

CHAPTER 1 UNHCR: THE MANDATE AND THE ORGANIZATION

Chapter Overview

This chapter provides information about UNHCR's mandate from the United Nations, to protect and assist refugees and to find durable solutions to their plight through voluntary repatriation, local integration or resettlement. The term "refugee" is defined, with a brief description of the various sub-groups protected and assisted by UNHCR and its operational partners. There is an overview of the organization of UNHCR, and an explanation of the associated terminology. The chapter concludes with a description of UNHCR's operational role, programme implementation options and the criteria for selecting implementing partners.

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Section 1.1 UNHCR's MANDATE

1. Historical Background
2. UNHCR's Evolving Responsibilities

UNHCR's Statute (UN General Assembly resolution 428(V) of 14 December 1950):

"The United Nations High Commissioner for Refugees, acting under the authority of the General Assembly, shall assume the function of providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the present Statute and of seeking permanent solutions for the problem of refugees by assisting governments and, subject to the approval of the governments concerned, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities."

1. HISTORICAL BACKGROUND

1.1 UNHCR is the Office of the United Nations High Commissioner for Refugees. The Office was created in December 1950 by Resolution 428(V) of the United Nations General Assembly, and began its operations on 1 January 1951. UNHCR is a humanitarian and strictly non-political organization devoted to protecting and assisting refugees.

1.2 Refugees are people who have been forced to sever links with their home country. They cannot rely on their own governments for legal protection; it is this, which distinguishes refugees from other migrants, however desperate, and other people in need of humanitarian assistance. Because refugees do not have access to the legal and social protection that a properly functioning government is supposed to extend to its citizens, the international community has had to make special arrangements to respond to their particular plight.

1.3 The conviction that the international community – rather than individual governments or charitable organizations – has a duty to provide refugees with protection and find

solutions to their problems dates from the time of the League of Nations, established in 1920. Fridtjof Nansen, a renowned Arctic explorer from Norway, believed that the League of Nations provided an unprecedented opportunity to establish peace and promote reconstruction in post-war Europe. In 1921, to provide a focal point for coordination of relief efforts, the League of Nations appointed Nansen as the first High Commissioner for Refugees – a role he performed tirelessly until his death in 1930.

1.4 One of the fundamental problems facing refugees and displaced people was their lack of internationally recognized identity papers. The new High Commissioner introduced the "Nansen passport", the forerunner of today's Convention Travel Document for Refugees. It enabled thousands to return home or settle in other countries, and represented the first in a long and still evolving series of international legal measures designed to protect refugees.

1.5 Over the following years, the League of Nations set up a succession of organizations and agreements to deal with new refugee situations as they emerged. The League defined refugees in terms of specific groups who were judged to be

in danger if they were returned to their home countries. Starting with the problem of identity papers and travel documents, measures to protect refugees became more comprehensive as time went on, covering a wide range of matters of vital importance to their daily lives, such as the regularization of their personal status, access to employment and protection against expulsion.

1.6 When the United Nations replaced the League of Nations in 1945, it recognized from the outset that the task of caring for refugees was a matter of international concern and that, in keeping with its Charter, the community of States should assume collective responsibility for those fleeing persecution. In 1946, at its first session, the General Assembly adopted a resolution that laid the foundations for United Nations activities in favour of refugees. The resolution stressed that no refugee or displaced person who had expressed valid objections to returning to his country of origin should be compelled to do so.

1.7 The United Nations also established the International Refugee Organization (IRO), whose mandate was to protect those refugee groups that had been recognized by the League of Nations, and one new category – the 21 million or so refugees scattered throughout Europe following World War II. Initially, the IRO's main objective was repatriation. But the political build-up to the Cold War tilted the balance instead towards resettlement of those who had valid objections to returning home. The IRO was replaced by the Office of the High Commissioner for Refugees (UNHCR) in 1951.

2. UNHCR's EVOLVING RESPONSIBILITIES

2.1 UNHCR's founding Statute entrusts UNHCR with two main and closely related functions – to protect refugees and to promote durable solutions to their problems.

2.2 When UNHCR was first established, material aspects of refugee relief were seen to be the

responsibility of the government which had granted asylum. Activities mainly concerned the resettlement of refugees in the aftermath of World War II, whose needs were largely met by the countries directly involved and by non-governmental organizations. However, as many of the world's more recent major refugee flows have occurred in less developed countries, UNHCR has acquired the additional role of coordinating material assistance for refugees, returnees and, in specific instances, displaced persons. Although not mentioned in the organization's Statute, this has become one of UNHCR's principal functions, alongside protection and the promotion of durable solutions.

2.3 In 1952, the General Assembly recognized the need for UNHCR to extend some form of material assistance to refugees, and authorized the High Commissioner to seek funds for emergency aid. In 1954, the High Commissioner was authorized to establish the United Nations Refugee Fund (UNREF). Its purpose was to achieve durable solutions (through voluntary repatriation, local integration and resettlement) and to continue emergency assistance to the most needy cases. In 1957, the General Assembly authorized the High Commissioner to put into effect an annual assistance programme, to be submitted for approval to the Executive Committee (EXCOM). The High Commissioner was also authorized to establish an emergency fund. This was the beginning of what later became UNHCR's General Programmes. More recently, starting with the budget for 2000, these General Programmes and another category called Special Programmes (see below) were merged into a unified Annual Programme Budget (see Section 2.2, UNHCR's Budget and Funding).

2.4 Toward the end of the 1950s and throughout the 1960s, the focus of UNHCR's activities turned from Europe towards developing countries. This shift was prompted by the refugee crisis resulting from the process of decolonization, primarily in Africa. During this period, the General Assembly authorized the High Commissioner to lend his/her good offices

in seeking appropriate solutions to the problems of specific groups. These mainly comprised persons in situations similar to those of refugees but who, for various reasons, were not considered to be within the High Commissioner's mandate. The needs of these groups were, in general, temporary, and voluntary repatriation was frequently a feasible solution.

2.5 This trend changed in the late 1960s and early 1970s. As the process of decolonization abated, new types of conflicts emerged, many of them regional, giving rise to large-scale movements of refugees. This was also the period when UNHCR was called on to provide assistance under "Special Programmes", in accordance with resolutions adopted by the General Assembly and the Economic and Social Council (ECOSOC). This category of programmes has since been discontinued, but the realities they addressed are still covered under UNHCR's unified Annual Programme Budget or Supplementary Programmes (see Section 2.2, UNHCR's Budget and Funding).

2.6 The refugee problems of the 1980s, 1990s and those currently facing the Office, bear little resemblance to those of the early years which followed the adoption of UNHCR's Statute. Difficulties are often compounded by development problems, and solutions to the underlying conflicts can be elusive, leading to stagnating refugee situations. Moreover, in recent years, the General Assembly and the United Nations Secretary-General have called upon UNHCR with increasing frequency to protect or assist particular groups of internally displaced persons who have not crossed an international border but are in a refugee-like situation inside their country of origin. For example, in 1991, the Secretary-General asked UNHCR to assume the role of lead United Nations agency for humanitarian assistance to the victims of the conflict in the former Yugoslavia. By 2002, UNHCR was assisting some five million internally displaced persons in Africa, the Balkans, the former Soviet Union, Colombia, Sri Lanka, East Timor, Afghanistan and other locations.

2.7 These conditions have led the High Commissioner to undertake preventive initiatives in countries, which currently produce refugees or may do so in the future. In undertaking such initiatives, UNHCR is careful to ensure that such activities are complementary to its international protection responsibilities, and consistent with the principles of international human rights and humanitarian law; in particular, UNHCR must ensure that the institution of asylum is not undermined. These preventive activities are carried out both before and during refugee crises. In the latter case, they frequently take place in the broader context of United Nations peace-keeping or peace-making efforts.

2.8 UNHCR's assistance programmes have inevitably grown substantially, both in magnitude and complexity, and differ radically from those introduced in the early days of its existence. In situations such as those described above, where political solutions to conflicts are hard to find, ongoing protection and assistance programmes, accompanied by efforts to make refugees more self-reliant, are often the only alternative. The resources required for these programmes are considerable.

2.9 In terms of financial resources, UNHCR is almost entirely dependent on voluntary contributions. Only part of UNHCR's administrative expenditures is met from assessed contributions, i.e. from the United Nations Regular Budget (which, in 2002, amounted to less than two per cent of UNHCR's overall resource requirements).

2.10 The underlying goal of UNHCR's assistance remains the facilitation of protection and durable solutions. As programmes have become larger and more complex, and in order to improve their planning and management, a more impact- and results-oriented Operations Management System (OMS) has been developed and is gradually being introduced to replace the earlier Programme Management System (PMS). This first revision to the Handbook reflects the changes that have been introduced so far.

2.11 As UNHCR enters the 21st century, its framework for action and that of its partners is to be found in the *Agenda for Protection*. This Agenda was the main product of the *Global Consultations on International Protection*, that UNHCR launched in December 2000. Their purpose was to provoke and to equip States, UNHCR and its other partners better to address the numerous challenges confronting refugee protection. The resulting Agenda for Protection reflects a wide cross-section of concerns and recommendations of States, intergovernmental organizations, non-governmental organizations (NGOs), as well as refugees themselves.

