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.....Chapter X

# MONITORING AND PROTECTING THE HUMAN RIGHTS OF REFUGEES AND/OR INTERNALLY DISPLACED PERSONS LIVING IN CAMPS .....

## *Key concepts*

*Before visiting a refugee/IDP camp and before interviewing refugees/IDPs, human rights officers should have a clear understanding of their objectives and approach, for example:*

- | *obtaining information about human rights conditions in the country or region that produced the refugee /IDP flow;*
- | *examining the living conditions at the camp;*
- | *or others.*

*HROs must adjust their methodology to fit the objectives of the visit. The objectives will help to establish:*

- | *the factual and legal questions to be pursued;*
- | *the type of data to be collected;*
- | *the methods by which information is collected; and*
- | *the ways data may be analysed.*

*An understanding of the role of the UNHCR and cooperation with the UNHCR are critical to any action undertaken by HROs in relation to refugees, including visiting camps.*

## A. Introduction

1. HROs come into contact with refugees and IDPs in many different circumstances. Two broad situations can, however, be identified:

- ✓ In “camps” where refugees and IDPs have settled, following displacement from their home countries or regions.
- ✓ Outside of any formal camp structure including, for example, a situation where refugees or IDPs are trying to reach a place of refuge, or have left a place of refuge to begin a return journey home.

2. This chapter looks at the role of a human rights operation in protecting the human rights of refugees and/or IDPs *in a camp situation*. The second broad area, concerning returning refugees (specifically — “returnees” within their own country) and IDPs outside of camps, is dealt with in the following chapter.

3. Under international law, the legal situations of refugees and IDPs are different from each other. Specifically, refugees benefit from the legal protection of several international instruments particular to their “refugee status”, and from the assistance of the United Nations High Commissioner for Refugees (UNHCR). Because they do not actually cross an international border out of their country, IDPs do not benefit from this legal regime, although the UNHCR is sometimes mandated to provide them with assistance.

4. In contrast, however, the practical situations of refugees and IDPs in a camp environment are often very similar, and the threats to the respect of their human rights identical. UN HROs working to monitor and protect the rights of refugees and IDPs will typically make use of the same mandate tools and undertake the same activities, with the same objectives, on behalf of both groups. It is for this reason that the monitoring and protection of the human rights of both refugees and IDPs in camps are addressed here together.

## B. Overview of the human rights situation of refugees and internally displaced persons in camps

5. In essence, a refugee or IDP who reaches a camp is already a person who has suffered a series of serious human rights violations. In many cases, the fact of being obliged to leave one’s home itself entails violations of certain rights, such as the right to security of person, and the freedom to choose one’s residence. Very often, the factors which led to the displacement — discrimination, armed conflict, other forms of generalized violence, etc. — themselves involve violations of human rights.

6. The arrival and establishment of refugees and IDPs in camps should thus, ideally, represent an improvement upon the situation which they have fled. Camps should offer some sort of security against the threat of further human rights violations. They should also offer an environment in which the most basic requirements of life — food, water, shelter, care and affection (particularly for children) — can be provided. There are, however, many different factors which determine the extent to which camps provide a positive environment for the respect of human rights.

## 1. Some key factors which determine the human rights situation in camps

7. Such factors include, for example:

- ✓ **The conditions of flight and displacement of the refugees and IDPs:** where, for example, the displacement occurs in a very rapid, disorganized manner, people may be unable to bring any of their belongings with them. They may not have any food, tools, spare clothing and blankets or money. In these circumstances camp populations will require wide-ranging assistance if their camp life is to provide the bare minimum in standards of living.
- ✓ **The manner in which the camp was established:** whether, for example, the camp was created according to a detailed and pre-prepared plan of action; or whether the camp formed “spontaneously” with the arrival of an increasing number of refugees or IDPs. A planned camp will usually be better equipped to provide for the varying assistance needs of people in displacement.
- ✓ **Physical location:** closely linked to the previous point. A camp with an ideal physical location will be: sufficiently far from fighting and other causes of displacement as to provide refugees and IDPs shelter from these risks; sufficiently close to refugees and IDPs for them to be able to reach it in safety and good health with available transport facilities; within easy distance of food and water supplies; easily accessible by aid organisations; suitable for the construction of tents and other temporary housing; protected from adverse weather conditions, including flooding and high winds; etc. For example, where a camp is within a conflict zone, refugees and IDPs may be vulnerable to attack either within the camp or when outside in search of food or water.
- ✓ **The management/control of the camp:** this is of fundamental importance to the respect of the rights of its inhabitants. Where a camp is on the other side of an international border then its population, refugees, should be better protected from the risks they faced in their own country. However, it will be important to have a thorough understanding of the quality of rights protection that may be offered by the authorities (specifically police and military) in the country of refuge. Where a camp remains inside the country of origin of the displaced persons then it will be important to assess the type of protection offered by the authorities of this country, who may have been responsible for the original flight. Where a camp is under the management of international organizations, such as the UNHCR, much will depend on the resources available to these organizations and the extent to which local authorities respect the mandates and assistance offered.

## 2. Key human rights at risk

8. Human rights are interdependent and equal. However, in certain situations, the violation of one particular right can lead to a whole series of other rights violations, to the extent that it is essential to focus monitoring and protection efforts on these key rights. In general terms, and depending on the specific nature of the camp, the following human rights may be of particular concern:

- ✓ **The right to freedom of movement:** aside from the right itself, freedom of movement into and out of the camp will be essential to have access to cultivated fields, water sources, paid employment, etc.
- ✓ **Rights related to restrictions on freedom of movement:** internment or detention? Where freedom of movement is restricted, for example by local police or soldiers, then the camp may actually be a place of internment and its inhabitants may require legal protection related to detention and/or arbitrary detention, conditions of detention and the treatment of detainees. In conditions of armed conflict elements of international humanitarian law relative to the protection of non-combatants will also be particularly relevant.
- ✓ **Right to a name and nationality:** documentation papers: refugees and IDPs are often obliged to flee without any identity papers proving their name and nationality. These documents can be very important in the process of recognition of refugee status, or in the delivery of aid. They may become even more important once a process of return begins and the displaced person may need proof of identity for the journey home.
- ✓ **Economic, social and cultural rights:** related to the cultural and social integrity of minority groups, and related to economic progress of individuals are essential in a situation of displacement.
- ✓ **Access to education:** a right which is essential to all children in situations of displacement. Where a child is unable to attend primary school education over a 5-year period of displacement, for example, it may never again be possible for the child to recover those lost years. The 5 years of displacement will thus have a permanent and potentially limiting effect on the child's entire adult life.

9. This list provides a small indication of the rights to which special attention should be paid by HROs. A more detailed list of rights, in terms of international standards is provided below, relative to refugees and IDPs respectively.

## 3. Living in a refugee or IDP camp

10. A few brief paragraphs can do only very little to convey the physical, emotional and psychological pressures which are lived by refugees and IDPs in camps. It may be difficult to link one particular pressure with the violation of a specific human right; however, camp life can result in a harsh environment which may pose challenges to the respect of individual and group rights. HROs should endeavour to understand the reality of camp life, in whatever part of the world they may be working, and to link this reality with their analysis of, and response to, the human rights situation.

