



UNHCR

The UN Refugee Agency

OVERVIEW OF UNHCR AND CONCEPTS OF INTERNATIONAL PROTECTION

These UNHCR training materials were written in collaboration with the

*United States Citizenship and Immigration Services' (USCIS) Refugee, Asylum,
and International Operations Directorate (RAIO)*

for use in training RAIO officers

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UNHCR OVERVIEW

Training Module

MODULE DESCRIPTION:

This module describes the development of international protection of refugees and other individuals over the course of the 20th century and explains the role of the Office of the United Nations High Commissioner for Refugees (UNHCR) and other international actors in providing this protection. The module describes the elements of international protection, who is in need of international protection, and who provides international protection. Lastly, this module explains the role UNHCR plays in relation to the United States regarding U.S. refugee resettlement, asylum, and other protection issues.

TERMINAL PERFORMANCE OBJECTIVE(S)

You, the officer, will be able to summarize the principles of international refugee protection and distinguish between the roles that the UNHCR and other international actors play in the protection of refugees around the world.

ENABLING LEARNING OBJECTIVES

1. Summarize the origin and core principles of refugee protection.
2. Identify the key provisions of the 1951 Convention and 1967 Protocol relating to the Status of Refugees.
3. Summarize the roles and responsibilities of the main actors in refugee protection.
4. Describe the goals of international refugee protection.
5. Identify the groups in need of international protection.
6. Discuss the challenges that particular refugee situations pose to providers of international protection.

INSTRUCTIONAL METHODS

- Presentation by UNHCR with discussion, Q and A

METHOD(S) OF EVALUATION

REQUIRED READING

Matter of A-G-G-, 25 I&N Dec. 486 (BIA 2011), pp. 488-490.

[Division-Specific Required Reading - Refugee Division](#)

[Division-Specific Required Reading - Asylum Division](#)

[Division-Specific Required Reading - International Operations Division](#)

ADDITIONAL RESOURCES

1. United Nations High Commissioner for Refugees. [Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees](#), (December 2011)(contains the 1951 Convention and 1967 Protocol relating to the Status of Refugees), 200p.
2. United Nations General Assembly, [Statute of the Office of the United Nations High Commissioner for Refugees](#), (14 December 1950), A/RES/428(V), 16p.
3. United Nations High Commissioner for Refugees (UNHCR). [Conclusions on the International Protection of Refugees adopted by the Executive Committee of the UNHCR Programme](#), No. 1 (1975) to present.
4. United Nations High Commissioner for Refugees. [Guidance Note on Refugee Claims relating to Victims of Organized Gangs](#), (31 March 2010), 24p.
5. United Nations High Commissioner for Refugees, [Guidelines on International Protection: The Application of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked](#), (7 April 2006), HCR/GIP/0607, 17p.
6. United Nations High Commissioner for Refugees, [Guidelines on International Protection: Child Asylum Claims under Articles 1\(A\)2 and 1\(FZ\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees](#), (22 December 2009), HCR/GIP/09/08, 28 pp.
7. United Nations High Commissioner for Refugees. [Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees](#), (4 September 2003), HCR/GIP/03/05, 9p.

8. United Nations High Commissioner for Refugees. [*Guidelines on International Protection: Cessation of Refugee Status under Article 1C\(5\) and \(6\) of the 1951 Convention relating to the Status of Refugees*](#) (the “Ceased Circumstances” Clauses), (10 February 2003), HCR/GIP/03/03, 8 p.
9. United Nations High Commissioner for Refugees, [*Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*](#), (7 May 2002) HCR/GIP/02/01, 11p.
10. United Nations High Commissioner for Refugees, [*Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*](#), (23 July 2003), HCR/GIP/03/04, 8p.
11. United Nations High Commissioner for Refugees, [*Guidelines on International Protection No. 2: "Membership of a Particular Social Group" Within the Context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*](#), (7 May 2002) HCR/GIP/02/02, 6p.
12. United Nations High Commissioner for Refugees, [*Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A\(2\) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*](#), 28 April 2004, HCR/GIP/04/06, 12p.
13. United Nations High Commissioner for Refugees, [*Guidelines on the Protection of Refugee Women*](#) (Geneva: July 1991), 31p.
14. United Nations High Commissioner for Refugees, [*Refugee Children: Guidelines on Protection and Care*](#) (Geneva: 1994), 182p.
15. United Nations High Commissioner for Refugees UNHCR, [*Guidelines on Determining Best Interests of the Child*](#), (May 2008), 100pp.
16. United Nations General Assembly, [*Declaration on Territorial Asylum*](#), 14 December 1967, A/RES/2312(XXII), 1p.
17. United Nations High Commissioner for Refugees UNHCR Protection Policy Paper, [*Maritime interception operations and the processing of international protection claims: legal standards and policy considerations with respect to extraterritorial processing*](#), (Nov. 2010), 17pp.

[Division-Specific Additional Resources - Refugee Division](#)

[Division-Specific Additional Resources - Asylum Division](#)

[Division-Specific Additional Resources - International Operations Division](#)

SCHEDULE OF REVISIONS

Date	Section (Number and Name)	Brief Description of Changes	Made By

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Throughout this training module you will come across references to division-specific supplemental information located at the end of the module, as well as links to documents that contain division-specific, detailed information. You are responsible for knowing the information in the referenced material that pertains to your division. Officers in the International Operations Division who will be conducting refugee interviews are also responsible for knowing the information in the referenced material that pertains to the Refugee Affairs Division.

For easy reference, each division's supplements are color-coded: Refugee Affairs Division (RAD) in pink; Asylum Division (ASM) in yellow; and International Operations Division (IO) in purple.

1 INTRODUCTION

The purpose of this module is to explain the role of the Office of the United Nations High Commissioner for Refugees (UNHCR) and other international actors in the protection of refugees, asylum-seekers, and other groups in need of international protection around the world. Please note that when the term “refugee” is used in this module regarding the work of UNHCR or the protections afforded refugees under international instruments, the term encompasses refugees, asylees, and asylum-seekers. This module provides an overview of the history, mandate, endeavors, and objectives of UNHCR. The issues of international human rights law and the definition of the term “refugee” are covered in greater detail in the RAIO Training Modules, *International Human Rights Law, Sources of Authority, Refugee Definition, and Definition of Persecution and Eligibility Based on Past Persecution*.

2 ORIGINS OF INTERNATIONAL PROTECTION FOR REFUGEES

2.1 Early Twentieth Century Responses to Refugee Situations

The first concerted effort by the international community to address a refugee situation arose in the aftermaths of World War I, the Russian Revolution, and the collapse of the Ottoman Empire. The League of Nations created the position of High Commissioner for Russian Refugees in 1921. At the time, the League of Nations defined refugees as specific groups that were deemed to be at risk if returned to their countries of nationality. In later years, additional national categories included Assyrians, Turks, Greeks, Armenians, and German Jews.

Over time, the League of Nations developed comprehensive measures to protect refugees, beginning with a standardization of refugee travel documents, regularization of legal status, access to employment, and protection against expulsion.

