

# PRACTICAL SOCIAL WORK WITH REFUGEES

## A HUMAN RIGHTS APPROACH

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A Textbook for Higher Education Students

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## Foreword

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In the last decade of the 20th century, the newly democratic states of Central and Eastern Europe and the Baltic countries began signing the 1951 United Nations Convention Relating to the Status of Refugees, which governs States' obligations towards refugees. These States, which have since become host to asylum seekers and refugees from across the globe, were suddenly faced with having to create the legal and institutional structures of new asylum systems, while their social and welfare networks and their social workers were called upon to deal with new situations for which they had no past practice or specialist training. In the words of one such social worker, now the Director of a refugee reception centre, I saw the advert looking for social workers prepared to work in the new camp... we stood there the day the first busloads of refugees arrived and had no idea what to expect, we'd had no training for this... we just had to jump in and try to deal with it...

The United Nations High Commissioner for Refugees (UNHCR) works with NGO and State partners in protecting and assisting refugees as well as seeking solutions to their plight. Since 2001 it has supported the development of a training and communication network active in 18 countries in Central and Eastern Europe and the Baltics, the Competence Development Network Process (CDNP), with the aim of strengthening the professional competencies of refugee-assisting social work professionals. Developed and managed by our implementing partner, Menedék - Hungarian Association for Migrants, CDNP branched out to focus on the source, social work education, and since 2003 the network has supported the introduction of refugee-specific social work education in universities and other higher education institutions in 11 countries. In addition, resource tools, such as the Minimum Standards for Curricula Development and the Gender and Age Training Manual for Refugee Settings have been produced, providing a framework for courses and collecting international good practice materials for such education.

This textbook is a major step forward: the first region-specific text, covering both the institutional context and practical guidance on everyday aspects of social work for and with refugees, in the urban settings of this rapidly changing part of the world. Using regionally relevant case studies and experiences, it examines the core issues - from security and nutrition, through mainstream education to labour integration - and gives practical, good practice guidance for every stage of the process. It speaks directly to the many hundreds of social work, sociology and political science students who each year choose to learn more about working with refugees. Most importantly, it does so from a community and human rights based approach, analysing the situations and problems faced by refugee groups and individuals from a gender, age and diversity perspective, a basis which is critical for understanding and meeting their social protection needs.

Preserving the right of asylum in an increasingly insecure and uncertain world and helping refugees to rebuild their lives has become a much more complex and difficult task than ever before. This is particularly true in Europe where upholding international standards for receiving and protecting refugees is undermined by fears and concerns of "others" and frequently exploited for political purposes. We live in an increasingly globalized world where people from different ethnic, cultural, religious and linguistic backgrounds find themselves living together. To meet the challenges that this poses in general, but especially for refugees and their new communities, we need social work professionals who understand their needs and find the most appropriate ways to meet them. This textbook will help to prepare a new generation of social workers for this very important task and UNHCR is proud to have been associated with its development.



Pirkko Kourula,  
Director, UNHCR Europe Bureau

# Biographies

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## Authors

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## Organisations

CoE	Council of Europe
ECRE	European Council on Refugees and Exiles
ICRC	International Committee of the Red Cross
ILO	International Labor Organization
IOM	International Organisation for Migration
OAU	Organisation of African Unity
OSCE	Organisation for Security and Cooperation in Europe
UN	United Nations
UNDP	United Nations Development Programme
UNHCHR	United Nations High Commissioner for Human Rights <sup>1</sup>
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
WB	World Bank
WHO	World Health Organisation
WFP	World Food Programme

## Other abbreviations

1951 Refugee Convention	Convention Relating to the Status of Refugees
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CIS	Commonwealth of Independent States
CRC	Convention on the Rights of the Child
CRS	Convention on the Reduction of Statelessness
EU	European Union
EXCOM	Executive Committee (UNHCR)
FGM	Female genital mutilation
GO	Governmental organisation
HQ	Headquarters
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDPs	Internally displaced person
IRP	Involuntarily Relocated Person
NGO	Non-governmental organisation
PTSD	Post Traumatic Stress Disorder
RSD	Refugee Status Determination
SGBV	Sexual and Gender-Based Violence
SRH	Sexual and Reproductive Health

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1. Now known as UNHCR - The UN Refugee Agency



# CHAPTER 1.

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## Changing Approaches To The Protection Of Refugees



*The past century, especially its second half, has witnessed people displaced in much greater numbers, much faster and due to very complex circumstances.*



## 1. From sovereign prerogative to international obligation

Migration is not a phenomenon exclusive to the 20th century. It has always been part of human history. Be it the ancient practice of providing sanctuary in holy places or, later, the formal granting of protection mainly on religious or political grounds, refugee issues have long been perceived as a prerogative of sovereign states rather than as an obligation to provide protection to certain individuals. However, the dynamics, scope and intensity of refugee movements and institutional reactions to it changed greatly after the First World War. At that time, the emergence of new nation-states in Europe created a set of institutions that included protected borders, passports and identity documents, which made it increasingly difficult to move from one country to another without the prior consent and approval of the receiving state.

With the displacement of hundreds of thousands of people in the 1920s, the international community began to recognise the problem as an international one and, for the first time, initiated a co-ordinated response to it. In August 1921 the League of Nations appointed Fridtjof Nansen as the high commissioner for refugees in Europe and the focal point for the coordination of relief efforts for the mass movement of people. Despite many activities in favour of displaced people, the first high commissioner became most popular for his 'Nansen passport', the forerunner of the Convention Travel Document<sup>1</sup>, which allowed thousands of refugees to travel and settle in other countries.

During the inter-war period, the foundations of international refugee law began to emerge, mainly through the first international conventions on refugees: the 1933 Convention Relating to the International Status of Refugees and the 1938 Convention concerning the Status of Refugees Coming from Germany. These provided limited protection to the uprooted people. The 1933 Convention, for example, introduced for the first time the principle that no refugee should be forcibly returned to her or his country of origin – now known as non-refoulement.

The tremendous humanitarian catastrophe caused by the Second World War triggered further displacement. The UN Relief and Rehabilitation Administration (UNRRA, 1943–1947) assisted seven million people during and after the war, while the International Refugee Organisation (IRO, 1947–51) resettled more than a million displaced Europeans around the world and helped 73,000 civilians to return to their former homes.

Soon after the establishment of the UN, the Universal Declaration of Human Rights (December 1948) summarised basic standards of human rights and freedoms. Article 14 of the document clearly provides that

Everyone has the right to seek and to enjoy in other countries asylum from persecution.<sup>2</sup>

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1. See chapter 2.

2. Universal Declaration of Human Rights, UNGA res. 217 (LXIII) (Geneva, 10 Dec.1948), Art. 14.1.

## CHAPTER 1.

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While the Declaration is declaratory rather than legally binding, it has, with its extremely strong moral weight, represented a fundamental core for numerous international human rights instruments ever since.

With some million refugees still in Europe long after the end of the war, the UN General Assembly created the Office of a UN High Commissioner for Refugees (UNHCR) in 1950 and temporarily mandated it to solve a residual problem. The following year the Convention Relating to the Status of Refugees (also known as the 1951 Refugee or Geneva Convention), the major legal foundation for refugee protection, was adopted.<sup>3</sup> Though challenged by the rapidly changing nature of migration and asylum, more than half a century later the Convention remains the cornerstone of protection for refugees around the world.

The Convention does not apply to those refugees who are the specific concern of UN agencies other than UNHCR, such as refugees from Palestine who receive protection or assistance from the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Moreover, the Convention recognises cases when certain people may be either excluded from refugee status or such status may cease to apply to them. (Chapter 2, which deals with status determination, gives details of these clauses.)

Certain provisions of the Convention are considered so fundamental that no reservations may be made to them. This means signatory states cannot limit their obligations under them. They include:

- the definition of the term 'refugee' contained in Article 1 as someone who is outside of her or his country of origin, having a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion;
- the principle of non-refoulement, which obliges states not to expel or return refugees to territories where they could face persecution (Article 33);
- the provision that parties must practice non-discrimination as to race, religion, or country of origin (Article 3).

The Convention clarifies the juridical status of refugees and their right of access to employment and welfare. It also sets out administrative measures that clarify the commitment of states to assist refugees in a wide range of situations, including travel and naturalisation. The Convention specifically authorises UNHCR to supervise its application.

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3. See Further Sources for a list of links to national language versions of the 1951 Refugee Convention.

### 2. Beyond Europe: mass exodus and resettlement

The UNHCR had been established with only a three-year mandate to solve the problem of post-war refugees, after which it was expected to close down. The situation, however, developed very differently. In 1956 the focus of UNHCR turned to the exodus of some 200,000 refugees fleeing Hungary after the Soviet Union suppressed an uprising. Most of the refugees settled in Western Europe.

Despite large refugee movements in Asia, UNHCR continued to focus on Europe, providing only limited assistance outside of the continent. But this approach was soon to be challenged by the urgent needs of large numbers of refugees fleeing the 1954–1962 Algerian War of Independence. UNHCR for the first time acted outside Europe, providing assistance to hundreds of thousands of Algerian refugees arriving in Morocco and Tunisia, and assisting their mass repatriation a few years later.

These events indicated the changing nature of refugee movements. Contrary to the expectations embodied in the 1951 Geneva Convention, these refugees were fleeing in large groups, rather than individually. Many decided to leave their homes not because of fear of persecution but because of war or other forms of violence. In the case of the Algerian refugees, many also wished to return home as soon as the situation allowed, rather than to integrate in the country of asylum.

With the political changes that followed the beginning of the Cold War and mass disorder connected to the decolonisation of Africa, the international community felt an increasing need to respond to the emergence of new waves of refugees by making the provisions of the Convention applicable to new refugee situations. The UN prepared a Protocol relating to the Status of Refugees. It entered into force in 1967, effectively removing the time and geographical restrictions contained in the 1951 Convention.

In 1969, a new convention on refugees was adopted by the Organization of African Unity (OAU) to help respond to situations of mass displacement. Unlike the 1951 Geneva Convention, the OAU Convention does not require a specific type of harm or cause of flight. The OAU Convention therefore extends the definition of refugee to people fleeing in large groups in order to escape external aggression, occupation or foreign domination. Other regional refugee treaties include the 1984 Cartagena Declaration, a document that broadened the definition of refugee used in Central America. It also offered an innovative approach to refugee protection by extending the definition beyond people threatened by generalised violence, foreign aggression and internal conflict to those fleeing “massive violation of human rights”.

In the early 1970s, 10 million refugees fled from Bangladesh to India during Bangladesh's war of independence from Pakistan. The largest single displacement in the second half of the 20th century brought UNHCR to Asia for the first time. Assistance to the newly arriving refugees soon turned into assistance with their return home.

While the nature of refugee movements and arrivals allowed Europe to carry out an individualised status determination procedure for some time, the reality of countries facing immediate refugee crises is often very different. When large numbers of asylum seekers arrive at once, the reasons for their flight are the same – usually mass violence. Where reliable evidence on the causes is available through media and/or other sources, states may decide to recognise those arriving en masse as refugees. Each member of the group is then regarded as a prima facie refugee.

Mass displacement continued in other places throughout the decade: a lasting exodus of refugees from Cambodia, Laos and Vietnam marked the 1970s. In contrast to the previous refugee experience, some two million refugees fleeing Indochina were resettled in third countries rather than assisted to return home. By pledging to resettle large numbers of refugees, the international community introduced a new concept of temporary refuge in mass influx situations. This solution does not guarantee the full spectrum of rights covered by the 1951 Geneva Convention, but rather a limited set of basic rights to be exercised in the initial country of asylum before a permanent solution is identified elsewhere.

In the 1980s, new proxy wars kept producing new exodus of refugees from the Horn of Africa, Asia and Central and South America. The Soviet invasion of Afghanistan forced some six million Afghans to seek refuge in neighbouring Iran and Pakistan, making Afghans the largest community living in exile. At that time, many industrialised countries became increasingly concerned at flows of refugees. They were less welcoming towards these arrivals, claiming that many of them were in fact economic migrants. Individual states began to introduce measures to prevent or deter people from seeking refuge in their territory and showed little interest in seeking effective, durable solutions for refugees. Restrictive practices have taken different forms, most often detention, including of children – sometimes under harsh conditions– because of illegal entry into the host country or the fact that asylum seekers overstayed their entry visas.

More positive trends were to be observed with the end of the Cold War, as well as with the large repatriations to Namibia, Cambodia, El Salvador, Guatemala and Mozambique. The UN's refugee agency became more involved in the post-repatriation life of refugees, offering more complex assistance in order to facilitate the reintegration of the returnees (see chapter 8).

### 3. Internal displacement: the new challenge

Besides the displacement of people connected with the dissolution of the Soviet Union in 1991, new inter-ethnic and separatist armed conflicts in the South Caucasus and Central Asia created other waves of displaced people and refugees. Major UNHCR operations in the 1990s included assistance to the Kurds fleeing en masse from northern Iraq in 1991. The relief operation in marked the beginning of a trend towards greater involvement in countries of origin, rather than countries of asylum.

The other major emergencies at this time occurred in Europe. "Ethnic cleansing" in the former Yugoslavia caused massive refugee flows. In Bosnia and Herzegovina alone, it was estimated that more than half of the 4.4 million population had been displaced by the end of the war. An estimated 1.3 million people were internally displaced and some 500,000 became refugees in neighbouring countries. Around 700,000 became refugees in other European states.

The Kosovo crises forced large numbers of Kosovo Albanians to flee to Albania and the former Yugoslav Republic of Macedonia in 1999, while another 200,000 Serbs fled Kosovo shortly afterwards. Meanwhile, in Africa, more than two million Rwandans fled to the Democratic Republic of Congo, Tanzania, Burundi and Uganda following the Rwandan genocide in 1994, although many simply relocated within their country. The conflict in Somalia caused yet another mass displacement of people.

In almost all these situations, the displaced people failed to fulfil one of the key provisions of the 1951 Geneva Convention – that of being outside their country of origin. More people found themselves seeking refuge in other parts of their own countries, becoming internally displaced persons (IDPs).<sup>4</sup> Even though IDPs are often in a situation that is de facto or refugee-like, formally they fall between the cracks of current humanitarian law and assistance and are not considered eligible for refugee status. There may be as many as 25 million IDPs worldwide, but there are no binding international legal instruments aimed at protecting this group. Assistance to them is often ad hoc. As of the end of 2004, UNHCR was assisting some 5.6 million IDPs.

The end of the Cold War and the dissolution of the Soviet bloc allowed for the creation of new democracies in Central and Eastern Europe. Most of these countries in the first half of the 1990s acceded to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, slowly turning from predominantly refugee-sending countries into countries of transition and destination (see table 1). In their efforts to accede to the EU, many drew their inspiration in building their asylum systems from the existing European legislation.

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<sup>4</sup> See appendix 6 for further information on IDPs.

**Table 1.**

Year of accession to the 1951 Convention and the 1967 Protocol

1989	Hungary	1993	Slovakia
1991	Poland	1994	FYR Macedonia
1991	Romania	1997	Estonia
1992	Albania	1997	Latvia
1992	Croatia	1997	Lithuania
1992	Slovenia	2001	Balarus
1993	Bosnia & Herzegovina	2001	Serbia & Montenegro
1993	Bulgaria	2002	Moldova
1993	Czech Republic	2002	Ukraine
1993	Russian Federation		

Source: UNHCR

#### 4. 'Persons of concern'

This chapter began by stating that forced migration should not be perceived as a phenomenon exclusive to the 20th century. But the past century, especially its second half, has witnessed people displaced in much greater numbers, much faster and due to very complex circumstances. When the 1951 Convention was adopted, the so-called agents of persecution were generally assumed to be states. Today, most refugees flee areas where there is no functioning government to protect them from the violence of rebel movements or local militia. Situations forcing people to leave their homes, as well as the attempt to offer co-ordinated assistance, has spread far beyond Europe to virtually every corner of the world.

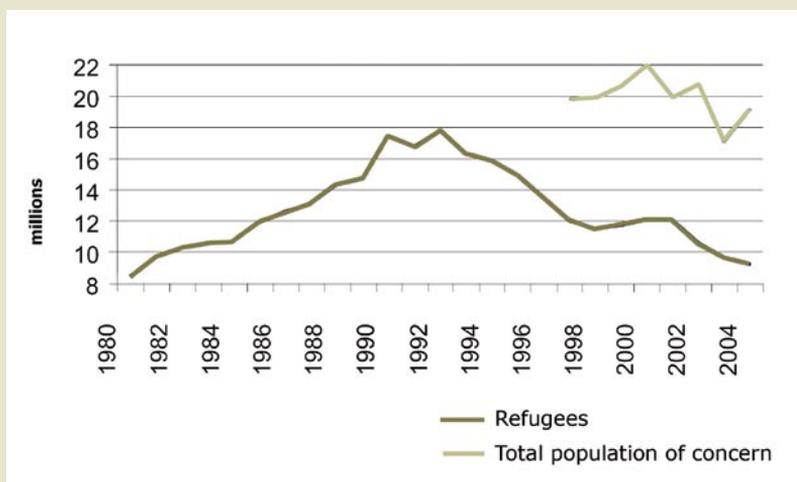
In the past 50 years, the population of concern to UNHCR has grown rapidly from a million people registered after the Second World War to a peak of almost 22 million registered in 1998. While the number of people granted refugee status within this large group of 'persons of concern' has steadily decreased since 1992, numbers of other groups of concern to UNHCR (such as asylum seekers, internally displaced people or stateless persons) remains high.<sup>5</sup> The steady decline in global refugee numbers since 2001 closely correlates with almost unprecedented levels of voluntary repatriation; in all, more than five million refugees have been able to return to their home countries since the end of 2001 – 3.5 million of them to Afghanistan.<sup>6</sup>

5. See appendix 7 for more information on statelessness.

6. UNHCR, Refugees By Numbers (2005 Edition) at <http://www.unhcr.org>

**Figure 1.**

Estimated number of refugees and total persons of concern to UNHCR worldwide (all figures as at December of each given year)



**Table 2.**

Persons of concern to UNHCR - by region

Region	1st Jan 2004*	1st Jan 2005
Asia	6,112,500	6,899,600
Africa	4,285,100	4,861,400
Europe	4,242,800	4,429,900
Northern America	978,100	853,300
Latin America & Caribbean	1,316,400	2,070,800
Oceania	74,400	82,400
<b>TOTAL</b>	<b>17,009,300</b>	<b>19,197,400</b>

\* Revised year-end figures.

## 5. Current climate: refugee or economic migrant?

The growing complexity of migration creates tension between the right of people to seek and enjoy asylum in another country and the right of states freely to decide their own migration policies, including decisions on whom they allow to enter their territory and under what conditions. Recent migration trends have motivated many European states to respond by strengthening their efforts to reduce irregular migration, not least by further restricting physical access to their borders. However, refugees represent an exception to the rule of free choice on regular immigration policies vis-à-vis all migrants. Under international law, states are obliged to admit asylum seekers into their territories; otherwise, they would be in danger of breaching the key principle of the 1951 Convention – the principle of non-refoulement.<sup>7</sup>

The nature of asylum, the causes of flight and the response of the international community have gone through dramatic changes. Individual asylum applications, typical of refugees fleeing the Soviet Bloc during the Cold War, were slowly replaced by large-scale crises forcing masses of people from their homes. More conflicts caused refugee movements within national boundaries rather than across them, resulting in the displacement of millions of people around the world.

At the same time, with industrialised countries introducing increasingly restrictive measures to stop the influx of foreigners in general, the ‘asylum route’ became the last resort for people trying to access a territory. Although the reasons why non-refugees leave their countries of origin may well be as morally compelling as those that force refugee movements, the problems arising from economic deprivation cannot be resolved through asylum policies. At the same time, it is also necessary to find effective solutions for economic migrants within their countries of origin, be it through development aid, debt relief and fair trade, or other tools to fight poverty, which can be as devastating as oppression or persecution.

Increased numbers of asylum seekers in Europe throughout the 1980s and early 1990s motivated EU member states to initiate discussion on the better co-ordination of asylum policies. The 1992 Maastricht Treaty directed the signatories to work towards a common asylum policy, that is, to harmonise asylum rules and practices for the admission, residence and return of third-country nationals. The 1999 Amsterdam Treaty moved the issue forward, stipulating that the common asylum policy would become part of the Common Area of Freedom, Security and Justice.

Meanwhile, EU states began seeking alternatives to the standard full refugee status to accommodate large-scale influxes of asylum seekers, such as the hundreds of thousands of civilians who fled Bosnia and Kosovo in the 1990s. A solution to such situations was identified through new, short-term instruments of protection such as temporary protection and other kinds of provisional status that would subsequently be lifted and followed by the voluntary return of people as soon as the situation allowed.

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7. The UN Declaration on Territorial Asylum (1967) recalls Article 13/14 of the Universal Declaration of Human Rights. The principle of *non-refoulement* includes non-rejection at the frontier.

The development of a common asylum system required binding legislative instruments, which would establish common standards and operational strategies. Most such instruments were prepared as Directives, setting minimum standards in the key fields of refugee protection yet leaving member states to decide on how to incorporate these standards into national legislation. These Directives cover standards on the reception of asylum seekers, qualification standards (i.e. the basis on which decisions to grant or deny asylum are made), procedural standards and other issues.<sup>8</sup>

New rules that impaired asylum seekers' ability to access the asylum procedures consistently reduced the number of asylum seekers newly arriving in the industrialised countries during the early years of the 21st century. But the costs have included a decline in the protection available to refugees, the diversion of the asylum flow to other parts of the world, and a substantial increase in new factors accompanying asylum seekers' routes, such as human trafficking<sup>9</sup>, people smuggling, and detention. These new characteristics often create even more confusion in the distinction between refugees and other – mainly economic – migrants.

• • • • •

Chapter 2 introduces the immigration and asylum system from an international and a national perspective. It examines how the newly democratic states of Central and Eastern European have adopted existing models and legislation, and explores how changing approaches to human rights in general, and asylum seekers and refugees in particular, have influenced these systems and the institutions and procedures that define them.

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8. See chapter 2 for the development of EU asylum policy and legislation.

9. See appendix 4 for further information on trafficking.



# CHAPTER 2.

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## The Immigration/Asylum System



*While the 1951 Refugee Convention remains the foundation for the international refugee rights framework, refugees also enjoy the fundamental human rights recognised by international human rights instruments.*



## 1. The international legal framework

### 1.1 Competing views on freedom of movement

#### EXERCISE

Draw a map of your country. Then discuss the history of your family and close relatives with your friends or colleagues, paying particular attention to where they live in your and/or foreign countries. If they have moved, draw the travel routes on the map.

Law governs relationships between human beings. The rules, procedures and institutions follow in accordance with societal demands. The legal framework for migration and asylum governs a special relationship involving two main actors:

*the human being on the move vs. the receiving community represented by the state.*

The distinctive nature of this relationship has been based on the concept of membership. Access to rights, resources and opportunities have primarily been secured for members of the receiving community. The language used in national laws and public discourse reflects this traditional distinction. 'Immigrant', 'alien', 'asylum seeker', 'refugee', 'foreigner', 'stranger' and 'newcomer' are labels used in public discourse to describe men and women, boys and girls, who arrive at the borders of the sovereign states intending temporarily or permanently to become members of the receiving community. This is not an easy situation. A border guard checking travel documents and visas exercises the undisputed right of the sovereign state to control the entry to, and presence of, foreigners in its territory. Constitutions and laws clearly spell out and emphasise this fundamental principle. National practices have contributed to recognition of this rule at the international level. As the European Court on Human Rights has repeatedly stressed, states "have the right, as a matter of well-established international law... to control the entry, residence and expulsion of aliens"

Moreover, while international law clearly recognises a right of everyone to leave and return to his or her own country, there is no single provision in international human rights legislation that provides for the right of a person to enter or emigrate to a foreign country.

2. Everyone shall be free to leave any country, including his own.

4. No one shall be arbitrarily deprived of the right to enter his own country.

*International Covenant on Civil and Political Rights (1966), Article 12*

However, people increasingly move around the globe. In response, states set up institutions and procedures to regulate entry, duration of stay, residence and removal of foreigners.

