

## REFUGEE WOMEN

### I. INTRODUCTION

1. Over the past ten years, UNHCR and its partners have made concerted efforts to address the protection concerns of refugee women, representing 51 percent<sup>1</sup> of persons of concern to UNHCR. Yet refugee women continue to be disproportionately affected by physical and sexual violence and abuse, have unequal access to asylum procedures and humanitarian assistance and often do not receive individual identity documents. International laws,<sup>2</sup> standards and policies on this issue abound: the problem is that they are inadequately implemented.

2. This paper analyses the five most salient and sometimes inter-related protection concerns facing refugee women today: safety and security; equal access to humanitarian assistance; registration and documentation; gender-sensitive application of refugee law and procedures; and trafficking in women and girls. After briefly discussing the problems and their underlying causes, the paper proposes concrete recommendations for action. The recommendations are drawn from international human rights law, Executive Committee Conclusions, guidelines and policies, and build on a series of meetings held over the last two years within and outside the Global Consultations process.<sup>3</sup> In order to facilitate discussion and follow-up, the proposed core action identified under each of the five subject headings is framed in boxes in the text of this paper.

3. Underlying these recommendations is the principle that refugee women must be able to participate as equals in the decision-making bodies and processes that affect their lives, from camp committees to conflict resolution.<sup>4</sup> Since women's participation in leadership roles may be rare in some social systems, it is equally important to ensure that men are involved in all attempts to achieve a more equal gender balance. Gender equality mainstreaming in projects and programmes is crucial to ensuring that activities benefit both women and men. Clearly, the protection of refugee women requires a two-pronged approach: gender equality mainstreaming and targeted, specific action.

### II. SAFETY AND SECURITY

4. Displacement magnifies social problems in general and violence against women in particular. The breakdown in social and cultural structures and norms, the separation from and loss of family members and traditional support networks, and failure to prosecute perpetrators of violence all work against the safety and security of refugee women. Given their age, refugee girls are at even

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<sup>1</sup> Based on available statistics as of 19 July 2001. See *Women, children, and older refugees: the sex and age distribution of refugee populations with a special emphasis of UNHCR policy priorities*, UNHCR, Geneva, 2001.

<sup>2</sup> International human rights law prescribes non-discrimination as a fundamental precept. See in particular the 1979 Convention on the Elimination of All Forms of Discrimination against Women.

<sup>3</sup> See latest *Overview of Events relating to the Protection of Refugee Women and Refugee Children* at [www.unhcr.ch](http://www.unhcr.ch), under Global Consultations.

<sup>4</sup> See UN Security Council Resolution 1325 (2000), para.2 of 31 October 2000, calling for an increase in the participation of women at decision-making levels in conflict resolution and peace processes.

greater risk of abuse and so must be included in all projects and programmes promoting gender equality and in any measures designed to protect children.<sup>5</sup>

5. While refugee women and men may face the same kinds of harm, women are often subject to specific forms of gender-related abuse and violence such as rape, abduction or an offer of protection documents or assistance in exchange for sex. Poor camp design, such as no lighting or no readily accessible cooking fuel, can turn washing or collecting firewood into a dangerous activity for women.

6. Detailed guidelines on protecting refugee women exist,<sup>6</sup> but until they are systematically implemented, refugee women will remain at risk of violence and abuse. Some programmes designed to combat gender-related violence are implemented without observing the principle of confidentiality or do not engage all relevant sectors (legal, health, security, community services, and programme) in a coordinated response. Perpetrators of sexual violence against refugee women often act with impunity because refugee women may have no access to the legal systems in host countries, because police are either directly or indirectly involved, or because human rights violations are justified in the name of culture, religion or tradition. Women's security must be seen as integral to the security of the whole society, since refugee women are often responsible for the elderly, the disabled and children.<sup>7</sup>