In 1947, the United Nations, as the successor to the League of Nations, established the International Refugee Organization (IRO), adding to its mandate refugees resulting from World War II. Today's definition of refugee has its roots in the reaction of the IRO to the unique refugee crisis of the mid-1940s. The IRO looked beyond repatriation and local integration as the sole solutions to the refugee situation. It allowed the option of resettlement for those refugees who expressed "valid objections" to returning to their countries of nationality because of "persecution, or a fear of future persecution because of race, religion, nationality or political opinion."¹

2.2 Creation of the United Nations High Commissioner for Refugees (UNHCR)

In 1949, the General Assembly of the United Nations voted to replace the IRO with the Office of the United Nations High Commissioner for Refugees (UNHCR). On December 14, 1950, the General Assembly adopted the Statute creating UNHCR. The Statute serves as UNHCR's constitution and defines its dual mandate to provide protection to refugees and to seek durable solutions to refugee problems. UNHCR began its work on January 1, 1951.²

2.3 1951 Convention relating to the Status of Refugees

Following the establishment of UNHCR, members of the international community drafted the 1951 Convention relating to the Status of Refugees (Convention), a legally binding treaty that defines who is a refugee and the rights and legal obligations of States towards refugees.³ The Convention contains the following key elements:

2.3.1 Refugee Definition

Article 1 defines a refugee as a person who, "owing to a well-founded fear of persecution 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 [occurring in Europe or elsewhere before January 1, 1951] is unable or, owing to such fear, is unwilling to return to it." The geographic and time limitations were removed in the 1967 Protocol, as noted below.

2.3.2 Geographic and Time Limitations

¹ UNHCR. *The State of the World's Refugees 1993: The Challenge of Protection*. "Introduction: The Challenge of Protection" (New York: 1993), p. 12.

² UNHCR's statute was drafted simultaneously with the 1951 Refugee Convention, as a result the key international legal instrument and the organization designed to monitor it are well synchronized.

³ United Nations General Assembly, *Convention Relating to the Status of Refugees*, (28 July 1951), United Nations, Treaty Series, vol. 189, p. 137, also found in United Nations High Commissioner for Refugees, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, (December 2011), Annex II.

Article 1 requires a refugee to have a fear of persecution “[a]s a result of events occurring before 1 January 1951.”⁴ In addition, signatories are allowed the option of further limiting the definition of a refugee to those whose fear of persecution resulted from events occurring in Europe.⁵

2.3.3 The Principle of *Non-refoulement* or Non-return

Article 33 of the Convention requires that no contracting State shall expel or return (*refouler*) a refugee, in any manner whatsoever, to a territory where his life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion.

2.3.4 Supervision by UNCHR

Article 35 of the Convention assigns to UNHCR the global mandate of supervising the application of the Convention’s provisions. Article II of the Protocol contains the same obligation of States parties to cooperate with UNHCR in the fulfillment of its responsibilities, including its supervisory role, as is delineated in Convention Article 35.

2.4 1967 Protocol relating to the Status of Refugees

With the passage of time, it became evident that refugee movements were not a result unique to World War II. Newly emerging refugee populations highlighted the need for a more flexible and universal mechanism to address refugee issues.

The 1967 Protocol relating to the Status of Refugees (“1967 Protocol”) removed the 1951 time limitation and the focus on Europe so that the definition of refugee applies regardless of the time or location of events. The 1951 Convention refugee definition, as amended by the 1967 Protocol, defines a refugee as a person who, “owing to a well-founded fear of persecution 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 is unable or, owing to such fear, is unwilling to return to it.”

Although related to the Convention, the 1967 Protocol is an independent instrument that States must accede to separately to be bound by its terms even if they have acceded to the Convention.⁶ A few States, including the United States, have acceded to the Protocol, but not to the Convention. The Protocol incorporates Articles 2 through 34 of the

⁴ *Id.* at Art. 1(A)(2).

⁵ *Id.* at Art. 1(B)(1).

⁶ United Nations General Assembly, *Protocol Relating to the Status of Refugees*, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267, also found in United Nations High Commissioner for Refugees, [Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees](#), (December 2011), Annex III.

Convention, thus making those provisions binding on those countries, such as the United States, that have ratified the Protocol alone.

2.5 U.S. Definition of Refugee

The United States enacted a definition of refugee similar to the 1967 Protocol's definition. The Immigration and Nationality Act (INA) defines "refugee" as:

(A) any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or

(B) in such circumstances as the President after appropriate consultation (as defined in section 207(e) of this Act) may specify, any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.⁷

The INA definition of refugee was amended to clarify that a person forced to abort a pregnancy or to undergo voluntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program has faced persecution on account of political opinion.

Paragraph B, above, allows for overseas resettlement of refugees to the United States even if they are within their country of nationality or, if stateless, their country of last habitual residence.

The INA excludes from the definition of refugee any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion. In contrast, the 1951 Convention and 1967 Protocol exclude from protection individuals who have committed a crime against peace, a war crime, a crime against humanity, or a serious non-political crime.⁸

2.6 Regional Expansions of the Refugee Definition

⁷ [INA § 101\(a\)\(42\)](#)

⁸ Art. 1(F) of the 1951 [Convention](#).

As a result of changing migration patterns that threatened the political stability of many countries in Africa and Central America, intergovernmental regional bodies adopted agreements broadening the scope of protection afforded to persons covered by the agreements. These instruments apply only to nations in the region who are signatories to them.

2.6.1 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa

The 1969 OAU Convention expanded the refugee definition to include those who fled their countries because of “external aggression, occupation, foreign domination, or events seriously disturbing public order.”⁹

2.6.2 Cartagena Declaration on Refugees

In 1984, the Central American countries and Mexico met to address their concerns regarding the large flow of refugees fleeing civil wars across the region. These countries adopted a declaration, the Cartagena Declaration on Refugees, built upon the refugee definition of the OAU Convention adding to it those who are fleeing on account of “generalized violence” and “massive violation[s] of human rights.”¹⁰

2.7 Evolving Role of UNHCR and its Expanded Mandate

In the years following the break-up of the Soviet Union and the ensuing civil strife in such countries as Armenia, Azerbaijan, Georgia, Russia, Tajikistan, Turkmenistan, and Uzbekistan, UNHCR increasingly was called on to provide protection to individuals not covered by the Convention, the 1967 Protocol, or the expanded regional definitions. These groups of “persons of concern” are typically internally displaced people (IDPs).¹¹ These are individuals who are forced to flee their home but who, unlike refugees, remain within their country's borders. IDPs legally remain under the protection of their own government, but are in need of assistance because their home government may not have the means, or the inclination, to protect them. UNHCR's original mandate does not specifically address IDPs, but because of the agency's expertise on displacement, it has

⁹ Organization of African Unity, *Convention Governing the Specific Aspects of Refugee Problems in Africa (“OAU Convention”)*, 10 September 1969, 1001 U.N.T.S. 45. Note that the heads of state of the countries of the OAU dissolved the organization on July 8, 2002. The African Union was established as its successor. The complete list of countries that have signed, ratified or deposited the OAU Convention is found at the African Union [website](#).

¹⁰ *Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*, (22 November 1984), Section III.3.

¹¹ United Nations High Commissioner for Refugees, “[Introduction: The Challenge of Protection, Box 2--The Evolution of Refugee Protection](#),” *The State of the World's Refugees 1993: The Challenge of Protection* (New York: 1993), p. 13-14.

increasingly been called upon to respond to IDP situations and has assisted millions of IDPs.¹²

In recent years, IDPs have greatly outnumbered refugees, creating a crisis in international protection. Though UNHCR is not legally responsible for the protection of those who do not fit within its mandate, UNHCR has stepped in on many occasions to meet the needs of IDPs. UNHCR determines on a case-by-case basis whether it will be able to undertake a mission to protect IDPs. In determining whether it can intervene, UNHCR considers the following factors:

- the political will of the host country to grant UNHCR access to the territory and to the displaced populations
- the ability of the host country to fund the mission
- the commitment of the international community to support the effort
- the risk of harm to IDPs and UNHCR protection personnel

UNHCR is currently active in IDP operations in countries such as Afghanistan, the Central African Republic, Chad, Colombia, the Democratic Republic of Congo, Kenya, Pakistan, and Uganda.