## CHAPTER 2.

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Migration legislation serves as the foundation of national migration systems. Migration laws spell out who is entitled (and who is not) to enter, stay or reside in the territory of the state; which rights and duties shall be attached to a foreigner staying or residing in the country; and when and how the state may remove a person from the territory.

Increasingly, migration laws become particularly sensitive to, and reflective of, domestic attitudes and expectations. In the context of migration in general and refugee access to protection in particular, two competing concepts determine the nature and content of the migration and asylum systems in a given country. We can describe these concepts as universalism and particularism.<sup>1</sup> In the context of refugee protection, the contemporary universalist view perfectly matches the concept of natural, inherent and universal human rights. The existence of a human being is the only precondition for these rights. The state has no power to deny or limit access to fundamental human rights. Moreover, the state has a primary duty to protect the rights of every human being within its jurisdiction. If the state fails to implement this duty, the protection of the human rights of an individual shall be of concern for the international community. Accordingly, if a state of origin is unwilling or unable to protect the human rights of an individual, another state shall ensure protection allowing him or her to enter and reside in its territory.

Each state party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

### International Covenant on Civil and Political Rights (1966), Article 2 (1)

This universalistic view is reflected by the concept of persecution, a key precondition for granting refugee status. "Persecution is most appropriately defined as the sustained or systematic failure of state protection in relation to one of the core entitlements which has been recognised by the international community."<sup>2</sup>

In the particularist approach, the state is a collective structure created by a particular community to protect the rights and interests of its members. The resources available within this community are limited and primarily reserved for its members. The community has clear legal and physical boundaries. Citizenship serves as a principal legal boundary. It is defined as a special legal relationship between a member of the community on the one hand and the state on the other. This relationship is a precondition for accessing the maximum possible social, political, economic and material benefits and resources available within the community and protected by the state.

The community has also clear geographical boundaries, which may be crossed by outsiders only with the permission of the receiving state. Arrival, stay and residence

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1. G Noll (ed.), *Negotiating Asylum: the EU acquis, extraterritorial protection and the common market of deflection*, (The Hague, 2000).

2. JC Hathaway, *The Law of Refugee Status* (Butterworths Canada, 1991), p.112.

of an outsider means claiming a portion of the state's limited resources, be they social welfare benefits, employment or integration measures. According to the particularist view, these resources should be first offered to nationals. Therefore, the scope and content of protection offered to refugees or economic migrants allowed to enter the territory will be conditional on the interests of members of the receiving community. Under this scheme, the more free resources are available, the more rights might be offered to refugees or other migrants. The system may also work in a contrary way: the more pressure (in terms of arriving asylum seekers) on the system, the fewer benefits, entitlements and opportunities will be offered to outsiders.

The primacy of the interests of the host community becomes obvious in cases when the personality of an outsider is allegedly dangerous for its members. A particularist believes that the state has not only the right but also the duty to protect its nationals against potential threats, preventing entry of, or removing, foreigners who are considered to be a threat to national security or society.

To summarise:

while the universalist perspective focuses on the existential threat facing the individual, the particularist perspective is eager to avoid existential threats facing communities. The particularist professes one for all, while the universalist endorses all for one.<sup>3</sup>

Probably neither of these concepts has been fully realised within the national or international legal framework. Instead, throughout history and even today, one can observe a combination of both approaches being reflected in legal instruments and practices at both national and international levels.

### 1.2. Sources of international protection of refugees

The troubled 20th century significantly challenged the tradition of regulating migration issues nationally or bilaterally. Although the state's right to control the entry and presence of foreigners in its territory remained a basic principle of international law, mass displacement and the needs of human beings in the host states' territory required a multilateral response.

At the initial stage of multinational cooperation, international arrangements and instruments were responding to events. The refugee protection system established by the League of Nations after the First World War largely responded to refugee situations as they emerged, such as the exodus of some two million Russian and other refugees displaced in Europe and Asia Minor. Accordingly, international agreements dealt with the needs of Russian, Assyrian, Turkish, Greek, Armenian, Spanish, Austrian and German refugees by providing identity papers and travel documents, regularising their national status, and providing access to employment and protection against expulsion. Along with international instruments, the League of Nations set up international institutions to co-ordinate protection and assistance projects.

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3. Noll, p.80.

While the creation of the post of High Commissioner for Russian Refugees and other League of Nations initiatives probably reflected a universalistic approach supported by the international community, the first generation of modern refugees was hardly welcome in host states.

The flight of these refugees unfortunately coincided with the emergence of modern systems of social organisation throughout most of Europe. Governments began to regulate large parts of economic and social life, and to safeguard critical entitlements for the benefit of their own citizens. This commitment to enhanced investment in the well-being of their own citizenry led states to reassert the importance of definite boundaries between insiders and outsiders, seen most clearly in the reinforcement of passport and visa controls at their frontiers. Equally important, access to such important social goods as the right to work and public housing was often limited to persons able to prove citizenship.<sup>4</sup>

Current national migration legislation and administrative practice give numerous examples of institutionalised particularism. The famous expression 'Fortress Europe' summarises the key attitudes and measures employed at national and European level to prevent or limit the arrival of outsiders, including asylum seekers, into the EU. These measures have inter alia included: the appearance of immigration officers of destination countries in the airports of departure countries; the extension of lists of grounds for non-admission and removal; and the reinforcement of national security and public order considerations in national migration and asylum systems.

The international refugee protection system established by the United Nations after the Second World War followed the League of Nations approach. The 1951 Refugee Convention and the creation of UNHCR reflected states' belief in the temporary nature of mass displacement. With the 1967 Protocol Relating to the Status of Refugees eliminating the temporal and geographical limitations of the 1951 Convention, the international refugee protection system became open-ended and flexible in response to new refugee situations and the needs of individual refugees.

The influence of the 1951 Convention and the 1967 Protocol on states' policies and practice has been enormous. As binding international treaties, they set out the clear legal obligations of states vis-à-vis refugees. To the old rule that states have the right to control the entry, residence and expulsion of aliens, states now had to add the words "subject to their international treaty obligations". The instruments also limited states' freedom to establish and exercise its control measures with regard to a particular category of foreigners.

*Pacta sunt servanda* rule:

Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

Vienna Convention on the Law of Treaties (1969), Article 26

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4. JC Hathaway, *The Rights of Refugees under International Law*, (Cambridge, 2005), p.83.

The 1951 Refugee Convention was a remarkable breakthrough in recognising universal social, economic, cultural and (partially) civil rights for refugees. (The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights were only adopted in 1966.) At the same time, during the second part of the 20th century, the rapid development of international human rights law challenged a number of barriers imposed by states that retained social and economic resources for the benefit of their nationals.

While the 1951 Refugee Convention remains the foundation for the international refugee rights framework, refugees also enjoy the fundamental human rights recognised by international human rights instruments (sometimes known as the International Bill of Human Rights). These have largely influenced the contemporary content of both international and national refugee protection regimes, particularly the 1950 European Convention on the Protection of Human Rights and Fundamental Freedoms, which has proved to be an effective instrument for refugee protection in the region.

### INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

- Universal Declaration of Human Rights, 1948
- International Covenant on Economic, Social and Cultural Rights, 1966
- International Covenant on Civil and Political Rights, 1966
- Optional Protocol to the International Covenant on Civil and Political Rights, 1976
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, 1991

### 1.3 Status determination

The 1951 Refugee Convention provides for the universal definition of the term 'refugee'. Its proper application secures physical safety and legal protection for refugees in the territory of the state party to the Convention. It also helps to distinguish refugees from other migrants arriving at, or present in, host states.

In industrialised countries, where asylum applications are examined under individual status determination procedures, a mistake in applying the definition may have severe consequences. If there are no other grounds for them to remain in the territory, rejected asylum seekers must return to their country of origin. The state has the power to expel rejected asylum seekers, by force if necessary. As one refugee practitioner described it, in present day Europe, where capital punishment has been abolished, refugee law remains the only legal procedure, that, if wrongly applied, may sanction the death penalty.

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

1951 Refugee Convention, Article 1A

Although formulated in legal language, the definition describes the situations of displaced men, women, boys and girls who, because of the danger to their fundamental human rights, are unable or unwilling to return to their home country. The forced nature of refugee displacement is a key criterion distinguishing refugees from economic or other migrants. The following elements of the definition are crucial:

■ "outside the country of origin"

A refugee has crossed an international border. This distinguishes refugees from internally displaced persons (IDPs), who remain within their home country.

■ "a well-founded fear of being persecuted"

Persecution is understood to comprise serious human rights abuses or other serious harm often, but not always, perpetrated in a systematic or repetitive way. Thus, death, torture, physical assault, unjustified imprisonment, and illegitimate restrictions on political or religious activities are all examples of persecution. Discrimination will not normally amount to persecution itself, but particularly severe discrimination will usually qualify as persecution on cumulative grounds. In contrast, neither natural disasters nor poor economic conditions are considered to be persecution.<sup>5</sup>

The "well-founded fear" requirement does not mean that a refugee had to be targeted personally.

It may be assumed that a person has a well-founded fear of being persecuted if he has already been the victim of persecution for one of the reasons enumerated in the 1951 Convention. However, the word 'fear' refers not only to persons who have actually been persecuted, but also to those who wish to avoid a situation entailing the risk of persecution.<sup>6</sup>

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5. UNHCR, *An Introduction to International Protection: protecting persons of concern to UNHCR*, (Geneva, 1 August 2001), p.56 (<http://www.unhcr.org>).

6. UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, HCR/IP/4/Eng/REV.1 (Geneva,1992).

Moreover, although many refugees have a well-founded fear of being persecuted by governments, perpetrators of abuses may be family members, neighbours, other private persons or paramilitary organisations. When the government tolerates such acts or is unable to protect the individual, such protection shall be secured by the state offering asylum. Lawyers use the term ‘non-state agents of persecution’ to describe such situations.

It also includes targeting for reasons of

- race
- religion
- nationality
- membership of a particular social group or
- political opinion.

There is no hierarchy of persecution. A woman who is a victim of sexual violence committed during armed conflict is entitled to the same level of protection as a high-ranking member of the party opposing a dictatorship. An individual may also receive refugee status if agents of persecution targeted him/her because one or more of the grounds given above was falsely imputed to him/her.

Acts of persecution may be gender-specific, including sexual and domestic violence, female genital mutilation, forced marriage and sexual exploitation (including trafficking in women and girls).

Although gender is not explicitly included in the list, “social group” has been applied to gender-related claims in many national asylum systems.<sup>7</sup> In 1985, the UNHCR executive committee recognised this approach:

States, in the exercise of their sovereignty, are free to adopt the interpretation that women asylum seekers who face harsh or inhumane treatment due to their having transgressed the social mores of the society in which they live may be considered as a “particular social group” within the meaning of Article 1(A)(2) of the 1951 UN Refugee Convention.<sup>8</sup>

■ “is unable or, owing to such fear, is unwilling to avail himself of the protection of that country”

The failure or absence of state protection in the home country is both a precondition and reason for the international community to secure protection of the basic human rights of refugees.

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7. See: *Islam (A.P.) v. Secretary of State for the Home Department, Regina v. Immigration Appeal Tribunal and Another Ex Parte Shah (A.P.) [conjoined Appeals]*.

The detailed reasoning of the UK House of Lords in such a case appears at <http://www.parliament.the-stationery-office.co.uk/pa/ld199899/ldjudgmt/jd990325/islam01.htm>.

8. UNHCR, *Refugee Women and International Protection* (Geneva, 1985), conclusion no. 39 (XXXVI), para (k).

## CASE STUDY: THE PLIGHT OF SAPNAHAR

Sapnahar is a 12-year old girl from a small village in Bangladesh. She was raped by a local boy, became pregnant and gave birth to a baby girl. Before giving birth Sapnahar was tried and convicted by a salish or traditional village court in her home village. Her 'crime' was to have had sexual relations outside of marriage. The boy who raped her was never brought before a salish or civilian court. Sapnahar never reported the incident of the rape to the local police because she feared that the boy's family and the community in which she lived would take the side of the boy and hurt her. As a result of the decision of the salish court, Sapnahar was sentenced to 120 lashes. Due to her pregnancy the village elders decided that she should be punished only after giving birth to her baby.

Salish courts are officially outlawed in Bangladesh. The government of Bangladesh knows that they are operating in many rural areas and yet is unable to do much to control them.

Before the village elders could punish Sapnahar she was secretly taken to a shelter for battered women. She stayed at the shelter in the capital, Dhaka, for a few weeks under the care of older women. Only Sapnahar's mother knew where she was.

After some time the safe house began to receive anonymous telephone calls saying that Sapnahar must return to her village or she would be kidnapped and forcibly taken back. The safe house received a dozen telephone calls, each one more threatening, until the head of the shelter decided to call the police. The police chief said there was little he could do against an anonymous caller; besides, he said, he had "more serious" problems to deal with.

Soon afterwards, Sapnahar was smuggled out of Bangladesh to Calcutta in India, where she had a relative. She travelled to India with her baby daughter, who was then three months old. Sapnahar traveled with a smuggler using false documents. After crossing the border into India the smuggler handed Sapnahar over to one of his contacts. She was taken by bus to her relative's home and the smuggler disappeared. Sapnahar and her baby stayed with the relatives, who were middle-class and had their own shop in Calcutta, for about a month. She had no contact with her family in Bangladesh during this time.

Then one day she was told that she would be sent to Europe. Airline tickets and papers were arranged, and Sapnahar and her baby travelled to a European country on a falsified Indian passport, which had been issued with a visitor's visa from the New Delhi embassy of a Central European state. Sapnahar was accompanied on the trip to Europe by another woman who told her to say, if asked, that she was the woman's daughter and the baby was her little sister.

Sapnahar, the other woman and the baby took a flight to the capital of a Central European state from Delhi. Upon arrival at the airport the woman who had accompanied Sapnahar and her child disappeared. Sapnahar did not know what to do, so she hid in a washroom with her baby girl. She was discovered several hours later by a cleaning lady who saw her crying. As Sapnahar knew neither the local language nor English, the cleaning lady took her to the police office at the airport. The police arranged for an interpreter to come to the airport and, after some encouragement from the police and the interpreter, Sapnahar told her story. The police prepared a preliminary interview report and sent it with a 'most urgent' notice to the Directorate of Immigration to conduct a further interview and take a decision.

## Questions

1. Assuming that Sapnahaar is unable to tell the relevant authorities why she had to flee Bangladesh and come to the Central European state, what information could you rely on in order to assess her claim to refugee status? List the sources of information you would need. Where could you find the information you need?
2. Assuming Sapnahaar is able to communicate with you through an interpreter, how would you conduct an interview with her? What special measures would you take, if any, to ensure that Sapnahaar feels comfortable speaking to you or others about her problems? What else would you do to provide for any special needs Sapnahaar and her baby may have, such as medical or psychological care?
3. Assuming that Sapnahaar's story is believable, in your view is she in need of international protection under the 1951 Refugee Convention or not? What about her baby? Prepare a brief outline of your analysis of the case. If Sapnahaar and/or her baby daughter are not refugees under the terms of the 1951 Refugee Convention, should they be entitled to the protection of any other of their specific human rights. Are they entitled to humanitarian protection in the host country?

Does everybody who is a refugee deserve protection? What about war criminals, terrorists, rapists, murderers and perpetrators of other serious, non-political crimes? Reflecting a particularist approach and intending to protect the communities of the host state, the Refugee Convention lists persons who are not eligible for international protection.

The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

- (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
- (c) he has been guilty of acts contrary to the purposes and principles of the UN.

1951 Refugee Convention, Article 1F

These provisions of the Refugee Convention are known as exclusion clauses. They are based on the presumption that certain acts are so grave as to render the perpetrator undeserving of international protection. By introducing these provisions, the authors of the Refugee Convention also intended to prevent misuse of the international protection system by persons responsible for acts condemned by the international community.

### 1.4. State obligations towards refugees: international protection

The Refugee Convention sets out minimum standards for the treatment of refugees in host states. In the Convention, the scope of rights depends on the connection of a refugee to the host state. The Convention therefore differentiates refugees physically present in the host state, refugees lawfully present in the host state, and refugees lawfully staying in the host state. This chapter deals only with the most fundamental protection standards.

(a) Non-refoulement: the cornerstone of the international refugee protection system

Protection from physical return to territories where the refugee would face death, deprivation of liberty, torture or other serious harm reflects the most important refugee need in the country of asylum. Protection from return is also closely related to the need to gain access to a territory where protection would be available. The 1951 Refugee Convention recognises this fundamental need in Article 33, which limits states' right to remove foreigners from their territory. The guarantee applies to all refugees physically present in the host state.

#### Prohibition of expulsion or return ('refoulement')

1. No Contracting state shall expel or return (refouler) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.

1951 Refugee Convention, Article 33

Around the world, asylum practitioners refer to this rule as 'non-refoulement'. The principle of non-refoulement prohibits expulsion or return of refugees to the territories where their life or freedom would be in danger. The contemporary reading of the term 'return' also covers non-admission of asylum seekers.

#### Lithuania and Poland: UNHCR concerned by Chechen refusals

UNHCR is concerned about reports of Chechen asylum seekers being barred from entering Lithuania and Poland following the recent Chechen terrorist attack in Moscow. Last week, Lithuanian border guards refused entry to 26 Chechens and returned them to Belarus. At least 17 of them were detained by Belarus authorities and subsequently put on a train bound for Moscow. Their current whereabouts are unknown. In neighbouring Poland, charity groups have reported dozens of cases of Chechens being turned away from the country's eastern border since the October 23 terrorist attack on a Moscow theatre by Chechen separatists.

The UNHCR bureau in Warsaw and our office in Stockholm, which handles the Nordic and the Baltic states, are seeking urgent clarification from Polish and Lithuanian authorities. While we understand legitimate security concerns following the Moscow attack, we are nevertheless concerned that a blanket refusal to allow in Chechen asylum seekers could put many people at risk.

Poland has hosted a large number of asylum seekers from Chechnya. This year alone, 1,638 Russian Federation nationals – virtually all of them Chechens – had asked for asylum there.

Poland and Lithuania are both signatories of the 1951 Refugee Convention and candidates for membership in the EU. A policy of refusing to allow in Chechen asylum seekers would constitute a violation of the two countries' national laws and international commitments.

Story date: 15 November 2002  
UNHCR Briefing Notes  
(<http://www.unhcr.org>)

The Refugee Convention allows states to expel refugees to their countries of origin on national security or public order grounds. But the 1984 UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and 1951 European Convention on the Protection of Human Rights and Fundamental Freedoms provide for absolute protection for refugees from return to a country where the person concerned may face torture, inhuman or degrading treatment or punishment.

1. No state party shall expel, return (refouler) or extradite a person to another state where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the state concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

### 1984 Convention against Torture, Article 3

Permission to stay is only the beginning. What kind of help should refugees be granted to restart their lives in asylum country? Should refugee boys and girls be granted access to schools? Are refugee men and women to be allowed to work or establish businesses? Should the host community provide social (welfare) support to disabled, older or unemployed refugees? Should the host government issue travel documents to refugees?

In short, which rights should be guaranteed to refugees in the asylum countries? The authors of the 1951 Refugee Convention had to find answers to these questions while drafting the key refugee protection instrument in the middle of the 20th century. Every day refugee men and women are looking for answers to these questions as they struggle to restart their lives within host communities.

#### (b) Prohibition of discrimination

The rights stipulated in the 1951 Refugee Convention are guaranteed to all refugees regardless of their race, religion or country of origin. This provision should guide both policy makers and practitioners dealing with refugees.

The principle of non-discrimination means that the rights set out in the Convention apply with no distinction, exclusion, restriction or preference based on race, religion or country of origin. In the case of non-admission of Chechen asylum seekers, the principle of non-refoulement was clearly violated. In addition, there was a violation of the principle of non-discrimination because the restrictive measures specifically targeted asylum seekers of Chechen ethnic origin.

In the context of social work, the principle of non-discrimination means full equality of access for asylum seekers and refugees to social services and material support available in reception centres or urban refugee settings. A project that provides social support only to children of a particular ethnic group or country of origin would be in conflict with the 1951 Refugee Convention. Social workers providing social assistance should ensure that representatives of all ethnic, social or religious groups have equal access to services and support measures.

### (c) Physical safety

The country of asylum is responsible for protecting the life, health, dignity and physical integrity of all persons under its jurisdiction, according to the contemporary reading of international human rights legislation. Refugees should benefit from protection against any criminal violence in the asylum country, but there are additional guarantees to secure refugees' physical safety. First, the principle of non-refoulement secures the physical safety of refugees, protecting them from expulsion or return to the country where their physical safety would be in danger. Second, refugees should be particularly protected from criminal violence motivated by ethnic hatred, racism or xenophobia. While international laws prohibit such acts, states have also introduced criminal laws to prosecute and punish perpetrators.

State parties.... shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof.

International Convention on the Elimination of All Forms of Racial  
Discrimination (1965),  
Article 4 (1) (a)

Sexual and gender-based violence (SGBV) is another specific challenge refugees frequently face in the host country.<sup>9</sup> Mandatory accommodation in collective reception centres puts refugee women and children in a particularly vulnerable situation. While the Refugee Convention does not specifically address this issue, other human rights instruments explicitly prohibit violence against women and girls and reaffirm states' responsibility to secure prevention of, and response to, SGBV.

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9. See appendix 2 for further information on SGBV.

States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should: ...

(c) exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the state or by private persons.

United Nations Declaration on the Elimination of Violence against Women  
(1979), Article 4

### (d) Material needs and self-reliance

Protection will remain illusory if, although safe and documented, refugees do not have access to fundamental social and economic rights. Food, shelter, clothes and medical care are among priority needs, which should be secured from the first day of a refugee's presence in the country of asylum. While dependence on state support is often inevitable during asylum seekers' stay in collective accommodation centres during the asylum procedure, access to basic economic rights, including the right to work, is of paramount importance in order to secure material needs and empower refugees and their families.

The 1951 Refugee Convention specifically recognises that refugees lawfully staying in the host country should have access to wage-earning employment under the most favourable treatment regime accorded to nationals of a foreign country in the same circumstances. In terms of social welfare, the Refugee Convention obliges states to accord refugees lawfully staying in their territory the same treatment accorded to their nationals. (See chapter 4 for more on refugee access to the social welfare and healthcare systems of host states.)

As the International Covenant on Economic, Social and Cultural Rights applies to every person under their jurisdiction, host states must guarantee adequate standards of living (adequate food, clothing, housing) for refugees.

The state parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The state parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance of international co-operation based on free consent.

International Covenant on Economic, Social and Cultural Rights  
(1966), Article 11 (1)

(e) Education

Whatever stage they are at in the asylum process and regardless of their legal status in the country, refugee girls and boys are entitled to full access to education. While special arrangements in collective accommodation centres may be the only option, access to public schools should be promoted as in the best interests of the child.

The contracting states shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

1951 Refugee Convention, Article 22

State parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) make primary education compulsory and available free to all;
- (b) encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need ...

Convention on the Rights of the Child (1989), Article 28 (1)

(f) Identity and travel documents

Granting refugee status or any other form of protection requires the state to issue a residence permit to the asylum seeker and his or her family members. In the context of the national migration system, a residence permit is the key legal safeguard protecting refugees from refoulement and guaranteeing their security. At the same time, a residence permit normally secures access to basic economic and social rights in the country of asylum. Like anyone else, refugees may also need to visit other countries for personal, professional or other reasons. Recognising this common human need, the 1951 Refugee Convention obliges states to issue travel documents to refugees.

The contracting states shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

1951 Refugee Convention, Article 27

The contracting states shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require...

1951 Refugee Convention, Article 28

## 2. The national asylum system

### 2.1 From international law to national legislation

#### (a) Implementation

International refugee and human rights instruments are implemented by states. The national asylum system is a set of institutions, actors and procedures employed by the state to implement its international obligations to protect refugees.

National laws and by-laws make up the legal framework for the national asylum system. In general, national asylum legislation deals with the following issues:

- a. qualification for refugee status or other forms of international protection;
- b. status determination (asylum) procedure;
- c. reception-related rights and duties of asylum seekers;
- d. legal status of recognised Convention refugees and refugees granted other forms of international protection;
- e. provision of integration support to recognised refugees;
- f. responsibility of relevant institutions.