7. To address these issues of safety and security, the following recommendations are made:
- (i) States, UNHCR and other relevant actors should ensure that gender-sensitive prevention and response mechanisms to gender-related violence are an integral part of all programmes in all refugee contexts, using a multi-sectoral approach and co-ordinated with relevant actors, including in relation to design and location of camps, health services, community or social services, food and non-food items distribution, micro-credit and other self-reliance projects, and local integration/voluntary repatriation programmes and access to resettlement opportunities.
  - (ii) UNHCR needs to monitor and evaluate prevention and response mechanisms to gender-related violence, applying a gender-sensitive methodology.
  - (iii) The Inter-Agency Lessons Learned Conference on Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations, held in Geneva, 27-29 March 2001 and the Dialogue with Refugee Women, organised in Geneva, 20-22 June 2001, by UNHCR and the Women's Commission for Refugee Women and Children, have provided valuable impetus for further action, including recommendations for:
    - full implementation by all actors of UNHCR's *Guidelines on the Protection of Refugee Women* (Geneva, 1991), UNHCR's *Sexual Violence Against Refugees: Guidelines on the Prevention and Response* (Geneva, 1995) and the High Commissioner's *Commitments to Refugee Women (12 December 2001)*;
    - updating by UNHCR of these guidelines;
    - training in human rights and refugee protection instruments, as well as gender equality mainstreaming techniques by States and UNHCR;
    - identification of individual refugee women and girls with special protection needs by States and

<sup>5</sup> See *Refugee Children* (EC/GC/02/7)

<sup>6</sup> *Guidelines on the Protection of Refugee Women* (UNHCR, Geneva, July 1991) and UNHCR's *Sexual Violence Against Refugees: Guidelines on Prevention and Response* (Geneva, 1995).

<sup>7</sup> See Executive Summary of Report of International Expert Seminar, Improving the Security of Refugee and Displaced Women, 24-25 January 2002, Oslo, Norway, organized by the Norwegian Ministry of Foreign Affairs, the Norwegian Institute of International Affairs, the International Peace Research Institute, and the Norwegian Refugee Council.

UNHCR, appropriate follow-up and tailoring of refugee programmes and responses to meet their needs, through, for example, sensitizing and training refugee women leaders to these issues, ensuring their access to appropriate governmental departments and UNHCR in a confidential manner, and regular protection monitoring.

- (iv) State and UNHCR should establish and/or reinforce clear and accessible complaints mechanisms by States and UNHCR for victims of gender-related violence, taking into account principles of confidentiality, and ensuring immediate and longer-term follow-up, such as referral to medical, police, or counselling services, and consideration of durable solutions such as resettlement.
- (v) States should implement UNHCR's Revised Guidelines on Applicable Standards relating to the Detention of Asylum-Seekers (26 February 1999), ensuring in particular that women are never placed in dangerous proximity with unrelated men.
- (vi) To end impunity, sufficient resources should be allocated to address deficiencies in national law and enforcement mechanisms (such as, the police and judiciary), requiring in most cases, an inter-agency approach involving UNHCR, its implementing partners, and other international and non-governmental organisations working in these fields. For its part, UNHCR needs to develop a code of conduct as a prevention tool, for its own staff, as well as staff of its implementing partners. States and UNHCR should provide the necessary information to refugee women and girls to enable them to assert their rights in the host country, and to allow unhindered access to the police and other authorities.

### III. EQUAL ACCESS TO HUMANITARIAN ASSISTANCE AND ESSENTIAL SERVICES

8. As was recently revealed in West Africa, inequalities in access to humanitarian assistance can have grave consequences for women and girls: they may be rendered vulnerable to exploitation by those in charge of their care. In addition, gender-related barriers exclude women from full participation in society. In most cases, those barriers exist because of the failure to mainstream gender considerations into refugee programmes. Sometimes, those obstacles are purposely created by officials, camp guards, or husbands to exclude or minimize the interests of refugee women.

9. Women must be able to participate fully in decision-making and committee structures in refugee camps, at distribution points for food and non-food items, in self-reliance programmes, and in paid employment. This is both a right of women and a way to ensure that decisions will be beneficial to them as well. In addition, their involvement helps to provide protection for children, disabled refugees and the elderly, as women generally care for these members of society. Equally important, providing refugee women with direct access to humanitarian assistance reduces the risk of exploitation.

10. Every programme, in both camp and urban environments, should be analysed, designed and implemented according to its potential impact on refugee women and men. Implementing targeted projects for refugee women can help redress discriminatory practices or unequal treatment. A process of gender equality mainstreaming also requires that initiatives and activities are equally accessible to both women and men.