3 ELEMENTS OF INTERNATIONAL PROTECTION

3.1 What is International Protection?

Protection is, first and foremost, the responsibility of States. It is the responsibility of each State to offer its citizens a number of rights and privileges, for example, security, access to its courts, the right to vote in national elections, and access to its social service structures. When a State is unwilling or unable to protect the human rights and security of some of its citizens, other nations, either through charity or international obligation, may assume the responsibility of protecting those in need. An individual can benefit from international protection only when:

- The country of origin is not capable or willing to provide care, and
- The individual has crossed an international border.

International protection is meant to be a temporary safeguard of the refugee's rights. States provide international protection until the government of the country of origin or nationality can resume providing protection, or until the situation has changed so that international protection is no longer needed.

¹² United Nations Commission on Human Rights, [Further Promotion and Encouragement of Human Rights and Fundamental Freedoms including the Question of the Programme and Methods of Work of the Commission Questions of Human Rights, Mass Exoduses and Displaced Persons](#), (Feb. 11, 1998), E/CN.4/1998/53/Add.1. See also UNHCR, [Protecting Refugees the Role of UNHCR](#), (March 2009), p. 8-9.

UNHCR and other actors in international protection seek durable solutions to refugee problems. There are three possible solutions: voluntary repatriation, local integration, and third-country resettlement. This module provides information below on each of these durable solutions.

3.2 Who Needs International Protection?

The following categories of refugees need international protection.

3.2.1 Mandate Refugees

Mandate refugees are those that UNHCR recognizes as refugees according to its Statute, the 1954 or 1961 Conventions on Statelessness,¹³ the OAU Convention, or other regional instruments. These refugees may receive the protection of UNHCR regardless of whether the country of first asylum is a party to the 1951 Convention or the 1967 Protocol or has recognized them as refugees. Though UNHCR protects their rights, these refugees do not receive the benefits that States, who are parties to the Convention or Protocol, give to refugees.¹⁴

Example

Eritrea is not a party to either the 1951 Convention or the 1967 Protocol. If individuals fearing persecution in Djibouti flee to Eritrea, UNHCR will assess their protection needs, recognize them as refugees as appropriate and provide protection. Because Eritrea has no asylum system, these refugees will not have any status under the laws of Eritrea. UNHCR has the mandate to protect these individuals despite the fact that the country in which they are situated does not hold any responsibility to protect them.

3.2.2 Convention Refugees

Convention refugees are those that a State party to the 1951 Convention or 1967 Protocol recognizes as refugees. Under these instruments, these individuals are entitled to certain benefits, such as work permission, the right to remain lawfully in the country of asylum, the right to freedom of religion and expression, property rights, and the right to seek and be granted citizenship, which the State is obligated to confer to them. There are no “Protocol refugees,” *per se*. Under the refugee definition, as amended by the Protocol, these individuals are more accurately termed “Convention refugees.”

Example

¹³ Addressed below under Sources of International Protection.

¹⁴ United Nations General Assembly, Statute [of the Office of the United Nations High Commissioner for Refugees](#), 14 December 1950, A/RES/428(V).

On June 16, 2010, Monaco became the most recent country to become party to the 1967 Protocol. If individuals fearing persecution flee to Monaco, they can take advantage of the legal structures in place and apply for asylum.¹⁵ If granted asylum, these individuals are Convention refugees. UNHCR would not play a role in their protection unless a problem arose.

3.2.3 Refugees under Regional Instruments

This category of refugees includes individuals fleeing their countries of origin for reasons other than those enumerated in the Convention definition of refugee, such as the reasons contained in the OAU Convention and Cartagena Declaration. Not all countries recognize these individuals as refugees. UNHCR, however, typically finds these individuals to be in need of protection. It is UNHCR's long-held position that people fleeing conflicts should be more generally considered refugees if their own country is unwilling or unable to protect them.¹⁶ At times, States and UNHCR will conduct *prima facie* refugee status determinations on a group basis. UNHCR finds this group-based approach appropriate in mass influx situations and also where there is objective information related to the circumstances in the home country.¹⁷

3.2.4 Special Classifications under National Law—Complementary Forms of Protection

Many countries have provisions for protecting individuals who do not meet the Convention definition of refugee, but for whom the option of return home is not feasible. Though not entitled to the benefits accorded to refugees, such as permanent resettlement or citizenship rights, they may be allowed to work in the country of “refuge” and are protected from deportation for a prescribed period of time.

One example of a special classification is Temporary Protected Status (TPS). The United States provides TPS to foreign nationals residing in the United States whose homeland conditions have been determined to be temporarily unsafe to return to because of war, earthquakes, floods, droughts, or other extraordinary and temporary conditions.¹⁸ During their country's designation period, which can vary greatly in length, TPS beneficiaries may remain in the United States and obtain work authorization. TPS, however, does not lead to permanent resident status. [TPS designated countries](#) have included, for example, [Haiti, El Salvador, Nicaragua, Honduras, Somalia, Sudan, and South Sudan](#).

3.2.5 Returnees

¹⁵ As of January 2012, Monaco had one asylum-seeker residing on its territory. [UNHCR, 2012 Regional Operations Profile: Monaco](#).

¹⁶ See [Regional Expansions of the Refugee](#) Definition, above.

¹⁷ UNHCR, [Refugee Status Determinations](#), Self Study Module 2, (1 September 2005).

¹⁸ See [INA § 244](#); 8 U.S.C. 1254.

The heart of UNHCR's mandate concerning the voluntary repatriation of refugees is its responsibility to ensure that for each individual the return is voluntary and that the existing conditions are conducive to voluntary return in safety and with dignity.

Ordinarily, the country of nationality is responsible for protecting the human rights of returning refugees. The unique circumstances of the return and reintegration into community life, however, often demand closer attention than unstable national governments may be able to provide. In these cases, the international community may assist refugees with the reintegration into and the development of their country of origin. This prevents returnees from becoming a destabilizing force.

UNHCR manages numerous large scale voluntary repatriation programs that have brought large numbers of refugees home. In Afghanistan, millions of refugees have returned with UNHCR's assistance. UNHCR also facilitates small scale and, at times, individual repatriations of refugees and internally displaced people on a routine basis. For example, UNHCR has facilitated the repatriation of Congolese refugees from Burundi and Zambia, Burundi refugees from the Congo, and Sri Lankan refugees from India.¹⁹

3.2.6 Internally Displaced People (IDPs)

Unlike refugees, internally displaced people have not crossed an international border. Instead, they have sought safety within their home countries. Like refugees, they have fled similar circumstances, such as armed conflict, human rights violations, and generalized violence. As mentioned above, UNHCR's original mandate did not specifically cover IDPs. Article 9 of UNHCR's Statute, however, allows the High Commissioner to work with non-refugees "as the General Assembly may determine, within the limits of the resources placed at his [or her] disposal." Over the last several decades, the General Assembly has expanded UNHCR's mandate to include the protection of IDPs. Providing protection to IDPs is complicated because it requires the necessary cooperation from the very country that has demonstrated that it is unable or unwilling to protect these individuals.

3.3 Organizations and Entities involved in International Protection

Several organizations and entities work together to protect the legal rights and physical safety of refugees. They include:

3.3.1 States (Countries)

State signatories to the 1951 Convention, the 1967 Protocol, or the aforementioned regional instruments, are bound by international obligations to provide for the protection of refugees whether such States are countries of first asylum or of resettlement.