States have a variety of legal arrangements to address these issues. A social worker should remember that a decision affecting the well-being of his or her client may be taken on the grounds of a minor paragraph in the guidelines comprising numerous pages. Social workers' awareness of the relevant regulations – and their ability to interpret them in line with international refugee and human rights instruments, as well as the relevant provisions of national laws – is crucial to protecting refugees' interests within the system. Access to an immigration or human rights lawyer is a definite advantage to both social worker and client.

#### ■ Separate refugee laws

In some states a separate law addresses refugee issues. This is particularly the case in countries that have recently acceded to the Refugee Convention. An example is the Law of the Republic of Belarus on Refugees of 18 July 2003, which was adopted following accession of the country to the Refugee Convention and New York Protocol on 4 May 2001. Because such laws aim at implementing the Refugee Convention, as a rule they deal with Convention refugee status only, while other forms of international protection are either not institutionalised in the national asylum system or are set out in laws governing aliens. This was the case in Lithuania between 1999–2004 when refugee status was granted according to the Law on Refugee Status, while the Aliens Law provided for the state to issue a temporary residence permit on humanitarian grounds.

■ Separate acts comprehensively dealing with all forms of international protection

States may wish to adopt a separate law governing the provision of all forms of international protection of foreigners in the country. Poland is an example. Granting Protection to Aliens within the Territory of the Republic of Poland, which became law on 13 June 2003, sets out a comprehensive legal framework for a national asylum system. It provides four forms of international protection: refugee status, asylum, tolerated status (subsidiary protection) and temporary protection.

■ Inclusion of asylum-related provisions in laws governing aliens

Inclusion of refugee protection issues in laws governing aliens is another model used in many European countries. The 1989 Swedish Aliens Act is an example of a consolidated approach encompassing both migration and asylum within one piece of legislation. This approach brings both advantages and disadvantages. In many ways, refugee protection is an exception from the general regime governing the entry, presence and removal of foreigners from the country. The state's sovereign right to control the entry, presence and removal of foreigners and national security considerations form the basis of migration legislation. The result is potentially harmful for refugee protection regimes.

It is important to recall that extraterritorial protection is qualitatively different from migration control. The former is not a sub-system of the latter, as both pursue different functions. The function of extraterritorial protection is to produce a subsidiary form of human rights protection.<sup>10</sup>

National legislation largely determines the quality of protection available for refugees. States are obliged to implement their international obligations in good faith and domestic law must secure minimum protection standards for refugees, reflecting the state's international obligations under the Refugee Convention and other human rights instruments. These standards include inter alia: refugee definition; refugee status exclusion and cessation clauses; the principle of non-refoulement; exemption from liability for illegal entry; guarantees against illegal or arbitrary detention; respect for family life; and special guarantees for refugee children. Some of these provisions (so-called self-executing provisions) may be directly applied, for example, by the courts, while others require incorporation into the laws of the country.

### (b) Interpretation

Interpretation is an integral part of the implementation of international refugee law norms in national asylum systems. The UNHCR's Guidelines on International Protection and Policy, including the executive committee conclusions,<sup>11</sup> constitute an important resource for interpretation, generating best practice on refugee protection. The role of these documents, and UNHCR capacity-building activities, is particularly obvious in countries with emerging or new national asylum systems. Especially before

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10. Noll, *Negotiating Asylum*, p.80.

11. Executive Committee of the High Commissioner's Programme at <http://www.unhcr.org/cgi-bin/txis/vtx/excom>

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1998, UNHCR's presence brought new standards, money and experience to Hungary, for instance, as well as intellectual, political and moral influence.<sup>12</sup> Similar UNHCR influence may be traced in other Central European and Baltic states during the last decade of the 20th century.

However, international refugee protection standards can be easily eroded during transposition into the national asylum systems because of the following factors:

- (i) Restrictive interpretation of the provisions of the Refugee Convention. Recognition of gender-based persecution illustrates well the different approaches towards interpretation of international refugee protection standards. In 1997, for example, Sweden amended its Aliens Act to include a new category of "aliens in need of protection", which inter alia included persons having a well-founded fear of persecution due to their gender or homosexuality. This gender clause automatically excluded women fearing gender-based persecution from Convention refugee status, offering them instead a supplementary protection only.<sup>13</sup>
- (ii) The Refugee Convention does not address all refugee protection issues. This leaves states with a significant margin of flexibility, particularly in procedural issues. In other words, while international refugee and human rights instruments provide answers to the questions what kind of protection shall be secured for whom states enjoy significant freedom to define how that protection shall be made available.

It has been seen that the 1951 Convention and the 1967 Protocol define who is a refugee for the purposes of these instruments. It is obvious that, to enable state parties to the Convention and to the Protocol to implement their provisions, refugees have to be identified. Such identification, i.e. the determination of refugee status, although mentioned in the 1951 Convention... is not specifically regulated. ... It is therefore left to each contracting state to establish the procedure that it considers most appropriate, having regard to its particular constitutional and administrative structure.<sup>14</sup>

While the purpose and object of the Refugee Convention as well as the requirements of human rights law limit the state's ability to introduce restrictive policies and practices domestically, the last 15 years of asylum history, particularly in Western Europe, have demonstrated a deterioration of national refugee protection standards.

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12. B Nagy, 'The Southern link: Austria and Hungary', in R Byrne, G Noll and J Vedsted-Hansen, (eds.) *New Asylum Countries?: migration control and refugee protection in an enlarged European Union*, (The Hague: Kluwer Law International, 2002), pp.162-3.

13. For more details see: H Crawley and T Lester (UNHCR), *Comparative Analysis of Gender-related Persecution in National Asylum Legislation and Practice in Europe* (Geneva, May 2004), pp.89-93.

14. UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status* (Geneva, 1979 reedited January 1992), para 189.

As legal immigration into Europe was effectively phased out by the end of the 1980s, it was the asylum regimes that received the applications of refugees and migrants alike seeking to remain in the West. In the rhetoric of politics, the increase of migration constituted a crisis, and at the crux of the crisis was the institution of asylum. Domestically, European states responded by introducing a range of restrictive asylum practices, which aimed to deter and redistribute asylum seekers, as well as expeditiously render asylum determinations and return illegal migrants.<sup>15</sup>

The most controversial national standards introduced are the notions of 'safe third country', 'safe country of asylum' and 'manifestly unfounded application'. States have used these concepts to prevent the admission of asylum seekers into the territory and/or the regular asylum procedure, thus avoiding responsibility for substantial examination of the asylum claim. Other relevant national innovations include limited access to legal remedies (eg lack of suspensive effect of appeals, limited access to free legal assistance), increased use of the detention of asylum seekers during the asylum procedure, and restrictions on reception support.

National asylum systems have export value. In the European context, national asylum policies and practices have been influencing the asylum systems of other countries in various ways:

- (i) Firstly, national models have been largely used in developing the EU asylum acquis. Thus EU directives and other instruments codifying minimum common standards to be secured in the national asylum systems of member states in fact reflect a compromise between the protection-oriented approach based on international refugee law and human rights instruments, on the one hand and national restrictive practices on the other. The safe third country concept, which first introduced by Denmark in its 1986 Aliens Act, serves as a perfect example of the potential cross-border effect of national innovations in the refugee protection regime. Although lacking international legal justification, many parties to the Refugee Convention have readily accepted the concept. It eventually gained a binding regional character through inclusion in the EU Procedural Directive.

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15. R Byrne, G Noll and J Vedsted-Jansen, 'Western European Asylum Policies For Export: The Transfer of Protection and Deflection Formulas to Central Europe and the Baltics', in Byrne, Noll and Vedsted-Hansen, op cit, p.6.

## EU Asylum Acquis

Since the mid-1980s, the member states of the EU have harmonised their national asylum-relevant legal standards and practices. This set of standards is known as EU asylum acquis. The following legal instruments form the current framework for the common asylum standards of EU member states:

- Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between member states in receiving such persons and bearing the consequences thereof;
- Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the member state responsible for examining an asylum application lodged in one of the member states by a third-country national;
- Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers;
- Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection, and the content of the protection granted;
- Council Directive 2005/85/EC of 1 December 2005 on minimum standards for procedures in member states for granting and withdrawing refugee status;
- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

(ii) Secondly, the national asylum systems of new asylum countries have been significantly influenced by older systems. In the case of the Central European and Baltic states, the experience and knowledge of Western European countries was first channelled through bilateral and sub-regional cooperation schemes and then reinforced during the EU accession process. This influence has brought both light and shade to the recipient countries. There is no doubt that models of Western European asylum systems, the experience of their staff and financial support in setting up asylum-related infrastructure contributed much towards building up operational national systems in the region. Refugee appeal boards set up in Lithuania and Latvia in the late 1990s for example, largely adopted the models of similar ones operating in Denmark and Sweden.

Study visits to the West and training activities organised for decision-makers and non governmental organisations (NGOs) further strengthened the capacity of the newer asylum systems to secure proper implementation of the Refugee Convention. Those granted refugee status by the Lithuanian Refugee Affairs Board between 1998–2000 benefitted from the Nordic influence on the Lithuanian asylum system. On the other hand, the new asylum systems have also been responsive to the restrictive policies of Western European countries. Apart from solidarity and burden-sharing considerations, the development of effective migration and asylum systems in transit countries might also serve the particularist interests of the destination state.

The accession process positively influenced the national asylum systems of these states in other ways, too. The introduction of subsidiary protection and a single asylum procedure, the temporary protection regime, basic procedural guarantees, reception-related rights and social guarantees for persons granted subsidiary protection have strengthened the construction of the national asylum systems of new member states.

For Central European and Baltic states, bringing national asylum and migration legislation into compliance with EU asylum and migration *acquis* was a requirement for joining the EU. The criterion of minimum standards has therefore gradually shifted, with the EU *acquis* instruments becoming the main determinants for national protection regimes in this region. The expression “The EU Directive allows us to do it” has been increasingly used in asylum debates in these countries – not always favourably for refugees.

The concepts of ‘safe third country’ and ‘safe country of origin,’ states’ ability to deny subsidiary protection on national security grounds, restrictions on the right to family reunification, and the controversial Dublin II regulation are examples of problematic provisions entering national asylum systems. Moreover, asylum directives provide for numerous exceptions, leaving room for the member states to avoid a protection standard. The level of the minimum protection standards, therefore, very much depends on the advocacy efforts of UNHCR, refugee-assisting NGOs and refugee community organisations.

## 2.2. The mechanics of national asylum systems: institutions, actors and procedures

### (a) Actors and agencies

Running national asylum systems involves the interplay of different actors and institutions. Open systems ready to accommodate contributions from different actors works for comprehensive, effective protection for refugees in the asylum country. In this context, the rules of the game and the attitudes of the actors are of paramount importance. A spirit of cooperation, mutual respect and the sharing of basic common values is crucial to securing timely and comprehensive protection. Competition and institutional interests, by contrast, weaken the ability of systems to act effectively.

Because it is states that are party to the Refugee Convention and other human rights instruments, the primary responsibility for securing the rights of refugees belongs to governments, which normally delegate this function to the institutions in charge of migration control issues.

Despite national peculiarities, all national asylum systems share common features. They have been designed to process the individual asylum claims of spontaneously arriving asylum seekers. The system is therefore based on the assumption that an asylum seeker will report him or herself to the authorities.

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Border guards or police officers are often the first state officials an asylum seeker faces. This can happen at the airport transit zone, land border crossing point, forest, country road in a border area or in the capital city. This first meeting is extremely important. In many countries the role of the border guards or police is limited to recording asylum applications, communicating them to the national authorities and providing immediate reception assistance including shelter, food and medical care. Until the competent central authority takes a decision, the border guards will probably restrict asylum seekers' freedom of movement. But their role is important because non-admission at the border can lead to refoulement, which would be in violation of the state's obligations under the Refugee Convention.

The competent central authorities are responsible, in the first instance, for examining asylum claims and adopting both procedural and final decisions. In other words, this body is in charge of the status determination (asylum) procedure, which is the heart of the national asylum system. On the basis of a personal interview, the assessment of available evidence and country of origin information (COI) they are responsible for identifying refugees among asylum seeking men, women, boys and girls.

Trauma, age, gender and disability are all factors that make certain categories of asylum seekers especially vulnerable.<sup>16</sup> The proper asylum procedure offers additional safeguards for vulnerable groups. For example, the Law on Granting Protection to Aliens on the Territory of the Republic of Poland provides special guarantees to be secured while interviewing victims of violence or the disabled. These guarantees *inter alia* provide for adjusting the interview to the psychological condition of an asylum seeker and for the participation of a psychologist. Many national laws also provide special procedural guarantees for separated children.

Although country-specific practices provide for a wide variety of different institutional arrangements, it is the central migration office that, as a rule, performs this function. In some countries, for example in Ukraine, the institutional structure comprises regional branches and a central office, with decisions being taken by regional branches while the central office performs a supervisory role. In many European countries, the competent central authorities have built partnerships with NGOs to secure the rights of asylum seekers within the process. For example, in Lithuania, the Ministry of the Interior provides funding to the Lithuanian Red Cross, which is in turn responsible for the provision of legal assistance to all asylum seekers requiring it, from their first day in the country.

### EXERCISES

1. Check your national asylum laws and other legal regulations and identify categories of vulnerable asylum seekers who are entitled to special guarantees during the asylum process.
2. Describe the nature and content of the guarantees.

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16. See appendix 1 for further information about gender and age.

### (b) Procedures and institutions

The right of appeal is a key procedural guarantee within national asylum processes. Again, national practices vary significantly. In some countries, for example in Denmark, a politically independent board is responsible for considering asylum cases in the second instance. It is interesting to note that all rejected asylum claims are automatically transferred to the Danish Refugee Board for review. This should be considered good practice because it effectively secures asylum seekers' right to legal remedies.

In other countries, appeals against decisions of the migration authorities are brought before courts. In such cases, the availability of free legal assistance is particularly important. Strict formal requirements for approaching the courts, as well as for the preparation of the appeal and court hearing, requires professional legal assistance. Failure to provide this assistance can have profoundly negative consequences for asylum seekers.

The role of the social worker is crucial. As a professional within the national asylum system, the social worker should be the first to inform an asylum seeker about the appeal requirements and legal assistance available. If necessary, the social worker should also facilitate the asylum seeker's contact with a lawyer.

The institutional structure of the national asylum system also includes accommodation (reception) centres, which are responsible for the provision of reception-related support and assistance. (See chapter 7.)

Subject to national variants, the Ministry of the Interior, the Social Ministry, and/or the Ministry of Immigration are normally responsible for setting up asylum policies and drafting relevant legislation.

National human rights bodies are of paramount importance in securing the rights of asylum seekers and refugees. Although not mentioned in aliens and asylum legislation, their capacity for protecting refugee rights and meeting their special needs is difficult to overstate. These bodies include parliamentary ombudsmen, child rights institutions, equal opportunities offices, and government representatives in the European Court of Human Rights and/or parliamentary human rights commissions.

Refugee-assisting NGOs and refugee community organisations (RCOs) are recognised elements of by national asylum systems in Europe. While the form and content of their involvement differ from country to country, typical contributions include the provision of legal, social and psychological assistance, mental healthcare, community-based support, refugee-related human rights monitoring and advocacy.

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Each of the actors, institutions and procedures in national asylum systems has a vital role to play in ensuring that refugees receive the assistance and protection they desperately need, and which state parties to the 1951 Refugee Convention and 1967 Protocol have an international obligation to provide. The next chapter looks in more detail at perhaps the most pivotal issue within modern-day immigration and asylum systems – namely, what differentiates those who leave their homes and seek asylum in another country from any other migrant, and their experiences before and during their flight to safety.

# CHAPTER 3.

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## The Cycle Of Displacement



*With refugees having different personal histories, different reasons and means of flight, and often very different experiences on arrival in their host country, the refugee experience is difficult to generalise.*



## 1. The refugee experience

Even when the reasons why people move are complex and the previously clear distinction between various groups of migrants is much more difficult to make today, we need to make the distinction in order to provide adequate assistance to those in need of it.

Unlike other migrants, refugees flee primarily because of fear of persecution and, again unlike all other migrants, they cannot seek protection from their governments or other authorities in their home countries or through their government's offices abroad. As a consequence, refugees may also require special responses to their problems, in the form of legal, social or psychological assistance or a combination of these, based on their age, gender, health and ethnicity.

Contrary to widespread belief, the refugee community, or even refugee communities, are often heterogeneous. In general, they are not representative samples of the society in their country of origin: most are younger, often having higher education and the ambition to use it in their professional lives. Although frequently arriving under miserable conditions, many refugees did not lack the means of earning a living in their own countries and many have been successful in the lives they have left behind. With refugees having different personal histories, different reasons and means of flight, and often very different experiences on arrival in their host country, the refugee experience is difficult to generalise.

Despite such highly individual experiences and the complexity of circumstances that force people to flee, it is possible to trace certain consistent patterns in their experience, their consequent reactions and behaviour, and their needs. While national laws as well as international treaties are clear in providing a definition of people to be considered as refugees, there are also external, psychological and social factors that may have a serious and long-term effect on refugees. These include trauma and stress, fear, loss, isolation and other factors that we might refer to as making up the refugee experience. It is the refugee experience<sup>1</sup> that makes refugees' needs quite distinct from the needs of other migrants.

Refugees are often forced to leave under extremely harsh conditions and great pressure. The loss not only of close family members and friends but also of one's contacts, work and material possessions can be irreversible and therefore traumatic. Many refugees have experienced persecution, be it through political manipulation of justice or the police, unjust imprisonment, violence or torture. While some 'troublesome' individuals are forced to leave their home countries by the authorities, others may face great difficulties trying to leave their country of origin, which tries to prevent them from doing so. Thus, many refugees cross the borders illegally, often using false or no travel documents – all of which makes the flight an even more stressful and traumatic experience.

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1. For a more detailed description of the concept see: A Ager, *Refugees: Perspectives on the Experience of Forced Migration* (Continuum International Publishing, 27 May 1999); and A Ager, Responding to the psychosocial needs of refugees pp.13-27 (vol. 1) in M Loughry and A Ager (Eds.), *The refugee experience* (Oxford: Refugee Studies Center, 2001).

## 2. The four-stage approach

The refugee experience can be divided into four major stages: pre-flight; the flight itself; temporary settlement or the reception/asylum-seeking process; and return, resettlement or integration into the host country. The main issues of concern to social workers regarding pre-flight and flight experiences are considered below. Reception, return and resettlement, and integration – which may also include active social work interventions – are dealt with in chapters 7–9.

### 2.1 Pre-flight

Features of the pre-flight experience may include social and economic disruption; political or religious oppression; and threats of (or actual) physical violence and torture. Some refugees may leave their countries alone, taking at least some time to make a basic plan for the near future. Others, especially when fleeing an immediate danger such as physical and widespread violence, may take the decision to leave within minutes. In either case, refugees are leaving their countries under pressure, with limited time for preparation.

Based on these two different patterns, E F Kunz classified refugee movements into two “kinetic” types: (i) anticipatory refugee movements and (ii) acute refugee movements.<sup>2</sup> People fleeing within anticipatory movements plan their flight ahead of time. Such refugees typically include prominent political leaders or influential intellectuals, who may leave their country better prepared – or at least with a clear idea of their destination. Having at least some time to prepare, these refugees are more likely to include immediate family in their travel plans and to make arrangements for their future life. In reality, however, they are still acting under time pressure and will leave as soon as possible with limited chances to return in the foreseeable future.

In contrast, acute refugee movements are a consequence of overwhelming push factors, most often widespread violence. Acute movements usually involve groups travelling en masse on a moment’s notice.

So-called pull and push factors are part of common migration terminology. The first refers to the idea that some people migrate because they are attracted – pulled – by some aspect of the destination country (such as social or economic betterment), while others are forced – pushed – out of their countries of origin. It is clear that refugees are not pulled by the lure of the destination country but are rather pushed out.

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2. E F Kunz, 'The Refugee in Flight: kinetic models and forms of displacement', *International Migration Review*, vol.7 (2) (Summer, 1973), pp.125-146.

## 2.2 Flight

Many refugees leave their countries illegally and cross the borders of other states illegally, entering their territories without proper documents or with false documents.

Media reporting of conflicts can encourage masses of people to walk tens or even hundreds of kilometres to reach the first safe place, carrying only the most indispensable things with them. Elsewhere, we may see people leaving individually or in small groups, often spending most of their means on various clandestine ways of travelling. This usually means paying smugglers to take them to the country of their final destination. These desperate people may then become easy targets for further blackmail, assault and violence.<sup>3</sup> Because they are travelling illegally, they are unlikely to report these incidents to any authorities. Harsh physical and psychological conditions, humiliation, loss of privacy and, above all, fear and great uncertainty regarding their future all represent typical attributes of the refugee's flight.

Throughout the flight, refugees experience a great number of stressors that strongly impact on their psychological well-being. Their trauma may result in a loss of self-esteem, problems with concentration, loss of self-control, fear, amnesia, anxiety and even the tendency to misinterpret reality. The experience of handling this crisis may strongly determine the refugee's capacity to face and manage subsequent phases. Persons planning to flee must weigh all the various risks not only for themselves, but also for the relatives travelling with them and those left behind.

The special needs of women and other at-risk groups, especially their access to material assistance and services, need to be taken into account. Many refugee women lose the protection traditionally provided by their closest male relatives. Flight may also be much more difficult for older or disabled people and the chronically ill, especially if they have to flee alone.

Children may experience particular trauma. Many will have witnessed extreme violence, including torture; they will have had to go through malnutrition, displacement, the loss of home and sometimes separation from parents or other caregivers. Children travelling without their legal guardians need special attention.<sup>4</sup> Such children may have been exposed to exploitation and abuse.

Studies have documented a wide range of symptoms experienced by refugee children, including depression, anxiety, insomnia, recurring nightmares and behavioural problems.

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3. D Kozole, *Spare Parts* (2003). *Spare Parts* is an unusual and critically acclaimed Slovene fiction film that examines the smuggling of people into the EU through the lives and actions of the smugglers.

4. See appendix 8 for further information on unaccompanied minors/separated children.

## CASE STUDY: 'Majidi who speaks eight languages'

The following is an extract from an interview conducted on May 30th 2006, as part of the European Refugee Fund 'Refugee Stories' project, coordinated by ECRE.

Please ask me questions, that way it is easier to tell things.

Do you still have many relations or friends in Afghanistan?

I have many relations but my family is in Pakistan, my mum and her other children in Peshawar.

What do your brothers and sisters do?

They go to school in Peshawar. My father, he was a soldier back in the time of Rashid Dostum, and when it came to the war with the Talibs we had to leave Afghanistan, we fled in 1995, and then in 2001 he went back, and we haven't heard of him since. But we still keep waiting for his news which might perhaps come.

Let's begin at the beginning! Please say something about you life, your parents, your early years.

I was born in February 1981 in Feizabad near Mazar-i-Sharif. As to nationality, I'm an Usbek. When I was born already the war was going on and my first memories are explosions and the sound of missiles and the like. At the school too where I was going everyone was frightened about what will become of us. In fact it was only after much deliberation that we were allowed in school at all, because what if the fighting breaks out and the children are caught in the street and get killed.

...in 1995 the family, like many many other people in Afghanistan, decided we didn't want fear all the time, always on our toes to flee if necessary, waiting for our dad, whether he came back at all and when, and my mother wept hard and even got sick: her nerves broke down, and my father promised, all right, we won't stay on, we go away. We had to go away. We sold what we could, the rest we gave away, and were off. We went to Pakistan and started a new life. There were many refugees, but we were not living in a camp, but in town, we rented a flat in Peshawar. And we started going to school, to a school for Afghan refugees... there were no girls there, only boys.

And then in 2001 my dad returned to Afghanistan, but I said I didn't want to go back, and my mum also didn't want me to go back, she rather sold her gold bracelet and gave the money to me, for me to go to Europe. A few kids wanted to go together and I joined in. At the time I was already in such a bad state...shape, I just wept all the time what would become of me. I couldn't bear it any longer. I just went out into the street and my nerves couldn't bear it, my head was all dizzy. It was the time of the Talibs in Afghanistan, and memories came back, I didn't want to go back home, never again.