2.12 The Agenda for Protection focuses on suggested activities which would strengthen international protection of asylum seekers and refugees and improve implementation of the 1951 Convention and its 1967 Protocol. These activities flow from the Declaration adopted unanimously by States Parties to the 1951 Convention and/or its 1967 Protocol at the Ministerial Meeting of State Parties, organized jointly by Switzerland and UNHCR on 12-13 December 2001, to commemorate the Convention's 50th anniversary. For further information on the Global Consultations, the Report of the Ministerial Meeting, and the Agenda for Protection, please consult UNHCR's website.

Further Resources

UNHCR's website: www.unhcr.ch contains a range of additional information on the mandate and history of UNHCR:

- ***The State of the World's Refugees 2000. Fifty Years of Humanitarian Action.*** (Oxford University Press, 2000)
Chapter 1: The early years
Chapter 11: The changing dynamics of displacement
- ***UNHCR. A Pictorial History***
- ***Helping Refugees. An Introduction to UNHCR***
- ***Global Consultations***

Section 1.2 PROTECTION, ASSISTANCE AND DURABLE SOLUTIONS

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1. International Protection
 2. Refugee Status
 3. Protection and Assistance
 4. Durable Solutions
 5. Preventing Refugee Crises
 6. Statelessness
-

1. INTERNATIONAL PROTECTION

The protection of refugees is UNHCR's *raison d'être*. Protection lies at the heart of the Office's efforts to find durable solutions to the plight of refugees, and provides the context in which UNHCR carries out its relief activities.

2. REFUGEE STATUS

2.1 The 1951 Convention relating to the Status of Refugees was drawn up in parallel with the creation of UNHCR. It is a legally binding treaty and a milestone in international refugee law. While the scope of the 1951 Convention (see below) was confined to people who became

refugees prior to 1 January 1951, UNHCR, through its Statute, was given a general competence to deal with refugee problems wherever they might arise, irrespective of date or location, as long as those concerned had a well-founded fear of persecution.

2.2 Subsequent decades demonstrated that refugee movements were by no means a phenomenon confined to World War II and its aftermath. As new refugee groups emerged, it became increasingly necessary to adapt the Convention to make it applicable to new refugee situations. The 1967 Protocol was introduced to make the Convention truly universal and not limited in time.

1951 Convention relating to the Status of Refugees

- Contains a general definition of the term "refugee" that no longer ties it to specific national groups, but to the reasons (or causes) for flight.
- Establishes the principle of *non-refoulement*; that is, the not-removing a person to a territory where he/she would be at risk of being persecuted, or of being moved to another territory where he/she would face persecution.
- Sets standards for the treatment of refugees, including their legal status, employment and welfare.
- Scope limited to people who became refugees as a result of events that took place before January 1, 1951, with signatory States given the option to limit its geographical application to Europe.

1967 Protocol

- Abolished the geographical limitation and the 1951 deadline, making the Convention universal.

Regional Initiatives

2.3 While the 1951 Convention definition of a refugee, with its emphasis on individual persecution, still forms the core of UNHCR's mandate, additional criteria have been progressively introduced to accommodate the evolving nature of refugee flows in recent decades.

2.4 Regional initiatives have extended the definition of a refugee as follows:

- a. To take into account the special characteristics of the situation in Africa, the Organization of African Unity (OAU) formulated the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa, which expands the definition of a refugee to include persons who were compelled to leave their country not only as a result of persecution, but also "owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality".
- b. In 1984, the Cartagena Declaration on Refugees was adopted for the Central American region, adding the criterion "massive violation of human rights". Although not formally binding, the Cartagena Declaration has become the basis of refugee policy throughout Latin America, and has been incorporated in the national legislation of a number of States.

2.5 The extended refugee definitions of the OAU Convention and the Cartagena Declaration have brought international protection to a large number of people who may not be covered by the 1951 Convention and the 1967 Protocol, but are forced to move for a complex range of reasons including persecution, widespread human rights abuses, armed conflict and generalized violence.

2.6 Broadening of the refugee definition in response to regional considerations has provided much needed flexibility to international action on behalf of people forced to flee their countries. However, it has also introduced a new complexity because a person recognized as a refugee in one region may not necessarily be considered one elsewhere.

Definition of a Refugee

According to the 1951 Convention Relating to the Status of Refugees, the term "refugee" applies to any person who:

"owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

Returnees

2.7 The General Assembly has also called upon the High Commissioner to provide assistance to returnees, as well as to monitor their safety and well-being on return (General Assembly Resolution 40/118). The situation of returnees needs to be monitored to ensure that amnesties or guarantees offered by the government of the country of origin are fulfilled and that returnees enjoy the same human rights and fundamental freedoms as their fellow citizens.

“Persons of Concern”

2.8 On an *ad hoc* basis, the UN General Assembly and Secretary-General have frequently asked UNHCR to take care of groups of people – usually referred to as “persons of concern” – who are not covered by the 1951 Convention or even by the extended refugee definitions. For example, some groups of internally displaced people, such as the Kurds in northern Iraq and civilians in parts of Bosnia and Herzegovina, need international protection.

3. PROTECTION AND ASSISTANCE

3.1 To promote and safeguard the rights of refugees, UNHCR tries particularly to:

- a. Encourage accessions by States to the basic international instruments relating to refugees, and ensure their implementation.
- b. Ensure that refugees are treated in accordance with recognized international standards, receive an appropriate legal status, and enjoy economic and social rights that are comparable to those of the nationals of their country of asylum.
- c. Protect refugees and persons applying for refugee status from forcible return (*refoulement*) to a country where they have reason to fear persecution, and ensure that their applications for asylum are examined within the appropriate framework.
- d. Help ensure the personal security of refugees and asylum-seekers.
- e. Promote the reunification of separated family members.

3.2 These measures are fundamental to protect the rights of asylum-seekers and persons recognized as refugees. They may, however, be

futile if the person’s basic material needs are neglected. The reverse is also true: there is little purpose in having funds to feed refugees if they are not protected from *refoulement*. Particularly where governments are concerned about the well-being of local populations where resources are threatened by the presence of a large number of asylum-seekers, the supply of material assistance may be a means of preventing *refoulement*.

3.3 Other examples of the links between protection and assistance are:

- a. The site chosen for a local settlement must take into account the security of those who will be accommodated there – proximity to a border may be a source of danger.
- b. The construction of dwellings and camp buildings must ensure privacy and security for women, who may otherwise become victims of sexual assault.
- c. Assistance towards repatriation must have as a first principle the voluntary nature of the return.
- d. Resettlement assistance can ensure the physical safety of refugees, and can also help individuals to be reunited with other members of their families.
- e. Assistance to individuals or refugee families, particularly in urban areas, may include legal assistance or counselling.

4. DURABLE SOLUTIONS

4.1 The task of promoting durable solutions to refugee problems is embodied in UNHCR’s Statute (see Section 1.1, UNHCR’s Mandate). The Statute defines durable solutions under two distinct headings: voluntary repatriation, and assimilation into new national communities which may involve local settlement in the country of first asylum or resettlement in a third country, as shown below:

DURABLE SOLUTIONS

1. Voluntary repatriation
2. Local settlement
3. Resettlement

4.2 In seeking durable solutions to refugees' problems, UNHCR attempts to help those who wish to go home. Where repatriation is not feasible, it helps to integrate refugees in countries of asylum or, failing that, to resettle them in other countries.

4.3 Durable solutions are vital for refugees, to release them from a sense of dependency and help restore their self-respect. Durable solutions prevent the development of a dependency syndrome, and provide opportunities for refugees to make a new start following the trauma that has accompanied the act of seeking refuge outside their homeland. Durable solutions also reduce the burden on the international community, and relieve the burden on local communities when refugees who join them become economically independent and socially integrated.

4.4 UNHCR assigns a two-letter code to identify each type of durable solution:

- RP voluntary repatriation
- LS local settlement
- RE resettlement

Voluntary Repatriation (RP)

4.5 Voluntary repatriation, when feasible, has long been considered the preferred solution to refugee problems. It allows refugees to resume normal life in their home country, and restores cultural and ethnic bonds within that country. Three vital conditions must be fulfilled to implement voluntary repatriation in conditions of safety and dignity:

- a. The return must be voluntary; no refugee should be returned to his/her country of origin or habitual residence against his or her will.
- b. There must be clear and unequivocal agreement between the country of asylum and the country of origin, both on the modalities of the movement and the conditions of reception; wherever possible, Tripartite Commissions should be formed involving the countries of origin and asylum, and UNHCR.
- c. As far as possible, returnees should be allowed to return to their place of former residence.

4.6 Where voluntary repatriation is organized or facilitated by UNHCR, the Office attempts, wherever possible, to ensure that a legal framework is set up to protect the returnees' rights and interests. Steps taken include negotiating amnesties and guarantees of non-recrimination against returnees.

4.7 Assistance measures in the country of asylum include preparations for departure and help in organizing the journey home, by the most appropriate means of transport. Transit centres in the country of asylum are sometimes required. In some cases, reception facilities have to be organized within the country of origin.