11. In a majority of refugee and IDP camps life is placed on hold for the duration of a person's stay. It is virtually impossible for people to make plans for the future when they have no idea how long they will remain where they are. Refugees and IDPs are rarely able to make progress economically, and may struggle to maintain a subsistence living. While marriages and births may continue it is difficult for a camp population to feel that it is moving forward in life. Conditions are typically extremely overcrowded. The resulting stress is exacerbated by other tensions and frustrations. Marriages are placed under tremendous strain. Community relations among people who have been displaced together may become awkward.

12. Hygiene and basic sanitation can be difficult to preserve with large concentrations of people living in temporary accommodation, and a prevalence of contagious illnesses can lead to death or permanent disability. Children often have only limited access to education. Adolescents, in particular, frequently find that there are no secondary, vocational or other further education opportunities suited to them. Massive unemployment is common among adults who are obliged to depend entirely on humanitarian assistance.

## 4. Characteristics specific to monitoring and protecting human rights in camps

13. A refugee/IDP camp is a very particular place with regards to monitoring and protecting human rights. Camps are often a mixing of different ethnic, religious, political and social groups — there may be several refugee/IDP communities or groups in a single camp — each with its own leadership, linked with the management of the camp. Their inhabitants bring with them historical loyalties and enmities. Power structures emerge and evolve. Camp economies develop. In effect a camp can become a microcosm of normal communities, but with the added pressures caused by displacement, as briefly described above. A combination of factors can thus create a very complex environment for human rights workers.

14. *Refugee/IDP camps differ greatly from one to the next, for example:*

- ✓ Size — some, with populations of several hundred thousand, may be similar to large cities, while others resemble small villages;
- ✓ Location — see above;
- ✓ Age — some are newly opened and others have been established for a number of years.
- ✓ Some camps *reflect a current emergency*; others indicate that the *emergency has passed* and there has been a consolidation of the situation facing refugees/IDPs.
- ✓ Some camps reflect the beginning of a solution through repatriation, local settlement or resettlement. IDPs or refugees, for example, may be transferred from their original camp of refuge to a smaller “returnee” camp closer to their home region, as part of a gradual process of return.
- ✓ Some camps allow refugees and displaced persons *to enter or leave without formality*. Other *camps are closed*.

- ✓ Some camps may be located in areas where former refugee/IDP residents have found new homes, but still have relatives or connections in the camp — so that the distinction between refugee and IDP on the one hand, and local resident on the other, becomes blurred, sometimes creating complicated human rights problems. Other camps are in *isolated locations*.
- ✓ Camps are often exposed to weather and climate conditions; hence, a visit and conditions in the camp may be affected by the season of the year.

15. These differences have implications for the monitoring function, whether the HROs are concerned with living conditions or with obtaining information on situations which may cause refugee/IDPs flows. For example, a newly opened camp dealing with an emergency situation, a hungry and exhausted population, as well as diseases may not be comparable with an older camp where refugees/IDPs have settled for several years. The process of obtaining information on refugee/IDP-producing situations would be quite different in open versus closed camps and new versus old, etc.

16. There may also be *differences with regard to the responsibility for managing the camps*. For example, the *UNHCR may have been involved* from the beginning in establishing the camp. The agency may have established a bilateral agreement with the receiving country or may have established a tri-lateral agreement between itself (the UNHCR), the country of refuge and the country of origin. The camp may fit within one of several UNHCR assistance categories (EM — emergency, CM — care and maintenance, LS — local settlement, RP — repatriation, or RE — resettlement), which have implications for sources of funding, duration of the project, etc.

## C. Role, objectives and limits of a human rights operation with regard to refugees and IDPs in camps

17. The role and objectives of a human rights operation with regard to refugees and IDPs in camps will depend on numerous factors, including: the mandate and resources of the operation; the overall human rights situation in the country or region; the work of other organizations; and most of all the specific human rights situation of the refugees and IDPs themselves.

18. In general terms, the role and objectives of HROs can be divided into two categories: i) addressing the present and ongoing human rights situation of the refugees and IDPs themselves; and ii) addressing human rights issues outside of the camps, and which might not be of immediate or direct concern to the refugees/IDPs, but about which they can provide useful information.

## 1. Addressing the human rights situation of the refugees and IDPs

19. Dependant upon the above-listed factors, HROs can seek to monitor and protect the rights of refugees and IDPs in camps in several ways. It is important to emphasize, however, that the role of a human rights operation will need to be closely coordinated with the work of other organizations also providing assistance in the camps. With regard to refugees in particular, the UNHCR has the principal United Nations role.

### a. Monitoring

20. The following aspects deserve particular attention for monitoring purposes:

- ✓ Freedom of movement in and out of, and within a camp.
- ✓ Respect of right to security of person within the camp — are all camp residents entirely safe from abuse of their rights by local authorities or by groups from among the refugees and IDPs? Particular attention should be paid to vulnerable groups. Women living in camps are often vulnerable to rape and other sexual abuse.
- ✓ Access to adequate education and health facilities, either within the camp or in the local area. Particular attention should be paid to problems of discrimination against the camp population.
- ✓ Living conditions within the camp: sanitation, clothing, shelter, access to clean water, food storage possibilities, etc.

21. It would not generally be the role of a UN human rights operation to visit a refugee camp managed by the UNHCR to review camp conditions. The UNHCR has the greatest experience and the most appropriate mandate to provide protection to refugees. However, the mandate and expertise of UN human rights operations can often be complementary to an HCR role, provided that there is adequate coordination.

### b. Taking action

22. As with any abuse of human rights, HROs can seek to end the violation and to prevent its repetition. Monitoring, investigating and reporting are traditional human rights techniques, explained in detail in the relevant chapters of this Manual. With specific regard to the situation of refugees and IDPs in camps HROs should make every effort to remain in regular contact with camp populations and with local authorities. Through a regular presence and an understanding of the situation and vulnerability of camp populations, HROs can make a significant contribution to the respect of their human rights.

23. As camp populations frequently receive assistance from a wide variety of different international organizations and other sources, coordination between the human rights operation and these partners is essential (see below).

## 2. Addressing human rights issues outside of the camps about which the refugees and IDPs can provide useful information

24. As a priority, HROs should remember that they should never, through their action or presence, do harm to an individual. If it is likely that a refugee or IDP may be endangered by an HRO's enquiries into events that have occurred outside (or inside) the camp, then no attempt should be made to obtain the information. Notwithstanding this essential point, HROs may find that refugees and IDPs are a very useful source of information on the human rights situation in the country or region from which they have been displaced. This information can improve the United Nations' understanding of a problem and can help in identifying solutions. The testimony of refugees and IDPs may also be of use to International Tribunals in their investigation of certain types or categories of human rights violations.

25. A key purpose of gathering information from refugees and IDPs in camps may be to help prepare for the future return of the displaced community to their homes. As discussed in greater detail in **Chapter XI: "Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons (IDPs)"**, United Nations human rights operations in the countries and regions to which displaced people return can perform an essential function in facilitating the return process. A human rights operation will be well placed to help the reintegration of the returnee population into a community, and their long-term protection, by undertaking human rights promotion and training activities. A thorough understanding of the human rights situation in the country or region of return, gained through interviews with camp populations, is an essential base for such intervention.