The ten of us got going to cross to Iran illegally, but before that the Pakistani police caught us. However Pakistani policemen can be bribed, we paid them and continued. We crossed the Irani border. We spent a week in Iran. We hired someone who could get us over the border...

A smuggler...

That's it, a smuggler. We spent more than a week in a house near the border. And that person led us to Turkey, we had to walk the whole night long. Until six in the morning across the mountains. In the daytime we slept hidden somewhere, at night we walked. This went on for a whole week. We ate bread, drank water. And some of us had brought biscuits or tunafish or other food which could be eaten cold. Water ran out, and afterwards we could drink only rainwater. As much rainwater as we could collect.

Then we were arrested by Turkish soldiers, and they beat us up really badly. But by then we weren't ten, we were eighty. On the way a lot of people joined us. Everyone started out separately, but ended up in the same group. Eleven of us were Afghans, the rest Kurds from Iraq. And Turks dislike Kurds, and it was dark, that's why we got beaten up too. They beat us terribly.

We were held by the soldiers for three days, then the Kurds were sent back to Iran, and us they took back to where we had been eight or nine days before. But in Iran fortunately the police couldn't catch us. The Turks saw us to the frontier, they looked on as we proceeded a little inside Iran, and shot a few warning shots, and the

Iranian soldiers hearing that quickly started their car and looked for us. But in vain. We spent another week in the mountains and returned to Turkey. We walked twelve days and on the twelfth day arrived to a town. Van is the name of it. From there we took the bus to Istanbul.

Whoever had any money left continued from Istanbul, whoever was broke stayed. I had a hundred dollars, no more. The boys wanted to help me, but I didn't risk it. There was a place where they were doing business with leather, leather jackets and the sort, in that part you get all kinds of people, many Afghans too, and I met someone who was Uzbek too, and he helped me. He gave me a place to sleep, and I packed animal hides, I earned a little money with that, and then I thought I'd look up a smuggler. This was already by the end of 2003, a year passed since we left Pakistan, the journey took two months, I had been in Turkey since February.

In the meantime I once tried to get over to Greece, but failed. Four of us set out. We started walking at nine in the evening and got to the frontier at five in the morning, and there's some little water separating Turkey and Greece, and that water was frozen, it was covered with ice. So we couldn't use the rubber boat which we had bought, the sort you have to pump up. Well what shall we do now? The others said we ought to try, perhaps the ice won't break under us, and I went on the ice first and said fine, this will work, come on. And I hardly said that when everyone followed all at once and immediately I heard crack-crack, and I said get out! But it was too late, the ice tore... broke. It was so cold we didn't feel our feet. One undressed completely, another didn't, we all huddled together and tried to warm each other. Dawn was just breaking when a dog came along. It looked at us and went off. Within two minutes the soldiers came and took us away. We spent there eight days. Eight days in prison, and then they let us go. Luckily our number was only four, so few people are generally let off. If there are ten or twenty or more they tell them hop on this bus for a lift back to Iran! The only thing was they didn't give our money back, they took away all we had. Except my money which they didn't find. It was sewn in here [in the fly-seam], they couldn't find it. After that I said, enough, I won't ever try it this way again.

Instead I talked with a smuggler, no walking across the green border, but by road in a trailer. At the outset we were five, arriving to Hungary, seventeen. The car stopped here, four people came on, stopped there, another two. On the way in Yugoslavia we changed from one trailer to another, that one carried absolutely nothing else. It was all empty. I don't know where we swapped, because it was dark. But the border crossing from Yugoslavia was around noontime. The driver said: "You're getting off!" We went on for another ten minutes, then he said: "So long. Go on, there you've got Hungary." What shall we do now? We just stood, saw the green vans at the border, the Yugoslav policemen. We were standing on no man's land. If we get caught they'll beat us up and take us back to Yugoslavia, we knew they were very harsh on that border. We looked at one another and started running all together for Hungary. If only we can get in, if only we can get in and make a hundred metres they can't send us back.

The Hungarian guards followed us in their van, and the guard cried, "Állj! Állj!" /Stop! Stop!/ I thought that was a filthy word, so I just ran and ran. When at last he put his hand on me, he said, "Na most már állj meg" /Now really do stop/. Now of course it is clear what he meant to say, but then I was just terrified. It was very difficult for me to ask in English in which country we were. The answer was "Hungary." But still we didn't believe it. We were afraid they might cheat and take us back. We said, let's look at the number-plate! It bore an H... well, that was fine enough for us.

How did the guards treat you?

They didn't say or do anything bad. An interpreter came and a record was made of everyone. Well then we really felt we're in Europe at last.

(...)

I got the refugee status in October 2004, and on 10th November moved out [of Békéscsaba Reception Centre] to a hired place.

What about studies? Have you thought about that?

I have, I have, but now I haven't got the energy. I want to buy a flat, my savings go into that. If I manage to get one, I needn't put aside so much money, eight hours' work will do, and there will remain two or three hours for study.

Your favourite pastime?

I like reading too, and to go to the cinema or dancing. It depends on the company, I don't want to offend anyone, I can fit in.

### 3. The process approach

A different approach to the refugee experience, the process approach, looks more closely at the process of admission into a new country, the asylum process and its outcome.

Most Central and Eastern European countries acceded to the 1951 Refugee Convention and the 1967 Protocol relating to the Status of Refugees in the first half of the 1990s. Even though the admission conditions differ from country to country, all of these countries created a system of refugee 'camps' or centres where asylum seekers may stay during the status determination procedure and even for a limited time following the decision. In contrast, other European countries avoid large concentrations of asylum seekers by dispersing them in various types of bed-and-breakfast accommodation, providing various types of social housing or even expecting asylum seekers to find and pay for their own housing.

Across Central and Eastern Europe the status determination procedure is conducted by state authorities, usually the Ministry of the Interior in the first instance and independent judicial bodies on appeal.<sup>5</sup> European countries vary considerably in the social and legal protection they offer asylum seekers, although most ensure some form of access to free legal advice during the status determination procedure.

Life in a refugee camp is a very complex phenomenon. One would expect that, for the majority of refugees, reaching the camp must necessarily represent a great relief. But most refugees used to live 'normal' lives before they were forced to leave home. Many were successful in their home countries. For such refugees, the reality of a typical refugee camp may be just another source of tremendous stress. Small spaces shared with others – often strangers – a result in a lack of privacy. Language barriers that result in them being unable to communicate with the camp management and other inhabitants may frustrate them. Limited possibilities to function in a traditional way, either to perform religious ceremonies or to prepare traditional cuisine, slowly strip them of their traditional roles. With the loss of basic feelings of competence, camp life strengthens the refugee's feelings of dependency.

Such feelings, added to the great trauma accompanying pre-flight and flight experiences, may result in serious depression. The camp is where, for the first time, most refugees fully realise the consequences of life in exile. Suddenly they find themselves isolated in strange and often hostile surroundings, facing feelings of confusion and guilt, and sometimes even nostalgia. In the first place, they have to cope with the loss of their homes and their past lives, including the possible loss of their families, and the loss of their jobs and status. In combination with insecurity and anxiety about the future, refugees who can no longer fulfil their traditional cultural, social or economic roles tend to sink into apathy, aggression or other extreme behaviours.

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5. See chapter 2 section 2.2.

The pathological impact of camp life is proportional to the length of stay, which may differ greatly across countries. While the status determination procedure may take between a few months and a year in some countries, in others it may take longer than five years, including appeals.

However, a sensitive multi-functional team approach may mitigate many pathological aspects of camp life. This approach, involving social workers, managers and other professionals, may involve:

- ensuring security for all inhabitants
- reducing the size of the camp
- making sure that single women and other vulnerable cases are provided with special care
- securing sufficient interpreters
- paying special attention to newly arriving asylum seekers
- facilitating contact with the outside world and
- ensuring the participation of refugees themselves in decision-making (empowerment).

These steps will encourage self-reliance among the asylum seekers and refugees.

In many countries, asylum seekers or any foreigners who arrive by illegal means are routinely detained. In some countries, national legislation even allows for the detention of children, especially those aged 15–18. Usually, the conditions in detention centres are even worse than those in refugee camps, and children will be unable to secure even their basic rights, such as access to adequate education.

The asylum applicant may be granted asylum or another form of international protection. If the claim is denied, some countries do not offer alternative ways to legalise the applicant's stay and the rejected applicant is expected to return home. Some states facilitate voluntary return under specific conditions.

In some cases, however, these people will have been living in the country for years awaiting a decision, sometimes with their families, and will have become well integrated. On rejection, they are simply expected to leave within a matter of days. Failed asylum seekers, as well as many other foreigners in many European countries, tend to stay in the host country hoping they will not be removed. In reaction to this trend, a number of detention and deportation centres have been established around Europe to reinforce states' willingness to remove rejected asylum seekers and other 'undeserving' migrants. Although they are not deemed to be refugees, these people also deserve special – especially social and psychological – assistance. It is very likely that social workers dealing with asylum seekers and refugees will soon have to pay more attention to this phenomenon.

In all cases, social workers should exercise a sensitive approach to the special needs of at-risk groups of asylum seekers.

### 4. Durable solutions?

Both the four-stage and the process approach include consideration of the appropriate durable solutions. Once the applicant is granted asylum, the circumstances of the flight, the personal situation of each refugee, their prospects for the future, and the situation in the country of origin strongly influence which of the three UNHCR durable solutions will apply. The options are return to the home country, integration in the country of first asylum, or resettlement in a third country. Sometimes, the solution is not that easy: refugees may, for instance, experience a long process of integration and yet still decide on voluntary repatriation, even after decades spent in exile. (Chapter 8 includes social work approaches to return and resettlement, while chapter 9 covers integration.)

#### 4.1 Return

While the three durable solutions pursued by UNHCR have long been perceived as equally practical, recent trends show voluntary repatriation taking precedence over the other two options. Such a step may truly represent the most obvious solution when the situation in the country of origin has improved. In reality, however, many refugees are returning to devastated land and insecure conditions, which threaten the durability of repatriation and reintegration. Voluntary return is therefore not only about the transfer of people to their countries of origin. On the contrary, key assistance needs to be provided after the return, when people require basic support in restoring their lives, rebuilding their houses, renewing their small businesses or other help to secure their livelihoods. Still, many refugees are eager to return home and do so as soon as the situation allows (and some even before then).

#### 4.2 Integration

The 1951 Geneva Convention foresaw local integration of refugees as the key durable solution, drawing particular attention to the refugee's rights, which would facilitate the process of integration. According to Jeff Crisp<sup>5</sup>, local integration has three interrelated dimensions: legal, social and economic. The legal aspect allows the refugee recognised under the 1951 Geneva Convention to exercise a wide range of rights and freedoms, from the right to work legally, freedom of movement and access to public services, to naturalisation. The economic aspect mobilises the refugee to establish a sustainable livelihood and to become less dependent on state assistance. On the other hand, refugees who are prevented from active economic participation, and whose living standards are substantially lower than the poorest members of the host community, cannot successfully integrate. Finally, local integration as a social process enables refugees to participate in the life of the host community.

Despite the commitment of the state parties to the 1951 Convention and their attempts to provide effective protection for refugees, many countries have focused their asylum policies mainly on reception and status determination procedures. Even though many

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6. J Crisp, *The Local Integration and Local Settlement of Refugees: a conceptual and historical analysis*, New Issues in Refugee Research, Working Paper No.102 (UNHCR Evaluation and Policy Analysis Unit, 2004).

Central and Eastern European countries made an effort to also introduce some standards for integration services, the results have been far from satisfactory. With a gap of many decades in their immigration histories and often preoccupied with their own economic problems, these countries tend to perceive integration as a non-urgent optional bonus.

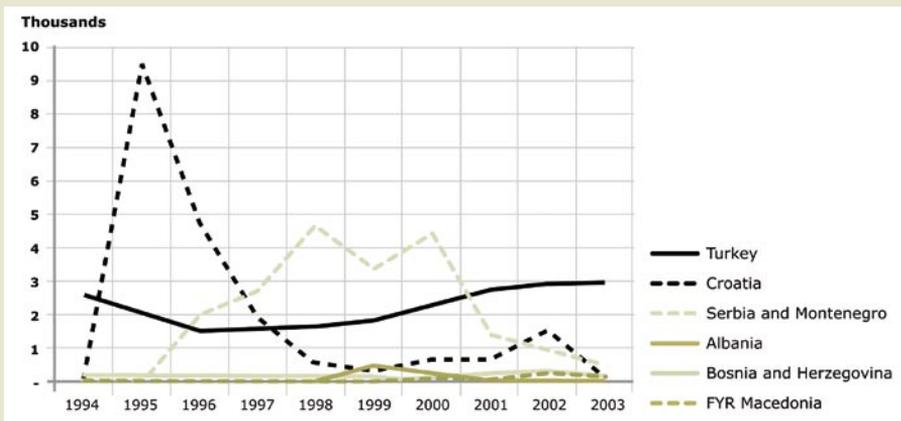
As a result, many recognised refugees are left with no adequate assistance in housing, language training, recognition of education, employment, family reunion, and social welfare needs or, eventually, naturalisation. People with completely different linguistic backgrounds may find it more difficult to learn a new language, which often represents an entry ticket to the labour market. The higher the level of refugees' education, the more difficult it may become to find jobs in their own field. Older refugees may find it even more difficult to re-establish their lives in a foreign land or to cope with the psychological and physical consequences of their flight. The different approaches of different generations towards the new cultures they face may cause further conflicts resulting from new family dynamics. While parents may feel that their children should adhere to their native culture, many children feel pressure from their peers and surrounding culture to abandon cultural traditions. At the same time, lack of parental familiarity with the customs of the new country may result in a lack of guidance and supervision.

The effective integration of refugees, taking into account age, gender and diversity, is a key component of a successful refugee protection regime and an inevitable necessity for societies wishing to avoid social tensions. Since the primary responsibility for effective integration policies lies with the host governments, many European countries have begun to pay more attention to the issue, reviewing current programmes and planning more complex integration strategies for all foreigners wishing to remain permanently.

### 4.3 Resettlement

**Figure 2.**

UNHCR resettlement departures by country of asylum, 1994-2003  
 (The country of first asylum/departure is listed if the total number of resettlement departures was 100 or more)



Many refugees are unable to return home safely or to remain in the first country of asylum. Sometimes the reasons why refugees left their homes may also be present in the country of refuge. Sometimes, there are insufficient guarantees that the refugees will not be returned forcibly. In such situations, resettlement to a third country might represent the only safe and viable durable solution.

More than any other durable solution, resettlement requires cooperation between states and the sharing of responsibility for the protection of the individuals being resettled. In practical terms, resettlement is possible because a limited number of governments agree, on a case-by-case basis, to open up their countries to new arrivals.

Resettlement should not be perceived as a form of managed labour migration. It is not the better off, the better educated or skilled who are meant to be chosen for such programmes, but people who are so much worse off that neither their integration, nor their safe and dignified return is possible. They may be in a mixed marriage, in a bad mental or physical state, or generally in need of special assistance, which can only be provided by a developed country's welfare, healthcare or education system.

**Table 3.**

Main countries of refugee resettlement - 2004

Country	Total No.	Country	Total No.
United States	52,868	Denmark	508
Australia	15,967	Netherlands	323
Canada	10,521	United Kingdom	150
Sweden	1,801	Ireland	63
Norway	842	Chile	26
New Zealand	825	Mexico	11
Finland	735		

Source: National governments

For resettlement to be an effective solution, refugees need to be able to integrate into their host societies and, ideally, enrich them with their own – often very different – life experiences. However these people will often require additional support. At the same time, resettlement often means travelling far – not only in terms of physical distance but also in a cultural and social sense. Thus, it may be the most demanding challenge for refugees.

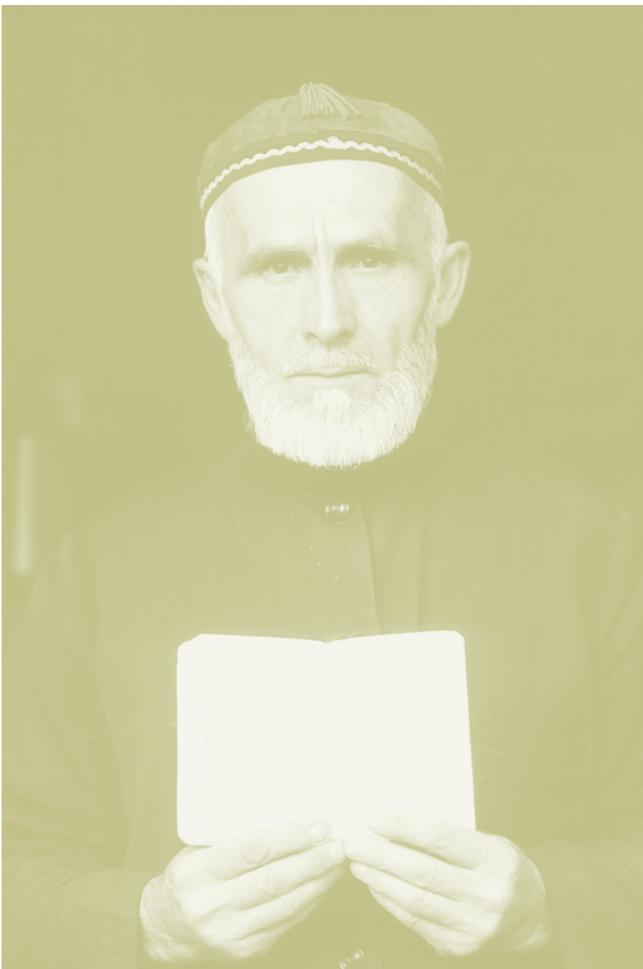
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Part II of this book focuses on how social welfare and social work fit into national and international refugee protection, illustrating the concepts and realities that determine the extent to which refugees' actual needs are met. It defines the interconnections of the social welfare system within which social workers operate and the asylum system that governs the daily lives of their refugee clients. It also describes the four settings – reception/accommodation, detention, community-based support, and managed programmes – within which social workers typically come into contact with refugees.

# CHAPTER 4.

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## The Social Welfare System From An Asylum Perspective



*Historically, the social work profession has challenged inequities among individuals and groups.*

*Social work originates from humanitarian and democratic ideas, which prompt the profession to challenge discrimination and the unequal distribution of resources.<sup>1</sup>*



## 1. The social welfare system and human rights

### 1.1 Duties of the state

State obligations include the duty to respect, the duty to protect and the duty to assist or fulfil.

The duty to respect requires the state to refrain from intervening in individual freedom. The right to property and the right to work are the classical negative rights that fall under this description. The refugee's peaceful enjoyment of individual possessions or involvement in income-generating activities are examples of a respectful state attitude.

The duty to protect obliges the state to prevent, or respond to, interference with the rights of the individual by third parties, for example by punishing an employer who refuses to employ a refugee because of his or her nationality or religion.

The duty to assist or fulfil is closely related to the concept of positive obligations of the state to respond to the needs of the individual.

The national social welfare system clearly reflects the state's institutional efforts to assist vulnerable individuals in realising their fundamental social rights. Among various international instruments setting up social rights, two universal documents should be singled out:

1. the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) and
2. the 1989 Convention on the Rights of the Child (CRC).

The following provisions of the International Covenant on Economic, Social and Cultural Rights act as the basis for national social welfare programmes:

- the right to social security (Article 9 of ICESCR)
- the right to an adequate standard of living (Article 11 of ICESCR)
- the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Article 12 of ICESCR)

The states parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The states parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

International Covenant on Economic, Social and Cultural Rights (1966),  
Article 11 (1)

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1. E Reichert, *Social Work and Human Rights: a foundation for policy and practice* (New York, 2003), p.228.

The Convention on the Rights of the Child obliges states inter alia to secure the child's right to enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health (Article 24). It also affirms the right of every child to a standard of living adequate for that child's physical, mental, spiritual, moral and social development (Article 27).

1. States parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

### Convention on the Rights of the Child (1989), Article 27

The social welfare system may be described as an institutionalised effort to secure fundamental social rights. It focuses on the vulnerable individual, who may not be able to use his or her own resources and is therefore in need of support.

While measures such as vocational and technical training, prevention of discrimination in access to employment and affirmative action can be of use to many, there is undoubtedly a need for some entitlements to be directly provided for by the State, which in a market-oriented society can be done through measures of redistribution combined with social security arrangements.

The obligation of the state as provider can range anywhere from a minimum safety net along the lines envisioned by the Reagan administration in the United States from 1981 onwards, to a full comprehensive welfare model along the lines of the Nordic countries.

That the state has obligations in this direction was already established by Article 25 of the UDHR providing for 'the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control!'<sup>2</sup>

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2. A Eide, 'The Right to an Adequate Standard of Living including the Right to Food', in A Eide, C Krause and A Rosas (eds.), *Economic, Social and Cultural Rights* (Boston: 1995), p.104.

### 1.2 Social security and social welfare

There are two types of state social support schemes:

- a) contribution-based support (social security) has traditionally been related to social guarantees for workers, employers and other economically active persons in risk situations and
- b) needs-based support (social welfare) has been provided for vulnerable individuals suffering from self-reliance deficit.

At the arrival stage, needs-based support is of vital importance for all refugees but especially older and disabled refugees. However, further involvement of refugees in employment and other income-generating activities increases the importance of contribution-based support programmes, which should be considered as an integral part of the refugee empowerment process. While this chapter covers both schemes, it pays particular attention to the availability of needs-based support for refugees.

Present-day European social welfare systems are largely modelled on the concept of social partnership. Support provided by charities, NGOs and other social partners should be considered an integral part of the national welfare system. Many NGO social support programmes are, in fact, state-funded. This is especially the case in Northern Europe.

Social welfare is organized by units of central and local administration, in cooperation with organisations such as churches, religious groups, foundations, associations and employers.<sup>3</sup>

The main beneficiaries are:

- homeless
- unemployed
- disabled and dependent people
- persons looking after disabled children
- the poor
- women who gave birth to a child
- older persons
- families and children
- victims of natural and ecological disasters
- refugees

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3. UNHCR Regional Support Unit in Budapest, *Forum on Supporting UNHCR Teams to Strengthen Integration as Durable Solutions in Central Europe* (Budapest, June 2004).

## CHAPTER 4.

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However, the availability of charitable support does not mean that the state can shift its responsibility to assist vulnerable refugees. In present-day Europe, attempts to do so are common not only in transition countries but also in the traditional democracies. According to a British judge,

it is not unlawful for the Secretary of State to decline to provide support [to an asylum seeker] unless and until it is clear that charitable support has not been provided and the individual is incapable of fending for himself.<sup>4</sup>

The consequences of limited state involvement in the provision of social support to refugees may be severe.

The denial of economic and social rights to asylum seekers and refugees, particularly the rights to health, housing and social assistance, may also, if the consequences are particularly severe, interfere with certain fundamental civil and political rights, such as the right to life, the right to be free from inhumane or degrading treatment, and the right to respect for private or family life. In analyzing whether to curtail refugees' socio-economic rights, states must consider the inextricable link between those rights and the impact on other guaranteed freedoms.<sup>5</sup>

## 2. Connecting the asylum system and the social welfare system

Vulnerability is a concept employed by both the asylum system and the national welfare system. Men and women with children awaiting their first asylum interview in a local migration service after an exhausting and dangerous journey should not be required to present any detailed documentary evidence of their vulnerability.

### CASE STUDY: Welfare at the Borders – Whose Responsibility?

Due to the increased number of foreigners submitting applications for asylum at the border checkpoint of Vilnius International Airport; due to the fact that those foreigners had to wait for the decision of the Migration Department, staying at this border check point for up to 12 hours; and due to the state's current financial inability to provide asylum seekers with food at the border checkpoints, the Lithuanian Red Cross proposed in May 2001 to temporarily allot packets of dry food parcels. For the implementation of this initiative, consent was received from the head of the state border guard service at the Ministry of the Interior and the same week 20 packets of food parcels were delivered to the border checkpoint of Vilnius International Airport.