4.8 Assistance may be provided in the initial phase of reintegration into their country of origin, to meet basic needs and help the rehabilitation of the returnees. Such assistance is provided by UNHCR, and sometimes may be part of an overall United Nations programme of rehabilitation and reconstruction. Its purpose is to assist the returnees to integrate, as rapidly as possible, into the economic and social life of their country of origin, which will once again assume responsibility for their protection. UNHCR may maintain a monitoring role for a limited, transitional period. UNHCR also aims to enlist the support of development agencies in rebuilding the economic and social life in the communities of return.

4.9 A spontaneous cross-border return of a voluntary nature may also take place, involving, at times, large numbers of refugees. While the movements themselves may occur without international assistance, UNHCR assistance may subsequently be required at a later stage to facilitate the process of reintegration.

Local Settlement (LS)

4.10 In cases where voluntary repatriation is unlikely to take place in the foreseeable future, the best solution is often to settle refugees in their country of asylum, or host country. This can only be done, however, with the agreement of the government of the host country concerned.

4.11 In industrialized countries, government welfare systems and non-governmental organizations provide the bulk of the resources necessary to integrate refugees. Elsewhere, UNHCR furnishes varying degrees of support for local settlement projects in both urban and rural settings.

4.12 Refugees may benefit from assistance towards self-sufficiency and integration into the economic and social life of the local community. This assistance takes many forms, depending upon factors such as the situation of the refugees, their background, their location and the situation of the host country. For example:

- a. **Spontaneous Local Settlement:** refugees may settle spontaneously amid the local population, sharing the resources and infrastructure available. This frequently occurs in Africa, especially when the refugees belong to the same ethnic group as the population living in the area of influx. When large numbers are involved, UNHCR may provide support to the authorities of the host country, through limited reinforcement of the local infrastructure.
- b. **(Planned) Local Settlement of Refugees in Rural Areas:** most

frequently implemented for the benefit of refugees of rural background, rural settlements assisted by UNHCR are planned in cooperation with the host government, and implemented by governmental agencies and/or non-governmental organizations. The refugees themselves are encouraged to contribute progressively to the efforts towards self-sufficiency. Assistance measures are diverse, and UNHCR's financial assistance is phased out as the settlement becomes self-supporting and the basic social infrastructure is restored. Such assistance measures may include:

- planning and construction of the settlement;
 - providing food during the initial period of settlement;
 - supplying household and other basic items;
 - organizing agricultural and other income-generating activities;
 - taking measures with respect to nutrition, water, sanitation, health and education; and
 - promoting community development.
- c. **Local Settlement of Refugees in Urban Areas:** assistance to these refugees is also aimed at self-reliance. Measures range from providing subsistence allowances, counselling, and education grants, to undertaking income-generating projects of various kinds. The right to work is particularly important when promoting durable solutions for urban refugees.

In all cases, however, steps must be taken to ensure the legal integration of these former refugees, that is, they need to have a migratory

status that will allow them to legally reside in the country and to access basic social services.

Resettlement (RE)

4.13 Resettlement is the third durable solution for refugees, when neither voluntary repatriation nor local integration are possible. While the number of refugees resettled by UNHCR since the late 1980s has declined dramatically, resettlement still remains an important instrument of international protection and a durable solution for refugees when no other option is available.

4.14 Refugees requiring resettlement may be facing serious protection problems in their country of first asylum, in many cases related to *refoulement*, expulsion, undue detention or a threat to their physical safety. Resettlement to a safe third country would therefore be the only solution. However, resettlement, unlike voluntary repatriation or seeking asylum, is not a right. Refugees are submitted for resettlement using carefully defined criteria. Indeed, resettlement should obviously not be pursued because a refugee has become a burden or because of his/her behaviour.

4.15 Resettlement may also be sought for reasons of family reunification, or for those refugees deemed vulnerable within UNHCR's criteria, and for whom resettlement offers the only durable solution. This group may include refugees with medical problems, women at risk, etc. As it is recognized that the uprooting of refugees identified as requiring special attention may not always be in their best interest, it is imperative that every effort should be made in the first instance to examine whether their needs can be met in a local or regional context.

4.16 Ideally, resettlement opportunities should always be explored within the region of first asylum so as to enable the refugee to remain, if possible, near to his/her country of origin, so that return may be considered when circumstances permit. Furthermore, if the

refugee's culture and customs are compatible with those of the regional host country, integration, if permitted, may occur more readily.

4.17 Extra-regional resettlement involves moving the refugee away from the geographical region, but may be the only realistic solution. A limited number of resettlement countries offer annual quotas. While the numbers offered in these quotas are generous, the need for places is still greater. UNHCR is committed to continue the process of dialogue with interested governments and NGOs in order to expand and strengthen its resettlement activities.

5. PREVENTING REFUGEE CRISES

5.1 In the 1990s, UNHCR has increasingly undertaken preventive initiatives in countries which currently produce refugees or which may do so in the future. It is incumbent on the international community to seek ways and means to avert involuntary displacements. The Executive Committee has called on the High Commissioner to actively explore new options for preventive strategies which are consistent with protection principles (UNHCR Executive Committee, Conclusion No. 62(XLI) – 1990).

5.2 In situations where economically motivated migrants may seek to take advantage of refugee channels, mass information programmes have been launched to provide a clearer understanding of refugee status. These programmes aim to discourage people who may seek to use asylum channels for economic reasons, while keeping them open for those who flee persecution.

5.3 Where civil strife and refugee crises have already erupted, UNHCR has become more directly involved with internally displaced and other local populations. UNHCR has increasingly undertaken humanitarian action, not only to provide relief but also to avert further internal displacement and to reduce the need for people to take refuge abroad. Humanitarian assistance can stabilize population movements and

eventually create conditions favourable to the return of refugees.

5.4 In responding to refugee crises, UNHCR attempts, wherever possible, to link prevention of further displacement to the promotion of durable solutions.

6. STATELESSNESS

A “stateless person” is a person who is not considered as a national by any country. The Universal Declaration of Human Rights states that everyone has a right to a nationality and no one should be arbitrarily deprived of his/her nationality or of the right to change his/her nationality. In 1996, the UN General Assembly called on UNHCR to promote accessions to the 1954 and 1961 Conventions on Statelessness. To be stateless means, *inter alia*, that a person can not obtain a passport, have access to a judicial system, etc. There are strong links between displacement and statelessness:

- Displacement can cause statelessness (when, for example, a person’s displacement is followed or accompanied by a redrawing of territorial boundaries).
- Displacement can be a consequence of statelessness (when stateless or denationalised populations are forced to leave their usual place of residence).
- Statelessness can be an obstacle to the resolution of refugee problems (when, for example, countries refuse to readmit former refugees on grounds of statelessness).

Statelessness is a problem that States should resolve. UNHCR works with governments to address the problem of statelessness, by providing, *inter alia*, technical and legal advice on their nationality legislation.

Further Resources

UNHCR Website:

www.unhcr.ch

Protecting Refugees

- Legal Protection
- Global Consultations
- Women
- Children
- Resettlement
- Statelessness

Our Partners

- ***Protecting Refugees: A Field Guide for NGOs.*** Produced jointly by UNHCR and its NGO Partners (September 1999).

Section 1.3 WHO ARE THE REFUGEES, RETURNEES AND INTERNALLY DISPLACED?

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1. The Challenge
 2. Refugee Women and Gender Equality
 3. Refugee Children including Adolescents
 4. Refugees with Special Needs
 5. Urban Refugees
 6. Returnees
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1. THE CHALLENGE

1.1 Today's refugees are fleeing combinations of persecution, conflict and widespread violations of human rights, both inside and outside their countries of origin. To ensure that our efforts to protect and assist the refugees are effective, we have to know who the refugees are, and the particular needs of specific individuals and groups of refugees.

1.2 Refugee populations are not homogeneous. Cultural and religious differences abound. As in any large group of people, there are numerous sub-groups within a given population or community. UNHCR's mandate of providing protection to refugees and seeking durable solutions to their problems, brings with it specific obligations regarding the various categories of refugees.

1.3 The diverse strengths, roles and needs of different individuals and sub-groups of refugees must be addressed when planning, implementing and reporting on protection and assistance projects.

2. REFUGEE WOMEN AND GENDER EQUALITY

2.1 In recent years, UNHCR's EXCOM has recognized the importance of devoting special attention to the needs of refugee women. This

awareness reflects a more general concern for the conditions of refugee women, as expressed in other United Nations fora, including the Economic and Social Council (ECOSOC) and the United Nations Commission on the Status of Women.

2.2 The *UNHCR Policy on Refugee Women* (1990) is premised on the recognition that becoming a refugee affects men and women differently and that effective programming must recognize these differences. Furthermore, to understand fully the protection needs and assistance resources of the refugee population, and encourage dignity and self-sufficiency, refugee women themselves must participate in planning and implementation projects. UNHCR's Policy on Refugee Women clearly underlines that it is the responsibility of every staff member to ensure that the integration of the resources and needs of refugee women in all aspects of UNHCR work takes place within his or her area of competence. The Policy describes a range of objectives (both policy and operational) to support the overall organizational goals and provide the basis for the development of appropriate activities and work plans to enhance the implementation of UNHCR's Policy on Refugee Women. UNHCR looks to its partners to help achieve the objectives of the Policy.