26. The information might include details on:

- ✓ The factors which led the refugees/IDPs to flee their homes.
- ✓ The dates, location and nature of human rights violations such as the killing of civilians by soldiers.
- ✓ The alleged perpetrators of human rights violations.
- ✓ The identities of victims of human rights violations.
- ✓ The ongoing human rights situation in areas to which United Nations personnel have no access.
- ✓ Others factors.

27. In some instances, HROs may wish to obtain information on the general human rights situation. In others, they may be seeking details relative to a specific act.

## 3. Methodology for visiting camps

28. Depending on the different objectives of a particular visit to a camp, HROs will conduct different activities. Particularly for closed camps, much of the methodology is similar to that applied during visits to a place of detention (see **Chapter IX: "Visits to Persons in Detention"**). The methodology will focus either on observing the living

conditions within the camp, meeting with local authorities/organizations managing the camp, or on discussing with members of the camp population factors related to the current respect of their human rights and the human rights situation in their region of origin. Further details related to the methodology of working in camps are provided in subsequent sections of this chapter. The following list provides some general guidelines.

29. Methods for gathering information may include:

- ✓ Walking through the camp and noting conditions. Some criteria related to living conditions will be obvious to HROs, while others may require more specialist knowledge. In all situations HROs should assess conditions partly on the basis of discussions with camp inhabitants. Key issues are: access to an adequate supply of clean drinking water; access to adequate and suitable food (for different age and religious groups); suitable clothing and shelter (according to weather conditions and the numbers of persons per dwelling); access to health care; access to education facilities; suitable hygiene facilities; and general sanitation. “Access” means not only distance (the distance to be covered must be realistic given the transport available), but also cost and practical access in terms of safety and non-discrimination.
- ✓ Individual interviews (see **Chapter VIII: “Interviewing”**).
- ✓ Group interviews.
- ✓ Focus group discussions. These discussions should not generally cover any specific human rights violations to which the refugees/IDPs may have been witness. It would be inappropriate to ask individuals to bear witness to such acts in front of many other people and might place them at some risk.
- ✓ Surveys. Again, surveys should not be used to gather information on specific abuse of human rights.
- ✓ Consultation with other UN agency staff and NGOs.
- ✓ Collection of government statistics, etc.

30. The following are also important methodological points:

- ✓ Entering a camp: In order to enter the camp, HROs generally must get permission from the authorities managing the camp, for example, the national refugee administration, the UNHCR, or a voluntary agency.
- ✓ Speaking with a representative selection of people: Since the majority of adult refugees and internally displaced persons are likely to be women, HROs will need to interview more women than men refugees/IDPs. Women HROs should be preferred. If medical issues or accounts of torture are likely to occur, medical personnel should be included in the visiting team.
- ✓ The *HROs must neither encourage nor discourage persons to return or leave home*. Human rights staff can provide accurate information on the situation in the region of return, but the HROs should not become engaged in any form of campaign for or against return. Where the United Nations encourages return, this should be a decision taken by all relevant UN agencies present. With regard to refugees, UNHCR has the primary responsibility and expertise for such decisions.
- ✓ Avoid giving assurances which the HRO cannot guarantee: Refugees and IDPs in camps are in a vulnerable situation. They may look to visiting United Nations human rights staff for assistance and guidance, and may place undue confidence on the

presence of these personnel. As in all cases in which HROs come into contact with victims of human rights violations, they should be very careful not to give refugees or IDPs with whom they meet assurances which cannot be guaranteed (see **Chapter V: “Basic Principles of Monitoring”**) — for example, guaranteeing the future safety of an IDP from human rights abuse at the hands of local authorities. They should not promise the imminent delivery of humanitarian aid by other international organizations, and upon which the refugees/IDPs may base important decisions.

31. Whatever involvement they have, HROs can be faced with very difficult moral and emotional dilemmas in such situations. For example, if HROs were to assist with the departure of individuals to escape repression, they may well be assisting the forces of repression to get rid of a particular group or to impose “ethnic cleansing” on an area. Indeed, if the authorities or other forces of repression see that the field operation will assist with the departure of a repressed group, they may increase the repression to speed the departure.

## D. International standards and the protection of refugees<sup>1</sup>

32. When working with refugees who are living in a camp situation, HROs need to be familiar with the general standards of legal protection provided for by international refugee law. The various provisions of this body of law provide for minimum standards from which refugees in camps should benefit and to which they have a right. This section concentrates on civil and political rights, but economic, social and cultural rights are of equal importance.

### 1. Definition of a refugee

33. The *definition of “refugee”* is set forth in Article 1 of the Convention relating to the Status of Refugees (modified by Article 1 of the Protocol relating to the Status of Refugees) as any person who “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside of the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country”.

34. Regional refugee instruments in Africa and Central America have expanded the definition of refugee to include persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights, or other circumstances which have seriously disturbed public order.

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<sup>1</sup>For more discussion of the rights of refugees and internally displaced persons, see **Chapter IV: “Overview of International Human Rights and Humanitarian Law Standards”** and **Chapter XI: “Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons”**.

## 2. Determining refugee status

35. In an emergency situation there is a need for immediate intervention to secure protection. Frequently, the Office of the United Nations High Commissioner for Refugees (UNHCR) *must take action before a formal determination of refugee status is possible*. Even though a formal individual determination is in many cases impractical, it is essential to assess, at least on a group basis, the applicability of refugee status.

## 3. The right to seek asylum and the principle of non-refoulement

36. Central to the concept of refugee protection, and to international refugee law is the principle of *non-refoulement*. Article 33(1) of the *Convention relating to the Status of Refugees prohibits State parties from expelling or returning (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion*.

37. Article 14(1) of the Universal Declaration of Human Rights provides, “Everyone has the right to seek and to enjoy in other countries asylum from persecution”. In addition, operative paragraph 2 of General Assembly Resolution 428(V) (adopting the Statute of the Office of the United Nations High Commissioner for Refugees) calls on States to cooperate with the High Commissioner in the performance of his/her functions, *inter alia*, by “admitting refugees to their territories”. An understanding of the role of the UNHCR and cooperation with the UNHCR are critical to any action with regard to refugees, including visiting camps. Accordingly, **Appendix 1** to this chapter contains an introduction to the UNHCR.

## 4. Minimum standards of treatment for refugees

38. The Executive Committee of the UNHCR has concluded that, after admission, asylum-seekers should be treated in accordance with certain minimum standards.<sup>2</sup> The following standards form the basis and framework for action by the UNHCR and governments to ensure protection of refugees in an emergency situation:

- ✓ asylum-seekers should not be penalized or exposed to any unfavourable treatment solely on the ground that their presence in the country is considered unlawful and they should not be subjected to restrictions on their movements other than those which are necessary in the interests of public health and order;
- ✓ they should enjoy the fundamental civil rights internationally recognized, in particular those set out in the Universal Declaration of Human Rights;

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<sup>2</sup>Executive Committee of High Commissioner’s Programme, Conclusion No. 22 (XXXII, 1981) “Protection of Asylum Seekers in Situations of Large-Scale Influx”, Conclusions on the International Protection of Refugees adopted by the Executive Committee of the UNHCR Programme, UN Doc. HCR/IP/2/Eng/REV.1994, at 48 (1995).