11. In order to ensure equal access to humanitarian assistance, the following recommendations are made:
- (i) States, UNHCR and other relevant actors need to ensure that women participate equally in decision-making in all areas of refugee camp life as well as in the implementation of such decisions; and that protection and gender-sensitive approaches are applied at every stage of programme development, implementation, monitoring, and evaluation.
  - (ii) States and UNHCR should allow and encourage refugee women to use their skills and capacities in recognition that empowered women are better enabled to contribute to their own and their communities' protection.<sup>8</sup>
  - (iii) All actors should implement fully UNHCR's *Guidelines on the Protection of Refugee Women* (Geneva, 1991) and the High Commissioner's *Commitments to Refugee Women*, notably:
    - equal involvement of refugee women in the distribution of food and other resources in order to guarantee access, and to monitor it scrupulously;
    - equal and effective access of refugee women to skills-training, vocational programmes, income-generation activities, and paid employment;<sup>9</sup>
    - equal and effective access of refugee girls to primary, secondary and vocational education programmes, scholarships and grants;<sup>10</sup>
    - employment of female staff in the various services, particularly health, protection and counselling services.

#### IV. REGISTRATION AND DOCUMENTATION

12. Accessing assistance and services and enjoying basic rights, including freedom of movement and family reunification,<sup>11</sup> is often dependent on proof of identity. Refugee women who lack adequate registration and personal documentation, including identify cards, marriage certificates, divorce certificates, and birth certificates for their children, have sometimes been denied their freedom of movement and access to essential services. Refugee women have been unable to claim or inherit property upon return, to seek support for children from estranged husbands or partners, or have been arrested and detained by police all because they do not have proper documents<sup>12</sup>. Registering refugee women and providing personal documents has long been considered as a right, yet refugee registration cards and other essential documents are often issued only to husbands and male relatives<sup>13</sup>. Gender-sensitive registration processes are equally important in the context of voluntary repatriation.

<sup>8</sup> UNHCR and Women's Commission for Refugee Women and Children: *Respect our Rights: Partnership for Equality – Report on the Dialogue with Refugee Women*, held in Geneva, 20-22 June 2001.

<sup>9</sup> See also Articles 10 and 11 of 1979 Convention on the Elimination of All Forms of Discrimination against Women.

<sup>10</sup> *Ibid.*

<sup>11</sup> Family unity and reunification was the focus of an expert roundtable as part of Second Track of the Global Consultations on International Protection, Geneva, 8-9 November 2001. See *Summary Conclusions – Family Unity* at [www.unhcr.ch](http://www.unhcr.ch), Global Consultations, Second Track.

<sup>12</sup> See Article 27 of the 1951 Convention relating to the Status of Refugees; UNHCR's *Guidelines on the Protection of Refugee Women* (Geneva, 1991); Executive Committee Conclusions no.64 (XLI) 1990 (a) (viii); no.73 (XLIV) of 1993, (c); no.91 (LII) 2001. See also *Reception of asylum-seekers, including standards of treatment, in the context of individual asylum systems* (EC/GC/01/17), third meeting of Global Consultations on International Protection, September 2001.

<sup>13</sup> See Dialogue with Refugee Women, note 8 above.

13. To ensure access to assistance and services, and to safeguard the enjoyment of basic rights, the following recommendations are made:

- (i) Application of Executive Committee Conclusion No.91 (LII) of 2001:
  - all refugees, women and men alike, should be registered individually registered and receive individual documentation, so as to improve their security, freedom of movement and access to essential services;
  - registration should be conducted in a non-intimidating, non-threatening and impartial manner, with due respect for the safety and dignity of refugees.
- (ii) States should register the births, deaths, marriages, and divorces, of refugees and provide school certificates, without cost.
- (iii) Personnel carrying out registration of camp populations or registration for voluntary repatriation should be adequately trained, including in relation to gender-sensitive interviewing techniques; and equal numbers of female officers, interviewers and interpreters should be ensured.
- (iv) The participation of refugee women in any pre-registration or voluntary repatriation information sessions should be ensured and women leaders should be recruited to monitor the registration process, in particular in relation to access to registration points, and to act as focal points for related concerns of other women.
- (v) The registration process should be used as an initial mechanism to identify women with any special protection concerns and to ensure appropriate follow-up.
- (vi) Consideration should be given in some operations to allow women and men over the age of 18 to sign the Voluntary Repatriation Form.

#### V. GENDER-SENSITIVE APPLICATION OF REFUGEE LAW AND PROCEDURES

14. Over the past decade, the understanding of how gender issues can be interpreted in refugee law has advanced both in theory and in practice. The refugee definition, itself, allows for an array of valid gender-based asylum claims, including fear of female genital mutilation, severe forms of domestic violence, and fear of reprisals or retaliation from trafficking rings in the case of a trafficked woman's being returned to her home country. In addition, most countries recognize non-State actors of persecution, including husbands or partners who violate a woman's human rights, where the State is unable or unwilling to protect against persecution.