2.3 The *Guidelines on the Protection of Refugee Women* deal with issues ranging from assessment and planning to the addressing of protection

REFUGEE WOMEN

Watch for:

- Adolescents
- Single female heads of households

Physical Safety

- Camp design and layout
- Water and firewood collection
- Attitudes of local and refugee populations

Access to Services

- Food distribution
- Health services
- Education/skills training

needs through assistance, including topics such as camp design and layout, access to food, education and skills training. They also include guidance on legal procedures, criteria for the determination of refugee status and physical security. *Guidelines for Prevention and Response to Sexual and Gender-based Violence against Refugees, Returnees and Internally Displaced Persons* focus on the need to prevent incidents of sexual violence from occurring, and include suggested strategies and action that can be taken by UNHCR, NGOs, host governments and the refugees themselves; they provide practical advice on how to respond to incidents of sexual violence, covering the fields of medical treatment, psychological support and legal intervention.

2.4 The general principles concerning UNHCR's work in protecting and assisting refugee women may be summarized as follows:

- a. Refugee women are likely to be affected differently than men by their condition as refugees. Because they are women, they may be at special risk, both during flight and within the country of asylum. This gives rise to specific needs in terms both of protection and assistance, of which an awareness is essential.

- b. It is essential to secure the active participation of refugee women in planning and implementing activities, of which they are the main beneficiaries. This will not only help them to retain their personal dignity and self-respect, but will also increase programming efficiency through the use of skills which are critical for the community's economy and life. Such participation can also be an important factor in accelerating progress towards achieving self-sufficiency for themselves and their families.

- c. Measures to assist and protect women should be integrated into UNHCR's activities, rather than being regarded as separate issues in programme planning and implementation.

2.5 The following practical measures concern procedures to be applied within the context of programme and project management:

- a. The assessment of needs and resources specific to women must be an integral part of the needs and resources assessment process (see Section 3.2).

- b. Use of the People Oriented Planning framework (see Section 3.1), as part of the planning process, will help highlight the respective roles, responsibilities and needs of refugee men and women; statistics (broken down by sex and age groups) and gender-specific data should be an integral part of planning documentation.
- c. Specific mention of the impact of protection and assistance programmes on women is required when completing Part 2 of Sub-Project Monitoring Reports (see Section 5.2).

People Oriented Planning (POP)

UNHCR's planning approach starts with the recognition that all refugee groups are not homogeneous. Therefore, it is important to find out specific information about the composition and profile of various refugee groups in order to ensure efficient, cost-effective and humane protection and assistance programmes; one needs to be aware also that gender roles vary in different societies and that these determine who has access to, and has control over resources; good programming must reflect such roles and seek to redress inequalities.

2.6 UNHCR's Senior Coordinator for Refugee Women and Gender Equality is attached to the Director's Office, Division of Operational Support at UNHCR Headquarters. The Senior Coordinator provides guidance, feedback and shares good practices and experience with staff in the field. She is supported by field-based Regional Advisers for Refugee Women and

Gender Equality, who monitor the integration of refugee women and gender equality into all protection and assistance activities. Through the office of the Senior Coordinator, UNHCR undertakes a wide range of activities in support of refugee women and gender equality, such as:

- training, especially through support for income-generating activities and skills development;
- funding the participation of refugee women's groups in regional and national peace networks;
- participating in inter-agency initiatives aimed at strengthening refugee women's leadership and negotiating skills.

2.7 UNHCR is also in the process of developing "gender networks" comprising UNHCR and partner staff. Network participants, with different technical backgrounds, will be trained in gender equality analysis and issues of concern to women to enable them to promote gender sensitivity, especially in their respective areas of activity.

Further Resources

UNHCR Website:
www.unhcr.ch/women

- UNHCR Policy on Refugee Women;
- UNHCR Good Practices;
- Gender and Humanitarian Assistance Resource Kit.

3. REFUGEE CHILDREN, INCLUDING ADOLESCENTS

3.1 Refugee children, including adolescents under the age of 18, make up some 40 per cent of the world's refugees and have special needs that require specific action in terms of both protection and assistance. Refugee children are a policy priority for UNHCR.

3.2 UNHCR's reference documents (see Box, page 19) with regard to refugee children are:

- UNHCR's *Policy on Refugee Children* (1993);
- UNHCR's *Refugee Children: Guidelines on Protection and Care* (1994);
- *Progress Report on Refugee Children and Adolescents, including UNHCR's Strategy for Follow-up to the Report on the Impact of Armed Conflict on Children* (UNHCR, EC/47/SC/CRP.19, of 9 April 1997);
- *Refugee Children and Adolescents: A Progress Report* (UNHCR, EC/50/SC/CRP.7, of 7 February 2000);
- *Summary Note on UNHCR's Strategy and Activities Concerning Refugee Children* (UNHCR, Refugee Children Coordination Unit, May 2002).

3.3 The 1951 Refugee Convention and the 1967 Protocol apply to children in the same way as to adults. However, the human rights of children are most fully articulated in the 1989 Convention on the Rights of the Child (CRC). The CRC has been ratified by every country in the world, except two. Thus in States that are not party to any refugee treaty, the CRC can be used as a basis for protecting refugee children. The CRC is a universally agreed set of non-negotiable standards and obligations. It spells out the basic human rights that children everywhere – including refugee children – have: the right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation;

and to participate fully in family, cultural and social life. The CRC protects children's rights by setting standards in health care, education and legal, civil and social services. Two additional Optional Protocols, on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, entered into force in 2002.

3.4 All actions taken on behalf of refugee children should be guided by four fundamental and universally recognized principles:

- **The best interests of the child:** in each and every decision affecting the child, the various possible solutions must be considered and due weight given to the child's best interests. This means that legislative bodies must consider whether laws being adopted benefit children in the best possible way. Courts and others settling conflicts of interest should base their decisions on what is best for the child. In the allocation of budgets, special attention should be given to children's policies and to the impact the policies will have on children's lives.
- **Non-discrimination:** every child within a State's jurisdiction is entitled to all the rights of the CRC, independent of immigration status. This includes refugee children, asylum seekers and rejected asylum seekers.
- **Participation:** the participation of children, especially adolescents, in decision making not only ensures identification of their needs in programme design, but also meets their developmental needs as they learn e.g. decision-making skills and gain self-confidence to use those skills.
- **Right to life, survival and development:** appropriate measures to safeguard life must be taken. These include measures to increase life expectancy and to lower infant and child mortality. Identifying numbers of disadvantaged children and

assessing their situation is essential. Establishing an effective birth registration is instrumental.

3.5 Providing protection and care through assistance to refugee children is an integral part of planning, formulating, implementing and evaluating UNHCR's projects. Partnerships with other UN agencies and NGOs, in particular those specialising in child-focused programming, are essential. NGOs should evaluate their own refugee projects in the light of the Policy and the Guidelines on Refugee Children. Progress achieved in providing assistance to refugee children should be reported in Sub-Project Monitoring Reports (see Section 5.2).

3.6 Special attention should be paid to the following issues in designing programmes for refugee children:

- **Separation:** unaccompanied and separated children face an increased risk of military recruitment, sexual exploitation, abuse and violence and forced labour. (Separated children are defined as children under 18 years of age who are separated from both parents, or from their previous legal or customary primary caregiver; they can be accompanied or unaccompanied.) These children need immediate protection and assistance; concrete measures are listed in detail in the 1994 Guidelines (see also: *UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum*, 1997; *Inter-Agency Guiding Principles on Unaccompanied and Separated Children*, 2002). The most important steps are identification; immediate registration (see Chapter 11 of the *UNHCR Handbook for Emergencies* for a registration form) and documentation; tracing of and reunification with their family (IDTR) – if in the child's best interest. These steps should be accompanied by the appointment of a guardian and temporary placement in a foster family, where the child's well-being is monitored.
- **Education:** the importance of education for the protection and development of refugee children is increasingly being recognised. Education can serve as a vital tool for e.g. the prevention of recruitment into forced labour, military activities and sexual exploitation, and imparts life saving knowledge and skills (e.g. HIV/AIDS, education for peace and conflict resolution). UNHCR endeavours to ensure access to primary education for all refugee children, with particular emphasis on girls. Programming initiatives should also give particular attention to adolescents and school drop-outs by opening up possibilities for access to secondary education and non-formal educational opportunities.
- **Sexual exploitation, abuse and violence:** in most refugee and returnee situations, refugee children face an increased risk of sexual exploitation, abuse and violence. Both boys and girls are at risk, but girls are the principal targets, with separated girls, including those living in foster care, or heading a household, being at particular risk. Preventive measures include, *inter alia*, awareness raising (including among males), enrolment in education and programmes to combat harmful traditional practices, as well as camp lay-out. Response measures include health and psycho-social services for survivors, counselling and treatment of STDIs (see *Guidelines for Prevention and Response to Sexual and Gender-based Violence against Refugees, Returnees and Internally Displaced Persons* (UNHCR, 2003); these Guidelines, as their title suggests, focus both on prevention and response.
- **Military recruitment:** military recruitment is conducted by State and Non-State agents, with boys often being used in combat and other military activities, whereas girls are frequently used for sexual slavery and forced labour. UNHCR advocates against military recruitment of

children in all circumstances. Preventive and rehabilitation/reintegration measures include: enrolment in formal and non-formal and vocational education and income generating activities, as well as family-reunification and psycho-social services.