- ✓ they should be treated as persons whose tragic plight requires special understanding and sympathy; they should receive all necessary assistance and they should not be subject to cruel, inhuman or degrading treatment;
- ✓ there should be no discrimination on the grounds of race, religion, political opinion, nationality or country of origin;
- ✓ they are persons before the law enjoying free access to courts of law and other competent administrative authorities;
- ✓ the location of asylum-seekers should be determined by their safety and well-being as well as by the security needs of the receiving State. Asylum-seekers should, as far as possible, be located at a reasonable distance from the frontier of their country of origin. They should not become involved in subversive activities against their country of origin or any other State;
- ✓ they should be provided with food, shelter and basic sanitary and health facilities;
- ✓ family unity should be respected;
- ✓ all possible assistance should be given for the tracing of relatives;
- ✓ adequate provision should be made for the protection of minors and unaccompanied children;
- ✓ the sending and receiving of mail should be allowed;
- ✓ material assistance from friends or relatives should be permitted;
- ✓ appropriate arrangements should be made, where possible, for the registration of births, deaths and marriages;
- ✓ they should be granted all the necessary facilities to enable them to obtain a satisfactory durable solution;
- ✓ they should be permitted to transfer assets which they had brought into the territory to the country where the durable solution is obtained; and
- ✓ all steps should be taken to facilitate voluntary repatriation.<sup>3</sup>

## 5. Using the Covenant on Civil and Political Rights to protect refugees

39. In addition, the Human Rights Committee has issued a General Comment setting forth the *rights of aliens under the International Covenant on Civil and Political Rights, and those aliens would include refugees*. The Human Rights Committee indicated that the rights prescribed in the Covenant apply to “all individuals within its territory and subject to [a ratifying Government’s] jurisdiction”.<sup>4</sup> The Human Rights Committee thus identified the “general rule” “that each one of the rights of the Covenant must be guaranteed without discrimination between citizens and aliens” (including refugees and asylum seekers). For a more detailed discussion of these rights, see **Chapter IV: “Overview of International Human Rights and Humanitarian Law Standards”**.

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<sup>3</sup>*Id.*; see also Executive Committee of High Commissioner’s Programme, Conclusion No. 40 (XXXVI, 1985) “Voluntary Repatriation”, Conclusions on the International Protection of Refugees adopted by the Executive Committee of the UNHCR Programme, UN Doc. HCR/IP/2/Eng/REV.1994, at 86 (1995).

<sup>4</sup>See Human Rights Committee, General Comment 15, The position of aliens under the Covenant (Twenty-seventh session, 1986), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI/GEN/1/Rev.1 at 18 (1994).

40. Limiting the protection afforded by the Covenant, the Human Rights Committee also indicated, “The Covenant does not recognize the right of aliens to enter or reside in the territory of a State party. It is in principle a matter for the State to decide who it will admit to its territory. However, in certain circumstances an alien may enjoy the protection of the Covenant even in relation to entry or residence, for example, when considerations of non-discrimination, prohibition of inhuman treatment and respect for family life arise.”

41. Moreover: “Consent for entry may be given subject to conditions relating, for example, to movement, residence and employment. A State may also impose general conditions upon an alien who is in transit. However, once aliens are allowed to enter the territory of a State party they are entitled to the rights set out in the Covenant...

- ✓ Aliens thus have an inherent right to life, protected by law, and may not be arbitrarily deprived of life. They must not be subjected to torture or to cruel, inhuman or degrading treatment or punishment; nor may they be held in slavery or servitude.
- ✓ Aliens have the full right to liberty and security of the person. If lawfully deprived of their liberty, they shall be treated with humanity and with respect for the inherent dignity of their person. Aliens may not be imprisoned for failure to fulfil a contractual obligation.
- ✓ They have the right to liberty of movement and free choice of residence; they shall be free to leave the country.
- ✓ Aliens shall be equal before the courts and tribunals, and shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law in the determination of any criminal charge or of rights and obligations in a suit at law.
- ✓ Aliens shall not be subjected to retrospective penal legislation, and are entitled to recognition before the law.
- ✓ They may not be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence.
- ✓ They have the right to freedom of thought, conscience and religion, and the right to hold opinions and to express them.
- ✓ Aliens receive the benefit of the right of peaceful assembly and of freedom of association. They may marry when at marriageable age.
- ✓ Their children are entitled to those measures of protection required by their status as minors. In those cases where aliens constitute a minority within the meaning of article 27, they shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion and to use their own language.
- ✓ Aliens are entitled to equal protection by the law.
- ✓ There shall be no discrimination between aliens and citizens in the application of these rights. These rights of aliens may be qualified only by such limitations as may be lawfully imposed under the Covenant.”

42. As mentioned in **Chapter III: “Applicable International Human Rights and Humanitarian Law: The Framework”**, Article 4 of the Covenant on Civil and Political Rights permits derogations from most rights in “time of public emergency which threatens the life of a nation and the existence of which is officially proclaimed.”

Certain rights are non-derogable, that is, they may not be subject to limitation under Article 4; for example, a Government may not discriminate solely on the grounds of race, colour, sex, language, religion or social origin. Similarly, the Government may not, even in periods of public emergency, subject a person to arbitrary deprivation of life; torture or cruel, inhuman or degrading treatment or punishment; slavery; imprisonment for debt; retroactive punishment; non-recognition before the law; and deprivation of freedom of thought, conscience or religion.

43. The Human Rights Committee in its General Comment also noted that Covenant “Article 13... is clearly to prevent arbitrary expulsions. On the other hand, it entitles each alien to a decision in his own case and, hence, article 13 would not be satisfied with laws or decisions providing for collective or mass expulsions... An alien must be given full facilities for pursuing his remedy against expulsion so that this right will in all the circumstances of his case be an effective one... Discrimination may not be made between different categories of aliens in the application of article 13.”

44. In addition, certain economic, social and cultural rights are also implicated by the dependency of internally displaced persons and refugees living in camps. The most urgent survival needs must be met: food, water, emergency shelter, health care and sanitation. Material assistance should be fairly distributed among the occupants of refugee camps.

## **E. International standards relating to internally displaced persons**

### **1. Definition**

45. The “Guiding Principles on Internal Displacement”, which were submitted by the Representative of the Secretary-General on Internally Displaced Persons to the Commission on Human Rights in 1998, define internally displaced persons as:

“persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed and internationally recognized State border.”

### **2. General human rights and humanitarian law protection**

46. IDPs, like any other person, benefit from the legal protection of international human rights law and, in situations of armed conflict, from international humanitarian law. The UN Commission on Human Rights has nominated a Representative on internally displaced persons who monitors international protection of IDPs. The

UNHCR, UNICEF, the International Committee of the Red Cross, and many other inter-governmental and non-governmental organizations have developed programmes in many countries to provide protection and other assistance to IDPs.

