CHAPTER SIX UNHCR RESETTLEMENT SUBMISSION CATEGORIES

Introduction

Resettlement submission categories

Legal and/or Physical Protection Needs of the refugee in the country of refuge (this includes a threat of *refoulement*);

Survivors of Torture and/or Violence, where repatriation or the conditions of asylum could result in further traumatization and/or heightened risk; or where appropriate treatment is not available;

Medical Needs, in particular life-saving treatment that is unavailable in the country of refuge;

Women and Girls at Risk, who have protection problems particular to their gender;

Family Reunification, when resettlement is the only means to reunite refugee family members who, owing to refugee flight or displacement, are separated by borders or entire continents;

Children and Adolescents at Risk, where a best interests determination supports resettlement;

Lack of Foreseeable Alternative Durable Solutions, which generally is relevant only when other solutions are not feasible in the foreseeable future, when resettlement can be used strategically, and/or when it can open possibilities for comprehensive solutions.

Purpose

The purpose of this chapter is to:

- describe the UNHCR resettlement submissions categories;
- outline the requirements for submitting cases under each specific resettlement submission category; and
- provide guidance on the assistance UNHCR offices provide for family reunification *outside* of the context of a resettlement submission.

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6.1 BASIC CONSIDERATIONS

UNHCR resettlement activities constitute a means of providing international protection and appropriate durable solutions to refugees. As seen in previous chapters of this Handbook, offering refugees a durable solution through resettlement is also a tangible expression of international responsibility sharing.

The identification of resettlement needs is part of UNHCR's ongoing assessments of protection gaps. Refugees are identified as in need of resettlement when they are at risk in their country of refuge or have particular needs or vulnerabilities as detailed under the various categories in this chapter. Refugees without immediate protection risks are also identified in need of resettlement if this durable solution has been determined to be the most appropriate solution for them as part of a comprehensive needs assessment.

It is important that UNHCR resettlement activities are carried out on the basis of a correct and consistent application of the categories and considerations detailed in this Handbook. This approach will ensure that all refugees in need of resettlement receive the appropriate attention. It will, in addition, help to avoid frustration and aggression among refugees as well as other negative phenomena, like secondary or onwards movements, often related to inconsistent resettlement activities.



A coherent and transparent approach will, furthermore, strengthen the credibility of UNHCR in general and widen the confidence of refugees, resettlement countries and other partners, which in turn should help to ensure that resettlement can be done efficiently and effectively.

The notion of integration potential should not negatively influence the selection and promotion of resettlement cases. For example, educational level or other factors considered to be enhancing the prospects for integration are not determining factors when submitting cases for resettlement.¹

Resettlement should not be pursued because individual refugees have become a burden or because of their behaviour or solely in response to action undertaken by refugees to draw attention to their demands – for example, violent or aggressive action towards office staff or hunger strikes.² While such individuals may have concerns which need to be heard and require an appropriate response, it is the merits of their case which determine if resettlement should be considered. Similarly, refugees who have cooperated with investigation activities, or have assisted UNHCR in some other way do not warrant resettlement as a reward, but should be considered on the merits of their case, including increased risk resulting from their cooperation.

¹ In the context of the *Global Consultations on International Protection* it has been stated that “Integration potential” should not play a determining role in the consideration of protection resettlement cases”, see *Strengthening and Expanding Resettlement Today: Dilemmas, Challenges and Opportunities*, Global Consultations on International Protection, 4th mtg., EC/GC/02/7, 25 April 2002.

² For details on dealing with such situations see UNHCR, *Guidelines for Handling Protests, Demonstrations and other Group Disturbances among Refugees*, 15 September 2004, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/48b2c812.html>

Resettlement should not be promoted merely for reasons of pity for a refugee's plight, because of the individual's impressive qualifications or previous professional status or as a reward for a "deserving" individual.

To have their case submitted to a resettlement country, refugees must meet the requirements for submission under one or more of the **resettlement submission categories**. These submission categories, as outlined in the following sub-chapters, should be seen as inclusive. In many cases, resettlement submission categories may overlap, and submissions can effectively be made under both a primary and secondary category.



6.1.1 Resettlement priority levels

UNHCR resettlement submissions have three priority levels: emergency, urgent and normal.

Emergency priority

This level applies to cases in which the immediacy of security and/or medical condition necessitates removal from the threatening conditions within a few days, if not within hours. Emergency resettlement may be necessary to ensure the security of refugees who are threatened with *refoulement* to their country of origin or who face serious or life-threatening threats to their physical safety in the country where they have sought refuge. Ideally, there is a *seven-day maximum* time period between the submission of an emergency case for acceptance by the resettlement country, and the refugee's departure.

Submissions of emergency cases must only be made after a thorough assessment of both refugee status and the urgency of removal. Such selective application helps to preserve credibility and scarce resettlement places. Close communication between UNHCR and resettlement States is essential during the processing of emergency and urgent cases to ensure a common understanding of the refugee's current circumstances and how quickly resettlement *must* occur.

Each office is responsible for taking temporary protective measures pending resettlement and immediately notifying the Regional Resettlement Hub/Regional Office/Headquarters. Offices should also consult immediately if the situation warrants evacuation to an Emergency Transit Facility. See [Chapter 7.6.4](#) for more details on emergency and ETF procedures.

Urgent priority

Refugees who face conditions requiring their expeditious resettlement, but within a less limited time frame than indicated above, are categorized as *urgent* cases. These refugees have serious medical risks or other vulnerabilities requiring *expedited resettlement within six weeks* of submission. Field offices may request Headquarters' support, if it is not already involved in the original submission. Generally, urgent cases should be prepared and submitted to a resettlement State within two weeks of identification.

Normal priority

The majority of cases fall within this category. This level applies to all cases where there are no immediate medical, social, or security concerns which would merit expedited processing. If possible, normal submissions should be processed according to the specific need for resettlement: e.g. cases of women or children at risk should receive priority over submissions of refugees lacking foreseeable alternative durable solutions. UNHCR expects decisions and *departure within 12 months of submission*.

Staff are reminded to consider the appropriate level carefully and to proceed accordingly. Clearly, inappropriate use of the emergency and urgent priorities will erode the credibility of UNHCR's judgment concerning such submissions, thereby reducing the effectiveness of these channels.



Field offices must also ensure that systems are in place to minimize the time between needs identification and the submission for resettlement, to prevent normal and urgent cases from becoming emergency ones. Ensuring that submissions are complete is also important in order to avoid processing delays, which is especially critical for emergency or urgent cases.

6.2 LEGAL AND/OR PHYSICAL PROTECTION NEEDS

As an instrument of international protection resettlement is, first, a guarantee for the legal and physical protection of refugees. Resettlement may offer the only means to preserve fundamental human rights and to guarantee protection when refugees are faced with threats which seriously jeopardize their continued stay in a country of refuge.



The legal and/or physical protection needs of refugees may differ depending on personal characteristics of the individual concerned, such as their sex, age, disability, sexual orientation, gender identity, ethnicity or other characteristics.

6.2.1 Submission under the Legal and/or Physical Protection Needs category

It is the responsibility of any country to provide protection to and ensure the safety of refugees on its territory or at its borders. It is UNHCR's responsibility to intervene with the authorities of the country of refuge to ensure that such protection is provided. Only if all means of intervention have been exhausted or at least evaluated, should resettlement based on individual protection needs be considered.

For resettlement submission under the Legal and/or Physical Protection Needs category a refugee's situation must meet one or more of the following conditions:

- immediate or long-term threat of *refoulement* to the country of origin or expulsion to another country from where the refugee may be *refouled*;
- threat of arbitrary arrest, detention or imprisonment;
- threat to physical safety or fundamental human rights in the country of refuge, rendering asylum untenable.

6.2.2 Threat of *refoulement*, expulsion and arbitrary arrest and/or detention

In some circumstances, refugees fleeing from persecution may be refused entry by a potential country of asylum, or may be threatened with expulsion. Such a scenario is most likely to occur when the potential asylum country believes that the refugees concerned would threaten its political, social or economic stability if they were allowed entry or to remain. Refugees may also be under threat of deportation, possibly combined with prolonged arbitrary detention, in situations where the governments of the country of origin and the country of refuge enjoy a close political relationship and share a mutual antagonism towards the refugees concerned, or insist there is no reason to flee from the country of origin.

In some countries which are not signatories to the 1951 Convention or its 1967 Protocol, asylum-seekers or even refugees who are recognized under UNHCR's mandate are subject to detention and prosecution, if not deportation. In order to ensure that refugees will not be *refouled* or deported to a country where their life, safety and freedom may be endangered, resettlement may be the only option. A number of countries offer asylum to refugees only on a temporary basis, on condition that they are subsequently resettled, sometimes within a specific time frame. Whereas UNHCR in principle should promote state responsibility for refugee protection, including the provision of a durable solution, UNHCR may resort to resettlement for such cases if the State does not provide any alternative protection.

Where asylum-seekers or refugees are subjected to arbitrary detention, prosecution and or deportation in countries that *are* State parties to the 1951 Convention and/or its 1967 Protocol, UNHCR should advise the State of its obligations to meet international standards for refugee protection. Whereas the emphasis in such situations should be securing state protection rather resettlement, the urgency of the protection risk may make resettlement the only possible solution.

Each office is responsible for taking temporary measures to address immediate protection needs, which may include movement to a secure location pending emergency resettlement, or the consideration of transfer to an Emergency Transit Facility (ETF). See [Chapter 7.6.4](#) for more detail on the ETFs.



6.2.3 Threat to physical safety or fundamental human rights in the country of refuge

Where a threat to the life and/or personal safety or other fundamental human rights guarantees of a refugee exists, resettlement may be the only solution. The threat must be real and direct, not accidental or collateral. While past harassment, especially when repetitive, may provide such an indication, it is not a prerequisite. The threat may be targeted at an individual, but it also can be aimed at a group – such as a family, a neighbourhood or a sexual minority. The threat must continue to exist. Past harassment, even if repetitive, would normally not be enough, although an assessment of the appropriateness of resettlement would depend on the circumstances.

Gender may play a role in determining both the nature of the threat and the required responses and/or preventative measures needed. For instance, in the case of refugee women and girls, the threat to physical safety may take the form of sexual violence including: rape, sex for survival or sexual coercion, trafficking for the purposes of sexual slavery, and forced marriage.

These acts can be committed at the hands of persons in authority, paramilitary groups, quasi-state actors, fellow refugees, members of the local population, or even nationals or residents of the refugee's country of origin who have easy access to the country of asylum due to porous borders or otherwise. However, the threat of violence may also come from family or community members, and take the form of domestic violence, sexual abuse of separated children in foster care, forced marriage, female genital mutilation, threats of “honour” killings, “corrective” rape of women perceived to be lesbians, or other punishment for transgressing gender discriminatory laws or social behavioural norms.

It is important to note that lesbian, gay, bisexual, transgender and inter-sex (**LGBTI**) persons may be under continuous threat of human rights abuses due to discriminatory laws and the prevalence of hostile societal attitudes in the country of refuge. Their behaviour may be perceived to contravene social, cultural or religious norms, putting them at risk of various forms of violence and discrimination by state or non-state actors, without being able to access effective state protection. See [Chapter 5.2.5](#) for more detail on the forms of harm and discrimination faced by LGBTI persons.

In situations where it has been established that the denial of human rights places the refugee at risk and renders asylum untenable, resettlement should be pursued after all other efforts have been exhausted or at least considered. This would, for instance, include situations in which national laws emanate from traditional or cultural norms or practices not in conformity with international human rights standards, such as the criminalization of same-sex relationships, or the systematic denial of rights to minorities or indigenous groups.

In other situations, refugees who have been admitted to a country of asylum may be threatened not by the authorities of that State, but by other hostile groups or governments. If under such circumstances the host country is not willing or able to provide protection from such threats, resettlement may be the only solution.

This may also include cases of domestic violence, threats of human trafficking, or blood or family feuds where the physical safety or human rights of the refugee is threatened in the asylum country. In addition, such circumstances would also need to be deemed as rendering asylum untenable before pursuing resettlement as an option.

Re-establishment of protection by the authorities or relocation internally in the country of asylum – where feasible – should be pursued prior to submission for resettlement.