Lithuanian Red Cross Border Monitoring Project, 2nd Report (15 May 2000–2001), p.4

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4. See *Secretary of State for the Home Department vs Limbuela, Tesema and Adam*, 21 May 2004: [http://www.refugeelawreader.org/c/73/f/\\_Reception](http://www.refugeelawreader.org/c/73/f/_Reception)

5. R Cholewinski, 'Economic and Social Rights of Refugees and Asylum Seekers', *Georgetown Immigration Law Journal* (Spring 2000), p.14.

### Questions:

1. Which agencies, if any, provide social welfare support at your country's border checkpoints or police stations?
2. Which system, if any, funds/authorises this: the national welfare or the national asylum system?
3. Do you think either system should fund this? Why/why not?

The inclusive language of human rights instruments that refer to everyone under the state's jurisdiction clearly supports the need for close interconnection between national asylum systems and national welfare systems. However, the reality does not always match expectations.

The issue of granting foreigners access to mainstream social support programmes is a dividing line between particularists and universalists.<sup>6</sup> "We should first assist our poor and our pensioners" is an argument that has been used repeatedly in public and political debates on the provision of social support for asylum seekers and refugees. Moreover, the availability of social support is commonly considered a potential 'pull' factor<sup>7</sup> that might attract arrivals of (non-refugee) foreigners from less developed countries. Although there is little evidence that this has happened, the particularistic approach has been institutionalised in many European countries. In many national social welfare systems, especially in post-socialist states, only citizens and registered local residents are included and protected. This often influences their resistance to the needs of vulnerable refugees.

Refugees' ability to access mainstream social welfare systems will depend on whether they are recognised Convention refugees, asylum seekers or persons granted subsidiary protection. In addition to the regular social support schemes available for nationals, social support programmes specifically targeting refugees also deserve our attention. The 1951 Refugee Convention is a starting point for this discussion.

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6. See chapter 2 for discussion of these concepts.

7. See chapter 3 for discussion of pull and push factors.

### 2.1 Convention refugees

#### 2.1.1 The basic provisions

Persons granted refugee status and therefore lawfully staying in the host country should have full access to the mainstream national social welfare system on equal grounds with nationals of the host state. The Refugee Convention clearly spells out this standard of treatment.

The contracting states shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

1951 Refugee Convention, Article 23

This provision can be described as a country's "formal commitment to the assimilation of recognized refugees to citizens for purposes of social welfare entitlement";<sup>8</sup> covering all social benefits and services that the state provides to its own citizens.

Article 28 of the EU Qualification Directive<sup>9</sup> reinforces Refugee Convention, obliging EU States to ensure that recognised refugees receive "in the member state that has granted such status the necessary social assistance as provided to nationals of that member state". However, from a strictly legal point of view, under the Refugee Convention states can choose how exactly they provide this support to refugees.

At the same time, separate mechanisms promote the segregation of refugees both to refugees themselves and to the receiving community. Separate support channels reinforce the myth that refugees receive special privileges and benefits. Moreover, these mechanisms require additional financial and human resources.

In contrast, inclusion of refugees in the national social welfare system promotes their legal and emotional membership of the host community and works for a durable solution. This approach does not remove the need for additional social support, as well as language training and other integration-relevant assistance to refugees based on their particular vulnerability. In other words, the refugee situation should be recognised as an additional ground for provision of social support and assistance.

Asylum-seekers, refugees and displaced persons do not have the same opportunity as others to achieve an adequate standard of living on the basis of their own efforts. They therefore require, to a larger extent than the ordinary public, direct provisions, until conditions are established in which they can obtain their own entitlements.<sup>10</sup>

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8. JC Hathaway, *The Rights of Refugees under International Law* (Cambridge, 2005), p.807.

9. Council Directive 2004/83/EC (29 April 2004) on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection.

10. Eide, p.105.

### 2.1.2 Special integration measures

In various international human rights law instruments, the concept of special measures has been recognised as a legitimate tool to provide assistance for non-power groups seeking to facilitate their equality with the power group in accessing rights and opportunities in the society.

State parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

International Convention on the Elimination of all Forms of Racial Discrimination, Article 2 (2)

.... State parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

....

- (iii) the right to housing;
- (iv) the right to public health, medical care, social security and social services;
- (v) the right to education and training;
- (vi) the right to equal participation in cultural activities.

International Convention on the Elimination of all Forms of Racial Discrimination, Article 5

Integration and social support programmes should be considered as special measures applied to meet refugees' special needs, promote empowerment and facilitate their effective access to equal opportunities in the host society. However, such additional assistance should only be considered a supplement to the social support already available within the mainstream social welfare system. In other words, special programmes focusing on material support and integration assistance to recognised Convention refugees should be provided in addition to, and not instead of, regular social support.

The EU Qualification Directive is a good illustration of this approach. While obliging EU states to secure refugees' access to employment, the social welfare system, healthcare and accommodation, it also stipulates their duty to set up integration programmes for refugees.

In order to facilitate the integration of refugees into society, Member States shall make provision for integration programmes, which they consider to be appropriate or create pre-conditions, which guarantee access to such programmes.

EU Qualification Directive 2004/83/EC, Article 33

The purpose of any integration programme is to facilitate self-reliance, enjoyment of rights and equal opportunities in the host society. Although they are part of the asylum system, the integration facilities and measures should be closely interconnected to the mainstream social welfare system. If a refugee were to hear from a local social support unit “We take care of our people – you should approach your agencies”, it would be evidence of a collapse in the relationship between the asylum system and the social welfare system. Social workers employed within the social welfare system should not refer a recognised refugee back to the asylum system.

Institutionally, the best way to connect the social welfare system and the asylum system is to channel the integration-relevant support funds through local municipalities. Under such a system, a central government institution representing the asylum system would be responsible for allocation of funds, referral of refugees and general management of the nationwide integration programme. At the same time, the social support and refugee services would be provided by social workers of the municipal social support unit.

## 2.2 Asylum seekers

### 2.2.1 Connecting the reception system

The 1951 Refugee Convention obliges states to secure access to mainstream social welfare systems only for persons granted refugee status. It is obvious that asylum seekers are not covered by this provision. It is the reception system that is set up to meet the basic material needs of women, men, boys and girls on arrival and during the waiting period of the asylum process. (See chapter 7.)

The asylum seekers’ reception system, however, should meet the core requirements of the international human rights instruments. The ICESCR obliges states to secure adequate food, clothing and housing (Article 11), as well as physical and mental healthcare (Article 12), for asylum seekers. The reception system should also secure the rights of asylum-seeking girls and boys as they are spelled out in the CRC. They include the right to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health (Article 24) as well as the right to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development (Article 27).

However, international human rights instruments do not necessarily oblige states to secure these needs through the mainstream social welfare system. At the same time,

interconnection between the reception system and the national social welfare system may be crucial to secure the basic human rights of asylum seekers. On a number of occasions, the limited capacity of the reception system properly to properly address the needs of asylum seekers has raised the concern of the UN Committee on Economic, Social and Cultural Rights, which monitors how states implement their obligations under the ICESCR.

The Committee views with concern the living conditions of asylum seekers in some reception centres in the country.

Concluding Observations of the Committee on Economic, Social and Cultural Rights on Holland, 16 June 1998, para 18.  
<http://daccessdds.un.org>

The Committee is concerned about information received that many asylum-seeking children who suffer from trauma and illness are not afforded adequate assistance.

Concluding Observations of the Committee on Economic, Social and Cultural Rights on Norway, 23 June 2005, para 20.  
<http://www.unhchr.org>

The Committee is concerned about the considerable length of time taken to process applications for asylum, resulting in the limitation of the enjoyment of the economic, social and cultural rights enshrined in the Covenant by asylum seekers and their dependents.

Concluding Observations of the Committee on Economic, Social and Cultural Rights on Germany, 24 September 2001, para 16.  
<http://www.unhchr.org>

### 2.2.2 Healthcare

Access to healthcare is absolutely necessary for asylum seekers. The system itself is often based on a compulsory medical insurance plan and covers two types of beneficiaries:

- a) workers, employees and other economically active individuals, who pay regular contributions to the medical insurance funds (contribution-based access) and
- b) children, older persons, the disabled, pregnant women, nursing mothers, the unemployed and other vulnerable individuals, who are automatically covered by compulsory health insurance free of charge (needs-based access).

While formal inclusion of a particular group in the list of beneficiaries should guarantee the right to medical care at different levels, the general practitioner (GP), who acts as a focal point for access to the system, regulates access to secondary healthcare. Asylum

seekers' access to these secondary levels of healthcare is therefore dependent on the provision of access to a GP during the reception phase.

Emergency medical assistance should also be available for all individuals regardless of their membership of a compulsory health insurance plan.

While recognising the asylum seeker's right to medical assistance, the EU Reception Directive allows the states considerable freedom about how they provide it.

1. Member states shall ensure that applicants receive the necessary healthcare, which shall include, at least, emergency care and essential treatment of illness.
2. Member states shall provide necessary medical or other assistance to applicants who have special needs.

EU Reception Directive 2003/9/EC, Article 15

In many European countries, on-site medical units are set up in the reception centres to provide basic medical assistance to asylum seekers. These need to be connected to the mainstream healthcare system. In many cases, healthcare will need to be provided in hospitals. Mental healthcare should be highlighted as the area requiring the involvement of medical specialists who are not normally present in the centres. Moreover, asylum seekers arriving from territories affected by armed conflict may suffer from war-related wounds requiring specialised surgical treatment. The most effective way legally to secure access to professional healthcare for such asylum seekers is to include them in the list of beneficiaries covered by the mandatory health insurance plan. In such cases, the GP employed in the medical unit of the reception centre would simply forward his or her client to the next level in the national healthcare system. The assistance provided within the reception sub-system would match the regular arrangements within the mainstream healthcare system.

In fact, it is not enough to formally provide for asylum seekers' inclusion in the regular healthcare system. Awareness of cultural implications as well as knowledge and experience in addressing the special healthcare needs of asylum seekers of all ages, abilities and of both sexes, are crucial for securing actual access to quality assistance.

Post-traumatic stress disorder (PTSD) conditions related to sexual and gender-based violence (SGBV) are typical – but not the only – examples of special healthcare needs that require training of medical practitioners. Several years ago, a Somali asylum-seeking girl was urgently brought to a hospital due to complications following female genital mutilation (FGM)<sup>11</sup> conducted by her family members in a reception centre in one of the new EU member states. Fortunately, the chief doctor of the hospital had defended her doctoral thesis in gynaecological assistance to victims of sexual violence and was prepared enough to save the girl's life. Ideally, while accepting asylum seekers, the regular healthcare system should include specialised services and facilities that would accumulate refugee-specific knowledge and facilitate its further mainstreaming. NGO-operated trauma care centres would fit well into such a system.

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11. See appendix 3 and appendix 5 for further information on FGM and PTSD respectively.

## SITUATION STUDY: Medical Foundation for the Care of Victims of Torture

In 2004, some 2,588 men, women and children were referred to the Medical Foundation for help. They came from nearly 100 countries, foremost among which were Iran, Turkey, the Democratic Republic of Congo, Eritrea, Somalia, Uganda, Cameroon, Congo (Brazzaville), Iraq and Ethiopia. After checks to ensure that the cases fell within our remit, they were given, as appropriate to their needs, practical, medical, and psychological assistance in keeping with our holistic approach. On hand to help them, the Medical Foundation had more than 200 paid full-time and part-time staff, and a similar number of volunteers.

The Medical Foundation aims to:

- provide survivors of torture in the UK with medical treatment, practical assistance and psychotherapeutic support
- document evidence of torture
- provide training for health professionals working with torture survivors
- educate the public and decision-makers about torture and its consequences
- ensure that the UK honours its international obligations towards survivors of torture, asylum seekers and refugees.

<http://www.torturecare.org.uk/about/134>

### Questions:

1. If you had a client suffering from the after-effects of abuse and torture, to whom could you refer them? Find out if there are any NGOs or state agencies in your country providing similar support.
2. Find out if care and counselling of survivors of torture or armed conflict appears on the syllabus of any medical, psychological or social work course in your country or in further professional training. Are there any specialists in your country on these subjects?
3. Are these issues mentioned anywhere in your national laws or policy on the treatment and provision of services to asylum seekers and refugees?

It will be much more difficult to secure healthcare services for asylum seekers if the regular healthcare system is not connected to the reception system. The parallel mechanisms create additional obstacles and, as a rule, require more financial and administrative resources. The bill must be paid one way or another. If an asylum seeker suffering from cancer is not formally covered by mandatory health insurance, the public hospital will look for a guarantor before accepting him or her for treatment. It would be logical for state funds to be allocated to the national reception system to secure implementation of the EU Reception Directive.

However, if the support funds are channelled through the reception centre budget, it is the manager of the centre who would administer the funds. In this case, access to services may be subject to a number of additional subjective factors such as the

relationship between the suffering asylum seeker and the manager of the centre, the centre medical staff's administrative subordination to the manager, or the number of asylum seekers in need of medical assistance. Indeed, under such a system, if asylum seekers happened to be in need of assistance at the end of the financial year, they may have even less chance of admission to hospital than those who required assistance before the funds had been spent.

The following conclusion on best-practice in providing asylum seekers with mental health services should most probably be extended to asylum seeker healthcare in general:

Our findings led us to conclude that, in broad terms, good practice in the mental health and social care services for refugees includes the following components: cultural sensitivity, an integrated approach, political awareness and accessibility.<sup>12</sup>

### 2.2.3 Employment

Employment is another example illustrating the relationship between the reception system and the mainstream social welfare system. The EU Reception Directive could be described as a remarkable breakthrough in securing asylum seekers' access to the labour market.

1. Member states shall determine a period of time, starting from the date on which an application for asylum was lodged, during which an applicant shall not have access to the labour market.
2. If a decision at first instance has not been taken within one year of the presentation of an application for asylum and this delay cannot be attributed to the applicant, member states shall decide the conditions for granting access to the labour market for the applicant.

EU Reception Directive 2003/9/EC, Article 11

Conclusion of a labour agreement immediately singles out an asylum seeker as a taxpayer and contributor to mandatory social and healthcare insurance plans. This accordingly opens doors to contribution-based benefits such as sickness and maternity (or paternity) benefits, benefits relating to accidents in the workplace and occupational diseases, and pensions.

Several issues should be highlighted. First, social security legislation should follow amendments in the asylum legislation. If an EU member state introduces the right of asylum seekers to work but does not include them in social security legislation, an asylum seeker who has paid social insurance contributions may not be able to access services. Recognition of asylum seekers as beneficiaries of the social security system

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12. C Watters and D Ingelby, *Locations of care: meeting the mental health and social care needs of refugees in Europe*, *International Journal of Law and Psychiatry*, vol. 27, issue 6, (November-December 2004), p.567.

should also be followed up on the implementation level. The lack of information about contribution-based entitlements might make an employed asylum seeker particularly vulnerable vis-à-vis his or her employers. Here, the role of the social worker is particularly crucial. Counselling and mediation relating to social security entitlements should accompany services that help asylum seekers find employment. The social worker's role as an advocate for social justice that is central to securing the human rights of asylum seekers and refugees.

### 2.2.4 Security

Regular social services available within the national welfare system may be needed to secure safety and social assistance for asylum seekers designated to stay in a particular reception centre. This is certainly the case with victims and survivors of SGBV. Access to alternative safe accommodation and social and psychological assistance are among the immediate response measures to be ensured in SGBV cases. Some European countries have developed networks of women's crisis centres and shelters for SGBV victims with government and/or municipal funding. Provided these institutions are available in the asylum country, their legal and actual connection with the reception system is crucial to secure the physical safety of asylum-seeking women and girls.

#### Questions:

1. If an asylum-seeking woman suffering from systematic domestic violence in the reception centre has approached you, which options would you consider to secure her physical safety?
2. Find out if there are any women's crisis centres or shelters for SGBV victims providing safe-house services in your country.
3. Check the legal and actual possibilities for accommodating asylum seeking women in such shelters.

### 2.3 Refugees granted subsidiary protection

The situation in the North is much less positive for refugees channelled by states into so-called 'temporary protection' or other auxiliary categories. The extent to which public relief and assistance have been granted has traditionally varied from one state to another.<sup>13</sup>

Although the final act of the diplomatic conference that adopted the 1951 Refugee Convention encourages states to apply its standards to all refugees, the legal force of the Convention is limited to Convention refugees only.

As in the case of asylum seekers, the residence-oriented character of many national social welfare systems may lead to the absolute or partial exclusion of refugees granted supplementary protection from regular social support programmes. However, the exclusion of children, the disabled and other vulnerable human beings may well be challenged by social workers on human rights grounds. The human rights approach may be described as the most effective strategy for protecting the interests of clients in such situations. States tend to consider the social and economic rights spelled out in the ICESCR as an area of progressive achievement, which leaves them sufficient freedom in regulating the access of foreigners to mainstream social benefits. However, quite unexpectedly for the states, an obligation to provide social support to non-nationals may sometimes be 'hidden' in the international human rights instruments dealing with fundamental civil rights.

Social workers should be ready to remind public authorities of their duty to protect the fundamental rights of everyone under state jurisdiction. Sometimes a targeted direct approach to the service or support provider may be sufficient intervention. In other cases, advocacy efforts may need to involve lawyers, media, politicians and national human rights bodies. Keep in mind that individual cases contribute to structural changes. By linking a particular refugee with a particular social welfare system, a social worker, in cooperation with his or her client, indirectly helps other refugees in similar circumstances.

Elisabeth Reichert's words are relevant for social workers:

The profession focuses on both the individual (or group) and her or his environment with the acknowledgement that environment plays a key role in the fulfilment of an individual's needs... Not only do social workers attempt to assist individuals, but they also attempt to bring about change on a broader, more global level... This dual focus distinguishes the social work profession from other helping professions, like psychology or nursing, which generally address individual issues but without a mandate to challenge environmental impediments in resolving those issues.<sup>14</sup>

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13. Hathaway, p.804.

14. Reichert, p.228.

A multi-functional team approach, involving various professionals (such as legal and healthcare professionals, including mental health specialists) working alongside social workers may be strategically beneficial. This is because the team would combine its members' expertise to resolve issues and advocate jointly in support of their clients.

### CASE STUDY: The Case of Mariam

#### Part I. Introduction

Before 2005, children and disabled, elderly and other vulnerable persons with subsidiary protection status were not covered by mandatory health insurance in Lithuania. Consequently, while citizens and permanent residents, including Convention refugees, had access to healthcare services at all levels, free of charge, the parents of children with subsidiary protection status had to pay for healthcare services. Mariam's parents had been granted subsidiary protection status in Lithuania in 2000. When Mariam was born in 2003, she was also granted subsidiary protection status and was issued a temporary resident permit as well.

The girl was born with a heart defect and a number of other internal disorders. She was in need of permanent medical care from the first days of her life. Eventually, when she was two years old, heart surgery became inevitable to secure the girl's further development. The public hospital, which regularly conducted similar operations free of charge for local children, was ready to treat the girl, but required the parents to pay 15,000 Litas (some USD5,000) to the hospital in advance. The desperate mother approached various ministries, patient funds and public bodies. The answer was always the same: being a temporary resident your daughter is not covered by mandatory health insurance.

The hospital simply followed the law.

#### CASE STUDY: Part II. Exercise

1. Find out your country's laws governing healthcare for people with different types of protection.
2. What options would you recommend to a client in a similar situation in your country?
3. Who/which agencies do you think could help your client in this situation?
4. What other international laws or conventions do you think may apply here?

## CASE STUDY: Part III. Intervention of the Representative of the Government of the Republic of Lithuania in the European Court of Human Rights

The Office of the Representative of the Government to the European Court of Human Rights is established in all state parties to the European Human Rights Convention. The primary task of the representative is to represent the interests of the government before the Strasbourg court in cases of alleged violations of the Convention. At the same time, the representative is expected to contribute to prevention of potential violations of the Convention in a given country. Mariam's story was brought to the attention of the Lithuanian representative and the following letter reflects her intervention before the Lithuanian authorities:

The representative of the Lithuanian Government would like to stress that Lithuania is a party to the 1950 Convention on the Protection of Human Rights and Fundamental Freedoms, the 1966 International Covenant on Civil and Political rights as well as the 1966 International Covenant on Economic, Social and Cultural rights. This means that Lithuania has committed under the mentioned Convention and Covenants to protect human rights of every person within Lithuania's actual jurisdiction disregarding the status of the person concerned in the country.

The situation of the mentioned girl, who needs heart surgery... is obviously not in keeping with Articles 2 and 3 of the European Human Rights Convention, which guarantees every person's right to life and prohibits torture or severe, inhuman or degrading treatment. Besides, the Government Representative emphatically indicates that the Convention on Human Rights as well as the mentioned international Covenants are part of Lithuania's legal system and shall be directly applicable. Moreover, the Convention has the power of law in Lithuania.

(...)

In the opinion of the Representative, delay in performing a necessary operation... until the Lithuanian Laws are amended or Mrs K.'s situation in the job market improves... is tantamount to inhuman treatment or even torture according to Article 3 of the Convention, especially considering that the surgery is needed for a baby child, who is under complete state jurisdiction.

Prohibition of torture or inhuman treatment set out in the Convention is of absolute nature, therefore, the status of an individual in the country shall not justify the failure of the state or officials of the state's healthcare institutions to secure implementation of the Convention guarantees vis a vis the individual concerned. In this particular case, if the ailing girl... does not receive the necessary medical help... [it] will definitely qualify as torture or inhuman treatment depending on the degree and difficulty of the consequences for her physical health. If the girl dies because of non-performance of the necessary operation, the liability for Lithuania as a party to the Convention would have also arisen under Article 2 of the Convention because of the failure to protect the child's right to life.

Therefore, while not providing the necessary healthcare services to preteen Mariam K., the Republic of Lithuania could be declared as violating its obligations under Article 2 (right to life), Article 3 (prohibition of torture, severe, inhuman or degrading treatment), and Article 8 (right to protection of private life) in conjunction with Article 14, which prohibits discrimination in enjoyment of the rights set forth in the Convention on the ground of national

or social origin, birth or other grounds, also with a reference to Article 1 of the Convention, which obliges the states to secure enjoyment of the rights and freedoms set forth in the Convention for everyone within the state jurisdiction, no matter what is the status of the person in the country.

(...)

Furthermore, it has to be said that the case of the preteen Mariam K. is not the only one: according to UNHCR, there are about 300 foreigners who presently reside under subsidiary protection regime in Lithuania, the majority of them are women and children. Many refugee children have heart defects, serious eyesight disorders, asthma and other serious diseases... That's why it is obligatory to amend the relevant Lithuanian laws providing persons with subsidiary protection status with the same healthcare and social guarantees, which are granted for permanent residents in Lithuania. In particular, it has to be done with no exclusions where the matter touches minors.

Extracts from the letter 6 August 2004 of the Representative of the Government of the Republic of Lithuania to the European Court of Human Rights to the Human Rights Committee of the Parliament, Chancellor of the Government and Minister of Health of the Republic of Lithuania

#### CASE STUDY: Part IV. Outcomes

(i) The following government decree was adopted a month after the representative wrote his letter.

The Government of the Republic of Lithuania

Decree

2 September 2004

No 1122

With reference to Article 15 of the Framework Budget Law of the Republic of Lithuania, the Government of the Republic of Lithuania decides:

to allocate 25,000 Litas from the Government financial reserve to cover the costs related to the heart surgery treatment of Ms Mariam K., a citizen of Afghanistan.

(ii) The surgery was successfully conducted in November 2004.

(iii) It took a little more time to amend the legislation. In April 2005, the Seimas (Parliament) of the Republic of Lithuania passed the following amendments to the Health Insurance Law:

The following persons shall be covered by compulsory health insurance:

... foreigners granted subsidiary or temporary protection in Lithuania: persons under 18, persons suffering from diseases included in the list approved by the Ministry of Health, single parents taking care of minor children, pregnant women in the period between 70 days before delivery and 56 days following the delivery, as well as persons of retirement age.

### 2.4 Using the European Convention on Human Rights

The recent jurisprudence of the European Court of Human Rights on Article 8 of the European Convention of Human Rights also shows the European Convention's potential importance in social workers' interventions on behalf of refugees.

#### Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

#### European Convention of Human Rights (1950), Article 8

In the Petrovic vs. Austria case (1998), the court ruled on the connection between the right to respect for family life and the state social welfare system:

By granting parental leave allowance states are able to demonstrate their respect for family life within the meaning of Article 8 of the Convention; the allowance therefore comes within the scope of that provision.