47. While IDPs continue to benefit from all of the international human rights legal protection available to other persons, they do not benefit from the specialized protection of international refugee law because they have not crossed an international border. The fact of being displaced from ones' home places IDPs in a situation of vulnerability to human rights abuse, such that they may be in need of some additional protection above and beyond that available to other members of a population. Concern with the vulnerability of IDPs led the Commission on Human Rights to ask the Representative of the Secretary-General on Internally Displaced Persons to prepare an appropriate normative framework for protection and assistance for IDPs. Accordingly, in 1998 the Representative formulated the "Guiding Principles on Internal Displacement". The Guiding Principles are included in **Appendix II** to this chapter.

### 3. The Guiding Principles on Internal Displacement

48. The Guiding Principles are not as such legally binding upon States. However, the rights to which they refer are already defined in other international human rights instruments which are of a legally binding character. In fact, the Guiding Principles were not intended to provide a strict legal framework for the protection of IDPs; rather, they were created so as to draw upon elements of existing international human rights law which are of particular relevance to the protection of IDPs, and to apply those elements to the specific situations and threats experienced by IDPs. The body of Principles are intended, as their name suggests, to provide "guidance" in the application of international human rights instruments to the protection of IDPs.

49. Internally displaced persons who are living in camps are entitled to the same basic minimum standards of treatment as refugees in camps. Internal displacement typically implicates the following human rights, among others:

- ✓ the right to food;
- ✓ the right to shelter and adequate living conditions;
- ✓ the right to health care;
- ✓ the right to life and personal integrity;
- ✓ the right to work and to an adequate wage;
- ✓ freedom of residence and movement;
- ✓ the right to family unity; the right to education;
- ✓ the right to legal personality; and
- ✓ freedom of thought, association, expression and assembly.

50. HROs should refer to the Guiding Principles on Internal Displacement for assistance in applying existing international human rights law to the specific situation of IDPs. In addition, the comments by the Human Rights Committee on the Covenant on Civil and Political Rights, included in the previous section with regard to refugees, should be of use.

## F. Coordination with UNHCR and other relevant agencies

51. Prior to visiting a refugee or IDP camp, HROs should meet with the staff of other relevant international and local organizations working on behalf of the camp population. There are two essential reasons for regular contact of this type to be maintained:

- ✓ First, HROs should coordinate their work with refugees/IDPs in camps, with those of other organizations, so as to ensure that there is no contradiction or duplication of efforts.
- ✓ Second, potential “partner” organizations can be of major assistance to HROs either through their specialist expertise (related, for example, to general health, nutrition or displacement issues) or through the provision of information on a human rights situation which they have gained through contact with a camp population.

52. For example, the **UNHCR** may have useful information on: conditions in a camp; the voluntariness of return; procedures for determining refugee status in a particular situation; the criteria used by the UNHCR for determining whether or not to “facilitate” a return of refugees/IDPs; leadership structures in a camp; etc.

53. The UN field operation should maintain its respect for the important work of partner organizations, each of which must maintain their independent responsibility for action within their distinct mandates. The ultimate objective of all interventions in refugee/IDP camps by any international organization should be to help improve the situation and respect for the human rights of the camp’s population. Coordination between organizations should remain focused on this goal.

54. Effective coordination requires that HROs have a thorough understanding of the mandate and operational activities of principal partners. When working with refugees, and sometimes IDPs, UNHCR will be the principal partner to a human rights operation.

## G. Collecting background information

55. HROs should *prepare for their visit to a camp* by gathering background information as to:

- ✓ The history of the camp (from its origin to the present).
- ✓ The ministries, agencies, etc. with responsibility for managing or sharing management of the camp.
- ✓ The nature of the assistance programmes (*e.g.* water, health and nutrition, sanitation, food, shelter, tools, seeds and other agricultural inputs, social and community services, education, income generation, etc.).

- ✓ The demography of the camp, ethnic background, mortality, diseases, children in intensive feeding centres, etc.
  - ✓ Other issues as determined by the objectives of the human rights operation.
56. Some major sources for this information might be:
- ✓ UNHCR sitrep reports (which may be monthly or more frequent in emergency situations) and meetings with UNHCR staff in-country.
  - ✓ Government reports and statistics, as well as interviews with Government officials.
  - ✓ NGO reports and meetings with in-country NGO staff.

## H. Visit to the camp: identifying and interviewing individuals

57. HROs should meet with the camp authorities both at the beginning and the end of the visit. Often, local camp authorities have a standard tour of a camp that they provide for visitors from the international community. It may be possible for one officer to accompany these authorities on this formal visit, while others interview individual members of the camp population. As mentioned above, constant attention should be paid to the security of persons living in a camp. HROs should never place a person in danger through their questions or any other type of contact.

58. Bearing in mind the issue of security, one of the challenges of a camp visit is gaining access to the people who are the victims of human rights abuse, or who can provide useful information on a human rights situation. No general methodology can be defined for this work. HROs must rely upon their understanding of a general situation, any specific information available to them, and their own sensitivity to the precise situation in which they wish to interview refugees/IDPs. It should be possible when meeting with individuals to feel how comfortable they are providing information, and whether or not they feel safe doing so. An individual refugee/IDP is usually the person best placed to assess his or her own security. The principles mentioned in **Chapter VIII: “Interviewing”** on security of the people who come into contact with HROs are applicable to interviews and information gathering in camps as well.

59. When seeking general information, HROs should not, rely entirely on suggestions from refugee/IDP representatives in selecting individuals to interview — particularly if the objective of the monitoring is to investigate violations or conditions within the camp. Representatives may have their own political or other agenda and they may select refugees or IDPs on that basis. While it is useful to interview persons suggested by representatives, other refugees or IDPs should be identified by such techniques as:

- ✓ Random sample survey of refugee/IDP households: pick a couple of sections (or neighbourhoods) within the camp and interview each 10th or 20th household.
- ✓ Sample survey of selected neighbourhoods or households within the camp (selected on the basis of the religion of the refugees/IDPs, ethnic group, date of arrival, etc.).
- ✓ Random interviews at water sources.

- ✓ Random interviews during food distribution.
- ✓ Random interviews at the market-place in the camp.
- ✓ Random interviews at the camp clinic and the intensive feeding centre (which may provide access to the most vulnerable households).
- ✓ Interviews at the registration point (where newly arrived refugees/IDPs are supposed to be registered).
- ✓ Interviews of key persons, such as camp representatives, school teachers, nurses, market traders, refugees/IDPs working for NGOs, refugees/IDPs responsible for food distribution, etc.).

60. For further information on conducting interviews, see **Chapter VIII: “Interviewing”**.

61. There are particular difficulties in developing reliable information from interviews with refugees and displaced persons. The particularly vulnerable situation of refugees and IDPs may be such that they face pressures to exaggerate or conceal the truth about human rights violations they have experienced or witnessed.

62. For example, refugees/IDPs may exaggerate problems they have experienced if they believe that they will have a greater chance of receiving humanitarian assistance or refugee status. Indeed, it appears that the more dependent refugees or displaced persons may be upon outsiders the greater may be their tendency to exaggerate their plight — particularly on questions relating to their resources.<sup>5</sup> Refugees and displaced persons may be somewhat less prone to exaggerate if the HRO is able to state convincingly that the information will not be used to determine aid levels or to provide other relief.