Essential reading

- UNHCR, *Self-Study Module 5: Human Rights and Refugee Protection*, 15 December 2006, Vol. I, <http://www.unhcr.org/refworld/docid/466942032.html>, Vol. II, <http://www.unhcr.org/refworld/docid/4669434c2.html>
- UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, January 2008, <http://www.unhcr.org/refworld/docid/47cfc2962.html>
- 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/o2/o1, <http://www.unhcr.org/refworld/docid/3d36f1c64.html>
- UNHCR, *UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*, 21 November 2008, <http://www.unhcr.org/refworld/docid/48abd5660.html>



6.3 SURVIVORS OF VIOLENCE AND/OR TORTURE

Refugees who have survived torture or violence may have specific needs that warrant resettlement consideration because the trauma they have endured may have a serious detrimental affect on their mental and physical well-being. The situation in the country of asylum may not be conducive for effective support (due to, for example, the inaccessibility of appropriate health care, counselling services or stability) and may compound the trauma. The specific form of torture or violence inflicted upon them may also vary depending on age, sex and particular vulnerability.

Survivors of violence and/or torture may not be easily identified unless they show clear signs of trauma, or inform UNHCR of their experiences. *Mental Health of Refugees*,³ a joint publication by UNHCR and the World Health Organization (WHO), provides guidance on how to better recognize such cases.

³ Chapters 8 and 9 in particular concern survivors of torture and other violence, including rape. UNHCR, *Mental Health of Refugees*, 1996, <http://www.unhcr.org/refworld/docid/4a54bc0a.html>

6.3.1 Submission under the Survivor of Violence and/or Torture category

A refugee submitted for resettlement under the Survivor of Violence and/or Torture category:

- has experienced torture and/or violence either in the country of origin or the country of asylum; *and*
- may have lingering physical or psychological effects from the torture or violence, although there may be no apparent physical signs or symptoms; *and*
- could face further traumatization and/or heightened risk due to the conditions of asylum or repatriation; *and*
- may require medical or psychological care, support or counselling not available in the country of asylum; *and*
- requires resettlement to meet their specific needs.

6.3.2 Defining violence and torture

UNHCR encourages a broad interpretation of the terms “torture” and “violence” when considering the resettlement needs of refugees who have suffered extreme forms of abuse.

Violence itself is an extremely diffuse and complex phenomenon, and defining it is not an exact science. Notions of what is acceptable and unacceptable in terms of behaviour and what constitutes harm, are culturally influenced and constantly under review as values and social norms evolve. A useful definition has however been produced by the World Health Organization:

Violence is the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation.⁴

Torture has been defined in international instruments and conventions. Internationally, the most commonly cited definition is contained in the United Nation’s *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT) adopted in 1984 (hereinafter the Convention against Torture).

⁴ World Health Organization, *World Report on Violence and Health*, 2002, http://www.who.int/violence_injury_prevention/violence/world_report/en/full_en.pdf

Torture as defined under the Convention against Torture (CAT)⁵

“Article 1(1) For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third persons has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

Article 16 refers to acts of cruel, inhuman or degrading treatment or punishment.

It is worth noting that under the CAT definition, **public officials are accountable** not only for acts of torture which they **personally commit** or instigate, but **also if they consent or acquiesce** when someone else commits such an act. State responsibility also arises where national authorities are “unable or unwilling” to provide effective protection from ill-treatment (i.e. fail to prevent or remedy such acts), **including ill-treatment by non-State actors**.⁶ This includes failure to protect individuals from domestic violence and harmful traditional practices perpetrated by private citizens when these amount to torture.

Both Article 5 of the *Universal Declaration of Human Rights*⁷ and Article 7 of the *International Covenant on Civil and Political Rights*⁸ prohibit “torture”, and “cruel, inhuman or degrading treatment or punishment.” The *Inter-American Convention to Prevent and Punish Torture*⁹ adopted in 1985 further defines, “Torture shall also be understood to be the use of methods upon a person intended to obliterate the personality of the survivor or to diminish his physical or mental capacities, even if they do not cause physical pain or mental anguish.”

International law also recognizes that rape is a form of torture. The UN Special Rapporteur on Torture in 1992 stated that “[s]ince it was clear that rape or other forms of sexual assault against women in detention were a particularly ignominious violation of the inherent dignity and the right to physical integrity

⁵ UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: resolution/adopted by the General Assembly*, 10 December 1984, A/RES/39/46, <http://www.unhcr.org/refworld/docid/3boof2224.html>

⁶ UN Office of the High Commissioner for Human Rights, *Fact Sheet No. 4 (Rev.1), Combating Torture*, May 2002, No. 4 (Rev.1), p. 34, <http://www.unhcr.org/refworld/docid/4794774bo.html>

⁷ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), <http://www.unhcr.org/refworld/docid/3ae6b3712c.html>

⁸ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, <http://www.unhcr.org/refworld/docid/3ae6b3aa0.html>

⁹ Organization of American States, *Inter-American Convention to Prevent and Punish Torture*, 9 December 1985, OAS Treaty Series, No. 67, <http://www.unhcr.org/refworld/docid/3ae6b3620.html>, see also definitions of torture in Arabic/Islamic – Miscellaneous, *Cairo Declaration on Human Rights in Islam*, 5 August 1990, <http://www.unhcr.org/refworld/docid/3ae6b3822c.html> and UN General Assembly, *Rome Statute of the International Criminal Court* (last amended January 2002), 17 July 1998, A/CONF.183/9, Article 7(2)(e), <http://www.unhcr.org/refworld/docid/3ae6b3a84.html>

of the human being, they accordingly constituted an act of torture.”¹⁰ Men and boys are also victims of rape, and may be particularly traumatized by feelings of shame.

6.3.3 Forms of violence and torture

Although international human rights and humanitarian law consistently prohibit torture under any circumstance, torture and ill-treatment are practiced in more than half of the world’s countries.¹¹ Torture methods are designed to force the victim to do what the torturer wants. Physical techniques include all kinds of beatings, mutilation, burns, asphyxiation, sexual abuse and electric shock. People may also be deprived of food, water, sound, light, privacy, human contact, or movement. Torture can also take the form of severe humiliation, intimidation, and behavioural coercion such as the forced breaking of cultural or religious taboos. Psychological techniques such as false accusations, threats of death or fake executions are used to confuse the victim and break down resistance.

Refugees may have themselves survived or witnessed other forms of extreme violence in their country of origin or their country of asylum including:

- experiencing the violent death of family members or others close to them;
- witnessing the torture, severe mistreatment, or rape of family members or others close to them;
- sexual and gender-based violence including: rape, defilement, sexual abuse or exploitation, forced prostitution, trafficking or sexual slavery, severe emotional or psychological violence and abuse, or harmful traditional practices such as female genital mutilation (FGM) and honour killing and maiming; or
- substantial non-criminal detention, including kidnapping.

The protection environment needs to be carefully assessed to ensure that interviewing torture survivors will not endanger other members of their families or result in post-interview retaliation against survivors. Where possible, assessments should be conducted by protection staff who have technical expertise and who understand the local context. This is particularly important when conducting assessments on sensitive issues such as rape, torture or detention.

6.3.4 Consequences of violence and torture

Some forms of torture and violence leave physical wounds, scars, or long-lasting impairments or disabilities. There may also be acute psychological and social

¹⁰ (Summary record of the twenty-first meeting, United Nations document E/CN.4/1992/SR.21, para. 35) quoted in UN Office of the High Commissioner for Human Rights, *Fact Sheet No. 4 (Rev.1), Combating Torture*, May 2002, No. 4 (Rev.1), <http://www.unhcr.org/refworld/docid/4794774bo.html>

¹¹ For further details on torture and its consequences, see UN Office of the High Commissioner for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Istanbul Protocol”)*, 2004, HR/P/PT/8/Rev.1, <http://www.unhcr.org/refworld/docid/4638aca62.html>

impacts of violence and torture in the short term, which can persist to undermine the long-term mental health.

However, not all torture survivors develop medical conditions which are easily identifiable. In cases of refugees who sustained torture but do not show obvious consequences of it, one should always consider the risk of latent effects.

Common consequences are psychological ones such as fear, depression and nervousness. The person who has survived torture or violence may experience difficulty in concentrating, may be unable to sleep or may have nightmares. Other ongoing effects can include psychosomatic trauma, or disorders in which mental factors play a significant role in the development, expression, or resolution of a physical illness. These problems usually start immediately but in some cases, they may begin months or years after the original event. Symptoms can be chronic, or fluctuate over extended periods. The diagnosis most commonly associated with the psychological consequences of torture is post-traumatic stress disorder, or PTSD.¹² The diagnosis of PTSD is made by a psychiatrist or psychologist.

Women and men may experience violence and torture differently and they may have coping mechanisms that are particular to their gender, age, family status and sexual orientation. There is no doubt that rape and other forms of gender-related violence, such as dowry-related violence, female genital mutilation, domestic violence, and trafficking are acts which inflict severe pain and suffering – both mental and physical – and which have been used as forms of persecution, whether perpetrated by State or private actors. Rape and other forms of sexual assault can lead the survivor to be ostracized by their communities or families. Where acts of physical and sexual abuse against sexual minorities go unpunished and/or where same-sex acts are criminalized, LGBTI-perceived individuals and their families may be subjected to further victimization and isolation from their communities with severe psychological and psychosocial consequences over and above any physical harm.

6.3.5 Assessment and support of Survivors of Violence and/or Torture

In dealing with resettlement cases considered under this category, specific aspects – procedural and otherwise – need to be taken into consideration.

It is important to remember that the families of the survivors may have complex feelings of trauma, guilt and helplessness and may in turn need special care and attention. Furthermore, information on how a particular community reacts to trauma, loss, grief and mental illness will have to be considered and included in the resettlement file. This is particularly relevant in cases of sexual violence, including rape, where the survivor and the survivor's spouse and family may face further victimization and/or ostracism by their community.

¹² UN Office of the High Commissioner for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* ("Istanbul Protocol"), 2004, HR/P/PT/8/Rev.1, <http://www.unhcr.org/refworld/docid/4638aca62.html>

Where there are physical symptoms or injuries, the report of a qualified physician having examined a refugee's physical condition should be included in the Resettlement Registration Form (RRF). Ideally, qualified observations and comments by a psychologist or psychiatrist on a refugee's psychological state would also be included. These reports will include information about any treatment provided to address urgent problems, and the availability of required treatment and counselling.

However, medical assessments are not available in all locations and resettlement submissions can be made based on reported mental or physical health impacts. If it is not feasible to obtain a psychological assessment and/or medical report in the first country of asylum, this should be explained in the "Specific Needs" section of the RRF. In addition, any overt signs of possible mental or physical health effects of torture that the refugee may have mentioned or indicated during the resettlement interview, as well as the length of time the refugee has been experiencing them, should be noted in this section.

In cases of refugees who sustained torture but who do not show obvious consequences, it is particularly important to ensure that the RRF is properly documented so that the receiving country will have as much relevant information on the refugee's background as possible. The receiving country and community should be informed of the history of torture in order that appropriate services can be provided.

Care must be taken that survivors of violence and torture are resettled to locations where adequate services, both medical and psychological, will be available to meet their needs. Resettlement to a secure environment and the possibility of re-establishing a productive life is for many survivors itself a key component of their recovery. However, survivors of torture or other severe forms of violence may require coordinated medical care, counselling and other types of special assistance, in particular when they suffer from physical and/or serious psychological problems.

Good documentation, and good communications with Headquarters, officials of resettlement States as appropriate, and UNHCR offices in resettlement countries will help ensure that refugees receive appropriate assistance in the country of resettlement. It should, however, be noted that UNHCR cannot guarantee that the refugee will always have access to required counselling and support services.



Confidentiality

It must be kept in mind that family members may not all be aware of the violence that individuals in the family have faced. For example, a survivor of rape or other sexual violence may not have informed other family members. Care must be taken to retain confidentiality.



Essential reading

- UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85, Article 1, <http://www.unhcr.org/refworld/docid/3ae6b3a94.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>
- UNHCR, *Mental Health of Refugees*, 1996, <http://www.unhcr.org/refworld/docid/4a54bco10.html>
- Inter-Agency Standing Committee, *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, 20 June 2007, <http://www.unhcr.org/refworld/docid/46co312d2.html>
- UNHCR, *Handbook for Emergencies*, February 2007, Third edition, <http://www.unhcr.org/refworld/docid/46a9e29a2.html>
- The Victorian Foundation for Survivors of Torture Inc, *Perspectives on Torture: the law, the effects, the debate*, 2007, www.foundationhouse.org.au

6.4 MEDICAL NEEDS

Before considering a person for resettlement under the medical needs category, all staff concerned must exercise special care to ascertain whether the basic considerations have been fully applied. The resettlement of persons with medical needs is challenging, and resettlement opportunities are limited.