- **Specific needs of adolescents:** older children, who are mid-way between childhood and full maturity, have specific needs that are often overlooked. In

addition to specific health and nutritional needs, adolescents often lack educational/skills training opportunities beyond primary education, as well as meaningful non-formal activities which make them even more prone to military recruitment and sexual exploitation.

There may be additional and/or other regional priority issues such birth registration, detention and harmful traditional practices that need to be addressed.

Further Resources

Further useful information and resource material that can be accessed through the UNHCR public website:

- *UNHCR documents* listed in 3.2 above.
- *UNHCR Handbook for Emergencies* (UNHCR 2000).
- *UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum* (1997).
- *Convention on the Rights of the Child (CRC)*.
- *Inter-Agency Guiding Principles on Unaccompanied and Separated Children* (2002).
- *Action for the Rights of Children (ARC)* is a child based training and capacity building programme, which was initiated by UNHCR and the International Save the Children Alliance and is widely used as a training initiative within UNHCR and with partners. The programme engages staff in identifying and addressing critical issues affecting children and encourages dialogue, including with children themselves, and aims to be a catalyst for effective prevention and response.
- *"Meeting the rights and protection needs of refugee children – an independent evaluation of UNHCR's activities"* undertaken by VALID International, Oxford, UK; published by UNHCR, May 2002 (EPAU/2001/ 02). The executive summary provides an overview of issues and recommendations for improved programming.
- *Separated Children in Europe Programme (SCEP)*: this website (www.sce.gla.ac.uk) provides recommendations and a statement of good practice with regard to separated children.
- *UNICEF website* (www.unicef.org): documents, background material, statistics, etc.

4. REFUGEES WITH SPECIAL NEEDS

4.1 Refugees with special needs include the following:

- unaccompanied children (see above);
- disabled persons;
- unaccompanied elderly;
- single parent families;
- victims of violence and torture;
- minority groups;
- unaccompanied or isolated women;
- persons suffering from serious or chronic illness (including mental disturbance);
- handicapped; and
- refugees with HIV/AIDS.

4.2 Refugees in any of these categories are likely to require special care, especially if they lack support from a family or the community. UNHCR's response should be based on the following principles:

- a. The refugee's own participation should be encouraged in finding the most appropriate solution.
- b. The most effective help is likely to come from the refugee community itself.
- c. Institutionalization of relief measures, leading to long-term dependency, must be avoided; this requires close monitoring of the assistance provided.
- d. Wherever feasible, and to prevent social problems, measures such as facilitating family reunion and re-establishing traditional coping mechanisms, should be given priority.

4.3 Effective assistance to refugees with special needs begins with the assessment of their needs and resources. The refugee community, notably elders (men and women), school teachers, health workers and others can assist in this task.

4.4 Other relevant policies and procedures relating to refugees with special needs are found in the following references:

- a. *UNHCR Handbook for Social Services (1984)*, including an Assessment Form for a person who is disabled or chronically ill.
- b. *Older Refugees – a resource for the Refugee Community*. UNHCR Policy on Older Refugees (UNHCR, 2000).
- c. *Training Disabled People in the Community* (World Health Organization, Geneva).

Medical Care for Disabled Refugees

4.5 Refugees should normally be treated locally in public health facilities accessible to nationals. In exceptional cases, where adequate facilities are not available locally, a refugee may be evacuated to a neighbouring country within the region (or abroad) for necessary medical treatment and/or surgical intervention. All local possibilities must, however, first be explored before any referral is considered.

4.6 Normally, specialized medical care may only be provided if such care is also available to the local population. In the case of severely disabled refugees for whom treatment costs exceed UNHCR's financial resources, every effort must be made to secure assistance free-of-charge in specialized institutions in certain countries.

5. URBAN REFUGEES

5.1 Refugees residing in urban areas, often referred to as 'urban refugees', are of diverse origins and backgrounds. They may be city dwellers who arrive in an urban area directly from their country of origin. They may be

refugees who have moved out of rural camps and taken up residence in a city. They may be refugees who have moved on from a country of first asylum, often because they cannot find the protection or solutions they need in that country. Contrary to common opinion, urban refugees are not exclusively or even predominantly young males; such populations normally include a substantial number of children, adolescents and women.

5.2 Providing protection and solutions to refugees in urban areas is often hindered by the fact that they have no legal status, residence rights or work permit. In many countries, the labour market is highly competitive, and so the opportunities for employment in urban areas are also very scarce. As a result, and if they find jobs at all, refugees may have no choice but to accept the most arduous, dangerous and insecure forms of employment.

5.3 Efforts to assist refugees in urban areas have generally proved problematic. It is difficult to keep track of large numbers of refugees who are scattered throughout a large city. Urban refugees frequently find it difficult to gain equitable access to public services such as education and health. Providing regular subsistence payments to refugees in urban areas is expensive and difficult to administer. It may also require means-testing, a process that often leads to tensions between the refugees and the agency responsible for this task.

5.4 The following objectives should be used when planning and implementing assistance for urban refugees:

- a. Increase their capacity to solve their own problems, taking into account their initial needs to overcome the impact of abrupt change, isolation, trauma, cultural shock, and dependence.
- b. Encourage self-help measures directed at durable solutions, avoiding prolonged dependence on subsistence allowances.

- c. Promote community self-help activities, such as community centres, language classes and income-generating projects.
- d. Give priority to assisting refugees with special needs, such as the disabled, elderly, single parents, isolated women without support, and unaccompanied children, based wherever feasible on self-help; such priority should also be directed towards reducing inequalities in the services received by different groups, such as between male and female refugees.
- e. Use local expertise, where available, to perform market surveys, create employment opportunities (including those outside urban areas) and identify educational options; locally-based agencies are often UNHCR's best partners for such activities.

5.5 The administration of large numbers of individual cases requires the application of a systematic, case management approach, including the following steps:

- a. Promote the granting of appropriate legal status, to the extent this is inadequate, to allow refugees to have access to employment and educational facilities.
- b. Conduct a thorough assessment of each urban refugee individual or family (noting that there may be differences for women and men), to determine:
 - what assistance is required, for how long; and
 - how the individual refugee or family can contribute towards self-sufficiency.
- c. Draw up a plan between counsellor and refugee, summarizing the agreed path to self-sufficiency. Review the plan periodically, to measure progress against the objective.

- d. Carry out a regular case-load analysis.

5.6 Assistance most frequently provided to urban refugees involves:

- a. Care and maintenance, through the provision of daily subsistence allowances (normally not exceeding six months), giving priority to refugees with special needs.
- b. Voluntary repatriation (whenever feasible).
- c. Local settlement assistance, including:
- counselling, as part of case management;
 - educational assistance, giving priority to primary education and vocational training;
 - income-generating schemes (including grants or loans and co-operative schemes); or
- d. Resettlement (rarely applicable).

5.7 Further Resource

Evaluation of the Implementation of UNHCR's Policy on Refugees in Urban Areas (by Naoko Obi and Jeff Crisp, EPAU/2001/10, December 2001).

6. RETURNEES

6.1 Refugees who have returned to their country of origin, normally in the context of voluntary repatriation, are referred to as "returnees". The term is also applied to displaced persons within a country who have returned to their places of former residence.

6.2 In legal terms, refugees who return voluntarily to their country of origin cease to be refugees and, therefore, cease to be of concern to the High Commissioner. UNHCR has, however, been called upon by the UN General Assembly to

assist returnees, within the context of voluntary repatriation operations. There is often a particular need to facilitate the reintegration of refugees and displaced persons returning to their homes which have suffered large-scale devastation from long years of conflict.

Protection of Returnees

6.3 In principle, UNHCR's protection responsibilities cease from the moment that the country of origin assumes responsibility for its returning nationals. In practice, however, UNHCR may be called upon to assume a monitoring role for a limited period, in close consultation with the parties concerned. UNHCR requires, for this purpose, direct and unhindered access to returnees to monitor the fulfilment of the amnesties, guarantees or assurances on the basis of which the refugees have returned.

6.4 Assistance to returnees within the context of a voluntary repatriation programme is intended to ensure the durability of the voluntary repatriation. It entails a range of measures that vary according to local circumstances and needs. These measures fall into four categories:

- a. **Pre-Departure Arrangements:** may include registration, completion of a *Declaration of Voluntary Repatriation*, medical screening and vaccination, sharing of information with those departing and logistical preparations. Special attention should be paid to the needs of vulnerable persons, in particular the elderly, pregnant women, disabled persons, unaccompanied children, and others who cannot cope with the demands of self-care;
- b. **Transportation:** involves the transport of returnees and their belongings and associated requirements (transit centres, food, etc.) to move the returnees from the country of asylum, or zone of displacement, to their home areas;

- c. **Relief Measures:** may include the distribution of food rations, household items, shelter materials, simple agricultural tools, seeds, etc. The duration of this assistance is normally limited to three to six months for each individual returnee (the operation itself may last longer, depending upon the number of returnees involved). The distribution of relief items should be limited to a one-time distribution. Food assistance may, however, be required for a 12-18 month period, covering a planting and harvest cycle. The World Food Programme (WFP) is normally responsible for providing basic food items; and
- d. **Rehabilitation:** of a short-term nature, designed to assist the returnees to attain a standard of living comparable to that of the local population. Assistance is normally provided to individuals but, where necessary, can involve limited support to help improve the basic infrastructure of communities with a concentration of returnees. UNHCR's direct involvement in this form of assistance is of limited scope and duration. As regards broader development initiatives in the areas of return, UNHCR's role is principally that of a catalyst, to encourage the national government to include areas of return in national development plans, and to support the involvement of international development organizations (including other UN agencies), in support of the national government, in areas of return (Section 3.1.5). The needs of vulnerable persons should be assessed and specially addressed.