¹⁹ See UNHCR Refworld, [UNHCR resumes repatriation of Congolese refugees from Burundi](#), 1 November 2010; UNHCR News Stories, [Repatriation of Congolese from Zambia reaches 40,000; camps to close](#) (28 September 2010); [Repatriation of Burundians from Congo launched with convoy of 240](#) (October 2010); and UNHCR Briefing Notes, [Ferry returns of Sri Lankan refugees from India due to start Wednesday](#) (11 October 2011).

3.3.2 Other Agencies within the United Nations

While UNHCR has primary responsibility for ensuring the protection and care of refugees, other U.N. agencies, such as the World Food Programme (WFP), the World Health Organization (WHO), UNICEF, United Nations Relief and Works Agency (UNRWA), and the International Labor Organization (ILO) also participate in refugee assistance efforts.

3.3.3 International Organizations

International organizations, such as the International Committee of the Red Cross (ICRC), respond to refugee crises along with UNHCR. Their global presence allows them to respond immediately to emergencies. Their global perspective and their lack of affiliation with any nation makes it more likely that the needs of all refugees and displaced people will be met regardless of the political situation surrounding the crises or the visibility of the problem in foreign media.

3.3.4 Intergovernmental Organizations

Intergovernmental organizations (IGOs) are organizations made up primarily of sovereign or member States. IGOs are established by treaty. They promote a unified, and often regional, approach to refugee protection among nations who have an interest in maintaining a stable environment for refugees and their own citizens.

The International Organization for Migration (IOM), established in 1951, is the leading intergovernmental organization in the field of migration and works closely with governmental, intergovernmental, and non-governmental partners to provide humanitarian assistance to migrants in need, including refugees and internally displaced people. IOM has 132 member States and offices in more than 100 countries. It provides key services to refugees, including providing transportation for refugees who are fleeing conflict situations or who are being resettled to third countries. IOM also provides other services and advice to governments and migrants.²⁰

3.3.5 Non-governmental Organizations

Non-governmental organizations (NGOs), which include international, national, and local entities, play a crucial role in all aspects of refugee crises, such as prevention, emergency response, provision and maintenance of protection, and resolution. The international community relies heavily on NGOs already on the ground in areas of potential unrest as well as in places where refugees or IDPs are found. NGOs often provide information on the situation and are often able to respond immediately as events unfold. In addition, NGOs, especially those that are local and national within the country of return, are in a

²⁰ More detailed information about IOM can be found its [website](#).

unique position to assist returnees in the resolution and reintegration phases of an operation, as well as to monitor the success of implementation plans.²¹

3.3.6 Refugee Resettlement Voluntary Agencies

Non-governmental voluntary agencies or “volags,” contribute significantly to the protection of refugees. Volags are primarily funded by the U.S. State Department's Bureau of Population, Refugees, and Migration (PRM) and private sources. They provide refugees with a wide range of services including case file preparation, family history documentation, and travel coordination. To assist with integration in the country of resettlement, they also provide initial housing, food and clothing, cultural orientation, and counseling. Volags may also contract with the Office of Refugee Resettlement (part of the U.S. Department of Health and Human Services) to provide job placement, English language training, and other social services. Examples of voluntary agencies that work with UNHCR and the United States government include the International Catholic Migration Commission, World Relief, and the Hebrew Immigrant Aid Society.

3.3.7 Local Population

The support of the local population is essential to providing refugees with the stability required to move forward with their lives. A welcoming attitude from the local population, in both the countries of first asylum and the resettlement countries, goes a long way to heal the emotional wounds of having to flee a country fearing for one's life. Furthermore, the local population may be in a position to provide refugees with jobs, shelter, and community support if repatriation is not a viable solution.

3.3.8 Other Refugees

Refugees can improve their situation in a refugee camp or in their local community in the country of asylum. Refugees lend each other moral support and encouragement and can develop organizational structures to aid in the administration of camp life.

3.3.9 Media

The media plays an important role in bringing the issues of refugee protection to the attention of individuals around the world. More importantly, in exposing human rights abuses in countries of origin, the media challenges the international community and national governments to address violations before mass flights of refugees begin.

3.4 What are the Goals of International Protection?

The most important goals of the international protection of refugees are as follows.

²¹ UNHCR. “[The Role of NGOs in the Field](#),” *The State of the World's Refugees*. Chapter 5: Responding to Refugee Emergencies. (New York: 1993) pp. 13.

3.4.1 Admission to Safety

In order for the international community to have access to those individuals who are fleeing their home countries, refugees must cross an international border. This requires that UNHCR or other members of the international community be present at entry locations to ensure refugees are not refused entry into the country of asylum.

3.4.2 Respect for the Principle of *Non-refoulement*

Once refugees have been allowed safe passage into the country of asylum, the international community must ensure that refugees are not in danger of being returned to a country where their lives or freedom would be threatened.

3.4.3 Physical Security

Despite the best efforts of the international community to meet the needs of refugees, refugee camps are unstable environments. In certain situations, refugees can be especially vulnerable to physical harm even in a refugee camp. Camps may be composed of individuals of different ethnic or religious groups, some of whom might have been on opposite sides of a conflict in the country of origin. As noted below, there may also be others who could put the refugees' physical safety at risk, such as criminals or human rights abusers. In addition, members of the local population working in and around the camp may harbor anger or frustration with the refugees' presence in the country of asylum. It is the responsibility of the country of asylum and the international community to do everything possible to prevent physical attacks on refugees and to prosecute those who violate the law.

3.4.4 Protection of Basic Human Rights

Basic human rights, spelled out in instruments such as the Universal Declaration of Human Rights and the International Covenants on Human Rights, apply to all individuals regardless of their legal status in any country. When individuals become refugees, it is crucial that their rights are protected in the country of first asylum. Once the physical safety of the refugees has been provided for, the next immediate human right to safeguard is the right to seek asylum under Article 14 of the Universal Declaration of Human Rights.

4 INTERNATIONAL PROTECTION STANDARDS

4.1 Sources of International Protection Standards

The earliest developments in international human rights law focused on establishing standards for the protection of refugees. As noted above, these standards are the core of the 1951 Convention and the 1967 Protocol, to which all signatories are bound.

Non-binding texts also speak to refugee issues and provide guidance to member States. The Executive Committee of the High Commissioner's Programme, an intergovernmental body comprised of States, has issued Executive Committee (Ex Com) Conclusions on an annual basis dating back to 1975.²² These Ex Com Conclusions are non-binding, serve as an expression of the body of its members, and typically are statements of concern or identification of priority for action in a coming year. The Executive Committee also evaluates and approves the assistance programs that UNHCR proposes to undertake each year.

In addition to the refugee treaties, other international instruments dealing with issues of stateless individuals and displaced people provide guidance in certain situations. These instruments include:

- The [*Convention relating to the Status of Stateless Persons*](#) (1954) mandates that those individuals who are stateless be accorded the same standards of treatment as refugees.²³
- The [*Convention on the Reduction of Statelessness*](#) (1961) develops measures designed to reduce the number of individuals who live entire lifetimes without citizenship in any country. Provisions address granting citizenship to those who are born to stateless parents and preventing the deprivation of nationality on the basis of one of the protected grounds.
- The [*Fourth Geneva Convention Relative to the Protection of Civilian Person in Time of War*](#) (1949) protects refugees and displaced people forced to flee their homes and/or countries as a result of war (Article 44).²⁴
- The [*United Nations Declaration on Territorial Asylum*](#) (1967) reaffirms the principle of *nonrefoulement* and emphasizes the obligation of States not to turn away those refugees who present themselves at their borders seeking protection. It also clarifies that a grant of asylum by a particular State is a humanitarian act and is not to be interpreted as hostile by any other State, especially the country of origin of the refugee.²⁵

Individual States build on the standards of refugee protection as they create domestic legislation for the treatment of migrants in refugee-like situations. Though domestic legislation varies around the world, all signatories to the 1951 Convention and/or the

²² See, e.g., United Nations High Commissioner for Refugees, [*Conclusion on refugees with disabilities and other persons with disabilities protected and assisted by UNHCR*](#), No. 110 (LXI) - 2010, 12 October 2010.