Persons to be considered by UNHCR for resettlement on these grounds are to be assessed individually without discrimination (i.e. adhering to AGD sensitive approach), taking into account both the medical facts of the case and compelling humanitarian considerations. It is, therefore, essential that a qualified medical doctor be consulted when determining the medical diagnosis and prognosis for treatment. In order to respect the objectivity and impartiality of the assessment, it is strongly recommended that an independent clinical practitioner, rather than medically qualified UNHCR staff, complete the Medical Assessment Form (MAF).¹³ It is also essential that UNHCR identifies the most serious and compelling cases that can only be addressed through resettlement.

Most refugees with medical needs will not require or qualify for resettlement under this category. It is important, therefore, to determine the nature of the medical need and what possibilities exist for referral and treatment in the country of asylum before resorting to a resettlement submission on medical grounds. Given the complexity and difficulty in promoting the resettlement of persons with medical needs it is advisable that UNHCR offices establish and communicate transparent standard operating procedures to assess the eligibility of individuals for resettlement under this submission category.

¹³ UNHCR, *Revised UNHCR Medical Assessment Form (MAF) and Guidance Note*, IOM/044-FOM/044/2010, (Internal) UNHCR Intranet.

It is also important to note that individuals who have a medical condition but who do not qualify for resettlement under this category may be eligible for resettlement under other submission categories. A medical condition does not prejudice resettlement consideration under any of the other resettlement submission categories. Documenting medical information carefully is important to ensuring that refugees' needs are addressed.

6.4.1 Submission under the Medical Needs category

For resettlement submission under the Medical Needs category all of the following four conditions must be met:

1. Diagnosis

- The health condition and/or disability is life-threatening without proper treatment; **or**
- There is a risk of irreversible loss of functions without proper treatment; **or**
- The particular situation/environment in the country of asylum is the reason for or significantly worsens the health condition;

2. Treatment

- Adequate treatment is not available (e.g. due to lack of medical facilities or expertise) or is inaccessible (e.g. due to imposed restrictions or lack of funds) in the country of asylum;¹⁴ **and**
- Adequate treatment cannot be ensured through temporary medical evacuation to a third country;

3. Prognosis

- The health condition and/or disability presents a significant obstacle to leading a normal life, becoming well adjusted, and from functioning at a satisfactory level, and puts the individual and/or dependent family member(s) at heightened risk in the country of asylum; **or**
- The particular situation/environment in the country of asylum significantly worsens the health condition and/or disability; **and**
- There is a favourable prognosis that treatment (including supportive rehabilitation and healthcare arrangements) and/or residence in the country of resettlement would significantly improve the health condition and/or disability or lead to an improvement in daily functioning and quality of life;

4. Informed Consent

- It is the expressed wish of the individual, after having been counselled, in particular with regard to prospects for treatment of the medical condition or disability as well as the social, cultural and psychological adaptation required in a new community.

¹⁴ UNHCR, *UNHCR Principles and Guidance for Referral Health Care for Refugees and Other Persons of Concern*, December 2009, <http://www.unhcr.org/refworld/docid/4c1726e82.html>

6.4.1.1 Guidance on the circumstances of medical needs

Diseases and other medical conditions

Cases in which a disease or medical condition can be adequately addressed by medication, a change in diet, or through other treatment available in the country of asylum, should not be referred for medical resettlement.

Where it is believed that a medical condition would benefit from treatment elsewhere, it should be determined if indeed such treatment is available locally, or whether medical evacuation or other alternatives to medical resettlement might be feasible.

In cases where the four conditions outlined above are not met, consider the applicability of other UNHCR resettlement categories for all members of the case.

Disabilities

Refugees who are well-adjusted to their disability and are functioning at a satisfactory level are generally not to be considered for resettlement under this category. Only when such disabilities cannot be treated locally or within the UNHCR medical referral scheme, and when they seriously threaten the person's safety or quality of life, should resettlement on grounds of medical needs be explored.

In cases where the four conditions outlined above are not met, consider the applicability of other UNHCR resettlement categories for all members of the case. Indeed, in some situations an individual's disability might expose her/him to heightened risk necessitating resettlement under the "legal and/or physical protection" category, for example. See *Chapter 5.2.4 for more detail on the protection risks faced by refugees with disabilities.*

6.4.2 Prioritization of medical resettlement needs

Cases to be submitted on medical grounds should be prioritized based on the severity and/or stage of the condition and urgency for treatment. The assessment and application of the resettlement priorities is important for the care of the patient and for the submission process. In order to ensure a timely response to medical needs, the assessing physician must indicate the proper priority level. Submissions without correct prioritization are prone to delays that could cause the health condition to worsen, leading to irreversible loss of function or even death. The prioritization also impacts the country of submission, as not all resettlement countries have the capacity to process cases with medical needs on an emergency basis.

Priority Level	Severity of Condition: Any medical condition that:	Time frame for medical intervention	Time frame for resettlement (departure)
Emergency	Is immediately life threatening (i.e. life-saving surgery).	< 1 month	within 1 week
Urgent	Requires life-saving interventions, but that is not immediately life threatening. Is at risk of major progression or complication without further intervention (i.e. many cancers).	to < 6 months	within 6 weeks
Normal	Is not life threatening or at risk of major progression/ complication, but requires intervention in order to ensure reduction of risk of progression/ complications and to improve the person's quality of life and overall functioning.	≥ 6 months	within 52 weeks

Additional considerations after determining the prioritization of medical cases

UNHCR should ensure a non-discriminatory and clinical approach in giving priority consideration to individuals with the most compelling needs for resettlement on medical grounds, taking into consideration the medical facts of the case. In certain situations, where a number of cases have been identified for resettlement falling within the same priority level (e.g. normal priority), UNHCR staff may be required to further prioritize cases.

In deciding which cases should be prioritized within the same category, staff must consider the medical condition in addition to other non-medical considerations such as the vulnerabilities of family members. Furthermore, while in specific situations it may be appropriate to give priority to the needs of persons whose medical condition is directly related to their persecution, flight or exile such as survivors of violence and torture, this should not prejudice the access to resettlement of others who have similar or more compelling medical needs or related vulnerabilities.



Timely identification of refugees with medical conditions can make a significant impact on the prognosis, which in turn can impact the likelihood of acceptance by a resettlement country. Field offices must ensure that Medical needs submissions are made as soon as possible. Medical Assessment Forms (MAFs) are valid for six months only.

6.4.3 Refugees living with HIV and AIDS

Refugees living with HIV and AIDS qualify for resettlement on medical grounds only if their overall health situation meets the conditions set out above at [Chapter 6.4.1](#).

Furthermore, 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 not admit people living with HIV, UNHCR stresses that the need for asylum overrides concerns about potential costs associated with the treatment and care of *any* medical condition.

In some circumstances, the HIV status of a refugee might result in human rights violations related to their HIV status – for example a person’s relatives’ physical safety – or jeopardize the individual’s asylum status. Such cases, although caused by a medical condition, may need resettlement based on legal/protection grounds.



As detailed in [Chapter 5.3.7](#), all resettlement countries that require HIV testing as a precondition to resettlement are encouraged to have guidelines on HIV testing and counselling in place that conform to international standards, and to ensure that these are applied and monitored.

UNHCR’s policies on *Antiretroviral Medication for Refugees*¹⁵ and on *HIV Testing and Counselling in Health Facilities*¹⁶ should be consulted for guidance on access to treatment and HIV testing and counselling issues. Offices should inform authorities from the concerned country and the Resettlement Service of any incidents where pre- and post-test counselling has not been provided to an individual, or confidentiality has not been maintained in the notification of results. These include instances when the responsibility for notification has fallen erroneously to a UNHCR Officer.

6.4.4 Operational aspects of cases submitted under the Medical Needs category

For submissions under the Medical Needs category, the following operational aspects should be borne in mind:

- A UNHCR Medical Assessment Form (MAF) must be fully completed by the examining physician.
- Although a MAF is valid for up to six months, MAFs supporting emergency or urgent submissions must be recent enough to accurately reflect the prognosis.
- The Medical Assessment Form and/or other medical reports should be legible.

¹⁵ UNHCR, *Antiretroviral Medication Policy for Refugees*, 17 January 2007, <http://www.unhcr.org/refworld/docid/45b4af612.html>

¹⁶ 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>

- All documents should be signed and dated.
- X-rays, CT scans, photographs, etc., if available, should be included in the file.

The Resettlement Service coordinates the submission of medical dossiers, and allocates a limited number of places to the Regional Resettlement Hubs. As there are limited dossier places available for medical cases, field offices are encouraged to explore local submission options as well.

Family unity

Persons who are deemed to warrant resettlement under the medical needs category should be resettled together with dependent family members, including in some situations non-family caregivers where a relationship of dependency is firmly established. Review *Chapter 5.1.2's guidance on the concept of dependency and the right to family unity*.

In circumstances where the resettlement country requires the separation of the dependent family into multiple cases, the most appropriate submission category must be selected for each case, keeping in mind that the family reunification category is restricted to cases facilitating reunification with a family member already in a resettlement country. See *Chapter 7.4 for guidance on case composition*.

If emergency or urgent resettlement results in family separation, measures should be taken to ensure that family members/dependants of the resettled refugee are reunified with him or her in the country of resettlement.



Essential reading

- UNHCR, *UNHCR's Principles and Guidance for Referral Health Care for Refugees and Other Persons of Concern*, December 2009, <http://www.unhcr.org/refworld/docid/4c1726e82.html>
- 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>
- UNHCR, *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>
- UNHCR, *Confidentiality Guidelines*, 1 August 2001, IOM/o71/2001 - FOM/o68/2001, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/3be17dfd4.html>

6.5 WOMEN AND GIRLS AT RISK

Women and girls may face unique or gender-related forms of persecution or violence, and specific action is required to ensure that women and girls enjoy protection and access to durable solutions on an equal basis with men and boys.

Key protection concepts discussed in **Chapter 5** should be reviewed when considering the resettlement of a woman or girl at risk.

This includes the importance of early identification and immediate response to the protection needs and potential vulnerabilities of segments of the refugee population, including refugee women and girls, and how community-based and age, gender and diversity sensitive approaches operate in a complementary way to enhance protection responses.



Like other refugees, refugee women and girls may face physical and legal protection problems in the country of refuge. In this respect, they need to be safeguarded against *refoulement*, arbitrary arrest or other forms of human rights violations. They also require a legal status that accords adequate social and economic rights and access to such basic necessities as food, shelter and clothing.

However, ExCom *Conclusion on Women and Girls at Risk* (No. 105, 2006), acknowledges that there are extra challenges involved in securing the protection of women and girls at risk which must be addressed holistically, and in partnership with governments, UNHCR, UN organizations, NGOs, women and their communities. The conclusion identifies preventive strategies, responses and solutions, including the need for partnerships and actions to

“strengthen the use of resettlement as a protection and durable solutions tool for refugee women and girls at risk; enhance identification of refugee women and girls at risk for resettlement, including through training; and streamline processing further, including by establishing measures to enable the speedier departure of refugee women at risk and their dependants.”¹⁷

Historically, recognition of this need for specific responses is one of the reasons why certain countries introduced special resettlement quotas and/or programmes for refugee women. While resettlement opportunities for women and girls exist equally under the other resettlement categories, the particular nature of their protection needs and/or the complexity of their individual situations may warrant submission under the Women and Girls at Risk resettlement category.

The rationale for the Women and Girls at Risk category:

- to provide international protection and assistance through resettlement to refugee girls and women who face particular protection problems related to their gender;
- to obtain expeditious processing and accelerated departure for those refugee girls and women considered “at risk”; and
- to ensure that refugee women and girls at risk receive specialized care, if needed, and appropriate support upon arrival in the country of resettlement with a view to achieving socio-economic integration and self-sufficiency.

¹⁷ UNHCR, *Conclusion on Women and Girls at Risk*, 6 October 2006, No. 105 (LVII), 2006, <http://www.unhcr.org/excom/EXCOM/45339d922.html> See also UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, January 2008, <http://www.unhcr.org/refworld/docid/47cfc2962.html>

An accurate and gender-sensitive assessment of the refugee's protection needs and particular vulnerabilities in the country of refuge can sometimes be 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.

Definition of a Woman or a Girl at Risk

UNHCR considers as a women at risk or a girl at risk **those women or girls who have protection problems particular to their gender, and *lack effective protection*** normally provided by male family members.

They may be: **single heads of families, unaccompanied girls or women, or together with their male (or female) family members.**

Refugee women or girls may be at risk of or have suffered from a wide range of protection problems, including expulsion, *refoulement* and other security threats, sexual violence, physical abuse, “corrective” rape of women perceived to be lesbians, intimidation, torture, particular economic hardship or marginalization, lack of integration prospects, community hostility, and different forms of exploitation.