15. A growing number of States now ensure that female asylum-seekers are offered legal advice and information about the asylum process in a manner and language they can understand. Women are encouraged to make independent and confidential applications for asylum, without the presence of male family members. The number of trained female interviewers, interpreters and decision-makers has increased in many asylum systems. Without these minimum safeguards, the refugee claims of women would often not be heard.<sup>14</sup>

16. Nevertheless, more could be done to protect female asylum-seekers. Given the lack of harmonized approaches and interpretations, an asylum-seeker can be denied refugee status in one

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<sup>14</sup> See also *Asylum Processes (Fair and Efficient Asylum Procedures)* (EC/GC/01/12), section VII, para. 50 (n), second meeting of Global Consultations on International Protection, June 2001.

jurisdiction but obtain it in another. Without information about gender-related persecution in a woman's country of origin, it is impossible to make a valid assessment of an asylum-seeker's claim for refugee status. While there has been progress in the area of gender-related persecution in general, there are still many States that have not adopted gender-sensitive interpretations of refugee law or that have not implemented appropriate procedural safeguards to ensure that women's claims are heard.

17. In order that refugee law and procedures are properly applied in a gender-sensitive manner, the following recommendations are made:

- (i) States, who have not already done so, should ensure the gender-sensitive application of refugee law and procedures, in line with *UNHCR's Guidelines on Gender-Related Persecution*). UNHCR should offer advice and support where necessary. In this regard:
- Refugee women should be given legal advice, access to the refugee status determination process, and information about the process in a manner and language they can understand;
  - Women asylum-seekers should be interviewed separately, without the presence of male family members, so that they have an opportunity to present their case, based on the clear understanding that they may have a valid claim in their own right;
  - Claimants should be informed of the choice to have interviewers and interpreters of the same sex as themselves<sup>15</sup>. These should be provided automatically in the case of women claimants. Immigration officials and decision-makers should be trained in gender-sensitive interviewing techniques and interpretations of the refugee definition; other relevant officials in contact with refugees should also receive gender-sensitive training;
  - States, UNHCR and other actors should include information in country of origin reports on the general situation facing women and, in particular, on gender-related persecution.

## VI. TRAFFICKING IN WOMEN AND GIRLS

18. Trafficking rings flourish in armed conflict and other situations of insecurity and chaos, and refugee women and girls are at particular risk of being targeted by these rings. Separated from their families, with no access to local integration or self-reliance opportunities in host communities, refugee women and girls may accept low-paid jobs only to find themselves forced into prostitution and sexual slavery.

19. Some trafficked women may be able to claim refugee status under the 1951 Convention.<sup>16</sup> The forcible or deceptive recruitment of women or minors for the purposes of forced prostitution or sexual exploitation is a form of gender-related violence or abuse that can even lead to death. It is certainly a form of torture and cruel, inhuman or degrading treatment, and can impose serious restrictions on a woman's freedom of movement. In individual cases, being trafficked could therefore be the basis for a refugee claim where the State has been unable or unwilling to provide protection against such harm or threats of harm. It is crucial to the protection of individual women for States to ensure that trafficked women and girls who wish to seek asylum also have access to asylum procedures.

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<sup>15</sup> See also Executive Committee Conclusion no.64, (XLI) 1990, Refugee Women and International Protection, (a) (iii).

20. To ensure that trafficking in women and girls is recognized as a potential issue in the refugee context, the following recommendations are made:

- (i) Trafficked women and girls seeking asylum should have access to asylum procedures;
- (ii) UNHCR should examine under which circumstances the refugee definition applies to trafficked persons;
- (iii) UNHCR, in its role as co-chair for 2002 of the Inter-Governmental Organizations Contact Group on Human Trafficking and Smuggling initiated by the Office of the High Commissioner for Human Rights, should ensure that the concerns of refugee women and girls are taken into account.

## VII. CONCLUSION

21. States, UNHCR and other relevant actors must ensure that all policies and programmes contain a gender perspective to ensure that women and men benefit fully and equally from decision-making, planning and implementation. This means that women must participate in decision-making processes at all levels. Every day, refugee women challenge customs and traditions that prohibit their full participation in economic, social, cultural and political life in order to be able to provide for themselves and their families. Although displacement often results in serious protection problems for women, it could also ultimately lead to women's greater participation in their own societies.