6.5 Imagine Coexistence: the Imagine Coexistence Project was initiated by Mrs. Ogata, the United Nations High Commissioner for Refugees (1990-2000), as a way of addressing UNHCR's responsibilities in situations of repatriation to and reintegration into divided

communities. It included projects in Bosnia-Herzegovina and Rwanda and a substantial research component implemented by the Fletcher School of Law and Diplomacy, Tufts University.

6.6 The initiative sought to demonstrate the possibilities for promoting coexistence among members of deeply divided communities, including returning refugees and displaced persons. It began with the recognition that reconciliation is, at best, a distant goal, but coexistence is a crucial shorter-term objective that leads towards reconciliation and forgiveness. The project focused on joint activities for members of conflicting groups to build/rebuild relationships with a view to overcoming deeply rooted mistrust and promoting cooperation, which would help them to be prepared for future development processes in a post-conflict environment.

6.7 The report by the research team from Fletcher School of Law and Diplomacy, Tufts University presented important lessons learned from the project, and provided major findings especially as regards the refinement of the concept of coexistence, the role of implementing partners, the context analysis, development of a strategy for the launching of community efforts, implementation and evaluation of activities and the role of UNHCR.

6.8 More information on the results of the project and the lessons learned may be obtained from RLSS (Reintegration and Local Settlement Section) in the Division of Operational Support (UNHCR).

Section 1.4 ORGANIZATION AND ROLE OF UNHCR

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1. UNHCR and the UN System
 2. UN High Commissioner for Refugees
 3. UNHCR Executive Committee (EXCOM)
 4. Headquarters Organization
 5. Field Operations
-

1. UNHCR AND THE UN SYSTEM

1.1 UNHCR is one of a number of subsidiary organizations, specialized agencies and commissions established by the United Nations to further the purposes of its Charter. Other organizations within the UN System with which UNHCR works most frequently include the World Food Programme (WFP), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), the United Nations Development Programme (UNDP), and the International Bank for Reconstruction and Development (IBRD).

1.2 The **General Assembly** is the UN's main deliberative body which examines issues coming within the scope of the UN Charter. The General Assembly is composed of representatives from all member States, each State having one vote. Its regular annual session, held in New York, begins in mid-September and continues until mid-December. Special sessions may also be convened on specific topics. The results of its deliberations are communicated as resolutions.

1.3 The work of the General Assembly takes place in committees and in plenary sessions. Its Main Committees are as follows:

The purposes of the United Nations as embodied in its Charter are:

- to maintain international peace and security;
- to develop friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples;
- to cooperate in solving international problems of an economic, social, cultural or humanitarian character, and promoting respect for human rights and fundamental freedoms for all; and
- to be a centre for harmonizing the actions of nations in attaining their common ends.

- First Committee
Disarmament and International Security
- Second Committee
Economic and Financial
- Third Committee
Social, Humanitarian and Cultural
- Fifth Committee
Administrative and Budgetary
- Sixth Committee
Legal

Of the Main Committees, those of special importance to UNHCR are the Third and Fifth Committees.

1.4 In addition, there are a number of other committees and bodies established under the General Assembly's rules of procedure: procedural committees; standing committees; and subsidiary bodies. In addition, a number of Treaty Bodies established by the Human Rights Conventions report to the General Assembly on their activities.

1.5 Of the standing committees, one of particular relevance to the work of UNHCR is the **Advisory Committee on Administrative and Budgetary Questions (ACABQ)**. As the name suggests, the ACABQ reviews all issues of a budgetary or administrative nature that come before the Fifth Committee of the United Nations General Assembly. Set up by the General Assembly at its first session (GA Res.14A (I) (1946)), it has 16 members each appointed for a period of 3 years. Members are eligible for reappointment; they retire by rotation. UNHCR appears before the Committee normally once a year in September, prior to the Executive Committee, to discuss the Annual Programme Budget to be presented to EXCOM. On occasion, UNHCR has appeared at its own request before the Committee to discuss and obtain ACABQ's views on a particular proposal to be considered by EXCOM. All issues of budgetary significance to be considered by EXCOM (e.g. creation of

positions of D II and above, changes to Financial Rules, proposals on budget structure, new office for Headquarters, etc.) normally have to be accompanied by the views of the ACABQ on the issue. The EXCOM has shown itself, in the past, singularly reluctant to take decisions of a budgetary/administrative nature without first having the opinion of the ACABQ.

1.6 In accord with article 24 of the UN Charter, the members of the UN have entrusted the **Security Council** with the primary responsibility for the maintenance of international peace and security. The Security Council is made up of five permanent members (China, France, Russian Federation, UK, USA) and 10 non-permanent members, five of whom are elected each year by the General Assembly for a period of two years. Given the increased appreciation of the links of forced displacement to security, the High Commissioner is invited, from time to time, to brief the Council on particular refugee situations.

1.7 In the social and economic fields, the UN is charged, according to its Charter, with promoting:

- higher standards of living, full employment, and conditions of economic and social progress and development;
- solutions of international economic, social, health and related problems, and international cultural and educational co-operation; and
- universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

Responsibility for discharging these functions is vested in the Assembly and, under its authority, in the **Economic and Social Council (ECOSOC)**.

1.8 Each year the High Commissioner prepares a report on the activities of the Office that is presented through ECOSOC to the General

Assembly (Section 2.3). The Report of the annual UNHCR Executive Committee Meeting is added to the ECOSOC Report as an addendum, to make the UNHCR Annual Report to the General Assembly. For the text of these Annual Reports (since 1951) and ECOSOC Reports (since 1995), see UNHCR's website (www.unhcr.ch): **Executive Committee.**

Printed Resource

United Nations Handbook (New Zealand Ministry of Foreign Affairs and Trade).

2. UN HIGH COMMISSIONER FOR REFUGEES

2.1 UNHCR's Statute specifies that the High Commissioner be elected by the General Assembly, on the nomination of the Secretary-General. The High Commissioner is responsible to the General Assembly for the discharge of the Office's Mandate; he/she is responsible to the Secretary-General for the administration of the Office.

2.2 A biographical note on each of the High Commissioners is found on UNHCR's website (www.unhcr.ch): see Administration (Ruud Lubbers) and The State of the World's Refugees 2000 (Annex 11; UN High Commissioners for Refugees 1951-2000). Selected speeches of the High Commissioners may also be found on the UNHCR website.

3. UNHCR EXECUTIVE COMMITTEE (EXCOM)

3.1 The Executive Committee (EXCOM) was established by the General Assembly in November 1957 [GA Res.1166 (XII)] to oversee

the work of UNHCR, and met for the first time in early 1959. Prior to EXCOM, there existed an Advisory Committee on Refugees (1951-1954) and then the UNREF Executive Committee (1955-1958). Currently (2003) there are 64 members of the Executive Committee.

3.2 The EXCOM meets annually (October) in Geneva, Switzerland. The work of the EXCOM is facilitated by a Standing Committee which meets 3-4 times a year. The Standing Committee came into existence in 1996; it subsumed the work of the two previous sub-committees of the whole, namely the Sub-Committee of the Whole on International Protection (SCIP), and the Sub-Committee on Administrative and Financial Matters (SCAF).

3.3 EXCOM is, strictly speaking, not a governing body, but it does fulfil a number of essential oversight/advisory functions, such as:

- a. Approves the High Commissioner's assistance programmes in an Annual Programme Budget.
- b. Scrutinizes all financial and administrative aspects of the Office's work.
- c. Advises the High Commissioner on the discharge of his/her protection function.

Convention Plus

"Convention Plus" is a generic term for a range of new protection tools in the form of multilateral "special agreements" intended to complement the 1951 Convention. The process of consultations leading to the elaboration of such agreements is called the **Forum**.

4. HEADQUARTERS ORGANIZATION

4.1 The Headquarters of UNHCR is located in Geneva. It has an Office at the UN Headquarters in New York, as well as representations/ offices in a large number of countries.

4.2 The organization of UNHCR's Headquarters provides coherent overall direction for international protection, effective management of field activities, and the necessary financial, technical and administrative support. The mixture of substantive, geographical and functional responsibilities inherent in UNHCR's activities requires direct accountability to the High Commissioner, through a minimum of supervisory layers, and strong functional controls which ensure that activities comply with established policies and procedures which are applied consistently among the regions, and that resources are used to best effect for refugees.