Such problems and threats are often compounded by the effects of past persecution sustained either in their country of origin or during flight. The trauma of having been uprooted, deprived of normal family and community support systems and cultural ties, the abrupt change in roles and status, the fact or threat of violence, or the absence of male family members (while not an absolute condition), may render some refugee women or girls particularly vulnerable.

6.5.1 Identifying Women and Girls at Risk

Identification and analysis of various risk factors help determine which women and girls are at risk, enabling targeted responses to be implemented. However, women and girls are often less visible in displaced populations than men and boys and may not be able to report protection incidents, particularly if these occur in the private domain or are perpetrated by humanitarian workers. Risks of abduction, rape, sexual abuse, harassment and exploitation are just some of the problems experienced by refugee women, whether they are accompanied by a male family member, widowed, or single. The establishment of secure environments including through the strengthening of justice systems to uphold women's rights, and actions and partnerships to empower refugee women and girls are key strategies to both prevent and identify risks.

In particular instances, past traumatic experiences in the country of origin and circumstances of severe hardship in the country of refuge may magnify or exacerbate the protection problems of refugee women and add to the precariousness of their situation. Early identification and assessment of these protection problems is critical for the implementation of appropriate

immediate responses and subsequent solutions, including where appropriate, a resettlement submission under this category.

Remember that female refugees will likely be more comfortable and forthcoming about their protection problems speaking through a female interpreter to a female interviewer.



Accurate assessment of the refugee protection situation

A proper and correct identification of refugee women and girls at risk begins with an accurate, systematic and early assessment of the overall protection situation in the country of refuge. Close and regular monitoring activities should be engaged by protection, field and resettlement staff, as well as community, social and medical services staff. Other partners such as religious leaders, local hospitals, local charitable organizations, and in particular refugee groups, should be involved in the process, in particular, refugee women's groups and leaders. A multi-sectoral approach is essential to the early and effective identification of the protection needs of refugee women and girls. *Please review Chapter 5.5 for an overview of identification tools and methodologies including the Heightened Risk Identification Tool.*¹⁸

Risk factors in the wider protection environment may include:

- insecurity and armed conflict;
- sexual and gender-based violence (SGBV);
- inadequate or unequal access to assistance and services;
- the position of women and girls in the host community which can lead to marginalization and discrimination;
- lack of access to livelihoods;
- legal systems which do not uphold the rights of women and girls; and
- asylum systems which are not sensitive to the needs and claims of female asylum-seekers.

Refugee Girls

Special attention should be given to **refugee girls**, who, because of their age and level of maturity, may be at increased risk of violence, abuse or exploitation, and may be less able to cope with any associated trauma, or their circumstances of displacement. Refugee girls may be at greater risk of exploitation, potentially facing forced or early marriage; female genital mutilation against their will, trafficking or sexual slavery.

Young girls without adult supervision due to separation from family members, or death of parents, often find themselves responsible for younger siblings. In such cases, the burden on young girls is particularly severe, with access to

¹⁸ 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/46f7cocd2.html>

school limited due to other household and family responsibilities, and heavy responsibility for younger family members who may also be at risk of various protection threats.

Girls in foster care also often face deprivation of their rights to participate in community life, including school, and may face threats of exploitation. Such girls may need to be separated from their foster families and be placed in appropriate care arrangements.

Best Interests Assessments or Determinations are required for unaccompanied, separated and other girls at risk. *Also see Chapter 6.7 for guidance on the Children and Adolescents at Risk category.*

6.5.2 Submission under the Women and Girls at Risk category

After identification, women and girls at risk require a response to their immediate protection needs, followed by an assessment of their longer-term protection needs.

Resettlement is not necessarily the most appropriate solution in all cases of refugee women and girls facing particular protection problems related to their gender. For all unaccompanied, separated children and other children at risk, a Best Interests Determination (BID) is a crucial step in the identification of the most appropriate solution, and a BID must be conducted prior to resettlement. *Please review Chapter 5.2.2.1 for further details.*

An assessment of a woman or girl at risk's resettlement needs should include a review of the *intensity* of one or more of the factors mentioned below, as well as the *urgency* of her case, and should determine any specific follow-up action in the country of resettlement.

Resettlement submission of refugee women and girls under the Women and Girls at Risk category is considered when:

- She faces precarious security or physical protection threats as a result of her gender;
- She has specific needs arising from past persecution and/or traumatization;
- She faces circumstances of severe hardship resulting in exposure to exploitation and abuse, rendering asylum untenable;
- There has been a change in the social norms, customs, laws and values resulting in the suspension of or deviation from traditional protection and conflict resolution mechanisms and the lack of alternative systems of support and protection. This places the refugee woman or girl at such risk that it renders asylum untenable.

Precarious security situations

As discussed in **Chapter 5.2.1**, refugee women may suffer from a wide range of threats to their personal security, including risk of expulsion, *refoulement*, or sexual and gender-based violence, such as: sexual harassment, domestic violence, abuse, torture, trafficking for the purposes of sexual slavery or exploitation or forced labour, and other forms of exploitation. Family members may be unable or unwilling to assist, and 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. Strict social codes in the refugee community can mean that the physical protection of refugee women is further jeopardized.

The victimization and stigmatization of women survivors of rape, abuse, or other forms of violence, is not uncommon, particularly in traditional societies, and can require the immediate removal of such survivors, possibly by way of third country resettlement.

Specifically as regards cases of domestic violence considered for resettlement under the Women and Girls at Risk category, there are a number of practical and legal factors that require protection intervention. For example, it may be required to move the woman and any children in the relationship to a secure location pending emergency resettlement. It may later be necessary to change that location for security reasons. Moreover, if the partner of the woman becomes aware of the involvement of UNHCR and/or other organizations, this may lead to security concerns for staff members. The office may also need to address complex legal issues relating to child custody, or other rights of the husband or partner as they become relevant in the course of pursuing resettlement for the woman and child(ren). Where children are involved, and custody is not resolved, Best Interests Determination procedures should be applied.¹⁹ See **Chapter 5.2.2**.

As these issues may, however, be contentious and complex, and put the office under some strain as a result, Headquarters should be consulted and kept informed of the case(s) in question. Moreover, it is crucial that national authorities in the country of asylum and authorities in the potential resettlement country have indicated their willingness to accept resettlement as a solution and offer their full cooperation throughout the procedure.

Specific needs arising from past persecution and/or past trauma

Past persecution may affect a refugee woman's protection situation in the country of refuge and her ability to cope with the challenge of displacement. The assessment of past persecution provides important indicators of the needs of refugee women and the required response or preventive action required.

Very often, refugee women who have already been severely traumatized in their country of origin are more vulnerable to being re-traumatized. Latent psychological effects of past torture or trauma, coupled with adverse circumstances in the country of refuge, are likely to exacerbate their state

¹⁹ UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, 2011, <http://www.unhcr.org/refworld/docid/4dda4cbo2.html>

of mental health. Such women may require mental, psychological or social counselling or rehabilitation or qualified medical care for any meaningful recovery, and such opportunities may not be readily available in the country of refuge.

Past trauma may also negatively affect a refugee's capacity and willingness to integrate locally in the country of refuge and to provide for her own children. It is equally important, in the search for solutions, to ensure the protection of secondary victims, often her children or family members. In the case of women survivors of sexual violence, specific medical assistance may be needed in order to address the consequences of, for example, sexually transmitted diseases including HIV/AIDS, self-practiced abortion, or other related health problems.

Circumstances of severe hardship

For some refugee women or girls, severe hardship in the country of refuge, combined with a precarious legal and social status, may result in further exposure to the risk of abuse and exploitation/extortion. Asylum becomes untenable, and resettlement may be warranted.

Circumstances of hardship may be particularly acute in the context of urban settings, where access to humanitarian assistance and income-generating activities is often minimal. Women who have managed to find employment may suffer from discrimination and harassment by their local employers because of their sex, ethnicity or uncertain legal status. In the context of a precarious legal regime, some refugees may face eviction from their homes and be forced to live in abject poverty. To overcome these difficulties, some refugee women have no other option than to rely on "local protectors" in exchange for material assistance, accommodation, personal documentation and/or residence permits. Other women may be forced to sell their personal possessions to provide for themselves and their children, or they may be forced into prostitution.

Protracted situations of severe hardship may result in higher levels of physical and mental illness for refugee women and/or their families, as well as increases in domestic violence.

Changes of social status as a result of suspension or deviation of social norms

Consideration should be given to resettlement if changes in social status or social norms place the refugee woman or girl at such risk that it renders asylum untenable. Social norms are often spontaneously suspended in times of civil conflict and refugee displacement. Suspension of social norms, customs, laws and values under refugee conditions often leaves women unprotected and subject to various violations of their human rights. The perpetration of particular crimes, such as rape or other forms of sexual aggression, increases significantly in situations of displacement compared with non-refugee situations, due to the breakdown in traditional or legal protection and conflict resolution mechanisms, leaving women and girls particularly vulnerable and perpetrators free from prosecution or sanctions.

Suspension of traditional norms brings changes in the prevailing social mores, including the attitude and the perception of the “proper” role of women. In some instances, this triggers a positive redefinition of traditional notions of sex and gender in women’s favour and results in an improvement of women’s self-definition. New and creative mechanisms such as women’s associations or networks may replace traditional protection structures and provide alternative reference points and different systems of support.

In other cases, however, traditional mechanisms of protection and social norms remain in place but deviate substantially within the refugee context, thus becoming a threat to refugee women. Shifts in cultural values, in fact, may lead to clashes within the refugee’s family or the extended community and this often results in instances of serious domestic violence or stigmatization of the refugee woman by her community.

In the case of survivors of sexual or gender-based violence within the refugee community, the implementation of community-based customary practices to settle the offence may result in serious violations of a woman’s basic human rights.

6.5.3 Counselling of refugee women and girls at risk

Because of the sensitivities often associated with the protection needs of refugee women, discrete and confidential counselling services should be provided to refugee women and girls identified as “at risk” by trained female staff.

Each refugee woman or girl at risk being considered for resettlement should be counselled prior to the submission of her case to a resettlement country, as well as in preparation for departure. This counselling should include an explanation of the reasons for her submission under the specific category selected, and an overview of the resettlement procedures she can expect to undergo, including further interviews and examinations. All family members and particularly the refugee’s spouse where applicable, should receive appropriate counselling.

6.5.4 Operational aspects for submissions under the Women and Girls at Risk category

A number of resettlement States have special programmes to address the integration needs of women and girls at risk. Please refer to the Country Chapters linked to this Handbook online for details on each resettlement State’s policies, procedures and settlement supports, including the capacity to receive emergency cases.

Submissions under this category must include a detailed explanation of why the refugee is considered a woman or girl at risk. The *Specific Needs* section of the Resettlement Registration Form (RRF) should be completed, drawing on any assessments or reports provided by protection staff or implementing partners. As with all individual submissions, careful attention should also be paid to ensuring that the details of the refugee claim are well articulated for each adult in the case.



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/excom/EXCOM/45339d922.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>
- 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>
- 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>
- UNHCR, *Mental Health of Refugees*, 1996, <http://www.unhcr.org/refworld/docid/4a54bc010.html> (Especially Unit 9: Helping victims of rape and their communities.)
- UNHCR, *Ensuring Gender Sensitivity in the Context of Refugee Status Determination and Resettlement. Module 2: Ensuring Gender Sensitivity in Refugee Status Determination - Procedural Issues (Resource Package)*, October 2005, 2, <http://www.unhcr.org/refworld/docid/43e73b644.html>
- UNHCR, *The Heightened Risk Identification Tool*, June 2010, Second Edition, <http://www.unhcr.org/refworld/docid/4c46c6860.html>; *User Guide*, <http://www.unhcr.org/refworld/docid/46f7cocd2.html>

6.6 FAMILY REUNIFICATION

The importance of resettlement as a tool of international protection extends to cases where it preserves or restores the basic dignity of a refugee's life through family reunification. When refugees flee their country of origin, family members are frequently left behind or dispersed during flight. In some cases, refugee families are separated when a family member has not been able to accompany the rest of his or her family to a country of resettlement.

Family separation leads to hardship and sometimes has tragic consequences. It may also create serious obstacles to a refugee's integration in a new country, and the realization of family unity is considered an important aspect of all durable solutions.



Please review the core principle of family unity, and UNHCR's definition of a family as covered in **Chapter 5.1.2** of this Handbook.

Without the opportunity to reunite with family members, resettlement runs the risk of not being a meaningful, durable and sustainable solution. Promoting family reunification and restoring supportive relationships was identified as one of the

eight key goals for integration in countries of resettlement, putting into operation the principles developed and endorsed at the International Conference on the Reception and Integration of Resettled Refugees.²⁰ Guided by both humanitarian and practical considerations, and pursuant to its responsibility under the Statute to provide international protection to refugees, to promote measures designed to improve the situation of refugees and to facilitate their integration within new national communities, UNHCR seeks to ensure the reunification of refugee families separated as a result of their persecution or flight.