²³ The United States is not a party to the [*Convention Relating to the Status of Stateless Persons*](#) or to the [*Convention on the Reductions of Statelessness*](#) as of January 17, 2012.

²⁴ The United States is a party to the [*Geneva Convention Relative to the Protection of Civilian Persons in Time of War \(Fourth Geneva Convention\)*](#), 12 August 1949.

²⁵ United Nations General Assembly, [*Declaration on Territorial Asylum*](#), 14 December 1967, A/RES/2312(XXII)

1967 Protocol, are bound by law to uphold all of their principles of protection, especially *nonrefoulement*. Those States that have ratified other protection instruments, such as regional treaties, are bound by those documents as well.

4.2 Standards Derived from Human Rights Instruments

The international community's general standards for the treatment of refugees are found in international human rights instruments. These human rights apply to all individuals, regardless of their immigration status. Many of these rights are explicitly incorporated into the 1951 Convention and 1967 Protocol.

4.2.1 Universal Declaration of Human Rights (UDHR)

Countries of first asylum and international organizations working in refugee protection must pay particular attention to the following rights enshrined in the Universal Declaration of Human Rights:²⁶

- the right to seek asylum from persecution (Article 14)
- the right to have access to the courts and legal system (Article 10)
- the right to equal protection of the law and freedom from discrimination (Article 7)
- the right to cultural expression (Article 27)

4.2.2 Article 4 of the International Covenant on Civil and Political Rights (ICCPR)

This provision requires that all States respect and ensure certain fundamental and internationally-accepted human rights without exception, such as:

- the right to life
- freedom from torture, or other cruel, inhuman or degrading treatment or punishment
- freedom from slavery or servitude
- recognition as a person before the law
- freedom of thought, conscience, and religion²⁷

These fundamental rights are considered non-derogable. This means that countries have no legal basis, even in a state of emergency, to refuse to honor these human rights. For more information on the specific human rights protected by the ICCPR and other international law instruments, please see the RAIO Training Module, *International Human Rights Law*.

²⁶ United Nations General Assembly, [Universal Declaration of Human Rights](#), 10 December 1948, 217 A (III).

²⁷ United Nations General Assembly, [International Covenant on Civil and Political Rights \(ICCPR\)](#), 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171. The United States signed the ICCPR on October 5, 1977 and ratified it on June 8, 1992.

5 THE ROLE OF INTERNATIONAL ACTORS IN PROTECTION

5.1 States (Countries)

Individual States, not the international community as a whole, have the primary responsibility to provide protection to refugees present on their soil. International treaties and covenants require States parties to those instruments to abide by their provisions. The international community holds States accountable if they violate the rights of refugees, although there is no clear mechanism for enforcement.

Article 14 of the Universal Declaration of Human Rights recognizes the right to seek asylum from persecution as a basic human right. Further, countries of first asylum have an obligation to protect all basic human rights, including the right of an individual not to be returned to a country where his or her life would be threatened on account of one of the protected grounds.²⁸ This *nonrefoulement* provision is reinforced by a similar *nonrefoulement* provision in Article 3 of the United Nations Convention Against Torture, although Article 3 does not have an “on account of” requirement and differs in other respects.²⁹

The international community sometimes joins in the protection of refugees when a country of first asylum cannot adequately address a particular refugee situation on its soil. In all situations, the international community cannot begin its operations unless authorized by the host country.

The obligation of a country not to return refugees to countries where their lives or freedom would be threatened (*nonrefoulement*), coupled with the lack of an obligation of third countries to accept refugees for resettlement, places a burden on the shoulders of some countries of first asylum that is too heavy to bear. The 1967 U.N. Declaration on Territorial Asylum and other regional instruments provide for burden-sharing. This doctrine asserts that any country that is host to a population of refugees that it cannot support can call upon other countries for assistance and, in the spirit of collaboration and cooperation, these countries are expected to provide such assistance.

Example

In 1999, a massive influx of refugees from Kosovo threatened the stability of Macedonia. In order to lighten its burden and ensure that the rights of the Kosovars continued to be protected, the Macedonian government, with the support of the United States, initiated a humanitarian evacuation program. Close

²⁸ United Nations General Assembly, [Convention relating to the Status of Refugees](#) (28 July 1951), United Nations, Treaty Series, vol. 189, p. 176.

²⁹ United Nations General Assembly, [Convention Against Torture](#) (10 December 1984), United Nations Treaty Series, vol. 1465, p. 85.

to 100,000 Kosovar refugees were evacuated to third countries (the United States, Germany, Turkey, and other countries) after appropriate screening.

5.2 UNHCR

There are three basic needs that UNHCR fulfills during a refugee crisis.

5.2.1 Protection

The first step in dealing with a refugee crisis is to be certain that the physical safety of refugees is safeguarded. UNHCR monitors the situation and works with the interior ministry officials of the host country to ensure that refugees are allowed into the country. Ensuring the protection of refugees also requires UNHCR to intervene when the country of asylum is contemplating *refoulement* as an option for either individual refugees or large groups.

5.2.2 Assistance

UNHCR assists refugees by providing for their daily needs. For example, a refugee camp often develops into a small community with healthcare facilities, schools, agricultural projects, recreation, and more. Most of these services are not provided directly by UNHCR, but by non-governmental organizations or voluntary agencies funded by UNHCR contracts.

5.2.3 Durable Solutions

UNHCR also seeks ways to find durable solutions to the plight of refugees by helping them to repatriate to their homeland, to integrate in their countries of asylum, or to resettle them in third countries. Each is discussed in greater detail below.

5.3 Other Actors in International Protection of Refugees

Many organizations and entities play a role in providing protection for refugees. As noted above, these groups include: international organizations, inter-governmental organizations, non-governmental organizations (NGOs), voluntary agencies (volags), media, local populations, and other refugees. These organizations and/or entities meet specific needs of refugees that UNHCR and the host countries may not be equipped or authorized to provide. For example, these entities:

- Gather information on emerging refugee crises (media, non-governmental organizations, international organizations)
- Provide for the safety and welfare of refugees (international organizations, intergovernmental organizations, voluntary organizations, non-governmental organizations, refugees, and the local population)
- Raise awareness of the public in support of the refugee cause (media, non-governmental organizations, international organizations)

- Provide legal advice or social counseling to individual refugees (voluntary agencies, non-governmental organizations)
- Process applications for resettlement (inter-governmental organizations, voluntary agencies)

5.4 U.S. Refugee Admissions Program (USRAP)

The U.S. Refugee Admissions Program (USRAP) consists of a number of governmental and non-governmental partners, both overseas and domestically, whose mission is to resettle refugees in the United States. The U.S. Department of State's Bureau of Population, Refugees and Migration (PRM) has overall management responsibility for the USRAP and has the lead in proposing admissions numbers and processing priorities. The DHS component, U.S. Citizenship and Immigration Services (USCIS), has responsibility for interviewing refugee applicants abroad and adjudicating applications for refugee status. The Office of Refugee Resettlement (ORR) in the Department of Health and Human Services is responsible for funding integration programs once refugees arrive. Resettlement Service Centers (RSCs), such as Church World Service (CWS), the International Organization for Migration (IOM), the International Catholic Migration Commission (ICMC), the International Rescue Committee (IRC), or other NGOs, handle the intake of refugee referrals from UNHCR, U.S. embassies, and certain NGOs, as well as the prescreening of cases and the out-processing of individuals for travel to the United States.³⁰