63. In sharp contrast, however, refugees/IDPs may understate the human rights violations they have experienced or witnessed for fear of further persecution. Again, HROs will have to make a careful assessment of the information being provided.

## I. Monitoring conditions in the camp

64. Depending upon the mandate and resources of the human rights operation, and on the presence and role of other UN organizations such as the UNHCR or UNICEF, HROs may play a role in monitoring conditions within refugee or IDP camps. The term “conditions” is used here in a broad sense, and can refer to material conditions (such as shelter, food and health facilities) or to conditions related to the treatment of the camp population (such as respect of rights to freedom of movement, freedom of expression and security of person).

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<sup>5</sup>Gaim Kibreab, *The Sudan, From Subsistence to Wage Labor: Refugee Settlements in the Central and Eastern Regions* 24 (1990).

## 1. Distribution systems

65. Officers should begin by *verifying that the basic material needs of the occupants are being met in a timely manner*. Occasionally camp populations are able to provide for their own needs. More often, however, they are dependent upon various forms of assistance. UNICEF and UNHCR have developed a series of standard specifications for certain common relief items.<sup>6</sup> There should be an effective system in place to control stock levels of relief supplies; a system should also safeguard and prevent loss of supplies.

66. Where a camp population has only limited access to food, seeds, tools, clothing, medication and other necessities, supplies of these items will become extremely important. Any person or groups of persons with control over distribution will exercise considerable power and authority. While many distribution systems may be equitable, others might divert resources on the basis of payments, or according to a policy of discrimination against certain groups among the camp population. Any diversion of resources may be initiated by members of the camp population, by local authorities, or by a combination of the two.

67. Identifying and preventing a misuse of the distribution of resources can be extremely difficult, and may involve humanitarian workers in severe political and security issues. Where possible, HROs should ensure that all supplies are distributed in a fair manner so that everyone in the camp has access to *food, clothing*, etc. Particular attention should be paid to vulnerable groups among the camp population — including: minorities, the elderly, the ill, women and children (see below).

68. Camp residents should have access to an adequate supply of suitable food. Nutritional requirements will need to be assessed by specialist personnel — HROs should be aware of the need for a nutritional balance and should inform themselves of the principal indications of malnutrition so that they can recognize problems as they emerge.

## 2. Physical location and nature of the camp

69. HROs conducting a visit to a camp should determine whether it is a suitable and *well-planned site that provides adequate shelter for its occupants*. The camp should not be too densely populated. There should be adequate sanitary facilities. Shelter must provide protection from the elements, space to live, privacy and physical security.

70. There should be a process of consultation with the representatives of a displaced population as to the location and planning of a site. The following criteria are among the most important indicators:

- ✓ Water supply. There should be an adequate amount of potable water on a year-round basis.
- ✓ Topography and drainage. The site should be located above flood level, preferably on a gentle slope. At a minimum, the camp should be above the water table.

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<sup>6</sup>*Id.* at 47.

- ✓ Adequate surface area. The site must allow sufficient usable space for the IDPs/refugees. WHO recommends a minimum 30 square metres per person in addition to land necessary for communal, agricultural and livestock-related activities.
- ✓ Security and protection. The camp should be removed from the frontier and potential military targets.
- ✓ Accessibility. The camp should be close to communications links and sources of necessary supplies.
- ✓ Environmental conditions. The area should be free from major environmental hazards. To the extent possible, suitable climatic conditions should be considered.
- ✓ Soil conditions. The soil should allow water absorption and the retention of human waste. In places separate from sanitation facilities, the soil should be suitable for vegetable gardens and small-scale agriculture.
- ✓ Vegetation. The site should have good ground cover. If wood must be used as cooking fuel, it should not come from the trees on site.
- ✓ Land rights. The camp's land should be exempt from the right of ownership or use by other people, as land disputes may cause local resentment.<sup>7</sup>

71. This list is provided by way of indication only. There are many different considerations which need to be taken into account when establishing a camp, and personnel with specialist experience (architectural, water, sanitation, etc) should be involved.

### 3. Health facilities

72. HROs should also devote attention to the *health* of residents at the camp, including sanitation and health services. Primary health care, with an emphasis on preventive care, should be provided at the camp. Special attention should be paid to mother and child health care. In particular, child immunizations should be available. More serious health problems should be referred to an appropriate treatment facility. Public health education should be provided. Moreover, a disease control plan should be in place for the prevention, control and treatment of communicable diseases. The HRO may check the camp's health records for high rates of mortality, morbidity, major communicable illnesses, etc.

### 4. Vulnerable groups and problems of sexual abuse

73. HROs should examine how the *security* of persons in the camp is being safeguarded. This issue is *especially relevant for refugee/IDP women and girls* who may be subjected to violence — including sexual violence — and whose security should be a particular concern of HROs. See UNHCR, *Sexual Violence against Refugees, Guidelines on Prevention and Response* (1995), including material on the potential security risks as well as possible remedial techniques.

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<sup>7</sup>*Id.* at 58-60.

74. Some techniques include careful consultation with women at risk; better lighting or night patrolling in dangerous areas; careful relocation of water, toilets, refuse and other facilities; measures to diminish risks to women while they obtain food, firewood and similar commodities; relocation of sleeping facilities (particularly for women on their own or female heads of households); installation of fences or other protective barriers.

75. Some groups of a refugee/IDP population are vulnerable for other reasons. Malnourished women who are pregnant or breast-feeding their infants are at greatest risk<sup>8</sup> from malnutrition, for example. They will need access to high quality food on a regular basis. Handicapped members of camp populations are also at tremendous disadvantage, as are unaccompanied children. HROs should identify vulnerable groups, their specific vulnerability and draw the attention of local authorities or aid organizations.

## 5. Psychological assistance and social welfare

76. HROs should ascertain whether the *social welfare service* needs of the IDPs/refugees are being met. As the trauma of becoming a displaced persons or refugee can create or exacerbate social and psychological problems, a social welfare service is necessary to identify and treat the refugees' or displaced persons' problems. Any social welfare programme should be culturally sensitive. Ideally, to the greatest extent possible, the social welfare programme should be organized and administered by members of the refugee/IDP community.

## 6. Access to education

77. Every child has the right to an *education*. HROs should note whether the educational needs of children in the camp are being met. Free compulsory primary education should be available to all children in the camp. Provision should be made for the education needs of older children, and particularly adolescents, including secondary and vocational education. As far as possible, all education services should allow children to follow a curriculum identical to that which other children in their home country or region are following, so that reintegration into a normal education system upon their return will be without problems. To the greatest extent possible, educational services should be organized and administered by members of the refugee/IDP community.

# J. Conclusion

78. Aside from monitoring and seeking to protect specific human rights, HROs should also focus on the overall situation of refugees and IDPs living in camps — is their *human dignity* being respected? For many displaced populations, it is not only

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<sup>8</sup>See UNHCR, *Guidelines on the Protection of Refugee Women* 49 and *passim* (1991).

individual violations of their rights which are distressing, but also a general environment in which they may feel that their basic worth as human beings is not being observed. The situation of displacement can be very traumatizing — it is essential that human rights personnel maintain this overview of the situation of displaced populations in camps and that they make every effort to prevent the creation of a situation which draws from the humanity and fundamental dignity of displaced persons.