As reviewed in **Chapter 5.1.2**, obtaining the cooperation of States to lay 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. UNHCR encourages States to adopt generous and flexible policies, including an inclusive definition of the family, and to dedicate resources to permit speedy family reunification. Given the limited number of resettlement places available, UNHCR also encourages resettlement States to develop family reunification programmes *outside* of their resettlement quotas. Whenever appropriate, UNHCR seeks to ensure that family members are granted the same legal status and accorded the same standards of treatment as refugees.

The involvement of UNHCR field offices in supporting and facilitating family reunification in the resettlement context takes various forms, *including* the submission of a resettlement case under family reunification as a primary or secondary submission category. The circumstances and protection considerations of each individual case need to be carefully weighed to determine whether the submission of a resettlement case or the facilitation of other immigration options is the most appropriate action to reunite the family.

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.



6.6.1 Submission under the Family Reunification category

By definition, the submission of a resettlement case under the Family Reunification category is made to reunite refugees with a family member already in a resettlement State.

The family reunification policies and procedures of the relevant resettlement State must be reviewed carefully prior to a submission decision in order to determine whether a resettlement submission is the most appropriate option, or whether UNHCR should facilitate processing under a State's family reunification or humanitarian migration programmes. As State policies, procedures and

²⁰ For a full list of the integration goals and further details, see UNHCR, *Refugee Resettlement. An International Handbook to Guide Reception and Integration*, September 2002, <http://www.unhcr.org/refworld/docid/405189284.html>

resources dedicated to family reunification vary considerably, decisions must be made on a case-by-case basis.

The factors to consider when determining whether to make a resettlement submission under the Family Reunification category are:

- the urgency of the resettlement need;
- the short and long-term protection implications for the refugees;
- a realistic appraisal of the availability and accessibility of other immigration options; and
- the resettlement State preferences.

In some situations the most efficient route to family reunification is under the State's direct family reunification or other humanitarian programmes. But in other situations family members may not meet the State's criteria, there may be very long waiting lists, or the circumstances of the family member in the resettlement country makes it unlikely that the reunification will be processed quickly. In these cases a resettlement submission may be warranted.

For submission under the Family Reunification category all four of the following conditions must be met:

- At least one person within the family unit to be reunited is a refugee under the UNHCR mandate or a person of concern to UNHCR; and
- The individuals to be reunited are family members under UNHCR's inclusive definition (see [Chapter 6.6.2](#)); and
- The individuals are reuniting with a member of the family already in a resettlement country (see [Chapter 6.6.3](#)); and
- The availability and accessibility of other family reunification or migration options has been reviewed and the submission of a resettlement case has been determined to be the most appropriate option given the resettlement needs and protection implications for the family member (see [Chapter 6.6.4](#), and [Chapter 6.6.5](#)).

6.6.2 Types of family reunification promoted by UNHCR

Family reunification is undertaken, in accordance with the basic principle of family unity, with a view to respecting basic rights as well as improving the prospects for integration upon resettlement. In accordance with the principles of family unity as outlined in [Chapter 5.1.2](#), the following types of family reunification should receive the support of UNHCR.

6.6.2.1 Reunification of the nuclear family

There is international consensus concerning the need to reunite members of the *nuclear family*. Priority should be given to the nuclear family members mentioned below, and in particular to unaccompanied children.

Spouses

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.

The same applies in principle to spouses in a polygamous marriage, if it was contracted in a valid manner. However, most resettlement countries will only accept one spouse in view of their own national legislation forbidding polygamy, and care must be taken in the assessment of the most appropriate solution for such cases. Please consult the *Resettlement Assessment Tool: Polygamous Families*²¹ for further guidance.

On the other hand, estranged spouses who do not intend to live as a family unit in the country of resettlement are not normally eligible for UNHCR assistance for reunification with each other; they may, however, qualify for reunification with their children.

Parents and children

Although some States make a distinction between children under 18 and those who have come of age, it is UNHCR policy to promote the reunification of parents with socially, economically or emotionally dependent, unmarried children, regardless of age, who were living with the parents in the country of origin. This would include adopted children, whether adopted legally or on a customary basis.

Separated and unaccompanied children and parents or siblings

The needs of children and adolescents for a stable family environment mean that the reunification of separated and unaccompanied children with their parents or guardians should be treated as a matter of urgency. In recognition of the importance of the support that siblings can give to each other, reunification of an unaccompanied child with a sibling should also be prioritized.

Family reunification may not, however, always be the best solution for a child/adolescent. In all situations involving separated or unaccompanied children, a Best Interests Determination (BID) should be conducted. The quality of the relationship between the child and the parent(s) and whether the parents will be able to offer guidance, support and emotional care are among the issues which must be assessed. See *Chapter 5.2.2.1* for more information on the BID process.

If a child has arrived first in a country of asylum or resettlement, the right to family unity requires that the child’s next of kin be allowed to join him or her in that country, unless it is in the best interests of the child under the circumstances to join the relative in the country where the relative resides or in a third country.

²¹ UNHCR, *Resettlement Assessment Tool: Polygamous Families*, June 2011, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/4dc7a9032.html>

6.6.2.2 Reunification of other dependent members of the family

It is UNHCR's position that the right of family unity also requires reunification of the following categories of persons of particular concern.

Dependent parents of adult refugees

Based on humanitarian and economic considerations, reunification should be carried out for dependent parents who originally lived with the refugee or refugee family, or who would otherwise be left alone or destitute.

Other dependent relatives

Where persons such as single/lone brothers, sisters, aunts, uncles, cousins, etc. were living with the family unit as dependants in the country of origin, or where their situation has subsequently changed in such a way that they have become dependent upon refugee family members in the country of asylum (e.g., by the death of a spouse, parent or wage earner/breadwinner), they should also be considered eligible for family reunification.

Unaccompanied children may be considered for family reunification with relatives who are not part of the nuclear family when this is in the child's best interests, and when it will not interfere with family tracing. In all cases a BID needs to be conducted, to determine if the family reunification and resettlement as a durable solution are in the best interests of the child.

Other dependent members of the family unit

Sometimes families have taken in and cared for other individuals, such as unaccompanied children or elderly neighbours, with whom there is no blood relation. If these individuals are in the same dependent situation as the relatives mentioned under "Other dependent relatives" above, they should also be considered eligible for UNHCR assistance with reunification. Particular care should be taken to verify the accurate situation and circumstances of such persons.

A BID needs to be conducted for all unaccompanied children, in this case to determine if family reunification with a foster family in a third country is in the child's best interests. As with all unaccompanied and separated children, arrangements should be made to maintain records and notify all concerned of the child's location, in order to ensure that the child can be easily located if tracing efforts are successful.













6.6.2.3 Other relatives who may be considered for reunification

In certain cultures, the basic family unit also includes grandparents, grandchildren, married brothers and sisters, their spouses and children, etc. For practical reasons, however, it is not the policy of UNHCR to actively promote the reunification of members of an extended family or other relatives who are *not* dependent on the family unit.

UNHCR nevertheless strongly supports the adoption by States of broad and flexible criteria for family reunification with respect to the selection of refugees for resettlement. Efforts should be made to preserve the integrity of family groups in the course of resettlement operations and to promote the admission of refugees who need to be resettled in countries where they have relatives or other personal ties.

6.6.3 Family reunification scenarios and challenges

UNHCR provides family reunification assistance in all of the main scenarios outlined below. However, a UNHCR resettlement submission under the Family Reunification category is restricted to cases facilitating reunification of refugees in a country of asylum with a family member already in a resettlement country. Specifically, resettlement cases are submitted only when required for family reunification under scenario A.

	Country of Origin	Country of Asylum	Country of Resettlement
A			
B			
C			
D		 	
E		 	
F			 

- Scenario A: One part of the family has reached a country of resettlement, while the other is in a country of asylum.** Although in this case all members of the refugee family have left the country of origin, reunification sometimes still presents problems. Difficulties or delays may be encountered in obtaining admission of the remaining family members into the country of resettlement and UNHCR intervention in this respect is often necessary. Should reunification under the resettlement State’s migration or humanitarian programmes not be accessible or feasible, UNHCR may submit a resettlement submission under the family reunification category.
- Scenario B: One part of the family has reached a country of resettlement, while the rest of the family is still in the country of origin.** This is a common situation in which UNHCR assistance with family reunification is warranted.

It may be necessary to intervene with the respective authorities in order to obtain authorization for the departure of family members from the country of origin and/or for their entry into the country of resettlement.

- **Scenario C: One member of the family is in a country of asylum while the other member of the family is in the country of origin.** This is also a common situation in which UNHCR assistance with family reunification may be warranted. Careful documentation of family members still in the country of origin is required to facilitate eventual family reunification. Depending on the evolution of circumstances, reunification might be in the country of asylum, in a resettlement country, or in the country of origin after voluntary repatriation.
- **Scenario D: Members of the same family are in different countries of asylum.** In such cases, field offices should where possible promote the reunification of the family members in one of the countries of asylum while awaiting a durable solution. If particular physical, legal and material protection needs or other situations arise requiring the urgent relocation of one or both parts of the family under other UNHCR resettlement categories, resettlement should be coordinated between relevant UNHCR offices, governments and partners to facilitate family reunification in the same country of resettlement. Such intervention is often required to prevent the separation of foster children, adult dependants, fiancé(e)s, or other relatives forming part of the basic family unit. The assistance of UNHCR Headquarters should be requested when the matter cannot be resolved by the field offices concerned.
- **Scenario E: Members of the same family are separated in different parts of the same country of asylum.** This often occurs when refugees are confined in camps in situations of mass influx. The Office should promote reunification of family members as soon as this is feasible.
- **Scenario F: Members of the family find themselves in different countries of resettlement.** Owing to the absence of precise rules concerning which part of a family should join the other, problems may arise if the authorities of the countries of resettlement concerned refuse entry because each is of the opinion that reunification should take place in the other country. Although dependants can normally be expected to proceed to the country where the head of the family is resettled, a different solution may be appropriate under certain circumstances, e.g. when the prospects for the successful integration of the family in that country are poor or when the family has much closer links elsewhere.

6.6.4 State approaches to family reunification

Ensuring family unity through resettlement can be challenging, both in the context of initial resettlement and subsequent family reunification. All efforts should be made to resettle the entire family unit together, but this is not always possible due to the dispersal of family members.

While States and UNHCR agree on the need to respect the principle of family unity, UNHCR's definition of the family, which relies on the concept of dependency, is more inclusive than that used by some resettlement States.

Various mechanisms exist for family tracing and reunification, including direct processing by resettlement countries, and immigration procedures initiated by family members either in the country of resettlement or from abroad.

UNHCR encourages resettlement States to develop family reunification programmes outside of their resettlement quotas. Some States have created separate quotas for such cases under humanitarian categories, and others do not limit the number of family reunification cases. Some States, however, consider family reunification cases only within their overall quota.

The definition of eligible family members, the criteria for eligibility, and the procedures involved varies considerably among resettlement countries. Each resettlement State provides detailed information on their family reunification policies and procedures in their Country Chapters, and these should be consulted by UNHCR offices considering family reunification cases.

States are encouraged to grant the same status to reuniting family members as resettled refugees. However, in some States a family member may be granted a residency status that provides less protection against deportation, possibly amounting to *refoulement*, than does refugee status.

Particular challenges to family reunification arise from certain State policies and procedures as described below.

Restrictive definitions of family members

In some cases, a refugee's family members remain behind in the country of origin, or in a country of first refuge, because they are not considered by the prospective country of resettlement to belong to what is known as the "nuclear family", that is to say father, mother and minor children. While it may not always be possible to reunite entire groups which, in the country of origin, formed part of a family in the broad or traditional sense, States are encouraged to give positive consideration to the inclusion of dependent family members – regardless of their age, level of education or marital status. *This concept of dependency is set out in greater detail in Chapter 5.1.2.*

Requirements for documentary evidence

A related problem is that of proving the marital or civil status of family members for admission purposes. While every effort should be made to establish parentage and family relationships, the particular circumstances existing in the refugees' country of origin or in their country of refuge may need to be taken into account.

These circumstances may make it difficult or even impossible for a refugee to meet formal requirements or to bring the documentary evidence normally required before family reunification can be authorized. UNHCR should therefore encourage governments to take a flexible approach within legislation and practice on family reunification which will enable alternative proof of relationships.

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. See [Chapter 5.1.2](#) for more information.