Although the Petrovic case did not concern refugees, the potential of the court ruling on securing refugee access to the social welfare system looks promising indeed. Because, in accordance with Article 1 of the European Human Rights Convention, states must secure for everyone within their jurisdiction the rights and freedoms defined in the Convention, the state's freedom to exclude foreigners from the regular social welfare support may now be challenged.

Niedzwiecki vs. Germany (2005) and Okpiz vs Germany (2005), were the first cases in which a state failed to justify the exclusion of foreigners with temporary residence permits from the social welfare system. In both cases, the European Court of Human Rights stressed that it "does not discern sufficient reasons justifying the different treatment with regard to child benefits of aliens who were in possession of a stable residence permit, on one hand, and those who were not, on the other."

With some exceptions, the EU Qualification Directive also provides for access to the regular social welfare system for persons with subsidiary protection status on equal grounds with nationals.

1. Member states shall ensure that beneficiaries of refugee or subsidiary protection status receive, in the member state that has granted such statuses, the necessary social assistance, as provided to nationals of that member state.
2. By exception to the general rule laid down in paragraph 1, member states may limit social assistance granted to beneficiaries of subsidiary protection status to core benefits, which will be provided at the same levels and under the same eligibility conditions as nationals.

EU Qualification Directive 2004/83/EC, Article 28

Failure to secure adequate, humane standards of living for vulnerable refugees may prove fatal. Exclusion of refugees from basic social support in the asylum state may result in their desperate return to the country of origin. This is particularly the case when there is no third destination option. That is why the Central European and Baltic states, all sharing an external border of the European Union, are important. With the effective application of Dublin II regulations, asylum seekers who have crossed the EU's eastern border will benefit from international protection in a new member state. However, if the right to stay is not accompanied by appropriate social support measures, return to the country of persecution might become the only option for refugees seeking to escape from a destitute life in the country of asylum. This eventuality is, of course, a contravention of the undertaking by the parties to the Refugee Convention that they shall not in any manner whatsoever return refugees to territories where their life or freedom may be in danger.

Application of this basic principle of the international protection regime should not simply be left up to lawyers. Social workers are strongly encouraged to make use of refugee law as well as of international human rights instruments to secure their clients' access to the national social welfare system.

### Additional Questions:

1. Based on what has been presented about the rights of asylum seekers and refugees, especially in relation to employment and health services, what do you think is the role of social workers in ensuring access to these rights and services?
2. What are the indicators that the social welfare system in your location has a human rights approach to asylum? What are the indicators that it does not have a human rights approach?



# CHAPTER 5.

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## Four Institutional Settings In An Urban Environment



*Crucially, this region of Europe is largely industrialised and most refugees eventually find themselves trying to survive and integrate in an urban environment. This brings with it its own problems – for refugee and social worker – as well as opportunities.*



This chapter provides an overview of the four predominant institutional settings or sub-systems within which social workers provide protection and assistance to asylum seekers and refugees. These are: reception/accommodation, detention, community-based support, and managed programmes.

While all four may be present in any host state, the circumstances of individual refugees or refugee families are often more diverse, encompassing multiple situations. Crucially, this region of Europe is largely industrialised and most refugees eventually find themselves trying to survive and integrate in an urban environment. This brings with it its own problems – for refugee and social worker – as well as opportunities quite different to those experienced by either side in the mass-camp scenarios more characteristic of protection work in the developing world. The final section of the chapter, therefore, considers this particular and often neglected aspect of refugee assistance. While reference is made to reception, rejection and integration-related issues in the context of their urban, institutional settings, part III covers the practical social work aspects of these three phases of the refugee cycle.

### Section 1. Reception/accommodation

#### 1.1 Models of reception/accommodation

Reception should be understood as a system of arrangements, services and material support measures established to meet the needs of asylum-seeking men, women, boys and girls during the examination of their asylum applications. While securing this basic objective, the reception conditions should also ensure respect for human dignity and cultural integrity. The human being comes first. His or her human rights, needs and skills should be the starting point for designing both the material (institutional) infrastructures of the reception system and the actual services and support measures available. The social workers employed by the reception institutions should always remember these fundamental characters of the reception sub-system.

A number of objective and subjective factors influence the situation of asylum seekers within the reception sub-system.

##### 1.1.1 Timeframe

The duration of an asylum seeker's dependence on the system is of crucial importance for his or her wellbeing and future integration (or re-integration). The reception sub-system largely depends on the status determination procedure. Subject to national legislation and practices, the length of the procedure and therefore the period of the asylum seeker's dependence on the reception system varies from country to country. It may take from several days to several years. During the reception phase of the process, asylum seekers have only limited access to rights and opportunities available in the

host society. This is especially the case when asylum seekers are accommodated in a collective reception centre and depend on special assistance and support available only in that centre.

Although the EU Reception Directive provides for several models of material reception conditions, collective accommodation centres are used as the principal model of housing in the majority of European countries. Indefinite stay, lack of social space and meaningful activities, as well as the psychological consequences of trauma and displacement accompanied by dependence on basic assistance and support, significantly damage the capacity of asylum seekers to restart their independent life in the host society. While the quality and availability of social services within the reception sub-system may reduce the negative impact of prolonged or indefinite stay, the social worker should always remember the general rule: the longer the asylum seeker depends on the reception system, the fewer opportunities he or she has to integrate into the host society.

Even model reception centres run into problems if other aspects of the asylum system do not work. In countries without an efficient process for making decisions on asylum claims ... asylum seekers can spend years living in reception centres, becoming institutionalised and depressed.<sup>1</sup>

### 1.1.2 Location

The geographical location of the reception arrangements and services directly influences the general quality of the reception sub-system. In many Central European and Baltic states, the reception centres are located close to the state border, sometimes in small rural localities. In addition to the legal segregation discussed in chapter 2 (non-accessibility of regular rights and opportunities), placement of reception centres in the remote countryside leads to physical segregation of asylum seekers from the host society. Moreover, placement of reception centres in a socially and economically disadvantaged countryside often irritates the local population and fosters prejudices, stereotypes and social tension. This further separates asylum seekers from the host community.

### 1.1.3 Administration

The administrative character of the reception system largely determines the quality and availability of reception arrangements, services and support measures. There is no general rule about which governmental agency should be responsible for the asylum seeker reception process. The country practices provide a variety of institutional modules.

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1. K Smart, 'A Very European Proposal', in iNexile (the British Council magazine) 2002, p.8. <http://www.ecre.org>

### Reception sub-system managed by immigration authorities

In many countries, the immigration authorities administer the reception sub-system. This model integrates the status determinations function and the reception function into one institutional framework. It allows for the effective management, flexibility and integrity of the asylum system. This approach is institutionalised, for example, in Latvia, Hungary, the Czech Republic and Slovakia. On the other hand, the social assistance and support function may become vulnerable within the hierarchy of institutional values and interests of the immigration authorities, which might consider status determination procedures and other migration management issues to be more important than social assistance and support measures.

### Reception functions shared with social partner organisations

The procedural bias mentioned above may be effectively addressed by delegating some or all of the reception functions to social partner organisations. In this case, the immigration authorities remain responsible for establishing policy guidelines and for financial support of the system, while the actual everyday reception work is entrusted to NGOs and other social partners.

### Reception sub-system managed by the social authorities

Social assistance and support naturally fall under the responsibility of the welfare ministry. Ideally, this approach should secure the availability of quality social services and knowledge within the reception sub-system. It also brings the reception sub-system closer to the regular social welfare system. However, institutional separation of status determination and reception functions may lead to competition and lack of co-ordination between immigration authorities and social authorities.

## 1.2 Basic principles guiding reception arrangements

Although national practices provide for different modalities of reception arrangements and services, there are basic principles. These principles derive from international human rights and refugee law and should therefore be secured by the authorities of the asylum country. Within the EU, many of the basic principles are codified in the EU Reception Directive. However, a social worker employed within the reception sub-system of an EU country should always remember that, while the Directive provides for the minimum standards only, many reception-related provisions of the human rights and refugee instruments apply directly to asylum seekers physically present in the host country.

### 1.2.1 Mainstreaming gender and age awareness

The reception system should be gender- and age-sensitive. The concept of gender and age mainstreaming should not be understood as the provision of services or implementation of projects targeting women and children only. The gender and age mainstreaming approach stresses that asylum seekers are first of all women and men of different ages and abilities: children, adults and older refugees, disabled and non-disabled. This approach requires a social worker to recognise gender and age implications and related discrimination in different stages and localities of the reception process. The gender and age mainstreaming approach derives from the international human rights instruments and practice, particularly the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.

State parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Convention on the Elimination of All Forms of Discrimination against Women (1979), Article 3

The principle of the best interests of the child embodied in the Convention on the Rights of the Child perfectly reflects the mainstreaming concept.

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Convention on the Rights of the Child (1989), Article 3 (1)

The best interests of the child shall be a primary consideration for member states implementing the provisions of this Directive that involve minors.

EU Reception Directive 2003/9/EC, Article 18

In the context of refugee protection, UNHCR has promoted the gender and age mainstreaming approach through adoption and implementation of its protection and policy guidelines on refugee women, children and older persons.

### Selected UNHCR guidelines on women, children and older refugees

#### Children

'Refugee Children: Guidelines on Protection and Care' 1994.

'Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum', 1997.

#### Older refugees

'The Situation of Older Refugees', UN Doc. EC/48/SC/CRP 39, 14 August 1998.

'Older Refugees: Looking Beyond the International Year of Older Persons', UN Doc. EC/50/SC/CRP 8, 7 February 2000.

#### Women

UNHCR, 'Guidelines on the Protection of Refugee Women', 1991, paras 57–62.

UNHCR, 'Guidelines on Prevention and Response to Sexual and Gender Based Violence', 2003.

On a practical level, the gender and age mainstreaming concept should influence the following elements of the reception process:

- 1) Design of the reception arrangements: location and size of the reception centres, availability of separate (safe) accommodation premises for single women, victims of SGBV and separated children. Also appropriate arrangements for disabled children and adults.
- 2) Equal and actual access to food, clothing, financial allowances and other material support measures for women and men.
- 3) Equal and actual access to language training and other empowerment measures for women and men.
- 4) Equal participation in community and social activities for women and men, boys and girls (the same for disabled adults and children as well as older refugees).
- 5) Availability of individual and group psychological assistance services for men and women, girls and boys.
- 6) Equal participation of men and women in the reception-related decision-making process.
- 7) Availability of individual and confidential individual counselling services for men and women, girls and boys.

- 8) Availability of functioning mechanism on prevention of and response to SGBV in the reception centre.
- 9) Regular training of personnel on gender and age/disability implications in the reception process.

### 1.2.2 Prevention of, and response to, SGBV

The prevention of and response to SGBV is an integral part of the gender and age mainstreaming process. Yet the severe consequences of SGBV require particular attention and regular efforts from managers and social workers in the reception centres. Both decision-makers and social workers should remember that SGBV violates fundamental human rights. Rape, female genital mutilation and other severe forms of SGBV that cause physical and mental suffering and target the personal integrity and dignity of victims should be legally identified as torture.

Prohibition of torture, inhuman treatment or suffering belongs to absolute and non-derogable rights embodied in the International Covenant on Civil and Political Rights and the European Human Rights Convention. Both instruments oblige states to secure fundamental human rights, including prohibition of torture, for all individuals within their jurisdiction

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

International Covenant on Civil and Political Rights (1966), Article 7

It is the asylum state that

- places asylum seekers in a particular reception centre in the remote countryside
- restricts the freedom of movement of asylum seekers within the territory, or places them in detention centres
- prevents asylum seekers from accessing the labour market and regular social welfare system.

It is therefore the asylum state that should ensure protection from SGBV in the reception centres. The failure of any particular member of a reception centre's personnel to protect women and girls from rape or other severe SGBV manifestations in any particular reception centre means the asylum state has failed to protect the fundamental human rights of an asylum-seeking woman or child. Lawyers call this

duty a positive obligation of the state. In the context of social work, this means that the personnel of a government reception centre have to take all possible preventive and response measures to protect women and children from SGBV. A manager of a centre who accommodates a single woman from a remote country on the same floor as single men of a different ethnic background should be held personally liable for the consequences. Prevention of and response to SGBV is basically a human rights activity. It should not be left to the lawyers. The involvement and attitudes of the social workers, as well as the managers of the centres, are crucial to secure the safe stay of women and children.

Member states shall pay particular attention to the prevention of assault within the premises and accommodation centres...

EU Reception Directive 2003/9/EC, Article 14 (2)

Member states shall take appropriate measures to ensure that authorities and other organisations implementing this Directive have received the necessary basic training with respect to the needs of both male and female applicants.

EU Reception Directive 2003/9/EC, Article 24

### 1.2.3 Meeting fundamental needs

The purpose of the reception system is to ensure the basic needs of asylum seekers; shelter, food, clothing and healthcare. Relevant arrangements and support measures should not be taken simply as a goodwill gesture by the asylum state. While a humanitarian tradition of assistance to vulnerable foreigners may indeed be traced in human culture and history, in today's world the provision of food, shelter and healthcare for asylum seekers must be considered as an integral part of the state's obligations under international human rights instruments.

The importance of reception conditions also influences the individual attitudes of the managers and social workers in reception centres. Emotionally, we all expect expressions of gratitude for good service or assistance provided. In practice, expressions like "They should be grateful for the food and shelter they found here" or "The standards they enjoy in our country are much higher than the ones they had in the country of origin" are unfortunately frequent in the language of reception practitioners.

## CASE STUDY

Recently, a refugee NGO in one of the new EU member states had to urgently provide baby food for an asylum-seeking woman with a new born baby because the administration of the reception facility was of the opinion that a daily glass of cow's milk was a sufficient support measure to the family. The administration supported this position by arguing that the woman would have not been able to get baby food in her country of origin.

The example shows a clear lack of understanding that a child present in a government-funded reception centre is under the jurisdiction of the Asylum State and, therefore, has to benefit from the same support available to local children in similar circumstances. If children accommodated in government-funded childcare homes or hospitals get baby food, the child of asylum seekers should enjoy the same treatment. In other (legal) words, he or she should not be discriminated against.

In this case, the provision of baby food to the child was, first of all, a human rights issue. It became a humanitarian issue (with urgent intervention by the NGO) because an EU member state represented by the administration of the reception facility failed to comply with its duty to provide a child with adequate food.

Questions:

1. Find out what support is provided to children in state care and to families via the social welfare system in your country. Is this support also available to asylum seekers' children:
  - a) in government-funded reception/accommodation centres?
  - b) in principle (that is, according to the law)?
  - c) in practice?
2. If such support is available, is it provided directly by the centre administration, by NGOs, by UNHCR or by other agencies?

Legally speaking, states can choose how to meet the required reception conditions. The EU Reception Directive allows states to secure material reception conditions by providing housing, food and clothing in kind, or as financial allowances, or in vouchers and daily expense allowances. In most European states, assistance and support are channelled through special arrangements. On a practical level, this means that asylum seekers have access to shelter, food and healthcare as long as they remain in that centre.

At the same time, it is in the interests of both the asylum seeker and the asylum state to start working towards durable solutions from the reception stage of the asylum process. Institutionalisation and dependence on assistance is a serious social disease that, once developed, may seriously damage the capacity of asylum seekers to restart their independent life in the asylum country or to reintegrate (if returned) in the home country. That is why it is important to connect asylum seekers to the regular social welfare, labour exchange and healthcare systems as soon as possible.

### 1.2.4 Respect for family life

The state's right to define modalities of housing and other support measures applied to an individual family is not unlimited. The right to respect for his or her family life is protected under both the International Covenant on Civil and Political Rights and the European Convention on Human Rights.

Everyone has the right to respect for his private and family life, his home and his correspondence.

European Convention on Human Rights (1950), Article 8(1)

For asylum seekers who, because of their flight, have lost almost all social capital and emotional connections with friends and relatives, family is the last social stronghold. It preserves the person's identity and human dignity. In fact, family is the social unit on which the assistance and support measures should be built.

Member states shall take appropriate measures to maintain as far as possible family unity as present within their territory, if applicants are provided with housing by the member states concerned. Such measures shall be implemented with the asylum seeker's agreement.

EU Reception Directive 2003/9/EC, Article 8

Family unity should also govern the design and arrangement of reception facilities. Unfortunately, even if legal regulations formally pay due respect to the principle of family unity, lack of space in overcrowded reception centres may easily separate families. In the period December 2002–January 2003, for example, the possible consequences of non-availability of accommodation premises became clear when due to repair works, the Rukla Refugee Reception Centre temporarily suspended accommodating asylum seekers. This immediately exhausted the reception capacity of the Pabrade Foreigners Registration Centre: asylum seekers were accommodated 10–15 persons per room, including pregnant women. Families were separated and it was not possible to accommodate children with infectious diseases separately from other children and families. This led to increased tension and deterioration of the psychological health of asylum seekers in the centre.

### 1.2.5 Access to legal assistance

Asylum seekers should have access to legal assistance as a vital precondition for the enjoyment of protection in the country of asylum. Although a procedural safeguard within the status determination procedure, legal assistance requires appropriate arrangements within the reception sub-system. This includes the following:

- the right to free legal assistance shall be clearly spelled out in the list of reception-related rights;
- the government must allocate funds to pay for legal services;
- legal service providers (both government-funded lawyers and project-based NGOs) should have access to reception and detention facilities; and
- information on legal advice should be accessible for asylum seekers in all localities and stages of the asylum procedure, including border checkpoints, reception centres and detention facilities.

The first right of the asylum seeker following admission to the territory is the right to independent legal advice. This includes, where the financial situation of the asylum seeker requires, the provision of free legal aid by the host state. This right should be provided throughout the determination procedure, prior to the first interview and including any appeals. Attention should be given to the availability of good quality legal advice, to ensure that asylum seekers can access the legal assistance to which they are entitled.

ECRE Up-dated Position on the Reception of Asylum Seekers, November 2001, para 61 (<http://www.ecre.org>)

## 2. Detention

### 2.1 Arbitrary detention

Arbitrary detention is illegal. Arbitrary deprivation of liberty in the home country may be a valid reason for claiming refugee status in the country of asylum. The paradox is that many asylum countries use detention as a necessary part of the asylum procedure.

As a general principle, asylum seekers should not be detained. Refugee lawyers, UNHCR staff and refugee-assisting NGOs in various countries around the globe have repeatedly voiced this famous rule set out in the UNHCR Guidelines on Detention:<sup>2</sup>

The detention of asylum seekers is a controversial issue that arouses deep emotions and concerns. It is particularly unfortunate that people who are seeking protection from oppression and denial of their human rights in one state should be confronted with a serious loss of liberty while their claims are being processed in another. Detention of asylum seekers is undesirable and should be used as a matter of last resort.<sup>3</sup>

Article 31 of the Refugee Convention is often used to support this statement.

1. The contracting states shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

2. The contracting states shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The contracting states shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

1951 Convention relating to the Status of Refugees, Article 31

Unfortunately, the reality does not always match UNHCR recommendations. In Europe and other industrialised countries detention has become routine. A spokesperson for the UK Home Office has said: The power to detain an individual is an essential part of protecting the integrity and effectiveness of our immigration controls.<sup>4</sup>

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2. UNHCR, *Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum Seekers*, February 1999, <http://www.unhcr.org>

3. N Blake, *Human Rights and the Detention of Asylum Seekers*, in *Human Rights and Migration Management*, IOM, 2002, p.209.

4. A spokesman for the UK Home Office, quoted by the BBC at <http://news.bbc.co.uk/1/hi/uk/4109720.stm>

The right to liberty is not absolute and international human rights instruments do not prohibit detention. Detention of foreigners is widely considered an integral part of the sovereign right of the state to control the presence of foreigners in its territory. The state's right to detain a foreigner is not unlimited, however, and detention should never become a question of convenience for the authorities. Recently, during the debates on the detention-related provisions of draft aliens legislation in a new EU member state, one migration official claimed that for him it was 'much more convenient to carry out his work' when a foreigner is detained as opposed to being at liberty in the community. This attitude should be strenuously discouraged. The temptation to use state power to detain everyone who enters the state's territory may lead to serious consequences for asylum seekers. International human rights instruments' response to this is condemnation and prohibition of illegal or arbitrary detention.

Everyone has the right to liberty and security of person. No-one shall be subjected to arbitrary arrest or detention. No-one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

International Covenant on Civil and Political Rights (1966), Article 9

Prohibition of illegal or arbitrary deprivation of liberty protects everybody under state jurisdiction. As the UN Human Rights Committee observed, these guarantees are applicable to all deprivations of liberty, whether in criminal cases or in other cases such as *inter alia* immigration controls.

Detention is illegal when the grounds and procedures for detention are not described in national law. The term arbitrary is connected to the necessity of detention. Is it, for example, necessary to arrest and then keep in detention a pregnant woman with small children for the whole period of the asylum procedure? Is it necessary to detain a separated child? What about the consequences for the mental health of children, victims of torture and sexual violence? All these questions are important when examining the issue of the necessity of detention.

The Committee observes ... that every decision to keep a person in detention should be open to review periodically so that the grounds justifying the detention can be assessed. In any event, detention should not continue beyond the period for which the state can provide appropriate justification. For example, the fact of illegal entry may indicate a need for investigation and there may be other factors particular to the individuals, such as the likelihood of absconding and lack of cooperation, which may justify detention for a period. Without such factors detention may be considered arbitrary, even if entry was illegal.<sup>5</sup>

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5. *Human Rights Committee, A. v. Australia*, Communication No 560/1993, UN Doc. CCPR/C/59/D/560/1993 (30 April 1997).

### 2.2 Where asylum seekers are detained

Special detention centres, closed camps or airport transit zones are used by states to detain asylum seekers and other irregular immigrants. Whatever the official designation of the facility, the common feature of detention is the level and intensity of the restriction of movement.

UNHCR considers detention as: confinement within a narrowly bounded or restricted location, including prisons, closed camps, detention facilities or airport transit zones, where freedom of movement is substantially curtailed, and where the only opportunity to leave this limited area is to leave the territory.<sup>6</sup>

### 2.3 What should be avoided

Placement of asylum seekers in prisons or other facilities normally used to detain criminals should be avoided in all cases. This is particularly so when national authorities detain women, children and other vulnerable asylum seekers.

There should always be an alternative. In national aliens legislation there is often a list of alternatives to detention measures. Subject to national particularities, the list may include reporting requirements, provision of a guarantor, release on bail, or accommodation in open reception centres.

### 2.4 Procedural safeguards

Procedural safeguards make a difference. Even if national law does not distinguish asylum seekers from other irregular migrants, thus making significant space for detention practises, the proper application of procedural safeguards may prevent or stop the detention of an asylum seeker. Being close to the asylum seekers, social workers should know these safeguards by heart and advise their clients accordingly. Lack of information is often a factor contributing to human rights violations.

Both UNHCR guidelines on detention and legislation in many countries provide for detention-related procedural guarantees. The asylum seeker should:

1. know why he or she is detained and how the detention order may be challenged;
2. have access to a lawyer, ideally free of charge;
3. meet the judge, who will confirm or overrule the decision of the administrative authorities;
4. challenge the necessity of detention at the review hearing in the court; and
5. contact UNHCR and/or NGOs.

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6. UNHCR, *Revised Guidelines*, p.3.

### 3. Community-based support and managed programmes

#### 3.1 Community-based support

Community-based support should be understood as a combination of cross-sectoral approaches and working methods employed within the national asylum system to achieve its protective function.

Urban refugees are frequently dispersed and isolated in the host population with whom they have no social, cultural or language ties. Living conditions are usually difficult and there may be a lack of leadership and traditional community structures. In these circumstances, the implementation of community-building activities involving all groups of refugees, as well as the host population and authorities, is essential. Activities may include inter alia establishment of community centres, measures to facilitate dialogue between various groups as well as those to ensure the availability of relevant information for each refugee group in the appropriate language.”<sup>7</sup>

UNHCR also includes the community-based approach among key strategies to achieving durable solutions for refugees.<sup>8</sup> The concept considers refugees as contributors rather than passive recipients of protection and assistance. Refugee participation, empowerment and community development are its key elements, to be employed throughout different stages of the asylum process and localities.