# Appendix I to Chapter X

## Brief Introduction to United Nations High Commissioner for Refugees<sup>1</sup>

The Office of the United Nations High Commissioner for Refugees (UNHCR) was created by a General Assembly resolution of 14 December 1950 and the organization began its work on 1 January 1951. The office was initially conceived with a limited three-year mandate, and was created in parallel with the 1951 Convention relating to the Status of Refugees with the objective of assisting people who became refugees prior to 1951. In 1967 a Protocol was added to the Convention removing the time limit and its provisions remain valid today. The mandate of UNHCR has been successively renewed by the General Assembly (for five-year periods) as successive refugee crises have occurred. The present mandate is due to expire at the end of 1998. The principal office of the UNHCR is in Geneva, but it maintains about 200 field offices around the world.

### 1. The UNHCR mandate

The mandate is contained in the UNHCR statute. The essential function of the UNHCR is to *provide international protection to refugees* no longer able to benefit from the protection of their own governments, and *to seek durable solutions* to their problems, by facilitating the voluntary repatriation of refugees, or their integration into new national communities in a climate of *safety* and *dignity*. The office of the High Commissioner is to be “entirely non-political” and “humanitarian and social”.

The statute gives the UNHCR competence to provide protection and assistance to refugees, that is, any person who, “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality and is unable, or owing to such fear or for reasons other than personal convenience, is unwilling to avail himself of the protection of that country...”.

The scope of UNHCR’s work has broadened as the definition of a “refugee” has been extended over the years by a number of international instruments. In addition the UNHCR plays an increasing role in situations which involve internally displaced persons (IDPs). The UNHCR does not, in its statute, have a mandate to provide assistance to people falling within this category; however, the General Assembly and the Secretary-General have asked the organization on numerous occasions to use its experience and resources to assist people who are in effect “refugees within their own country”.

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<sup>1</sup>Largely based upon UNHCR, Handbook, *Voluntary Repatriation: International Protection* (1996)

The UNHCR's role has been extended still further by an interpretation of its mandate obligation to seek "durable solutions". The agency increasingly undertakes activities in the country of origin intended to create conditions which are conducive to the return of refugees, and other activities which involve "returnee monitoring". The UNHCR's efforts in the country of origin are intended to encourage and support the return process so that it is durable.

Protection of and assistance to refugees remain, however, UNHCR's primary functions, and within this context, the organization carries out many activities. Among these tasks are the provision of food, shelter, health services, education, social welfare, and income-generation activities.

UNHCR has defined its activities as falling within four principal forms of assistance: (1) emergency relief operations, (2) longer-term "care and maintenance" for refugees awaiting a solution to their situation, (3) local settlement programmes to help returnees integrate into the country of refuge and (4) repatriation programmes to help refugees return to their countries of origin.

## **2. The UNHCR's role in repatriation of refugees and/or IDPs**

During a repatriation operation the UNHCR will invariably have at least one office in the country of refuge and another in the country of origin. The UNHCR's activities during repatriation therefore take place on both sides of the border.

Three terms can be used to summarize the UNHCR's repatriation activities:

### **a. The promotion of solutions**

The "promotion of solutions" is the name given to the UNHCR's efforts to address the problems at the base of a refugee movement. These activities are thus concentrated in the country of origin and are initiated before repatriation begins. The promotion of solutions involves creating a national, regional, and international dialogue to discuss the situation. It can also involve negotiations with the parties to a conflict with a view to raising the humanitarian needs of a refugee population. The UNHCR considers that repatriation cannot be successful while the conditions that led to the displacement still exist.

### **b. The promotion of repatriation**

The "promotion of repatriation" is the term which describes the UNHCR's active encouragement of repatriation. Once the minimum conditions required in the country of origin are reached, the UNHCR will begin to promote repatriation. UNHCR field staff may organize information campaigns to inform refugees (or IDPs) of the changed situation in their home country or region and of any peace or other relevant agreements that have been signed. Staff in displaced persons camps will help to participate in the repatriation by registering people who decide to return, providing any relevant counseling and monitoring the legal, physical, and material security of the returnees.

**c. Facilitation**

The term “facilitation” is used by UNHCR to indicate the assistance that it will provide to displaced people who wish to return home even when UNHCR staff do not feel that the minimum conditions necessary in the country or region of origin have been fulfilled. When refugees voluntarily decide to go home, the UNHCR will often provide them with assistance (such as transport and information on conditions in the country of origin) but will not actually “promote” the return.

**3. The UNHCR in the country of origin**

In the country of origin, other than the efforts developed as a part of “possible solutions” the UNHCR undertakes a number of different activities:

**a. Returnee monitoring**

The objective of returnee monitoring by UNHCR protection officers is to ensure that returnees are successfully able to reintegrate their communities. The authority through which the UNHCR carries out returnee monitoring is derived from its mandate obligation to seek “durable solutions”.

Protection officers monitoring the arrival and reintegration of returnees will focus on the extent to which the returnees are able to enjoy respect of their human rights on the same basis as other people within the community. The principal international law standard monitored by the UNHCR will thus be that of “non-discrimination”. Within this overall context of non-discrimination protection officers may place particular emphasis on the access of returnees to agricultural and residential land, which often raise problems for returnees.

**b. Returnee women**

During the monitoring process the UNHCR gives special attention to vulnerable groups, and to returnee women in particular. Efforts are concentrated on monitoring and providing for the needs of returnee women in terms of: women heads of household; physical safety; participation in decision-making processes; access to aid and other forms of assistance; and women victims of sexual and other violence. The UNHCR will usually have field staff specialized in providing assistance to women returnees.

**c. The respect of national law**

The UNHCR will often undertake activities intended to reinforce the respect of national law in the country of origin, including capacity-building of national legal institutions, training for the police and judiciary, etc. With specific regard to returnees UNHCR staff may provide legal advice and even intervene in the national legal process in favour of returnees.

**d. Human rights**

With regard to general human rights UNHCR staff will participate in human rights promotion and will often cooperate with other organizations that make up a human rights structure within the country of origin.

#### 4. Cooperation with other organizations

As the number of refugees in the world has grown, the UNHCR has increasingly found it necessary to work with other organizations, including UN agencies and non-governmental organizations (NGOs). In some of the big refugee camps, for example, the UNHCR apportions particular, specialized, responsibilities to a number of different NGOs. Hence, for example, medical work may be performed by one NGO, construction of latrines by another, and water supply by a third. The UNHCR oversees their activities.

#### 5. Funding

UNHCR activities are funded almost exclusively by voluntary contributions made by national governments, intergovernmental and non-governmental organizations, and by individuals. The budget of the UNHCR has exceeded US \$1 billion each year since 1992<sup>2</sup>.