Limited quotas

The demand for family reunification in certain contexts may lead to long waiting periods for family reunification due to limited annual processing quotas and competing migration priorities.

Special measures

Family reunification is often prevented or delayed by the operation of general domestic immigration regulations requiring that individuals sponsoring applicants be able to provide accommodation and support them. Refugees are often unable to fulfil such requirements especially if family members are experiencing economic, employment or housing problems in the country of resettlement. As it is known that prolonged separation creates serious social problems for both sides of split families, it is highly desirable that in such cases receiving States adapt their legal provisions in this respect or take special measures to assist refugees to accommodate their dependants, thereby facilitating early reunification.

Status of joining family members

The status provided for refugees under the relevant international instruments and national legislation has as one of its principal aims to facilitate their integration in new national communities and to help them to cease being refugees as rapidly as possible. In order to promote the smooth and timely integration of refugee families in the country of settlement, it is necessary to grant joining family members the same legal status and facilities as those family members already present. Unless their personal situation expressly excludes them (e.g. due to formal consideration, such as a different citizenship, or the application of exclusion clauses), the family members concerned should have their status as refugees regularized, if they so wish.

6.6.5 UNHCR family reunification assistance outside of resettlement submissions

This section addresses the assistance UNHCR offices can provide refugees with family reunification *outside* of the context of a resettlement submission. This assistance may also be relevant to refugees accessing other humanitarian migration programmes, even if these are not specifically family reunification programmes.²²

²² An example is Canada's Private Sponsorship of Refugees Programme, which is usually initiated by a volunteer sponsoring group in Canada that may or may not be related to the identified refugee.

As discussed in **Chapter 6.6.1**, field offices should review the family reunification policies and procedures of the relevant resettlement State carefully to determine whether a resettlement submission is the most appropriate option, or whether UNHCR should facilitate processing under a State's family reunification or humanitarian migration programmes.

UNHCR promotes and assists the reunification of families of persons who are refugees under its mandate. In addition, UNHCR may extend such assistance to displaced persons outside their country of origin who are considered to be of concern to the Office by virtue of applicable UN General Assembly Resolutions.

Except for certain special programmes,²³ 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 assisted 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.



6.6.5.1 Types of UNHCR assistance in individual cases

The Office encourages members of dispersed families to take the first steps towards reunification and to initiate the necessary formalities, whenever this is possible without risk to themselves or other family members. In such cases, the role of the Office is limited to informing refugees of the procedures to be followed and monitoring the process.

In many cases, however, the help of UNHCR is required to bring about reunification, outside of the submission of a resettlement case. UNHCR assistance may extend to assistance with tracing, documents, visas and travel arrangements.

Tracing family members

As reviewed in **Chapter 5.1.2**, when the whereabouts of relatives is unknown, it may be necessary for UNHCR to facilitate tracing through the review of bio-data records including *proGres*, and through collaboration with the Central Tracing Agency of the International Committee of the Red Cross (ICRC) and its national counterparts, the International Organization for Migration (IOM) or relevant NGOs.

Travel documents

When it is not feasible for family members to use passports issued by their country of origin, some other form of travel documentation will be necessary.

²³ 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.

In some cases, depending on the itinerary, the mode of travel and the administrative requirements of the countries involved, a letter in lieu of a visa from the authorities of the destination country may suffice. Often, however, a more formal travel document is needed. Certain countries of temporary stay may be willing to issue a special, or aliens' passport. In States party to the 1951 Convention and/or its 1967 Protocol, a Convention Travel Document shall be granted to family members who also qualify for refugee status. When no other travel document is available and the family members are outside their country of origin, an ICRC Travel Document may be obtained. UNHCR Headquarters should be consulted if assistance is needed.

Entry visa

Refugees residing in a country of settlement who wish to be reunited with other family members who are still in the country of origin or in third countries should be advised, in the first instance, to apply to the competent authorities for the necessary entry visas or immigration authorization for their family members.

Should difficulties arise, the competent UNHCR Field Office may have to intervene with the Government concerned in order to seek permission for such reunification, pointing where necessary to the relevant international instruments and to the Executive Committee Conclusions on the subject. Where countries make admission contingent upon the fulfilment of conditions which the refugee cannot meet, or refuse altogether to authorize certain types of family reunification, such difficulties should be reported to UNHCR Headquarters. Since the objective is reunification of the refugee family, the Office should ensure that any visa issued allows indefinite stay.

Exit visa

In many cases, family members are required to make a formal application for authorization to leave the country of origin or temporary refuge. Where this is feasible, family members in the country of origin should try to obtain these authorizations themselves provided they can do so without placing themselves or others at risk. When required, and where authorized by state authorities, the International Organization for Migration (IOM) can take responsibility for assisting refugees and family members to apply for exit permits, as per the framework agreement between UNHCR and IOM.²⁴ This includes facilitating the documentary requirements including photographs, and the payment of any required fees. Family members should be counselled in advance however, that interventions may be a very delicate matter and are not always successful.

Travel arrangements

Unless travel is arranged within the framework of an ongoing resettlement operation, making travel arrangements is in principle the responsibility of the

²⁴ UNHCR, *Guidance Note on Co-operation Between IOM and UNHCR in the Transportation Sector*, May 2000, (Internal) <http://swigeas6.hcrnet.ch/refworld/docid/4a54bc020.html>

refugee family. Nevertheless, some countries make the travel arrangements for the individual family reunification of refugees, usually through IOM, and meet the costs.

UNHCR would provide assistance only if needed, as, for example, in the case of separated or unaccompanied children. Family members may, however, be advised to contact IOM for more information about its subsidized migration schemes. Under these schemes, IOM helps refugees and other persons in need of assistance, in particular through the handling of pre-departure and transport arrangements. IOM has concluded special pricing agreements with the airline industry which allow for considerable reductions in airfares and may also provide an increased free baggage allowance. Where direct communication between family members and IOM is not possible, UNHCR field offices may be requested to help.

Family Reunification Travel Assistance Project

Unless travel is arranged within the framework of an ongoing resettlement operation, the financing of the travel of family members from abroad is in principle the responsibility of the refugee family. Family members should also be advised of the possibility of procuring air tickets at reduced fares directly through IOM, without UNHCR involvement or approval.

UNHCR does have limited funds available to assist with the financing of family reunification cases, should no other funding be available. A grant under the Family Reunification Travel Assistance Project,²⁵ which is administered by UNHCR's Resettlement Service, may be considered if the case meets all of the following conditions:

- All family members concerned are eligible for family reunification under the established criteria.
- At least one of the family members has been determined as a refugee under UNHCR's mandate.
- The separation of the refugee family was involuntary and related to persecution or flight.
- The anticipated country of resettlement (destination country) will grant an entry visa and legal residence to the family members upon arrival.
- The granting of assistance is appropriate under UNHCR guidelines.
- The family members are in need and therefore unable to meet the travel expenses themselves.
- No other source of funding is available (e.g. from the receiving country, relatives, sponsors or charitable organizations).
- Sufficient financial resources are available under UNHCR Resettlement Service's Travel Assistance Project for Family Reunification. In some cases field offices may have their own funds available.

²⁵ Further information on the Family Reunification Travel Assistance Project, including application forms Part A and Part B, is available from the resettlement page on the UNHCR intranet, under the *Delegation of Authority to the Field: Guidelines on Resettlement Dossier Case Submissions and Family Reunification Procedures* in "Tools and Resources".

The application process requires the completion of forms by both the applicant in the destination country, and by the beneficiaries, who are the family members in the country from which the movement will take place. UNHCR field office staff – in both the destination country and the country from which the family members will travel – are asked to assist in the process by interviewing the family members in order to complete the required forms, and assessing their eligibility and needs. When undertaking the interviews, home visits by UNHCR staff or in-country partners are encouraged.

Assessing the needs for family reunification travel assistance includes ascertaining family links and the financial needs of the refugees concerned; therefore supporting documents such as birth or marriage certificates are also requested. In some instances, a Best Interests Assessment (BIA) or Determination (BID) may be required. It is important to note that the Resettlement Service cannot process a case unless it is confirmed that the destination country has granted or promised an entry visa, and will grant legal residence to the family members upon arrival.

If the case meets the required conditions, field offices send the completed applications and supporting documentation to the Resettlement Service for review. Upon approval of the request, UNHCR Headquarters will liaise with the International Organization for Migration (IOM) to make travel arrangements or alternatively authorize the Field Office to arrange travel locally, providing the appropriate budget codes in the travel authorization. Travel arrangements should be made only after the necessary authorizations have been issued and travel documents and visas have been obtained.

6.6.6 Separation due to admission criteria

A refugee family risks being separated during resettlement because if one or more of the family members do not meet the specific resettlement State's criteria for admission. In such cases, it is often necessary for the Office to approach the authorities of the resettlement country to advocate for the family member to be admitted on humanitarian grounds.

In cases where UNHCR has determined that a family must not be separated due to their dependency bonds, the Field Office should consider withdrawing the case from a resettlement State that does not accept the entire family, and resubmitting the case to another State. See *Chapter 7.7.8 for guidance on split decisions of dependent family members*.

Spousal relationships created after resettlement

Some resettlement countries do not provide for family (re)unification of refugee families where a resettled refugee marries or finds a partner outside of the resettlement country subsequent to the arrival in the resettlement country. Sometimes refusal to allow entry would present a serious impediment to (re) establishing family life, bearing in mind in particular that the refugee cannot be returned to his or her country of origin.

If, in such situations, it would be practically impossible for the refugee to live outside the country of asylum, then any interference in the right to family unity and to marry and found a family²⁶ would need to be proportionate to the legitimate aim pursued by the State. To make this assessment, it would be necessary to bear in mind the refugee's particular situation, which precludes return to the country of origin, and to assess whether family life could be established elsewhere, including whether refugee status would be maintained with no danger of *refoulement* in the alternative country. Other relevant factors include:

- the situation of the spouse/partner;
- the degree of family members' economic and social integration and prospects for the future in each State;
- the State in which the greater number of family members resides;
- the duration of residence in each State; and/or
- the likelihood of maintaining a livelihood and of achieving effective protection, including access to durable solutions.

6.6.7 Family reunification cases outside the competence of UNHCR

UNHCR offices sometimes receive requests for help with family reunification or travel with respect to persons not eligible for assistance under the established criteria and procedures.

Such requests may involve persons not within the mandate of the Office, relatives not belonging to the family unit, or family members wishing merely to visit the refugee family in the country of asylum. Requests often relate to the completion of formalities, obtaining visas and travel documents, or even the financing of travel. When it is determined that a request is outside the mandate of UNHCR, an applicant should be advised that UNHCR cannot assist and should be directed to the relevant embassy, immigration office or non-governmental organization, where appropriate. An applicant may be advised to contact IOM for information about the latter's subsidized migration schemes.

²⁶ According to the Human Rights Committee, "[t]he right to found a family implies, in principle, the possibility to procreate and live together ...". See Human Rights Committee, *General Comment No. 19 on Article 23 of the 1966 International Covenant on Civil and Political Rights* (ICCPR), 1990, paragraph 5. The right to marry and found a family is contained in Article 16 of the 1948 *Universal Declaration of Human Rights* (UDHR); Article 23 of the 1966 ICCPR; Article 5 of the 1965 *International Convention on the Elimination of All Forms of Racial Discrimination* (providing that States Parties undertake "to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of... the right to marry and choice of spouse"); Article 17 (2) of the 1969 *American Convention on Human Rights* (ACHR); and Article 12 of the 1950 *European Convention for the Protection of Fundamental Rights and Freedoms* (ECHR).



Essential reading

- UNHCR, *Summary Conclusions: Family Unity*, June 2003, adopted at Global Consultation on International Protection, Geneva Expert Roundtable, Nov. 2001, in *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection*, (edited by Erika Feller, Volker Türk and Frances Nicholson, Cambridge University Press, 2003), 604-608, <http://www.unhcr.org/refworld/docid/470a33bed.html>
- UNHCR, *Protecting the Family: Challenges in Implementing Policy in the Resettlement Context*, June 2001, <http://www.unhcr.org/refworld/docid/4aegaca12.html>

Further reference

- Jastram, Kate and Kathleen Newland, *Family unity and refugee protection in Refugee Protection in International Law: UNHCR's Global Consultations on International Protection*, (edited by Erika Feller, Volker Türk and Frances Nicholson, Cambridge University Press, 2003), 555-603, <http://www.unhcr.org/refworld/docid/470a33beo.html>
- UNHCR, *Refugee Resettlement. An International Handbook to Guide Reception and Integration*, September 2002, <http://www.unhcr.org/refworld/docid/405189284.html>
- UNHCR, *IOM/052/1983 - FOM/049/1983 The Reunification of Refugee Families*, 18 July 1983, IOM/052/1983 - FOM/049/1983, (Internal) <http://swigea56.hcrnet.ch/refworld/docid/3c29fa1f4.html>

6.7 CHILDREN AND ADOLESCENTS AT RISK

Children and adolescents are entitled to special care and assistance under the Convention on the Rights of the Child. Their developmental needs, their dependency, and their legal and social status make this special attention essential, and early and continuous identification of children at heightened risk a UNHCR priority.