6 PROTECTION NEEDS OF REFUGEES

6.1 General Protection Issues

Beyond the most basic and immediate issues of both protecting the individual's right to seek asylum and monitoring the States parties' adherence to their obligations under the 1951 Convention and 1967 Protocol, UNHCR and its partners often face additional challenges, many of which may further threaten the safety and well-being of refugees. Among these are:

- rape and other forms of sexual violence
- abusive arrest and detention
- forced recruitment of minors into combat
- recruitment of individuals into the armed services or militias
- military attacks on refugees

³⁰ USCIS, "[Refugees: The United States Refugee Admissions Program \(USRAP\) Consultation & Worldwide Processing Priorities.](#)"

- presence of bandits or intimidators in refugee camps or urban refugee settings
- diversion or theft of humanitarian assistance by the host government, paramilitary groups, or criminals
- discrimination
- denial of the right to work
- conflicting local laws

6.2 Specific Protection Issues

There are a number of circumstances, outlined below, in which unique protection issues arise.

6.2.1 Refugee Women

The protection of refugee women requires careful and sensitive planning and action. Physical and sexual abuse of refugee women occurs frequently. When planning refugee protection missions, UNHCR and other international and local actors consider the structure and management of the camp with an eye to the special needs of refugee women. UNHCR and other actors also include the active participation of women in camp planning and decision-making, as well as in leadership roles within the community. Features that maximize the protection of women include better lighting, more private areas, and special accommodations for single women and women heads of households. When abuses occur, UNHCR responds by identifying the individuals responsible, protecting the victims from reprisals, and providing counseling and medical care.³¹

6.2.2 Refugee Children

Children in refugee camps, particularly those who are unaccompanied, require special care. Typically, a small percentage of a refugee population is comprised of unaccompanied minors. UNHCR works with other agencies such as UNICEF, ICRC, and Save the Children to identify these children and try to trace their families. UNHCR has established a database to track the location of families who may have been separated from their children. All children, regardless of whether they are accompanied by relatives, require special care when in a refugee situation. UNHCR, together with the volunteers and NGOs that provide services to refugees, design healthcare, educational, and recreational services geared to the development needs of children.³²

UNHCR has developed specialized protections for children not living with their parents who are unaccompanied or separated children (UASC). UASCs should always receive

³¹ See United Nations High Commissioner for Refugees, [Guidelines on the Protection of Refugee Women](#) (Geneva: July 1991) 31 pp.

³² See United Nations High Commissioner for Refugees, [Refugee Children: Guidelines on Protection and Care](#) (Geneva: 1994).

special attention because of the particular risks they face. While they are under UNHCR supervision, children's best interests are assessed through a formal process—a "Best Interest Determination." Tracing for parents and other relatives takes place throughout the process and children are reunited with family members when possible.

UNHCR makes recommendations and decisions for these children during different periods of their displacement. When making a recommendation or decision regarding durable solutions for those children who remain unaccompanied or separated, UNHCR follows its *Guidelines on Determining the Best Interests of the Child*.³³ These *Guidelines* require that a child welfare expert examines the child's options for durable solutions (return to home country, integration into host society, or resettlement) and recommends a solution that would be in the child's best interest. The recommendation is reviewed by a committee comprised of UNHCR, NGOs, and host country members. If the committee accepts the recommendation of the child welfare expert, the committee signs the recommendation. The final document, the *Best Interest Determination (BID)* for the child, is intended to prescribe the most appropriate course of action for the State and other actors to undertake on behalf of the child.

6.2.3 Mixed Refugee Camp Populations

When a civil conflict divides a country or a community along ethnic, religious, or tribal lines, individuals from both sides may flee the country and find themselves in the same refugee camp. In such situations UNHCR must tread carefully to keep the peace within the refugee camp.

7 REFUGEE SOLUTIONS

UNHCR and other actors in international protection seek durable solutions to refugee problems. There are three possible solutions: voluntary repatriation, local integration, and third-country resettlement.

7.1 Voluntary Repatriation

This durable solution, preferred by most refugees, allows refugees to return home in safety and with dignity. Voluntary repatriation may require a political solution that addresses the issues that brought about the refugee's flight. Furthermore, attention must be paid to the economic and social development of the community of origin to prevent a resurgence of violence and/or tensions.

The primary goals of UNHCR-sponsored voluntary repatriation are:

- Re-establishing communities;
- Creating conditions for reconciliation; and

³³ United Nations High Commissioner for Refugees, [Guidelines on Determining Best Interests of the Child](#) (May 2008).

- Protecting the basic human rights of returnees.

Before individuals return to the country of origin, UNHCR must ensure that refugees have all the relevant information to make a fully-informed decision and that their decision is voluntary. UNHCR often provides transportation and a start-up package which may include cash grants, income-generation projects, and practical assistance such as farm tools and seeds. In the case of a large-scale repatriation, UNHCR may also be involved in the political dialogue prior to the repatriation and in monitoring the situation after it has occurred.

7.2 Local Integration

Voluntary repatriation may not be an option for refugees when a complex and volatile political situation continues to exist in their country of origin. Local integration provides the next best solution because in many instances, it allows the refugees to live close to their country of origin while providing the opportunity to settle into a secure environment and contribute to the development of their new community.

The government of the country of first asylum must be willing to accept the refugees and offer them a secure status in the country. In some countries, a combination of a state-supported welfare system and the resources of NGOs offer the assistance required to integrate refugees into the society. When the host country cannot provide the necessary funds to sustain local integration, UNHCR lends assistance.

7.3 Third Country Resettlement

Resettlement is generally considered when refugees have particular needs or vulnerabilities in a country of first asylum. Generally these are needs that cannot be addressed in the country of first asylum, and voluntary repatriation is not feasible. The only solution then is to seek resettlement to a third country. Only a small number of countries, however, have established programs that provide resettlement places for UNHCR-referred refugees and less than one percent of the world's refugees are resettled in third countries.

UNHCR recommends for resettlement individuals who fall within one or more of the seven categories discussed below.³⁴ These categories are separate and apart from the protected grounds in the Convention definition of a refugee that serve as the basis for granting the protection of asylum and relate to the refugee's experience in the country of origin. The resettlement categories refer specifically to the situation of refugees in the country of first asylum.

7.3.1 Legal and/or Physical Protection Needs

³⁴ United Nations High Commissioner for Refugees, *Resettlement Handbook*, [Chapter 6](#) (July 2011), pp. 243-296.

This category includes individuals who are under a threat of *refoulement* or expulsion and individuals who face arrest, detention, physical harm, or a threat to their fundamental human rights in the country of refuge.

7.3.2 Survivors of Torture and/or Other Violence

This category refers to individuals who have experienced torture or other violence in their home country or country of refuge and who may have lingering effects requiring medical or psychological care.

7.3.3 Medical Needs

This category includes individuals who have a life-threatening health condition with no adequate treatment available to them and who face the likelihood that their condition will worsen without treatment. To qualify under this category, there must be a favorable prognosis that the medical condition will improve with treatment.