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<sup>2</sup>In adapting this Manual for specific human rights field operations, this Appendix should be complemented with a paragraph containing information on *The UNHCR activities in the region*. The operation should gather brief information on the UNHCR activities in the region, and particularly on the location of the UNHCR field offices. This information should, where possible, include the names and telephone numbers of UNHCR staff members with whom human rights officers may make contact in their respective regions. These details should be circulated to all area offices of the UN human rights field operation.

# Appendix 2 to Chapter X

## Guiding Principles on Internal Displacement

### INTRODUCTION: SCOPE AND PURPOSE

1. These Guiding Principles address the specific needs of internally displaced persons worldwide. They identify rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration.
2. For the purposes of these Principles, internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.
3. These Principles reflect and are consistent with international human rights law and international humanitarian law. They provide guidance to:
  - (a) The Representative of the Secretary-General on internally displaced persons in carrying out his mandate;
  - (b) States when faced with the phenomenon of internal displacement;
  - (c) All other authorities, groups and persons in their relations with internally displaced persons; and
  - (d) Intergovernmental and non-governmental organizations when addressing internal displacement.
4. These Guiding Principles should be disseminated and applied as widely as possible.

### SECTION I — GENERAL PRINCIPLES

#### Principle 1

1. Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.
2. These Principles are without prejudice to individual criminal responsibility under international law, in particular relating to genocide, crimes against humanity and war crimes.

## Principle 2

1. These Principles shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction. The observance of these Principles shall not affect the legal status of any authorities, groups or persons involved.
2. These Principles shall not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law. In particular, these Principles are without prejudice to the right to seek and enjoy asylum in other countries.

## Principle 3

1. National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.
2. Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these authorities. They shall not be persecuted or punished for making such a request.

## Principle 4

1. These Principles shall be applied without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria.
2. Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

## SECTION II — PRINCIPLES RELATING TO PROTECTION FROM DISPLACEMENT

### Principle 5

All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.

### Principle 6

1. Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.
2. The prohibition of arbitrary displacement includes displacement:
  - (a) When it is based on policies of apartheid, “ethnic cleansing” or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population;

- (b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;
  - (c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests;
  - (d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and
  - (e) When it is used as a collective punishment.
3. Displacement shall last no longer than required by the circumstances.

### **Principle 7**

1. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.
2. The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.
3. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:
  - (a) A specific decision shall be taken by a State authority empowered by law to order such measures;
  - (b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;
  - (c) The free and informed consent of those to be displaced shall be sought;
  - (d) The authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation;
  - (e) Law enforcement measures, where required, shall be carried out by competent legal authorities; and
  - (f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

### **Principle 8**

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

### **Principle 9**

States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

## SECTION III — PRINCIPLES RELATING TO PROTECTION DURING DISPLACEMENT

### Principle 10

1. Every human being has the inherent right to life which shall be protected by law. No one shall be arbitrarily deprived of his or her life. Internally displaced persons shall be protected in particular against:
  - (a) Genocide;
  - (b) Murder;
  - (c) Summary or arbitrary executions; and
  - (d) Enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

2. Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances. Internally displaced persons shall be protected, in particular, against:
  - (a) Direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;
  - (b) Starvation as a method of combat;
  - (c) Their use to shield military objectives from attack or to shield, favour or impede military operations;
  - (d) Attacks against their camps or settlements; and
  - (e) The use of anti-personnel landmines.

### Principle 11

1. Every human being has the right to dignity and physical, mental and moral integrity.
2. Internally displaced persons, whether or not their liberty has been restricted, shall be protected in particular against:
  - (a) Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;
  - (b) Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children; and
  - (c) Acts of violence intended to spread terror among internally displaced persons.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

## **Principle 12**

1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.
2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.
3. Internally displaced persons shall be protected from discriminatory arrest and detention as a result of their displacement.
4. In no case shall internally displaced persons be taken hostage.

## **Principle 13**

1. In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.
2. Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances.

## **Principle 14**

1. Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.
2. In particular, internally displaced persons have the right to move freely in and out of camps or other settlements.

## **Principle 15**

Internally displaced persons have:

- (a) The right to seek safety in another part of the country;
- (b) The right to leave their country;
- (c) The right to seek asylum in another country; and
- (d) The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

## **Principle 16**

1. All internally displaced persons have the right to know the fate and whereabouts of missing relatives.
2. The authorities concerned shall endeavour to establish the fate and whereabouts of internally displaced persons reported missing, and cooperate with relevant international organizations engaged in this task. They shall inform the next of kin on the progress of the investigation and notify them of any result.

3. The authorities concerned shall endeavour to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation, and facilitate the return of those remains to the next of kin or dispose of them respectfully.
4. Grave sites of internally displaced persons should be protected and respected in all circumstances. Internally displaced persons should have the right of access to the grave sites of their deceased relatives.

### **Principle 17**

1. Every human being has the right to respect of his or her family life.
2. To give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so.
3. Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and cooperate with the work of humanitarian organizations engaged in the task of family reunification.
4. Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together.

### **Principle 18**

1. All internally displaced persons have the right to an adequate standard of living.
2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:
  - (a) Essential food and potable water;
  - (b) Basic shelter and housing;
  - (c) Appropriate clothing; and
  - (d) Essential medical services and sanitation.
3. Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

### **Principle 19**

1. All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.
2. Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for victims of sexual and other abuses.
3. Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.

## Principle 20

1. Every human being has the right to recognition everywhere as a person before the law.
2. To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.
3. Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.

## Principle 21

1. No one shall be arbitrarily deprived of property and possessions.
2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts:
  - (a) Pillage;
  - (b) Direct or indiscriminate attacks or other acts of violence;
  - (c) Being used to shield military operations or objectives;
  - (d) Being made the object of reprisal; and
  - (e) Being destroyed or appropriated as a form of collective punishment.
3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

## Principle 22

1. Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:
  - (a) The rights to freedom of thought, conscience, religion or belief, opinion and expression;
  - (b) The right to seek freely opportunities for employment and to participate in economic activities;
  - (c) The right to associate freely and participate equally in community affairs;
  - (d) The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right; and
  - (e) The right to communicate in a language they understand.

## Principle 23

1. Every human being has the right to education.
2. To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and

compulsory at the primary level. Education should respect their cultural identity, language and religion.

3. Special efforts should be made to ensure the full and equal participation of women and girls in educational programmes.
4. Education and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

## **SECTION IV — PRINCIPLES RELATING TO HUMANITARIAN ASSISTANCE**

### **Principle 24**

1. All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.
2. Humanitarian assistance to internally displaced persons shall not be diverted, in particular for political or military reasons.

### **Principle 25**

1. The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.
2. International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a State's internal affairs and shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.
3. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.

### **Principle 26**

Persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.

### **Principle 27**

1. International humanitarian organizations and other appropriate actors when providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard. In so doing, these organizations and actors should respect relevant international standards and codes of conduct.
2. The preceding paragraph is without prejudice to the protection responsibilities of international organizations mandated for this purpose, whose services may be offered or requested by States.

## **SECTION V — PRINCIPLES RELATING TO RETURN, RESETTLEMENT AND REINTEGRATION**

### **Principle 28**

1. Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.
2. Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

### **Principle 29**

1. Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.
2. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

### **Principle 30**

All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.