4.3 Currently, the Headquarters organization consists of the Executive Office, the Department of International Protection, the Department of Operations (made up of five regional Bureaux, the Division of Operational Support (DOS) and the Evaluation and Policy Analysis Unit (EPAU)), the Division of Communication and Information (DCI), the Division of Financial and Supply Management (DFSM) and the Division of Human Resources Management (DHRM). In addition, and reporting directly to the Executive Office, are a number of units, including the Office of UNHCR's Inspector General, and the Emergency and Security Service (ESS). For a current organigramme of UNHCR's Headquarters structure, see UNHCR's public website (www.unhcr.ch): *Administration*.

4.4 Each of the five regional Bureaux is responsible for a specific geographic area. A Bureau is made up of the Office of the Director and a number of Desks, each with a Head of Desk responsible for a country or a group of countries. Exceptionally, a Special Operations Unit may be created to coordinate a particular refugee situation, either within or as a separate

entity to a Regional Bureau. The five Bureaux are as follows:

- Bureau for Africa;
- Bureau for The Americas;
- Bureau for Asia and Pacific;
- Bureau for CASWANAME (Central Asia, South-West Asia, North Africa and the Middle East);
- Bureau for Europe.

5. FIELD OPERATIONS

5.1 Within each country where UNHCR has operations, the official in charge is generally called the *Representative* (i.e. of the Office of the High Commissioner for Refugees); the country office, in turn, is designated as the *UNHCR Representation in country X*. In those instances where it is a question of a regional office, the UNHCR presence is referred to as the *UNHCR Regional Representation in X region*; correspondingly, the High Commissioner's representative is referred to as the *Regional Representative*. In a given country, the UNHCR presence, under the overall authority of the Representative, may be distributed among the Country/Branch Office in the capital, and, depending on the size of the operation, Sub-Office(s) and Field Office(s).

5.2 The UNHCR Representative acts on behalf of the High Commissioner in all aspects of UNHCR's activities in the country(ies) to which he/she is accredited. The UNHCR Representative's responsibilities, are, *inter alia*, to promote UNHCR objectives and maintain relations with the government, diplomatic missions, UN agencies, other inter-governmental organizations, non-governmental organizations and the media; to ensure the protection of persons of concern to UNHCR through the government's observance of the universally recognized principles of asylum; and to promote accession to and, where applicable, compliance with the relevant international refugee instruments.

Section 1.5 UNHCR'S OPERATIONAL ROLE AND OPERATIONAL PARTNERS

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1. Operational Role
 2. Implementation Options
 3. Coordination
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1. OPERATIONAL ROLE

UNHCR's operational role, defined by its mandate (see Section 1.1), encompasses full responsibility and accountability to the international community and the refugees for all aspects of the complete life-cycle of a refugee situation – from early warning and contingency planning, to the protection of and assistance to refugees, to the achievement of durable solutions to the plight of the refugees and other persons of concern to the High Commissioner, including returnees and internally displaced persons.

2. IMPLEMENTATION OPTIONS

2.1 UNHCR performs its operational role, whether it is implementing through implementing partners (Section 1.6), implementing directly, or cooperating closely with operational non-governmental and other organizations which are self-funded or have sources of funding other than UNHCR. UNHCR's mandated functions include the provision of humanitarian aid to those in need, emergency relief, assistance with voluntary repatriation, local integration and resettlement, education, counselling, rehabilitation and legal assistance.

2.2 UNHCR is operational through its responsibility and accountability for the effective planning and design of UNHCR-funded projects, and their overall supervision, monitoring, control and evaluation. This ensures that the required assistance is received by the intended beneficiaries and is consistent with the approved project description, budget and clauses of the

implementing instrument, according to an established plan.

2.3 In some instances, UNHCR has no option but to provide direct assistance, i.e. to implement refugee assistance itself. This happens most frequently in the initial stages of an emergency involving a sudden influx of refugees, or in a repatriation operation, where it is not possible to mobilize other agencies fast enough to respond to the needs of the refugees. Sometimes, the host government specifically requests UNHCR to implement directly, or a suitable implementing partner cannot be readily identified. Protection or security concerns may require the direct operational involvement of UNHCR. UNHCR has also become increasingly operational for international procurement purposes, because many of the commodities required for refugee programmes are not readily available locally.

2.4 UNHCR sometimes defines operational partnerships with international and inter-governmental organizations, based on their respective mandates, on a global basis and formalizes this partnership in a Memorandum of Understanding (MOU). A good example is UNHCR's MOU with WFP (2002). Such MOUs clarify the respective roles and responsibilities of UNHCR and the operational partner in refugee and returnee situations; on the basis of the global MOU, more situation-specific MOUs are entered into, from time to time.

2.5 Operational partnerships with non-governmental organizations (NGO) may be formalized through the Framework Agreement for Ope-

rational Partnership (Appendix A) which aims to build an active operational partnership through a common commitment to understanding each other's roles and responsibilities, thus leading to better coordination and service to refugees; it also sets out standards of conduct, both professional and personal.

3. COORDINATION

3.1 The successful delivery of refugee assistance programmes requires close coordination throughout the entire programming cycle, including the needs assessment, planning and budgeting stages, and consultation with local authorities in the concerned area. Parameters should be agreed from the outset on the medium and long-term objectives, the type and the level of the response, and the limits of the partners' respective authority and responsibilities.

3.2 UNHCR is recognized as the appropriate lead agency in refugee and returnee situations or in others where it has been designated the "lead agency", to bring together concerned bodies for needs assessments, and the formulation of objectives, programmes, reporting systems and policy guidelines. In such situations, UNHCR retains overall responsibility to ensure that an appropriate durable solution is implemented, while respecting the independence of its partners who have been selected for their professional expertise and to whom authority has been delegated accordingly.

3.3 Thus, UNHCR's operational role in refugee and returnee situations always includes a coordinating function, regardless of whether UNHCR is providing the funding. Together with the government(s) concerned, UNHCR coordinates all protection and assistance to refugees, attempting to:

- a. Ensure that assistance is timely, appropriate and cost-effective.
- b. Establish appropriate standards and ensure their application.

- c. Identify complementarities and synergy among those involved in providing assistance.
- d. Avoid duplication of assistance activities.
- e. Facilitate communication and joint planning among the organizations involved.
- f. Encourage effective management practice at all stages of programmes, from emergency preparedness and response to consolidation of durable solutions and phase out.

Framework Agreement for Operational Partnership

The Framework Agreement for Operational Partnership (FAOP) between UNHCR and NGOs grew out of the PARinAC Process (1994). Using the PARinAC Oslo Agreement and Plan of Action as its basis, the FAOP addresses the need for a common approach towards the provision of protection and assistance to refugees by UNHCR and its NGO partners.

***See Appendix A1
to this Handbook***

Section 1.6 UNHCR'S IMPLEMENTING PARTNERS

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1. UNHCR Delegation of Implementation Responsibilities
 2. Choice of an Implementing Partner
 3. Building Partnership
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1. UNHCR DELEGATION OF IMPLEMENTATION RESPONSIBILITIES

1.1 The implementation of UNHCR's assistance projects is normally entrusted to an implementing partner, in accordance with the Statute of the Office. Implementing partners are usually specialized government departments or agencies, other members of the United Nations system, non-governmental and inter-governmental organizations and, in some instances, private firms.

1.2 From the outset, UNHCR's work was intended to be undertaken jointly with other members of the international community. As its activities have expanded and diversified, UNHCR's relations with its implementing partners have become increasingly important. UNHCR draws on the expertise of other UN organizations in matters such as food supply (WFP) and food production (FAO), health measures (WHO), education (UNESCO), child welfare (UNICEF), vocational training (ILO) and development assistance (UNDP). Over the decades, non-governmental organizations have continued to provide the most sustained and devoted service to the cause of refugees, returnees and other persons of concern. They not only provide substantial aid from their own resources, but frequently carry out specific UNHCR projects.

1.3 The delegation of the implementation of an assistance project is embodied in an implementing agreement, which is a document signed by UNHCR and the implementing partner, and which is legally binding. The implementing

agreement defines the conditions governing the implementation of a project and provides authority for the obligation of funds (see Section 4.1).

1.4 For implementing partners, implementation can only begin *after* the implementing agreement has been formulated, issued and signed.

2. CHOICE OF AN IMPLEMENTING PARTNER

2.1 The choice of an implementing partner for project implementation is determined by several factors, including the scale, nature and location of the project under which assistance is to be provided. In many instances, a government department will implement a component of the project (sub-project). Non-governmental organizations (NGOs) may also be selected to implement a sub-project.

Operational Partner: governmental, inter-governmental and non-governmental organizations and UN agencies that work in partnership with UNHCR to protect and assist refugees, leading to the achievement of durable solutions.

Implementing Partner: operational partner that signs an implementing agreement and receives funding from UNHCR.

2.2 As concerns non-governmental organizations (NGOs) in particular, they must meet four basic conditions in order to be considered by UNHCR as an implementing partner:

- a. They must be legally registered at the location of their Headquarters and/or in the country where they are operating;
- b. They must have the authority to operate a bank account in the country of implementation and the ability to maintain separate accounts and/or accounting records for any expenditures incurred on behalf of UNHCR;
- c. They must be able to demonstrate financial reliability through the production of official annually audited financial statements; and
- d. They must be willing to adhere to the rules and procedures of UNHCR for project implementation, to follow UNHCR's established policies, and to comply with the laws and policies of the country in which they operate.