Chapter 5.2.2 of this Handbook describes the specific protection needs and potential vulnerabilities of refugee children and adolescents, outlines key elements of a child protection system for children at risk, and reviews the *UNHCR Guidelines on Determining the Best Interests of the Child*.

Please review this crucial information when considering the resettlement of a child or adolescent at risk.

This Section will specifically discuss the submission of resettlement cases under the Children and Adolescents at Risk category.

Who is a child?

A “child” as defined in Article 1 of the Convention on the Rights of the Child (CRC), means “every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier”.²⁷ 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 and stateless children.

Although 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*, under international law everyone under 18 is a child.

Unaccompanied children 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 or caregivers.

(**Orphans** are children, *both* of whose parents are known to be dead. Note that in some countries a child who has lost one parent is also called an orphan. Due to the ambiguous meaning, UNHCR rarely uses the term orphan.)

6.7.1 Submission under the Children and Adolescents at Risk category

Children at risk have legal and physical protection needs, may be survivors of violence and torture, and may be submitted for resettlement to facilitate family reunification. Girls at risk may also be submitted under the Women and Girls at Risk category. See *Chapter 6.5.2*.

However, Children and Adolescents at Risk remains a separate resettlement submission category to highlight the specific protection needs of refugee children and adolescents at risk, and to ensure that they receive priority processing. Listing this as a secondary submission category also serves to draw attention to the presence of a separated child or other child or adolescent at risk within a resettlement case.

This category has historically been applied predominately to cases of unaccompanied children being resettled without a caregiver. Some resettlement States have developed intensive settlement support programmes and alternative care arrangements geared specifically to meet the needs of unaccompanied children.²⁸

²⁷ 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>

²⁸ For guidance on settlement programmes for children and youth see Chapter 3.3 of UNHCR, *Refugee Resettlement. An International Handbook to Guide Reception and Integration*, September

Submission under Children and Adolescents at Risk as a primary category is also appropriate when the protection needs of a child or adolescent within a refugee family are the most compelling factors leading to the determination of resettlement as the appropriate durable solution. Among others, this could include situations where a child or adolescent faces protection risks due to their political or social activities or sexual orientation.

A child and adolescent submitted for resettlement under the *Children and Adolescents at Risk* category:

- is under 18;
- may or may not be an unaccompanied or separated child;
- has compelling protection needs which are not addressed in the country of asylum and resettlement has been determined to be the most appropriate solution.

The following considerations must be kept in mind when preparing a submission of an unaccompanied or separated child under the category of *Children and Adolescents at Risk*:

- A Best Interests Determination (BID) must identify resettlement as the most appropriate solution.
- The services and supports offered for unaccompanied or separated children should be considered when determining the resettlement State to which such a case will be submitted.
- The ability of the child to articulate a refugee claim may also be a factor in determining the resettlement State.
- Records should be kept carefully to facilitate family tracing and potential reunification in cases of unaccompanied and separated children.

6.7.2 Best Interests Determination

All unaccompanied and separated children being considered for resettlement require a Best Interests Determination (BID) according to the standards and procedures outlined in the *UNHCR Guidelines on Determining the Best Interests of the Child*.²⁹ The BID will assess whether resettlement is in the child's best interests.

As outlined in the BID Guidelines and reviewed in [Chapter 5.2.2](#), a best interests assessment of the situation of unaccompanied and separated, as well as other children at risk, should begin immediately after the identification of the child at risk. As part of this assessment, the process of family tracing is initiated, and the short-term care and protection needs are addressed.

2002, <http://www.unhcr.org/refworld/docid/405189284.html> For specific details on resettlement State programs see the Country Chapters linked to this Handbook at <http://www.unhcr.org/resettlementhandbook>

²⁹ UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, <http://www.unhcr.org/refworld/docid/48480c342.html>

Experience globally shows that the vast majority of unaccompanied or separated children and adolescents do in fact have parents or other relatives alive who can be located through tracing activities and who are able and willing to care for the child. Recognition of this fact is fundamental to the approach to helping unaccompanied and separated children and to the basic principles of child protection.

A formal Best Interests Determination (BID) process should begin within two years of the identification of the unaccompanied or separated child, or earlier if there are concerns regarding the temporary care arrangements, or if durable solutions or family reunification are being considered.

6.7.3 The child's refugee claim

In the context of resettlement, it should be borne in mind that some countries require that every individual, including children, meet the refugee definition, whether or not the child is the principal applicant. UNHCR encourages countries to consider the best interests of the child principle when conducting RSD, and to determine refugee status using the broadest possible interpretation when reviewing a resettlement submission of a child at risk.

It may be difficult for an unaccompanied child to establish refugee status using the same refugee criteria and procedures applied to adults. Children may not be able to articulate their claims to refugee status in the same way as adults and, therefore, may require special assistance to do so.

Furthermore, children and adolescents' unique experiences of persecution may not always be taken into account, due to factors such as their age, their level of maturity and development and their dependency on adults.

In its *Conclusion on Children at Risk* (2007), UNHCR's Executive Committee underlines the need for children to be recognized as "active subjects of rights" consistent with international law. The Executive Committee also recognized that children may experience child-specific forms and manifestations of persecution.³⁰

UNHCR's *Guidelines on Child Asylum Claims* offer substantive and procedural guidance on carrying out refugee status determination in a child-sensitive manner. The specific rights and protection needs of children in asylum procedures highlighted are also relevant in the review and articulation of the refugee claim required in the resettlement process.³¹

³⁰ UNHCR, *Conclusion on Children at Risk*, 5 October 2007, No. 107 (LVIII) - 2007, para. (b)(x)(viii), <http://www.unhcr.org/refworld/docid/471897232.html>

³¹ 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>



Essential reading

- UNHCR, *Conclusion on Children at Risk*, 5 October 2007, No. 107 (LVIII) - 2007, <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, *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>
- UNHCR, *Best Interests Determination Children - Protection and Care Information Sheet*, June 2007, <http://www.unhcr.org/refworld/docid/46a076922.html>
- UNHCR, *UNHCR Handbook for the Protection of Women and Girls*, January 2008, <http://www.unhcr.org/refworld/docid/47cfc2962.html>
- UNHCR, *International protection of children of concern*, 31 May 2010, EC/61/SC/CRP.13, <http://www.unhcr.org/refworld/docid/4cbd4co42.html>
- *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, Inter-Agency Standing Committee, 20 June 2007, <http://www.unhcr.org/refworld/docid/46co312d2.html>
- UNHCR, *UNHCR Policy on Refugee Children*, 6 August 1993, EC/SCP/82, <http://www.unhcr.org/refworld/docid/3f9e6a534.html>
- Inter-Agency, *Inter-Agency Guiding Principles on Unaccompanied and Separated Children*, January 2004, <http://www.unhcr.org/refworld/docid/4113abc14.html>

6.8 LACK OF FORESEEABLE ALTERNATIVE DURABLE SOLUTIONS

This submission category focuses on refugees who do not require resettlement for immediate protection needs, but who require an end to their refugee situation – a durable solution. These refugees are unable to return home in the foreseeable future, and have no opportunity to establish themselves in their country of refuge. In many cases, these refugees are in protracted refugee situations.

Most resettlement submissions under the Lack of Foreseeable Alternative Durable Solutions category (previously titled “refugees without local integration prospects”) are in coordination with national or regional strategies to address the needs of specific refugee groups, as described in [Chapter 5.7.1](#). However, individual cases may also be submitted under this category.

Identifying resettlement as the most appropriate durable solution for entire groups, or individuals within certain populations is part of the development of a protection and durable solutions strategy. Resettlement under this category is particularly promoted by UNHCR when resettlement can be used strategically, implemented within comprehensive solution strategies, and/or can help unlock protracted refugee situations.

A **protracted refugee situation** is any situation “in which refugees find themselves in a long-lasting and intractable state of limbo. Their lives may not be at risk, but their basic rights and essential economic, social and psychological needs remain unfulfilled after years in exile. A refugee in this situation is often unable to break free from enforced reliance on external assistance.”³²

Proactive planning for resettlement is an integral part of the annual planning process, during which the protection needs of populations of concern are assessed, and the most appropriate strategies to bring about changes in the condition and situations of population groups, including durable solutions strategies, are identified. The potential for voluntary repatriation, the quality of asylum and the level of social prospects inherent in the country of asylum are key considerations in the assessment of appropriate durable solutions. Incorporating resettlement into the planning process and the overall protection strategy of the office helps to ensure that all three durable solutions are assessed comprehensively, and that any negative impacts either of resettlement on other activities, or vice-versa, are mitigated.

Local integration as a durable solution is defined in **Chapter 1.3.4** of this Handbook, as is the relationship between local integration and self-reliance. As a concept, local integration sets explicit legal, economic, social and cultural standards for its attainment. The Lack of Foreseeable Alternative Durable Solutions Resettlement category is future-oriented. It balances the quality of asylum in a given country at a given moment against the prospects of enhancing asylum and prospects of local integration or voluntary repatriation within a foreseeable time frame.

The major challenge for UNHCR in this respect is to continue upholding its protection principles by resettling refugees who objectively are without local integration prospects in the host country, while at the same time working towards expanding and strengthening the quality of asylum and the refugees’ local integration prospects in that same country. Likewise, where voluntary repatriation is beginning or ongoing, resettlement activities should continue, but be delivered carefully, so as not to undermine the voluntary repatriation. All resettlement efforts, in particular resettlement as a durable solution, should be incorporated into a broader and comprehensive protection framework that provides for a clear strategy in this regard.

It should be recalled that *self-reliance* is promoted by UNHCR at all times, and provides the basis for any of the three durable solutions. As such, it does not in itself constitute local integration nor does it preclude resettlement. Field offices should reflect this in communicating with refugees, governments and other partners, in order to address any misperceptions and to ensure a correct understanding of the applicability of the Lack of Foreseeable Alternative Durable Solutions category for resettlement submissions.

³² Definition used in UNHCR, *Protracted Refugee Situations*, Standing Committee to the Executive Committee of the High Commissioner’s Programme, 30th meeting, EC/54/SC/CRP.14, 10 June 2004, <http://www.unhcr.org/refworld/docid/4a54bcood.html>

Submission under the Lack of Foreseeable Alternative Durable Solutions category

The submission of groups of refugees under this category requires prior consultation with the Resettlement Service at UNHCR Headquarters, as well as resettlement States. An abridged Resettlement Registration Form (RRF) may be developed under the group methodology. See [Chapter 5.7](#).

When assessing a group or an individual case for resettlement under the Lack of Foreseeable Alternative Durable Solutions category the preconditions and the indicators relating to legal protection and durable solutions, conditions of asylum, the socio-economic situation, and the individual's psychosocial situation must be carefully considered.

When submitting an individual case under Lack of Foreseeable Alternative Durable Solutions as the primary resettlement submission category, it is paramount to include adequate justification in the RRF.

6.8.1 Basic considerations and methodology

As with all cases to be submitted for resettlement, the preconditions for resettlement consideration as outlined in [Chapter 5](#) must be met. The use of standard identification tools and methodologies to identify needs as outlined in [Chapter 5.4](#) and [Chapter 5.5](#) facilitates the implementation of this category, and helps ensure consistency. [Chapter 5.7.1](#) addresses the identification of groups in need of resettlement. Please review these sections of this Handbook.

The first step in considering the application of this category is *the profiling or mapping of a refugee population*. Mapping the socio-demographic characteristics and protection needs and challenges of the refugee populations identifies groups or categories of refugees with common needs and characteristics. Mapping and protection profiling also provides the oversight to ensure consistency across national assessments of resettlement needs and to facilitate regional operational planning. Understanding the needs of the refugee population, and providing appropriate solutions to their specific problems, is the primary means of realizing the complementarity of the three durable solutions, an element that is of particular importance in assessing the potential applicability of the Lack of Foreseeable Alternative Durable Solutions resettlement submission category.

Second, in determining whether a refugee or a group of refugees should be considered for resettlement under this category, the formulation and application of a set of *objective indicators related to different areas of protection* is crucial. These include indicators related to the availability of protection and solutions, conditions of asylum, socio-economic considerations, and psychosocial factors.