7.3.4 Women and Girls at Risk

This category refers to women and girls with protection concerns related to their gender and who lack effective protection normally provided by male family members. The protection risks include, among others, expulsion, physical violence, rape, particular economic hardship, and community hostility.

7.3.5 Family Reunification

To qualify under this category, at least one member of a family unit to be reunited must be a refugee under the UNHCR mandate, or be a person of concern to UNHCR, and the family member with whom they are reuniting must be already in the resettlement country. UNHCR considers family reunification to include: parents with minor or dependent children, spouses, and other relatives who lived with the family and are economically and psychologically dependent on the family unit. UNHCR also promotes family reunification for common-law spouses and same-sex or domestic partners.

7.3.6 Children and Adolescents at Risk

This category refers to individuals less than 18 years of age who may or may not be unaccompanied; who have compelling protection needs in their country of refuge; and for whom UNHCR has determined that resettlement is the best solution.

7.3.7 Lack of Foreseeable Alternative Durable Solutions

This category is generally relevant when other solutions are not possible in the foreseeable future. Referrals under this category balance the quality of protection in a country of resettlement against prospects of local integration or voluntary repatriation in the near future.

8 UNHCR RESETTLEMENT REFERRAL PROCESS TO THE UNITED STATES

Facilitating the resettlement of refugees from a country of first asylum is the responsibility of both UNHCR and the international community. There are a number of countries that accept refugees for resettlement, such as Canada, Australia, Norway, and Sweden. The United States accepts the largest number.

Access to resettlement in the United States through the U.S. Refugee Admissions Program (USRAP) is limited to those of special humanitarian concern as required by Section 207 of the Immigration and Nationality Act. Given that the number of refugees around the world far exceeds the capacity of the refugee program, the U.S. Government has established a worldwide processing priority system which sets guidelines for the orderly management and processing of refugee applications for admission to the United States. These processing priorities, designated each fiscal year during refugee admissions consultations,³⁵ identify the nationalities and groups of individuals who are eligible to access the USRAP. Only those individuals who qualify for one of the processing priorities are eligible for a refugee status interview with USCIS.

FY2012 Processing Priorities³⁶ include:

- P-1: Individual referred by U.S. Embassy, UNHCR, or designated NGO
- P-2: Groups of special humanitarian concern
- P-3: Family reunification for designated nationalities

UNHCR annually conducts and publishes an assessment of global resettlement need projections. This information is used in the context of the annual consultation process. The USRAP and UNHCR also work closely together throughout the year to discuss potential new populations in need of resettlement who may be referred to the U.S. program. UNHCR referrals to the U.S. may be either on an individual basis (P-1) or be done as part of a group referral process (P-2). UNHCR does not play a role in the referral of family reunification cases that qualify for P-3, but in some instances UNHCR may assist with P-3 processing (e.g., helping to obtain exit permission).

In the case of individual referrals (P-1), UNHCR field or branch offices will prepare

³⁵ Section 207(e) of the INA requires “discussions in person by designated Cabinet-level representatives of the President with members of the Committees on the Judiciary of the Senate and of the House of Representatives to review the refugee situation or emergency refugee situation, to project the extent of possible participation of the United States therein, to discuss the reasons for believing that the proposed admission of refugees is justified by humanitarian concerns or grave humanitarian concerns or is otherwise in the national interest...” The Secretary of State traditionally serves as the Cabinet member presenting the President's proposal at the Consultations. This proposal is developed by DOS with input from several federal agencies, state governments and private sector organizations interested/involved in U.S. refugee resettlement. Following the consultations, and after receipt of congressional concurrence with the President's proposal, the Department of State (DOS) drafts a Presidential Determination for signature by the President, which establishes the overall admissions levels and regional allocations.

³⁶ [Presidential Determination No. 2011-17](#)

individual Resettlement Referral Forms (RRFs) for each case that will be submitted to the USRAP. A UNHCR field or branch office may submit the RRF directly to the USRAP, or in some regions, the submissions is through a UNHCR Regional Resettlement Hub (e.g., the Nairobi Hub). For group submissions (P-2), UNHCR and the USRAP agree in advance as to the specific format and process for making referrals. While group referrals procedures can vary substantially from population to population, most UNHCR group submissions include at minimum UNHCR biographic information, such as name, family members, date of birth, and place of birth.

9 OTHER UNHCR FUNCTIONS

9.1 Research

UNHCR has available at its disposal a comprehensive range of country of origin information to assist those working in refugee protection and resettlement. UNHCR's "Refworld," an online database, is a leading source of information necessary for making decisions on refugee status. Refworld contains a vast collection of reports relating to situations in countries of origin, policy documents and positions, and documents relating to international and national legal frameworks.³⁷ The information has been carefully selected and compiled from UNHCR's global network of field offices, governments, international, regional and non-governmental organizations, academic institutions, and judicial bodies.³⁸

9.2 Interpretive Guidance

UNHCR also plays an important legal role in refugee protection. As is evident from the "Additional Resources" section at the beginning of this module, UNHCR issues interpretive guidance on the meaning and application of the refugee definition. This guidance ranges from the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status, first published in 1979, to the many Guidelines on International Protection, Guidance Notes, Protection Policy Papers, Handbooks, and training modules on a myriad of topics. USCIS has relied on UNHCR materials as persuasive authority when adjudicating refugee and asylum claims.

9.3 Refugee Status Determination

In some situations, UNHCR makes the initial refugee status determination. This occurs when States, both signatories and non-signatories to the Convention and/or Protocol, do not have a protection structure in place and invite UNHCR to make such determinations. UNHCR also conducts refugee status determinations prior to referring cases for resettlement to the United States under Priority 1.

³⁷ Refworld may be accessed through the UNHCR [website](#).

³⁸ For additional information regarding Refworld, see RAI0 Training Module, *Country Conditions Research and the RAI0 Research Unit*.

9.4 Cooperation

Another UNHCR function is to foster cooperation with and among other U.N. agencies, regional organizations, NGOs, and scientific and research institutions to ensure quick, coordinated responses to refugee problems, as well as to provide protection (both physical and legal) to refugees.

9.5 Training

UNHCR develops training programs for its staff, government officials, and NGOs to sensitize them to fundamental protection issues, to promote effective dialogue, to provide practical knowledge and skills, and to disseminate information on the laws and principles governing protection of refugees and the proper recognition of their rights.

9.6 UNHCR's Mission in the United States

UNHCR has a regional office in Washington, DC that covers the United States and the Caribbean. The regional office comprises several units, including:

- Resettlement – This unit works closely with government officials on Federal, State, and local levels, as well as with non-governmental organizations, to help refugees in need of resettlement come to the United States. The unit actively participates in state and national conferences and training workshops for U.S. resettlement partners. It also gives ongoing support and assistance to UNHCR offices around the world, which are working with operational issues related to the U.S. resettlement program. UNHCR works closely with U.S. counterparts to promote appropriate support systems for refugees with special needs, such as women and children, and medical cases.
- Protection – This unit informs government officials, attorneys, and NGOs in the United States about international standards of refugee protection. The unit meets regularly with governmental and non-governmental partners on refugee protection matters within the United States, provides comments on proposed legislation and regulation, monitors compliance with international standards, and conducts training sessions for government components and non-governmental organizations. The protection unit also assists asylum seekers and their representatives with information on laws, policies, and procedures pertaining to refugees, and may issue advisory opinions or *amicus* briefs in cases of significant impact.
- Caribbean – This unit covers twenty-seven island states and territories in the Caribbean region and provides support to UNHCR offices located in Haiti and the Dominican Republic. The unit promotes refugee protection through training, advocacy, humanitarian assistance, and long-term solutions on behalf of asylum-seekers, refugees, and stateless people in the Caribbean region. The unit advises regional governments on refugee issues and obligations under international law and supports governments in meeting their obligations towards refugees. The unit also conducts refugee status determinations on behalf of many of the governments in the region that are lacking national protection legislation or the means to effectively

implement such protection. A network of non-governmental Honorary Liaisons in the region assists UNHCR in meeting its objectives.