2.3 Because each refugee situation is unique, the responsible UNHCR Representative will take a number of additional criteria into consideration when selecting appropriate implementing partners. The following list provides an indication of these criteria, but UNHCR must maintain flexibility in its selection criteria to assure the desired effectiveness, efficiency and quality of services to the refugees:

- a. **Quality of service:** an implementing partner will be selected to meet a defined need. The partner should be able to demonstrate a previous ability to deliver such assistance effectively, either in the same country or elsewhere.
- b. **Rapid response:** since most refugee situations, by their very nature, occur or change suddenly, the implementing

partner should be able to respond to emergencies at short notice. The implementation of a programme of assistance will be greatly improved if the partner can be involved at the planning stage.

- c. **Local experience:** given the lead time taken to get established in a new country, UNHCR prefers to select a partner who already has an ongoing programme in the country and for whom an expansion of work would not be administratively difficult.
- d. **Contribution of resources:** the support base of implementing partners, particularly NGOs, varies considerably. However, it would normally be expected that a partner, particularly an NGO, would be able to make a contribution of resources to the programme in cash or kind (e.g. staff and administrative support). In any case, NGO and UNHCR fund-raising efforts for programmes should be complementary, in recognition of the partnership principle.
- e. **Continuity of staff:** the ability of an implementing partner to maintain staff for sustained periods of time will contribute to the continuity and stability of the programme, and the cumulative knowledge of those involved in a programme will enhance its benefits to the refugees.
- f. **UNHCR experience:** given the time required to become acquainted with the reporting and other UNHCR procedures, it may be preferable to select an implementing partner with previous experience working with UNHCR. This should not, however, exclude new partners whose other qualities make them suitable for the implementation of refugee programmes.

- g. **International or national/local organizations:** it may be preferable to select a national or local NGO, or an international NGO with a local affiliate, since they may be better acquainted with the local situation. For a refugee programme, they can provide elements such as cultural awareness, knowledge of local conditions, ability to work effectively at the grass roots level, language skills, recognition and cooperation from local authorities, and so on. On the other hand, they may lack expertise, international connections and funding sources. It should also be borne in mind that, in certain sensitive refugee situations, the presence of international staff from an international NGO can be beneficial to the refugees;
- h. **Single NGO or consortium:** in some situations, a consortium of NGOs who pool their resources to provide a coordinated response to refugee needs can be advantageous; and
- i. **Phase-out potential:** the implementing partner should be able to plan for a phase-out or phase-down of their involvement through, *inter alia*, the recruitment and training of refugees, local staff and/or local communities.

2.4 When the choice of an implementing partner has been made, the UNHCR Office establishes an ongoing dialogue, with a view to undertaking joint assessments of local situations and involving the implementing partner's staff in the planning process.

3. BUILDING PARTNERSHIP

3.1 UNHCR field operations range from large scale, complex emergencies for the benefit of hundreds of thousands of refugees to minimal assistance to limited numbers of individual refugees in towns and cities. UNHCR's financial contribution to its partners ranges from no

contribution at all, to a small percentage of a partner's overall budget or to representing the major source of a partner's funding. Many partners are full creative partners with UNHCR at all stages of the planning and implementation process, while others depend on UNHCR to determine the nature and scope of their involvement. Given this range of relationships, it is difficult to precisely define the factors that ensure effective working relations between UNHCR and its operational and implementing partners. One point, however, is clear: building effective partnerships with its operational partners (referred to here as both operational and implementing partners) is one of UNHCR's main priorities in every operation.

3.2 While each operation has its unique characteristics, the lesson that UNHCR and its partners have learned repeatedly is that effective partnership is no accident. The pressure to respond quickly, the potential for misunderstanding, and the difficulty in maintaining good communication, all create conditions that can result in ineffective and inefficient decision-making and delivery of assistance. The challenge for UNHCR and its partners is thus one of making their partnership succeed. This requires a deliberate effort on the part of all staff members: UNHCR's and those of the operational partners.

3.3 Recent consultations by UNHCR with partners to reinvigorate a culture of partnership, various collaborative processes, programme evaluations and programme management training workshops with UNHCR and operational partners have all provided opportunities for staff members to reflect on what is needed to create and sustain effective partnership. These can be illustrated as a series of UNHCR-operational partner "Best Practice" principles which should guide decision-making and action in all operations.

3.4 "Best Practice" in this context refers to the way, based on experience and lessons learned, that UNHCR and its partners should carry out the essential tasks of an operation. In other words, it is doing the right things the right way.

UNHCR-operational partner best practice for building effective partnerships can be expressed as a series of principles. These are described in the paragraphs that follow.

3.5 In order to build effective partnerships, UNHCR and its operational partners should strive to **understand each other's point of view**. In many instances, conflicts can be avoided or resolved if both parties make an effort to understand each other's position prior to taking action or entering into negotiations.

3.6 From the beginning of each operation, UNHCR and its partners should seek opportunities to **learn from each other**. All partners within an operation will bring expertise and learn lessons which will be of benefit to all the parties involved. The key is to create opportunities for sharing of expertise.

3.7 All partners in an operation should **commit jointly to excellence and improvement**. The making of such a commitment fosters attitudes of striving for continuous improvement and encourages open discussion of problems and weaknesses in implementation.

3.8 For the partnership to be effective, all the partners should **commit to transparency and information-sharing**. Not only will this facilitate decision-making, but it will help prevent misunderstanding and frustration.

3.9 In all aspects of an operation, the partners should **look for synergy**. Synergy, simply put, is the recognition that the whole is greater than the sum of its parts. Operational partners looking for synergy are cooperating creatively in order to get the most out of their resources.

3.10 Operational partners should **think win-win in their interactions with each other**. Rather than seeking individual advantage, partners should seek ways of working with each other so that all parties benefit.

3.11 For communication in an operation to be effective, partners in an operation should

endeavour to **communicate in all directions. Information needs to flow not only up and down, but sideways**. In this way information will be available when it is needed by those who need it. It also ensures problems are raised and policy decisions taken in a timely manner.

3.12 Effective planning is a critical factor in an operation's success. Moreover, problems and issues will inevitably arise in every operation, regardless of the quality of the planning. To ensure maximum effectiveness and efficiency, **operational partners should plan and solve operational problems together**. Not only does joint planning and problem solving help ensure timely and appropriate implementation, but it also builds teams which will support each other in times of difficulty.

3.13 UNHCR and its operational partners inevitably experience resource constraints at all stages of an operation. Consequently, UNHCR and its partners must establish coordinating mechanisms and processes which facilitate **continuous prioritization** so that issues and concerns are assessed in terms of their urgency and importance and timely action is taken.

3.14 It is also essential that both UNHCR and its partners **respect each other's expertise**. Each partner will bring expertise to the operation which, if harmoniously and wisely combined, will strengthen overall implementation capacity. Unhealthy competition will result in duplication of effort and inefficient delivery of assistance.

3.15 From the earliest stages of any operation, it is important that UNHCR and its partners together **define roles, standards and limits and agree to respect them**. Failure to do so will lead to uneven delivery and inefficient use of resources. Consistency in this area will lead to projects of the right quality, delivered in a timely manner, and at the right cost.

3.16 No matter how well planned an operation may be, situations and issues will arise which will require policy decisions. It is essential that UNHCR and its partners work together at all

stages of the implementation process to **identify policy gaps, set policy, and share the policy with all concerned**. The failure of programme managers to take timely policy decisions leads to indecision and ambiguity at working levels. Timely decisions that are well communicated help to ensure that protection and assistance activities will have the desired impact.

3.17 There are inevitably going to be gaps in the knowledge and skills of both UNHCR and operational partner staff members. Thus, UNHCR and its partners should **commit to training from the earliest stage of any operation**. How much time and effort to be devoted to training, both formal and informal, is a planning issue which should be addressed early. Moreover, the link between training activities and operational objectives should be clear.

3.18 Putting these principles into practice is not easy. Using these principles as a basis for decision-making requires taking the time to discuss the process for carrying out essential tasks and agreeing on processes and deadlines. Initial investment in such discussions early in an operation will pay off in efficiency and smooth working relations in subsequent stages of implementation. UNHCR and operational partner experience has shown that working relationships built on these principles are a fundamental means for ensuring that refugee needs are addressed in the most effective and efficient way possible.

Under the Framework Agreement for Operational Partnership (FAOP) between UNHCR and NGOs (see Annex A to this Handbook for complete text), it is agreed that the partners to the Agreement will be guided by the principles set down in the Code of Conduct of the International Red Cross and Red Crescent Movement and Non-Governmental Organizations which includes, *inter alia*, the following commitments:

- to ensure that the humanitarian imperative comes first;
- to give aid regardless of the race, creed or nationality of the recipients and without adverse distinction of any kind; and to determine aid priorities on the basis of need alone;
- to ensure that aid will not be used to further a particular political or religious standpoint;
- to not act as instruments of government policy.

For related standards of conduct aimed at ensuring protection from sexual exploitation and abuses, based on the IASC six principles, see Appendix C1.