##### 3.1.1. A participatory approach

Refugee participation is an absolute precondition for effective intervention on behalf of refugees within national asylum systems. In fact, it serves the interests of these systems because it secures the effectiveness of resources and efforts employed to implement a particular refugee-assisting project or function. At the same time, the participatory approach promotes the philosophy of social partnership. Refugees become stakeholders in the system, entitled to contribute to the implementation of its protection function. This approach has also been promoted in UNHCR operations, particularly within the framework of People Oriented Planning (POP).

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7. *Reinforcing a Community Development Approach*, Executive Committee of the High Commissioner Programme, Standing Committee (15 February 2001), para 9.

8. UNHCR, *Agenda for Protection* (October 2003).

Refugee participation may take different forms.

- (a) Structural consultations with refugee communities. UNHCR is expected to consult refugee men and women before developing its annual projects and budget. Dealing with reception-related assistance, integration support, legal assistance and protection from SGBV requires a partnership-based approach in order to identify and address refugees' needs.. The consultation process can take different forms. Examples include the authorities consulting with refugee community organisations within the framework of the government-funded integration support programme, and refugee men and women being invited to develop, monitor and evaluate an NGO refugee-assisting project.

Ethical considerations are important. Inviting refugees to structural discussions requires a responsible attitude from the refugee-assisting agencies especially because refugees may reasonably expect that the consultation will lead to an immediate improvement of their situation. If the results are not achieved or if the refugees do not receive feedback on follow-up actions or decisions taken, the credibility of the implementor may easily be ruined.

On one level, refugee leaders appear to be 'consulted' frequently – perhaps too frequently – by IPs (Implementing Partners), UNHCR staff or outside visitors and investigators. ... However, once 'consultation' has taken place, refugee leaders complain that the process of consultation is one-sided and that the role and meaning of the consultation process is largely symbolic, implying no sustained role in decision-making about the use of resources and project design. Endless rounds of refugee 'consultations' imply no responsibility on the part of the office to act, to respond, or even to explain the nature of decisions taken or why there is no follow-up. The consultation process is generally perceived by refugee leaders as a one-sided negotiation (reflecting the inequality of power relations), with UNHCR or other visitors taking the information away with them, leaving those consulted in the dark about how this information will be used.<sup>9</sup>

Feedback is particularly important in situations where resources are limited and it is therefore difficult to address all refugees' concerns. Sharing the ownership of the assistance programme with the refugee community and ensuring transparent decision-making are the only ways to avoid mistrust between refugee communities and assisting organisations.

- (b) Capacity-building activities. Training has been used as a key form of capacity-building activity in Central European and Baltic states. The training activities may target decision-makers, service providers, refugees and mixed groups. Refugee participation in both the planning and delivery of the training secures the beneficiary's perspective, strengthening the protection message of the training. Refugees may also be involved in training activities focusing on the empowerment

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9. UNHCR, *The Community Services Function in UNHCR: an independent evaluation*, Evaluation and Policy Analysis Unit (March 2003), p.56.

of refugee communities to meet their own needs. In such cases, the training of trainers (TOT) approach has been frequently used to deliver the message to the refugee community through selected refugee community leaders.

- (c) Refugee initiatives and participation in decision-making. Very often, refugees come up with initiatives to address their own needs. National asylum systems should be able to: a) support these initiatives financially from both state budget sources and/or alternative sources such as the like European Refugee Fund, Equal Programme and other external support programmes; and b) accommodate these initiatives within the institutional framework of the national asylum system. To do the latter, state agencies and NGOs must recognise the refugee community and its organisations, as most likely to secure refugee influence and participation in the decision-making process. The motto 'Talk to refugees instead of talking about refugees' indicates the thought-barriers that many decision-makers and refugee practitioners need to overcome.
- (d) Gender mainstreaming approach. The process of refugee participation requires the involvement of both men and women in the consultation and decision-making process. Despite possible cultural conflicts, it should become a value shared by both actors of the asylum system and the refugee community. This is particularly the case with community leadership structures, where, according to UNHCR's recommendation, at least 50% of members should be women. The creation of refugee women's NGOs and the promotion of women's participation in the leadership of refugee associations should be at the heart of community-based support.

### 3.1.2. Protection through empowerment

Refugee empowerment is both an objective and a working method, which national asylum systems should employ in reception, integration and other assistance sectors.

#### Definitions

**Empowerment:** A process through which women and men in disadvantaged positions increase their access to knowledge, resources, and decision-making power, and raise their awareness of participation in the communities, in order to reach a level of control over their own environment.

**Disempowerment:** Any action, policy development and/or relief programme or process through which women's and men's priorities, needs and interests are further ignored, reducing their participation in decision-making and representing an obstacle to their economic, political and social improvement.

World Food Programme Gender Glossary, from A Practical Guide to Empowerment  
UNHCR, June 2001, p.3

In contrast to measures focused on meeting immediate needs, the empowerment process does not provide quick results. Strengthening the capacity of refugee community leaders to conduct advocacy activities on behalf of the community; facilitating the access of refugee women and girls to educational opportunities in the host community; providing micro-grants to refugees within national integration programmes; and mobilising refugee men and women to address SGBV in the reception centres and urban settings are all examples of empowerment measures that provide future solutions. These activities focus on developing mechanisms within the refugee communities and in their dialogue with the host community. In the urban European environment, community centres have proved to be a suitable institutional model through which to channel community-based support to refugees, as well as to facilitate their interaction with the local population.

### 3.2 Managed programmes

A managed programme is a set of activities undertaken for particular beneficiaries in relation to a particular sector or function of the national asylum system. The programme is an operational tool allowing actors in the system to meet the needs of refugees and/or address gaps in the system. A government refugee integration programme focusing on the settlement of refugees in local communities; the provision of material support; social services; and empowerment and community development measures are all examples of nationwide managed programmes. Similar programmes or smaller projects may be implemented in different sectors or localities of the system by either governmental agencies or NGOs. They may focus on social assistance and community development support in the reception centres and urban settings, on provision of legal assistance in reception and detention centres, on prevention of and response to SGBV, or on meeting other objectives.

The programme is normally limited in time and measured by using a set of performance and impact indicators. Performance indicators focus on what has been implemented (such as the number of lawyers' visits to reception centres or the number of refugee women attending language courses). Impact indicators allow us to measure improvement as a result of the programme (such as a decrease in unemployment among refugee men and women or a reduction of detention cases). Establishment of performance and impact indicators is important in assessing how effectively the programme is being managed and whether interventions are meeting refugees' needs. It will also indicate the challenges that remain based on service gaps.

## 4. Urban environments

### 4.1 Opportunities and challenges for urban refugees

In the European context, the urban environment differs from refugee settings in centres or camps in a number of ways. The accommodation centre constitutes a relatively closed micro-world that is, despite the absence of physical walls, separated from the rest of the host country. As long as they are in the centre, asylum seekers' access to services and support does not depend on social interaction with the local population, or on the social contacts, skills and networks that are essential for survival in the urban environment. The rules and procedures governing everyday life in the reception centre differ dramatically from the social norms prevailing in modern cities.

The centre environment does not promote durable solutions. Settlement within the local community potentially does.

In Europe, the majority of communities hosting refugee settings are urban. They vary in size and demographical profile, socio-economic profile and intercultural experience. The major cities provide better opportunities in terms of employment, social networks and educational opportunities. Their size attracts refugees, just as it does local rural populations.

On the other hand, life is generally more expensive in the capital and other major cities, which brings with it the serious challenge for refugees of achieving self-reliance. The alternative is settlement in smaller urban communities, with more modest rental costs for accommodation and lower prices but higher unemployment rates and limited social networks. Attempts to solve this dilemma may result in temporary separation of families, with the man moving to work in a major city while the woman stays with the children in a smaller urban community. Such a solution does not seem to be fair from an equal opportunities perspective, and the failure of the man to secure an adequate income will automatically affect the whole family.

These are far from the only challenges. Once the family has settled within the local community, numerous questions inevitably arise. Where do I find accommodation? Am I entitled to healthcare in the local hospital? May my children go to the local school? Is my disabled older relative entitled to any additional social welfare support? Is my professional qualification recognised here? Where do I look for a job? Refugee men and women often have no alternative but to rely on the local labour market, on commercial rental offers for apartments, community services and income support schemes. However, they face two potential barriers: formal entitlement and accessibility of markets and support sectors.

### 4.1.1 Formal entitlement

The formal entitlement test is related to the legal status of a refugee in the country. In the context of national asylum and migration systems in Europe, it applies to the following groups of refugees:

- (a) Asylum seekers living outside reception centres. This category includes both asylum seekers who have been admitted into the asylum procedure and are receiving reception-related support and de facto asylum seekers who have not formally submitted asylum applications. The absence of a formal residence permit and related exclusion from the labour market unites both groups.
- (b) Recognised Convention refugees. In many European countries, Convention refugees are issued permanent residence permits that enable them to pass the formal entitlement test. As permanent residents of the country, such refugees, without any additional authorisation or permission, may conclude labour agreements; set up private businesses; participate in social security plans and labour exchange programmes; apply for public housing and accommodation support; enter higher education; and benefit from the public healthcare services and regular social welfare support available to members of the host community. Even in countries that do not automatically issue permanent residence permits to Convention refugees, the Refugee Convention, properly implemented, secures their formal access to key services, support schemes and opportunities in the host community.
- (c) Refugees granted supplementary protection status. In the European Union, different national practices on granting supplementary protection status have been harmonised under the concept of subsidiary protection, institutionalised in the EU Qualification Directive. The problem is that in many European countries refugees granted supplementary protection status are issued with temporary residence permits, while social benefits, services and opportunities are reserved for nationals and permanent residents only. Once transposed into national legislation, the EU Qualification Directive should significantly improve the formal possibilities for such refugees to access services in European cities.
- (d) Rejected asylum seekers. Men, women, boys and girls belonging to this category are especially vulnerable vis-à-vis local markets and support sectors. As a rule, this group includes rejected asylum seekers who cannot be expelled from the asylum country for technical or objective reasons. Human rights norms limit the state's power to detain rejected asylum seekers to cases where action is being taken with a view to deportation (see Article 5 [1] [f] of the European Human Rights Convention). Yet where the state cannot deport them because of the absence of travel documents or lack of cooperation from the government in the country of origin, it leads to formal authorisation for their stay in the country. However, in these cases the attachment of social and economic entitlements often does not follow the issuance of residence permits. In addition, as rejected asylum seekers, these people also lose any formal connection with the asylum system and its reception infrastructure. As a result, the risk of the person ending up on the streets of the city increases dramatically. Informal labour markets, the assistance of charitable organisations and support from the person's ethnic or faith community may be the only means of survival.

### 4.1.2 Accessibility

The issue of accessibility of markets and support sectors in cities is complicated. Successful access depends on the background and skills of the individual; the duration of their previous stay in a collective accommodation centre; the distribution of gender roles in the family; the effects of trauma and flight; the availability of supporting social services; and existing empowerment measures. Refugees from rural areas in the country of origin may face particular difficulties in adapting to new urban realities.

The tariffs established under the government integration programme to pay rental fees and communal services (utilities) are obviously insufficient. This has led to the debts, which have been paid to the owners of the apartments charging refugee integration packages. The debts constitute 1,000 litas (some USD285) on average per family/person. This has mainly affected those families who first joined/tested the government integration programme. One of the refugees expressed his frustration in the following terms: 'I had never dealt with this kind of issue (payment of rent and communal services) before. In Chechnya, I had a private house. Thus, I did not have to pay for any communal services at all ..... I would have been better staying there. All your formalities, papers, coordination and requirements torture me.'<sup>10</sup>

Additional dangers highlight particular vulnerabilities.

In addition to the various psychological, emotional, and physical hardships often associated with any form of forced migration, movements from rural areas to cities are almost universally associated with exposure to new patterns of production and disparate (and often dynamic) values and identities. Those moving among third-world cities, or between third-world cities and those in Europe and North America, may be better equipped to negotiate urban economies than those from rural areas, but are also likely to confront language barriers, discrimination, violence, and extended periods with ambiguous legal status. Forced migration to cities also regularly marks the beginning of a longer journey, to other urban centres regionally, or to cities elsewhere in the world. Even those who never reach their intended terminus – if indeed they have one in mind – may live their lives in a sense of permanent transition, not wishing or able to return to their community of origin and unable to proceed elsewhere.<sup>11</sup>

The availability of social services and integration programmes is clearly crucial in the difficult task of facilitating access to services and opportunities in the host community. Refugee invisibility is a serious challenge that the urban environment brings to assisting agencies and social workers. Lack of awareness of the numbers, situations, needs and resources of refugees may seriously hamper the protection and assistance measures offered. To the maximum possible extent, a detailed and updated profile of the urban refugee community should be prepared by assisting organisations before any support measures are planned and implemented.

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10. Extract from a report on a UNHCR structural meeting with a refugee community in Kaunas, Lithuania, November 2002.

11. LB Landau, *Urban Refugees*, FMO Research Guide (February 2004), <http://www.forcedmigration.org>.

Two categories of refugees might be singled out:

1. refugees benefiting from government integration programmes and
2. self-settled refugees, including refugees in countries where social integration programmes do not exist and those whose individual integration programmes have ended.

As governments tend to limit refugees' freedom of movement by offering integration support packages subject to their settlement in a particular local community, profiling refugees participating in such integration programmes should not be a problem. Tracing self-settled refugees is much more difficult. In such a situation, formal inclusion of refugees in regular markets and support sectors becomes particularly important. Failure to pass formal entitlement tests and the inability of assisting organisations to provide support to this particular group of refugees, may lead to situations of absolute destitution.

Many [asylum seekers] sleep outside (the Refugee Council) offices, in doorways, in the gardens of a local church and sometimes in telephone boxes (the only place where they are able to keep dry). They do not have enough blankets and clothing to keep them warm. They are often lonely, frightened and feel humiliated and distressed. ... Staff have seen the conditions of asylum seekers visibly deteriorating after periods of rough sleeping. ... On one occasion I had to tell a group of three homeless asylum seekers to leave the building on a Friday evening during a torrential downpour with nothing more than a blanket each, a food parcel... and a list of day centres. When I saw them the following Monday their condition had deteriorated considerably, their clothes were filthy, they had started to smell, and they had been unable to find any of the centres listed. Other clients have become depressed and have threatened suicide.... Their story is not exceptional – we see people in this situation on a daily basis.<sup>12</sup>

Moreover, providing protection and assistance to urban refugees appears to be a challenge for refugee-assisting agencies. Refugees who are not entitled to access the labour market, social welfare support or public services have no choice but to engage in informal income-generating activities. Unavailability of alternative project-based assistance will simply lead to serious problems, including sanctions for illegal labour. Moreover, children, single parents, older people and the disabled cannot be left without assistance. The racial and religious discrimination that refugees face in different markets and support sectors can effectively block access to services and opportunities they are formally entitled to. Prejudice and xenophobia are those invisible enemies that await refugees at places of work, local social support units, hospitals and labour exchange offices.

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12. R (Limbuella) vs Secretary of State for the Home Department [2004], quoted in Hathaway, p. 482.

According to the information received by ECRI, only 4% of asylum seekers obtain refugee status. ECRI notes that 60% of them leave the country because they are unable to integrate. The main obstacles to the integration of refugees are the problem of the recognition of their diplomas and work experience and their integration into the labour market. In addition, the National Employment Agency does not cater to refugees because it is not aware of the relevant law or of refugees' needs and lacks the resources to remedy these deficiencies.

Third report on Romania, Adopted on 24 June 2005,  
made public on 21 February 2006, ECRI, para 90.

<http://www.coe.int>

The persons who receive tolerated status enjoy basically the same rights as those with refugee status, including the right to work, social assistance and residence permit. However, they do not have the possibility to move outside Poland or to benefit from an integration programme. Moreover, UNHCR and NGOs have pointed out that persons with tolerated status face several problems in practice. Such problems include the lack of integration measures such as Polish language courses or assistance in finding a job or accommodation after leaving the reception centre. It seems that such problems are also linked to the lack of staff, notably the lack of social workers in reception centres dealing with asylum seekers. The difficulties encountered by these persons apparently prevent them from effectively exercising their rights, and particularly their social rights.

Third report on Poland, Adopted on 17 December 2004,  
and made public on 14 June 2005, ECRI, Para 59.

<http://www.coe.int>

### 4.2 Gender-based discrimination

Gender plays a crucial role in refugees' ability to reach self-reliance in an urban environment. Refugee families coming from traditionally paternalistic cultures with clearly defined gender roles pose particular challenges. There are clear divisions of labour between men and women, where active social and economic roles belong to men while women's social space is restricted to the household. This division of labour is potentially vulnerable in the urban European environment.

Meeting basic needs and the achievement of self-reliance require the active participation and contribution of both spouses. This is the message a social worker working in the urban community should deliver to both men and women at the earliest possible stage. Moreover, the lack of qualifications and social contacts, poor language skills and the consequences of trauma and prolonged stay in the collective accommodation centres constitute serious obstacles for the men to compete on the labour market and secure

the economic wellbeing of the family. While planning and offering social assistance to the family, social workers should secure the active and equal involvement of both spouses and their children of both sexes.

Refugee women, even those who have passed the formal entitlement test, face serious obstacles to accessing services or opportunities in the urban environment. Services, including language training, are often located in cities. To benefit, many refugee women would have to organise alternative childcare arrangements and spend significant time travelling to the courses. For many refugee women these two challenges may be too difficult to overcome.



# CHAPTER 6.

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## Social Work With Refugees<sup>1</sup>: An Overview



*Social work with refugees is very much about empowering – empowering refugees, their families and communities to re-establish their lives and regain their autonomy and self-esteem as social beings.*

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1. Throughout part III, the term 'refugee' encompasses individuals still at the stage of claiming asylum (asylum seekers), officially recognised refugees, and those requiring subsidiary forms of protection. Where the term 'asylum seeker' is used, it refers specifically to an individual still at the status determination stage.



## 1. The social worker as agent within the asylum system

### 1.1. The role of the social worker

An asylum seeker should meet a social worker as soon as possible after arrival in the asylum country. In fact, there might be situations where social work interventions are needed immediately to secure basic needs and rights, particularly in the case of women and children, including separated children.

Traditionally, legal practitioners have been considered the key actors within the asylum system. The right to challenge administrative decisions, including the decision to detain or return an asylum seeker, remains only illusory without qualified bona fide legal assistance. A lawyer's involvement is therefore vital to protect the basic rights of asylum seekers, including protection from refoulement. However, legal protection alone does not solve all the problems an asylum seeker faces on arrival, and - a combined legal and social response to the refugee's needs is far more effective. The sooner an asylum seeker meets a social worker, the fewer the problems he or she will have during the reception and integration process. A comprehensive protection approach therefore requires the availability of both legal and social services for asylum seekers from the first hours of their stay in the asylum country.

The famous *Amuur* case, which concerned the detention of Somali asylum seekers in the transit zone of a Paris airport, serves as a relevant illustration of the importance of social workers in the initial stage of the asylum process. The European Court of Human Rights found that the regulations that served as a basis for holding the asylum seekers in the transit zone failed to meet the quality test because inter alia they did not secure access to social assistance. The court eventually established that France had failed to implement its obligation to secure the asylum seekers' right to liberty.

#### CASE STUDY: The *Amuur* Case

The applicants arrived at Paris-Orly Airport from Damascus on 9 March 1992. They stated that they had fled their country of origin, Somalia, because they had been persecuted by the regime in power and their lives were in danger... .. As their passports had been falsified, the airport and border police refused them leave to enter French territory. They were then held in the airport's transit zone (and its extension, the floor of the *Hôtel Arcade*, adapted for the purpose) for twenty days, that is to say until 29 March, when the Minister of the Interior refused them leave to enter as asylum-seekers... .. They were immediately sent back to Syria without being able to make an effective application to the authority having jurisdiction to rule on their refugee status....

The Court notes that for the greater part of the above period the applicants, who claimed to be refugees, were left to their own devices. They were placed under strict and constant police surveillance and had no legal and social assistance – particularly with a view to completing the formalities relating to an application for political refugee status – until 24 March, when a humanitarian association, which had in the meantime been informed of their presence in the international zone, put them in contact with a lawyer. Moreover, until 26 March neither the length nor the necessity of their confinement were reviewed by a court.

The lessons of this case apply to all European countries, signalling that social services should be made available wherever there are asylum seekers or recognised refugees. It shows that social workers' services are required at different stages and locations of the asylum process.

National asylum legislation should reflect this demand. The Lithuanian Law on the Legal Status of Aliens states that "[d]uring the processing of an asylum application in the Republic of Lithuania, the applicant shall have the following rights: ... to receive ... a social worker's services at the Foreigners' Registration Centre or Refugee Reception Centre".

### 1.2. The institutional background

Employers of social workers fall into various categories. Refugee-assisting agencies include both governmental and non-governmental organisations (GOs and NGOs). In Central European countries, state-run refugee reception centres are typical workplaces. Social work services should also be made available in detention facilities, although this is currently not common practice in Central and Eastern Europe. Any restriction of physical freedom automatically leads to a restriction of social space and the placement of vulnerable asylum seekers in detention has a re-traumatising effect that requires regular social work interventions. This is also the case with rejected asylum seekers detained for deportation. Moreover, in many European countries, where asylum seekers are allowed to reside in the community, special designated state social workers provide social assistance and support for asylum seekers staying in private premises.

In contrast to governmental agencies, NGOs often provide project-based assistance. NGOs are often more flexible, mobile and better able to target their project interventions. NGO social workers may find themselves providing assistance to asylum seekers in a state-run reception or detention centre, in a refugee day centre set up in the local community, or, for example, to single refugee women.

The involvement of social workers may also be based on the stage of the asylum process, for example, during the reception phase, rejection phase, government-funded integration support period or through post-integration assistance.

The variety of functional involvement may also attract social workers wishing to work within the national asylum system. Both in state-run reception centres and refugee-assisting NGOs social workers specialise in providing assistance to particular groups of refugees. In the majority of cases, they work with families but there may be cases of social support targeting children, women, older persons, disabled or traumatised refugees, as well as depressed or suicidal men. The needs are as endless – as are the challenges and opportunities to render valuable humanitarian services.

## 2. Characteristics of social work with refugees

Social work is about people, their social environment and how they relate to each other. The goal of every social work intervention is to improve the individual's or group's wellbeing and to prevent social isolation and marginalisation. In respect to asylum seekers and refugees, social work is directed mainly towards:

- helping refugees overcome the emotional and psychological traumas caused by their refugee experience
- helping refugees mobilise their own internal resources and coping mechanisms to meet the challenges associated with life in a new social environment
- facilitating refugees' adaptation and integration into the asylum country and preparing them for full participation in their host society or home country
- removing the structural barriers that keep refugees in social isolation and prevent them from developing their full potential in the host society.

Social work with refugees is very much about empowering – empowering refugees, their families and communities to re-establish their lives and regain their autonomy and self-esteem as social beings. It is a long-term and complex process and its success depends, to a greater extent, on the commitment of refugees, as well as on the ability of the social workers to understand and respond to their specific needs. The relationship established between the social worker and the refugee (or refugee group or community) is one of the most important factors in the success of interventions. This relationship needs to be based on mutual equality, respect and collaboration. The social worker serves as a guide, mentor and cultural broker for the refugees, rather than as a person of authority who makes decisions about the client's life.

During the reception phase, social work with refugees is primarily focused on ensuring they receive care appropriate to their circumstances and needs, with particular attention to their age, gender and disability. In the initial period after their arrival in the country of asylum, refugees need not only to physically survive but to regain their sense of security in order to cope with the feelings and traumas associated with their refugee experience. Social workers have an important role to play in ensuring that refugees enjoy a decent standard of living during status determination, which meets their human needs of food, housing, healthcare and education and helps them mobilise all their resources to meet the requirements of the status determination procedure. In addition, during the reception phase social work interventions should also aim to prepare asylum seekers to face the challenges associated with refugee status or other forms of protection, or the eventual rejection of their asylum claims.

During the reception phase, social workers also need to advocate at different levels of decision-making and policy development to make the legal and institutional arrangements of reception more conducive to the specific needs and service requirements of their clients.