10 CONCLUSION

UNHCR has played a fundamental role in the development of international protection throughout the world. The *1951 Convention relating to the Status of Refugees* and the *1967 Protocol relating to the Status of Refugees* have created flexible and universal mechanisms to address refugee issues. More recently UNHCR has been called on to provide protection to other individuals, including internally displaced people, not covered by the Convention, the Protocol, or any expanded regional instruments.

States, not the international community, have the primary responsibility to provide protection of refugees present on their soil. The *1951 Convention* and the *1967 Protocol relating to the Status of Refugees*, along with other documents listed in this module establish the standards of international protection. The categories of refugees who require international protection include:

- Mandate Refugees
- Convention Refugees
- Refugees under Regional Instruments
- Individuals with Special Classifications under National Law
- Returnees
- Internally Displaced People

UNHCR provides protection and assistance to refugees and seeks durable solutions to their problems. The durable solutions to refugee problems include: voluntary repatriation, local integration, and resettlement. In addition, UNHCR safeguards other groups of people who have unique protection issues.

11 SUMMARY

11.1 Origins of International Protection for Refugees

Since World War I, the international community has worked together to set standards for the protection of refugees. In 1950, UNHCR was created to protect refugees and find durable solutions to their problems. The *1951 Convention* and *1967 Protocol* provide a universal definition of a refugee, establish that all signatories are bound by the principle of *nonrefoulement*, require State signatories to facilitate and cooperate in the supervisory role of UNHCR, and grant to UNHCR the responsibility for managing the protection of refugees.

11.2 Elements of International Protection

The international community steps forward to care for the citizens of another country when the government of that country cannot or will not protect its citizens. Traditionally, the international community did not provide protection unless the country of nationality was unable or unwilling to protect its citizens, and those citizens had crossed an international border.

In recent years, however, returnees, victims of war, stateless individuals, and internally displaced people have joined Convention refugees as beneficiaries of international protection. Individual countries, the agencies of the United Nations, international and intergovernmental organizations, voluntary agencies, non-governmental organizations, the local population, media, and refugees themselves all contribute greatly to the protection of Convention refugees and other vulnerable populations. In refugee protection, the ability of refugees to enter safely into a country of asylum without the threat of return (*refoulement*) to the country of feared persecution is of primary importance. Once entry occurs, attention turns to maintaining the safety of the refugees and treating them in accord with human rights standards.

11.3 International Protection Standards

The standards of refugee protection are rooted in international instruments, to which all signatory States must adhere. All individuals are entitled to respect for their basic human rights, regardless of immigration status. Some universally accepted basic rights are considered non-derogable and some are considered principles of customary international law. UNHCR and the international community monitor the actions of countries of asylum to ensure that the protection needs and human rights of refugees are respected.

11.4 Roles of Providers of International Protection

States, as signatories to international conventions and instruments, have the primary responsibility to protect refugees on their soil. The international community joins in the protection efforts when a particular country does not have the resources or the will to ensure the safety of refugees on its soil. UNHCR and the international community fulfill three basic needs of refugees: protection, assistance, and durable solutions. UNHCR does not provide for the needs of refugees alone. International, intergovernmental, and non-governmental organizations, along with voluntary agencies, the local community, and the media, gather information on refugee crises, provide for the safety of refugees, offer legal advice and social counseling, and assist in resettlement of refugees.

11.5 Protection Needs of Refugees

Agencies and entities face significant challenges in the protection of refugees. Threats to safety include discrimination, abusive arrest and detention, rape and sexual violence, forced recruitment into armed services or militias, and denial of the right to work. Furthermore, there are specific groups of refugees who are especially vulnerable to harm. These groups include women, children, and individuals residing in refugee camps of

mixed populations. Mixed populations include economic migrants, combatants, and criminals within a camp, in addition to the refugee population.

11.6 Refugee Solutions

The three durable solutions for refugees are voluntary repatriation, local integration, and third country resettlement. The solution preferred by most refugees is their voluntary return to their country, when conditions permit. This solution requires close monitoring of the repatriation process. The solution of local integration requires the willingness of the country of asylum to take over from the international community in protecting the rights of refugees. Local integration succeeds when refugees are offered a secure status in the country of asylum and allowed to participate fully in the new society. Resettlement, the solution of last resort, offers an option for refugees when the first two solutions are not feasible. In determining whether a refugee is an appropriate candidate for resettlement, UNHCR must evaluate the degree of harm the individual faces, the humanitarian needs of individuals, and family reunification considerations, among other factors.

11.7 Other UNHCR Functions

UNHCR enhances its operations through research into conditions in countries of origin and first asylum, cooperation with other entities involved in human rights monitoring and refugee protection, and training its staff, government officials, and NGO personnel on issues of refugee protection.³⁹

³⁹ United Nations High Commissioner for Refugees, "[UNHCR Washington: Resettlement](#)."

PRACTICAL EXERCISES

Practical Exercise # 1

- Title:
- Student Materials:

OTHER MATERIALS

There are no Other Materials for this module.

SUPPLEMENT A – REFUGEE AFFAIRS DIVISION

The following information is specific to the Refugee Affairs Division. Information in each text box contains division-specific procedures and guidelines related to the section from the Training Module referenced in the subheading of the supplement text box.

REQUIRED READING

- 1.
- 2.

ADDITIONAL RESOURCES

1. United Nations High Commissioner for Refugees, *Resettlement Handbook* (Geneva, 2011), [Chapter 6: UNHCR Resettlement Submission Categories](#), 55p.
2. United Nations High Commissioner for Refugees, *Resettlement Handbook* (Geneva, 2011), [Chapter 5: Protection Considerations, and the Identification of Resettlement Needs, Section 5.2.2. Children and Adolescents](#), pp. 184-194, 10p.
3. United Nations High Commissioner for Refugees, *Resettlement Handbook* (Geneva, 2011), [Chapter 7: Basic Procedures to Follow in Processing Resettlement Submissions](#), 84p.

SUPPLEMENTS

RAD Supplement – 1

Module Section Subheading

SUPPLEMENT B – ASYLUM DIVISION

The following information is specific to the Asylum Division. Information in each text box contains division-specific procedures and guidelines related to the section from the Training Module referenced in the subheading of the supplement text box.

REQUIRED READING

- 1.
- 2.

ADDITIONAL RESOURCES

- 1.

SUPPLEMENTS

<p style="text-align: center;"><u>ASM Supplement – 1</u></p> <p style="text-align: center;">Module Section Subheading</p>

SUPPLEMENT C – INTERNATIONAL OPERATIONS DIVISION

The following information is specific to the Refugee Affairs Division. Information in each text box contains division-specific procedures and guidelines related to the section from the Training Module referenced in the subheading of the supplement text box.

REQUIRED READING

1. 9 FAM Appendix O, [*Processing Individual Refugee Cases*](#), 5p. This Foreign Affairs Manual link describes the Department of State procedures for individual refugee processing.

ADDITIONAL RESOURCES

- 1.
- 2.

SUPPLEMENTS

<p style="text-align: center;"><u>IO Supplement – 1</u></p> <p style="text-align: center;">Module Section Subheading</p>
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