Third, it should be noted that an *individual-level analysis* may identify case-specific grounds for utilizing this resettlement submission category.

Fourth, as will be apparent, the objective indicators provided below are of an *interrelated, general and non-exhaustive nature*. Therefore, UNHCR field offices are encouraged to develop additional, country-specific, and in some case, region-specific indicators as needed and appropriate.

6.8.2 Setting objective indicators

In order for a particular refugee or refugee groups to be considered for resettlement under this category, all the indicators below must be met. These indicators confirm that neither voluntary repatriation nor local integration is an option and that refugees are therefore at risk of languishing in a protracted refugee situation.

6.8.2.1 Indicators relating to legal protection and durable solutions

a. Legal, social and economic protection in the country of refuge

The definition of local integration, as included under [Chapter 1.3.4](#) of this Handbook includes as a key element a *legal process*, where refugees are granted a progressively wider range of rights similar to those enjoyed by citizens. Broadly speaking, this can be translated into the question as to whether the country of refuge – at the minimum – provides a protection regime which complies with the principles enshrined in the 1951 Convention with regard to the treatment of refugees as well as with basic international human rights instruments. In the affirmative, the refugees in question would not be a resettlement priority at the moment.

Where, however:

- refugees are at best only tolerated in the country of refuge and/or considered as “illegal immigrants”, or
- their stay in the country of refuge is based on a temporary protection regime, which is discretionary in nature,

the Lack of Foreseeable Alternative Durable Solutions submission category would still be an option, and application of the remainder of the indicators would need to be analyzed.

b. Prospects for voluntary repatriation in the foreseeable future

A determination of whether voluntary return to the country of origin is feasible in the foreseeable future is necessary. While this assessment needs to take into account individual socio-economic and psychosocial aspects (see below), an analysis of mere objective factors may lead to the assumption that:

- voluntary repatriation in safety and with dignity is still precluded for the specific refugees under consideration; *and*
- there are no indicators that the situation in the country of origin will improve in the foreseeable future.

Both would be indicators that the Lack of Foreseeable Alternative Durable Solutions submission category might remain an option for the refugee(s) in question.

Voluntary repatriation does not necessarily foreclose the possibility of resettlement for individuals under other resettlement submission categories. In situations where spontaneous voluntary repatriation takes place or when voluntary repatriation is actively promoted, there may be individuals who are unable to repatriate due to a continued fear of persecution in their country of origin. In the absence of the possibility of local integration in the country of asylum, resettlement for these refugees may provide the only durable solution. Such cases should be processed with discretion and in consultation with UNHCR Headquarters to avoid unrealistic resettlement expectations.

c. Do refugees have meaningful prospects of local integration in the country of refuge?

Refugees may not have meaningful prospects in situations where local authorities remain firmly opposed to even limited integration opportunities for the refugee population in general or the group/nationality under consideration, despite efforts on the part of UNHCR, refugees themselves and other actors.

Indications of meaningful integration prospects include (but are not limited to):

- issuance of work permits;
- inclusion of refugees in local apprenticeship schemes;
- significant number of marriages between refugees and the members of the local population; and
- an inclination on the part of the authorities to grant citizenship to refugees of a specific nationality/category.

An individual refugee's case for resettlement should, furthermore, be examined in light of conditions faced by other refugees similarly situated. This includes a realistic evaluation of how best to address the needs of other refugees in a similar category or those in identical circumstances in the country of refuge or neighbouring countries. For these purposes and to ensure regional consistency of durable solutions strategies, UNHCR offices with a refugee population of a similar profile should consult closely.



Resettlement under this category can also serve to open possibilities for comprehensive solutions strategies. Providing a durable solution for those refugees within a certain population who are not able to repatriate or integrate, can facilitate the return or integration of the remainder.

6.8.2.2 Indicators relating to conditions of asylum

a. Length of stay in the country of refuge

There is no definite length of stay in a country of refuge after which it can be said that a refugee lacks a durable solution. The emphasis in this regard is on the careful assessment of the foreseeable local integration prospects of the individual or group rather than on hard and fast rules relating to time frames.

Individual refugees may sometimes be quickly identified as having no prospect of either ever returning to their country of origin, or ever integrating in their country of refuge due to their cultural, social, religious or educational backgrounds. Resettlement under this category may be the most appropriate solution for such refugees.

However the length of stay is a factor in determining local integration prospects, under the basic assumption that the longer the stay without having been provided with a durable solution, the lower the potential for eventually being allowed to locally integrate.

Protracted stays in refugee camps (formally defined as five years or more) can increase the risks to which refugees may be exposed, and have negative consequences. Refugee children and adolescents born in the country of refuge that have never known any other environment (refugee camp, urban area) nor seen their homeland are particularly affected. Given their overall situation, these children/adolescents are at risk of becoming a “lost generation”.

b. Refugees’ living conditions in the country of refuge

Where refugees are located in closed camps, or in an urban setting in below standards living conditions (i.e. with an income below the minimum wage of local daily labourers in the host country), this would indicate that local integration prospects are limited.

If refugees, on the contrary, are based in open camps with freedom of movement from/to the camp and opportunities for interaction with the local population this would represent the opposite assumption. This also applies for refugees living under reasonable living conditions in an urban setting (meaning that they reach the minimum wage of local daily labourers in the host country).

c. Refugees’ living conditions within the region compared to refugees of the same group/category

In the event that living conditions in the country of refuge are worse or similar to those of refugees in other countries within the region, resettlement should be maintained as an option.

For example, if refugees of a particular profile (ethnicity, nationality etc.) are hosted in closed camps in the asylum country under consideration, but enjoy freedom of movement in a neighbouring country, use of the Lack of Foreseeable Alternative Durable Solutions submission category would warrant further analysis.

6.8.2.3 Socio-Economic Indicators

a. Access to fundamental services

In the instance that refugees do not have access to basic services (essentially constituting certain human rights), indications are that resettlement may be relevant. The pointers listed below are indicative of the lack of local integration prospects:

Education

- Refugee children do not have access to primary public education facilities.
- Refugee children and/or adults do not have access to the secondary public education or vocational training schemes.

Medical services

- Refugees have no access/limited access to public medical facilities:
 - because they are refugees, or
 - because as refugees belonging to a minority they have poorer facilities or limited access to general facilities.

Access to work

- Refugees do not enjoy the right to employment or access to other economic activity because, for example, they are prevented from trading in local markets or vulnerable to harassment or detention when pursuing economic opportunities in urban areas.

Access to property

- Refugees are *de jure* or *de facto* prevented from renting or buying property. A *de facto* obstacle may derive from discrimination against the refugee category or population generally and take the form and shape of, for example, an obligation to pay higher prices than the local population.

b. Overall living standards for local population in a similar situation

Where refugees, compared to the local population in a similar situation, are discriminated against with regard to access to services and/or accommodation, as a matter of government policy, and such treatment cannot be justified under the 1951 Convention or international human rights instruments, this may indicate that resettlement should be pursued if other indicators equally point to this solution.

c. Resettlement opportunities for the particular refugee category within the region

The below listed assumptions indicate that resettlement might be appropriate:

- Resettlement under this category is carried out consistently for the same profile of refugees within the country of refuge, whether in camps or in urban areas.
- Refugees belonging to the profile under consideration have equal resettlement opportunities within the region.
- Resettlement for the refugee profile under consideration is carried out as part of a comprehensive durable solutions strategy that aims at attaining local integration for other profiles among the same refugee constituency (e.g. refugees married to local citizens; refugees with the same cultural and linguistic background).

d. Family support and integration into the refugee community

This indicator goes more to the subjective level of the individual refugee. It should be established whether the refugee individual/group is: separated from close family members; or has lost close family members; or s/he is single. In addition, s/he has no sustained support from the refugee community. If it is concluded that family or community support is absent, resettlement should be considered.

e. The refugee's individual socio-economic profile

- The individual/group is excluded from refugees' predominant social, economic and community networks. (This is particularly relevant in urban contexts, where refugees are known to survive thanks to the support of community-based networks and the sharing of resources among members of the same clan or community.)
- The individual/group is entirely dependent upon UNHCR's assistance and is inactive for external reasons (e.g. a Government's restrictive approach to refugees).

In these cases, resettlement should be considered.

6.8.2.4 Psychosocial Indicators

a. The refugee's past history of persecution and circumstances of flight

As with other indicators listed in this section, if the subjective indicators outlined below are met, resettlement should be considered insofar as all the other indicators also apply.

- The persecution history of the individual/group is **relatively more severe** than that of other refugees/groups in a similar situation. While the circumstances of the refugee's/the group's flight did not create specific needs which warrant resettlement under one of the other submission categories, the circumstances of asylum have resulted in a negative impact on his/her/its motivation, emotional capacity and strength to cope with the challenge of integrating in his/her/its present country of refuge.
- The individual/group has a **several-year multiple flight history** behind him/her/them (e.g. Refugees who were uprooted from their home country at a very young age and have not stopped fleeing ever since then).
- Their history has strongly affected the refugees' emotional stability and their opportunities for self-development (education and training). Refugees under this category are considered **socially and economically disadvantaged**.

b. Efforts made on the part of the refugees to improve their personal situation

The individual/group has demonstrated **self-initiative** and **resourcefulness** in trying to improve his/her/its own situation in the country of refuge by taking advantage of all existing opportunities (e.g. community work, self-education, language-training).

6.8.3 Adverse effects

When it is determined that there is a need for resettlement due to a lack of other durable solutions, it is important to ensure that there will be no negative effects on other areas such as the prevailing asylum conditions and the standards of protection in the region for other individuals or groups of refugees.

As durable solutions strategies are often most effective when planned within a regional context, dialogue at the assessment stage with UNHCR offices in neighbouring countries of origin and asylum helps to ensure consistency and prevent having “pull factors” compromise or overwhelm a specific initiative.

6.8.4 Consultation process

Proactive planning for resettlement is an integral part of the annual planning process, and produces an overview on the resettlement needs for each country operation for the following calendar year, as well as a resource assessment of their processing capacity. The *UNHCR Projected Global Resettlement Needs* document which is compiled annually and shared with resettlement partners serves to raise awareness of populations identified as in need of resettlement to provide them with a durable solution. This is critical as resettlement consideration for those lacking foreseeable alternative durable solutions must take into account State receptiveness to cases submitted under this category.

The document provides the rationale and scope of UNHCR’s resettlement operations worldwide, 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.

Consultations on solutions for specific refugee populations can also promote the formation of broad-based multilateral approaches, involving several resettlement countries as outlined in the *Multilateral Framework of Understandings on Resettlement*,³³ and can support the strategic use of resettlement within comprehensive solution strategies. Various multilateral core groups and contact groups have formed over the years to collaborate on the resettlement of groups of refugees submitted primarily under this category, previously titled Refugees without Local Integration Prospects.

³³ UNHCR, *Multilateral Framework of Understandings on Resettlement*, 16 September 2004, FORUM/2004/6, <http://www.unhcr.org/refworld/docid/41597do4.html>

Overall, UNHCR field offices should consult with UNHCR Headquarters early on in the resettlement consideration of such population groups in order to help inform their decision making and ensure that a realistic assessment of resettlement possibilities can be made. *Prior* to initiating resettlement interviews or indicating to refugees that resettlement is a possibility, a resource assessment of the availability of resettlement places, financial requirements and the processing capacity of all parties involved has to be undertaken. This includes detailed planning and negotiations with countries of resettlement, UNHCR Headquarters, and interested and experienced NGOs.

6.8.5 Setting priorities

Individuals or groups should be submitted for resettlement under this category only where the resettlement places and required resources are available, or are made available. It is recognized that cases submitted under the category Lack of Foreseeable Alternative Durable Solutions have an ongoing, not an urgent, need for resettlement. When resettlement places are limited, or adequate resources for conducting resettlement activities are not available, cases related to more urgent protection concerns will *always* take precedence.

Further reference

- UNHCR, *Protracted Refugee Situations*, Standing Committee to the Executive Committee of the High Commissioner's Programme, 30th meeting, EC/54/SC/CRP.14, 10 June 2004, <http://www.unhcr.org/refworld/docid/4a54bcood.html>
- UNHCR, *Framework for Durable Solutions for Refugees and Persons of Concern*, 16 September 2003, EC/53/SC/INF.3, <http://www.unhcr.org/refworld/docid/4ae9ac93d.html>
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- UNHCR, *Position Paper on the Strategic Use of Resettlement*, 4 June 2010, <http://www.unhcr.org/refworld/docid/4cod1oac2.html>
- UNHCR, *The Strategic Use of Resettlement*, 3 June 2003, <http://www.unhcr.org/refworld/docid/41597a824.html>