### 3.The main issues

Because refugees' cultural and ethnic background may be different from that of the general population, social workers need to be aware of how these differences may influence their own social work practice.

#### 3.1.Psychological trauma

One of the central concepts in the refugee experience is psychological trauma. Emotional or psychological trauma occurs when people are exposed to situations of extreme stress, usually generated by life-threatening events such as rape, extreme violence or natural disasters. Such traumatic events may trigger such powerful emotional reactions in some individuals that they become overwhelmed by their feelings of horror, fear and helplessness and continue re-experiencing them for months and even years. Trauma when untreated can have a long-term and sometimes devastating effect on the health and social life of individuals and their families.<sup>2</sup>

The circumstances that drive refugees away from their homelands and force them to seek asylum in foreign countries often include traumatic events. Persecution, which is at the heart of the refugee definition, takes different forms – from denial of essential human rights and extreme discrimination to imprisonment, torture and even death. Many refugees have survived or witnessed violence and the murder of relatives, friends and others. When refugees leave their countries, they have to part with their homes, relatives and everything that has been a source of emotional support and material wellbeing. Their journey to the countries of asylum is often risky and may include physical suffering and hardship. When they arrive in the receiving country, refugees often encounter hostility, social isolation, loss of social status and similar experiences.<sup>3</sup>

Particularly at risk in refugee situations are women, children, disabled people and older people. This is exacerbated when they are racially or ethnically different from the host community. Refugee women and girls are exposed to, and become victims of, specific forms of violence such as rape, abduction and sexual exploitation. For children the refugee experience may involve loss of, or separation from, their parents, and violence or abuse that may have a serious impact on their further psychosocial and physical development.<sup>4</sup>

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2. American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders 1994*, Appendix A, cited in K Musalo, J Moore, and R Boswell (eds.), *Refugee Law and Policy. A comparative and international approach*, 2nd edition (Carolina, 2002), pp.914–917.

3. D Summerfield, Discussion Guide 1: The Nature of Conflict and Implications for Appropriate Psychological Responses in M Loughry and A Ager (eds.) *The Refugee Experience – Psychological Training Module*, pp.28-56.

4. UNHCR, Save the Children, OHCHR, UNICEF & Action for the Rights of the Child, *Foundations Working with Children*, CD, (Geneva, 2002), pp.1–20.

Not all individuals go through these traumatic events or experience them in the same way, because trauma is related very much to subjective reactions to a given event. Nevertheless, when working with refugees, social workers need to be aware that their clients might have suffered traumas and may therefore require special services and treatment. If neglected, trauma may cause long-term damage to the refugee's mental and physical health. Untreated trauma may also have serious social implications such as substance abuse, isolation or deviant behaviour that affect not only individual refugees but also the lives and development of their families.

Social workers must refer refugees to appropriate service providers if they have reason to believe that their clients have suffered trauma. It is very important for social workers to be aware of their own limits and be able to identify other sources of help. Often, professionals and services from a variety of sectors (such as healthcare and mental healthcare specialists, teachers and lawyers) need to be involved. Social workers should organise and coordinate these in a way that is most consistent with the needs of the client.

### 3.2 Cultural differences

Social workers need to understand cultural factors and how these may affect the helping process. Culture plays an important role in the way people perceive the world and behave. It also affects social work practice with refugees in multiple ways. The social worker's own cultural background, as well as the culture of the wider environment, influences the way he or she approaches refugees, how they identify refugees' problems and which solutions they choose. The refugee's own culture influences how he or she responds to the proposed interventions.<sup>5</sup> In short, in order to be successful in their interventions, social workers need to know not only how the cultural characteristics of the refugees may affect their work but also how their own cultural heritage and bias may shape their personal values, attitudes and behaviour towards their clients.

The term 'culturally competent social work practice' has been coined to refer to the specific competencies that a social worker needs in order to work effectively with people of distinct races, ethnicities and cultures.<sup>6</sup> These competencies include beliefs, attitudes, knowledge and skills that allow them to intervene in a way that is culturally appropriate and to have a greater impact in improving the client's wellbeing.<sup>7</sup>

A central attitude in culturally competent social work practice is respect for the client's own culture. Refugees come from different cultures and, when working with them, social workers need to respect their values and beliefs. This respect and acceptance however, may continue as long as the refugee's cultural practices and beliefs do not violate the laws and core values of the receiving society and human rights standards. Some practices such as female genital mutilation, and early and forced marriages, which are considered "normal" in some patriarchal societies, are not acceptable in Europe.

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5. M Potocky-Tripodi, *Best Practices for Social Work with Refugees and Immigrants*, (New York, 2002), pp.123–182.

6. *ibid*, pp.123–124.

7. *ibid*.

Moreover, they are in violation of international human rights standards. However, the social worker must help the refugee(s) understand that it is not a rejection of them or their culture, but rather rejection of illegal practices that do not meet international human rights standards.

Culturally competent social work practice requires communication across cultures. People's demeanour, relationship protocols and perceptions of time, as well as concepts and notions they use to exchange information, are culture-bound.<sup>8</sup> Social workers need to know the culture of their clients in order to understand correctly the messages they are conveying. Verbal and non-verbal expression differs across cultures and may be a source of misunderstanding and confusion. For example, in most European societies maintaining eye contact during conversation is considered a sign of openness and honesty, while in some Eastern societies it is perceived as challenging and disrespectful. Further, differences in important notions such as truth may affect the social worker–client relationship. In some Middle Eastern societies, for example, what in a European context would be considered lying is in fact a socially acceptable way of preserving social status and dignity.<sup>9</sup>

Social workers may face problems trying to communicate and work across cultures. For example, female social workers who try to assist male refugees often have to deal with attitudes of rejection, disrespect and unwillingness to cooperate. This is particularly evident when refugees come from some Islamic-based societies, where men traditionally solve their problems in an exclusively male circle, usually with the help of older male members of their families or communities. Men may not always be willing to share their personal or family problems with female social workers either because they do not believe that women (particularly if they are younger and unmarried) can understand their situation or because they feel ashamed to discuss sensitive issues with them. By showing respect and by demonstrating professional confidence and competence, social workers can gradually overcome the negative feelings of their clients and build their trust and acceptance. Sometimes, the establishment of a mutually respectful working relationship may not be possible. In these cases, the social worker must, if possible, refer her client to a male colleague. Where one isn't available, the social worker must inform the client and confidently explain her ability to assist him and reassure him of her competence.

### 3.3 The language barrier

The majority of refugees may not speak the language of the country of asylum, which means social workers may be required to provide services and work with people with whom they cannot communicate. This may seriously affect the quality of the services they provide. In such cases, social workers need interpreters to facilitate communication.

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8. W Kalin, 'Troubled Communication: cross-cultural misunderstandings in the asylum hearing', in Musalo, Moore and Boswell, *op cit*, pp.871–878.

9. R F Gombrich, cited in Musalo, Moore and Boswell, p.876.

The interpreter plays an important role in the helping process and may facilitate it or become a barrier to it. For example, poor or inadequate interpretation may cause distortions in the information exchanged between the social worker and the refugee, resulting in misunderstandings and misinterpretations.<sup>10</sup> Social workers may incorrectly understand the situation of the refugees and plan interventions that do not address their needs. Furthermore, distorted communication may severely undermine the trust and respect established between the social worker and the client and, in extreme cases, may even be a cause for conflict between them. However, a skilled interpreter may be instrumental in helping the social worker overcome language and cultural barriers, as well as acquiring a better understanding of the client's needs.

The choice of interpreters is therefore essential.

These are the basic competencies every interpreter needs to fulfil in order to facilitate social work with refugees:<sup>11</sup>

- An excellent knowledge of both languages. The interpreter not only needs to understand, speak and write both languages fluently, but also needs to understand both cultures.
- Ability to interpret correctly without adding or omitting information.
- Familiarity with the national system for protection and assistance of refugees.
- Familiarity with basic terms and concepts related to social work.
- Respect for the principle of confidentiality.
- The ability to remain neutral and non-judgmental.

The interpreter should also be someone the refugee trusts and respects. If the clients do not accept and feel comfortable with the interpreter, they will not share their experience and needs. During the first meeting, the social worker should explain clearly that they can request another interpreter at any point in the helping process.

In addition, when choosing an interpreter, factors such as age, gender and religion should also be considered. It is better to use female interpreters when counselling or working with female refugees because women generally feel more comfortable sharing personal and sensitive information with other women. Male refugees who come from patriarchal rural societies generally accept male interpreters who are older or the same age and preferably with the same religious background.

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10. Potocky-Tripodi, p.115.

11. Adapted from H Buwalda, *Basic Competences for Mental Health Interpreters*, UNHCR Community Services for Urban Refugees (Geneva, 1994), p.35, at <http://www.asylumsupport.info/publications/mlshs/mentalhealth.htm>.

It is not always possible to find a skilled interpreter outside the refugee community and social workers may be compelled to use refugees as interpreters. This should be done carefully and only when non-sensitive information is to be shared with the social worker. If the interpreter and the refugee client come from a small, closed community (such communities are usually formed by the refugees of the same ethnic and language origin living in reception centres) there is a greater risk that the exchanged information will be shared with other members of the community. This would be a breach of confidentiality.

In some cases, refugee children who learn the language of the asylum country faster may function as interpreters for their parents. This can result in parentification – a situation where children assume adult roles for which they may not be prepared because they have insufficient emotional and cognitive development.<sup>12</sup> It is also possible that children will not correctly interpret correctly the information exchanged between their parents and the social worker because, although they can communicate in the local language, they are not familiar with the meanings of important concepts and terms.

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Each refugee client is an individual, with an individual history, experience and set of circumstances. In order to provide a sensitive and effective approach to their client's problems and needs, culturally competent social workers need always to remain aware of both the main issues covered in this chapter and the influence of their own cultural and social background and training. The following chapters cover the specific circumstances associated with social work with refugees during the reception, rejection or return, and integration stages of the refugee experience. They provide practical guidance on effective social work interventions at the level of the individual, family and community, and policy and advocacy.

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12. D Irmiler, 'Introduction' in *Child Refugees in Europe: guidelines on psychological context, assessment of and interventions for traumatized children and adolescents*, ECRE (2002), p.12. Also see chapter 9 section 2.5.

# CHAPTER 7.

## Reception



*Social workers can contribute to better protection of refugees because they play an important role in ensuring that refugees receive adequate care and enjoy a decent standard of living during the reception phase.*



## 1. Reception of refugees: the context

### CASE STUDY: Living in reception: a father's story

H, a 37-year-old man from Iraq came to visit the social worker of the reception facility with a request to be transferred to another room. He complained that, because of some noisy young people from Afghanistan living above his room, he could not sleep at night and had headaches in the mornings. After making enquiries, the social worker found that H had no reason to complain. However, because her client insisted that his insomnia and headaches were caused by noise, she continued to meet with him. H eventually talked about the circumstances that forced him to leave Iraq.

He was working as an engineer for a big oil company when some people declaring themselves members of a radical Islamic group asked him to provide information about the oil company and its installations, threatening to harm his family if he didn't. For almost five months he received threats and on one occasion his wife and 12-year son were attacked on the street. Fearing other attacks, he confined his son to a room for almost three months. When his son started to beat his head against the wall and constantly cry out, H decided to leave the country. After arriving in country X and claiming asylum, he and his family were taken to a reception centre for refugees.

The family was allocated a very small room with only basic furniture. H told the social worker that his wife found it difficult to adapt to the new life – the basic living conditions, isolation, and the separation from her family all made her feel anxious. She blamed him for their situation and they argued a lot. His son also seemed withdrawn – he did not talk to his parents and had nightmares. Although his son attended language classes, the instructor told him that the child seemed very distant, had difficulties learning and sometimes behaved very aggressively towards the other children. H shared that he constantly thought about the future of his family and how they were going to live in this country. He felt trapped, could hardly concentrate on anything and easily became irritated.

#### Questions:

1. What immediate and longer-term solutions would you suggest to help the various family members in this situation?
2. What other agencies/actors do you think should be involved to help resolve the situation, and how?

### 1.1 The definition of reception

National asylum systems comprise sets of legal and administrative procedures and institutional arrangements. These ensure the reception of refugees, the assessment of their asylum claims, and integration of those recognised to meet the requirements of the 1951 Refugee Convention (or other relevant provisions of national law) or the removal of rejected asylum seekers. The first stage in every asylum system is reception, which in general includes specific measures for registration and documentation, access to legal advice, freedom of movement, residence, family unity, housing, healthcare, education and employment (EU Reception Directive 2003/9/EC). The reception phase begins the moment an asylum seeker lodges an application for protection in the host country, which may happen at the border of that country or within it, and lasts until the moment a final decision is made on the credibility of the claim.

It is now largely recognised that the quality of reception conditions has a direct impact on refugees' capacity for successful integration and, in the case of return, for reintegration in their country of origin. Access to essential services such as healthcare and education can help refugees recover from their past experience with dignity and prepare them to enter the host society or return to their own countries. Equally, poor material conditions of reception may compound the effects of previous traumatic events, difficulties or loss experienced by the refugees before or during their flight. When the basic survival and psychosocial needs of the refugees are not adequately met during the reception phase, their ability to function in any social environment may be severely compromised.

This chapter focuses on social work with refugees during the reception phase. It discusses their specific needs and service requirements and examines the role of social work professionals in addressing them. When working with refugees, social workers may be required to deal with a number of problems that are quite distinct from those they face with the local population. Refugees present a group of clients that, in terms of their life-experience, cultural and ethnic background, may be quite different from the local population, and the standard social work concepts and approaches may not always be applicable. Moreover, refugees' special legal standing and circumstances during the reception phase present additional challenges for social work professionals and, in some respects, limit the range of their possible interventions.

Yet social workers can contribute to better protection of refugees because they play an important role in ensuring that refugees receive adequate care and enjoy a decent standard of living during the reception phase. Furthermore, they can effectively expand the range of their protection interventions by working in conjunction with other professionals in a multi-functional team approach.

## 1.2 The status determination procedure

The central element of every asylum system is the refugee status determination procedure, which consists of legal and administrative steps to assess the substance of refugee claims. This procedure varies in length from country to country and may last from a few days to a few years. The outcome of the procedure may be positive (the asylum seeker is granted refugee status in accordance with the provisions of the 1951 Refugee Convention or another form of protection specified in the respective national law) or negative (the claim of the asylum seeker is rejected). In case of a negative decision, there usually remains the possibility of judicial appeal.

The rights of asylum seekers, and particularly their access to the welfare services of the host country, are usually restricted during the status determination procedure. The reasons for this are beyond the scope of this chapter, but most governments see restricted access to welfare as a means of reducing the number of 'bogus' refugees attracted to their countries by higher living standards and welfare support. Further, they believe that restricted access will decrease their countries' public spending and protect local labour markets. This policy of excluding asylum seekers from the mainstream services, co-exists with measures and arrangements for the provision of alternative services specifically designed for asylum seekers. These seek to ensure that the basic needs of asylum seekers are met during the status determination procedure, and that they enjoy a certain standard of living.

The right of asylum seekers to an adequate standard of living is protected by a number of international human rights instruments, including the Universal Declaration of Human Rights; the International Covenant on Economic, Social and Cultural Rights; and the European Convention for the Protection of Human Rights and Fundamental Freedoms. It is also an important element in the concept of international protection as developed by the 1951 Convention.<sup>1</sup> Reception conditions that go beyond the most basic needs of asylum seekers are an essential element of a fair and efficient status determination process because they allow asylum seekers "to be mentally and physically equipped to deal with the asylum interview process".<sup>2</sup>

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1. UNHCR, *Reception Standards for Asylum-Seekers in the European Union* (Geneva, 2000), pp.4-5.

2. ECRE, *ECRE Position on the Reception of Asylum Seekers* (2001), paragraph 7, at <http://www.ecre.org>.

### 2. Reception settings

#### 2.1 The two models

States use models of reception and care of asylum seekers that vary widely in terms of their legal and institutional arrangements, the standard of living and care they provide, and the degree to which they allow for refugees' independence and decision-making. Reception conditions and the standard of living they provide largely depend on the welfare state of the receiving country: countries that have better developed systems for social protection and accord to their citizens extensive social rights provide better reception conditions for refugees.

There are two models of institutional arrangements for reception settings. The first model organises and centralises the reception and care of asylum seekers in special facilities for collective housing called reception centres. In the second, reception and care take place in local communities.

Since the late 1980s, the reception centre model has become prevalent among Western and Northern European countries because it has offered a cost-effective and a more politically acceptable response to the needs created by the rapidly growing numbers of asylum seekers entering these countries. Because the countries of Central and Eastern Europe acceded to the main international legal instruments on the protection of refugees only in the 1990s, the development of their reception systems was largely influenced by the reception policies of countries with longer experience in refugee protection. Currently, the reception systems of Romania, Slovenia, Bulgaria, Hungary, the Czech Republic, Poland, the Slovak Republic and Croatia are mainly based on reception centres.

The two models rarely exist in their pure state. Furthermore, the reception systems of countries may combine elements of both models although one of them usually predominates. For example, asylum seekers may be required to spend a certain period of time in reception centres and then be relocated to private premises in the local community.

#### 2.2 Reception centres: main characteristics<sup>3</sup>

Reception centres differ between countries – and even within them – in terms of their management, structure, size, location, living conditions and amenities. In Central and Eastern Europe and the Baltics, reception centres are usually under the authority of state institutions such as the Ministry of Interior or the Ministry of Social Affairs. Local NGOs are not involved in their running and management, although they may be allowed to provide services such as counselling to asylum seekers residing in the centres. Reception centres may accommodate numbers ranging, on average, from 30–40 people to a few hundred (although in times of mass refugee crisis, for

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3. Institutional factors influencing the operation of reception centres are covered in chapter 5, section 1.

instance during the Balkan wars, some centres accommodated up to 2,000 people). The reception centres are usually located in remote areas away from big towns, although occasionally they may be located near or in the capital or other main towns.

The living conditions offered by the centres also vary. In most centres four to seven asylum seekers of the same sex share a room. Families are usually accommodated together. Several rooms often share bathroom and toilet facilities, although in some centres each room has its own separate sanitary facilities. In some reception centres asylum seekers are offered ready-made meals in a canteen while in others they have access to cooking facilities where they can cook their own food. In many centres, asylum seekers have access to sports or other recreational facilities.

The reception centres are usually open facilities. During the day, and under certain conditions, asylum seekers may move in and out of them. Often, however, asylum seekers are restricted from leaving the grounds of the reception centres for more than 24 hours or even overnight. To do so, they need to get special permission. There is usually a fence separating the reception centre and its adjacent facilities from the local community and 24-hour security arrangements. In some instances, where disused military barracks are being used to accommodate asylum seekers, the barbed wire perimeter fence is left in place, presenting a rather forbidding – even misleading – appearance to both newly arrived refugees and the local population.

It is now recognised that small centres can better meet the needs of asylum seekers in the initial period following their arrival. Small centres provide them with a secure environment and important services that allow them gradually to adapt to the new social reality and overcome the stress associated with the refugee experience. Large-scale reception centres that accommodate many asylum seekers of different ethnic origins do not always offer safe living conditions. Furthermore, if refugees' stay in a reception centre is extended for a period of more than six months, this may negatively affect their psychosocial wellbeing and their ability to live independently. Over a longer period of time in the centre, which offers an artificial environment, residents may become institutionalised and dependent on the services provided there. They lose independence and the ability to make important decisions about their daily lives. This is especially so in centres that are highly regulated, with all activities related to their running and maintenance conducted by specially designated staff.

### 2.3 Accommodation in the community

Asylum seekers may be accommodated in private facilities located in the local community. These may be flats or houses rented by the government or at the asylum seeker's own expense. Often asylum seekers may have a choice between accommodation in reception centres or in private apartments in the local community, although the latter choice often entails loss or reduction of government support (food and rent allowance) during the status determination process.

The main advantage of this housing model is that asylum seekers live independently and have everyday interactions with the local community. This helps them acquire a sense of a normal life and prepares them for entering the new society. However, the initial period of adaptation can be more painful and stressful for asylum seekers because very soon after their arrival they are exposed to the difficulties associated with living in a culturally and linguistically different environment. In the reception centres asylum seekers have access to essential services and advice (such as interpreters, food, healthcare and language training) immediately after their arrival. In contrast, in the local community their specific needs may remain unmet for some time. Furthermore, asylum seekers, particularly those who are not accompanied by family members or friends, may find themselves isolated and 'lost' in the new community. This may be especially true for single women, people with disabilities or older persons who may have added difficulties with security, mobility and communication.

### 3. Social work with refugees during the reception phase

This section discusses refugees' specific needs during the reception phase and how social workers address them. These needs, as well as possible social work interventions, will be analysed in the context of the two main reception settings.

#### 3.1 Security and safety

I still do not believe that my children and I are safe. I'm startled every time someone knocks at my door and do not let my children go out because I am afraid that something will happen to them. I hope that these feelings will soon go away and I will be able to continue my life

A refugee woman from Iraq

Security is a complex concept that operates mainly at a psychological level. People's sense of security builds on freedom from fear and threats to their bodily integrity and sanity. It also includes social and economic security. People become refugees because of threats to their personal security and integrity. Because refugees have been exposed to persecution, violence or other threats to their lives and freedom, they have a compelling need to feel secure. In fact, refugees move out of their countries basically in search of security and protection. Personal security is not only one of the fundamental needs of refugees but it is also a fundamental right that signatories to the 1951 Refugee Convention are legally bound to protect. According to international legal documents, governments of countries receiving refugees are responsible for establishing all the legal and physical conditions necessary to guarantee their safety and protection. Moreover, the right of refugees to personal security and the right to freedom from torture or cruel, inhumane or degrading treatment or punishment are fundamental human rights that are protected by international human rights law.

### 3.1.1 Threats to the personal security of refugees

In general, reception centres offer better protection to refugees compared to private flats or houses located in the local community because centres allow for special safety arrangements. There is usually the 24-hour presence of security personnel; the centre is fenced off to prevent people not accommodated in the centres from entering them; and the facilities may be designed to provide maximum protection to their residents. Even so, the physical security of asylum seekers accommodated in reception centres may be threatened by a number of agents such as other refugees living in the centre, including family members; the security personnel or other government officials; and members of the local community. In addition, the physical layout and conditions of reception facilities in most of Central and Eastern Europe do not always offer protection against specific threats to personal security, for example, some forms of SGBV.<sup>4</sup> For refugees accommodated in the local community, threats may come mainly from members of the local population, as well as from other refugees or migrants.

In reception centres, refugees of different nationalities, ethnicities and religious or political affiliations are usually accommodated together, often for prolonged periods of time. The idleness and frustration of life in the reception centre, the insecurity of their legal status and the lack of privacy may all fuel conflicts and clashes between individual refugees or even whole groups. Such conflicts may be purely interpersonal but they may also take on religious, political or ethnic dimensions. For example, if political opponents or members of competing warring groups are accommodated in the same centre, they may revive their political differences and past grievances. Conflicts may involve violence and inflict physical harm on individual refugees or groups of refugees.

For economic or political reasons, or concerns related to public order, nearby communities do not always welcome the establishment or close proximity of refugee reception centres. Refugees therefore become targets for xenophobic attacks from some members of the local population. These attacks usually happen outside the centres, where the refugees lack the protection of the centres' security personnel, and may take the form of verbal intimidation or physical violence. Refugees are more exposed to xenophobic attacks or other attacks from local people when they live in private premises in the local community. These premises are usually private flats or houses that lack special security arrangements. They may also be located in economically deprived areas with a high incidence of crime, thereby increasing the likelihood that refugees will suffer violations of their personal security. Different skin colour and/or the unusual attire of refugees attract attention and make them easy targets for racially motivated attacks and resentment.

In reception centres, security personnel may also be involved in mistreatment or abuse of, or violence towards, refugees. Asylum officers or security personnel of reception facilities are in a position of authority in relation to the asylum seekers. Sometimes they may resort to verbal abuse, intimidation, unnecessary use of physical force, or even violence as a way to assert their power, to enforce order in the facility, for personal

4. Menedék and OPU, *Prevention and Monitoring of Sexual and Gender-Based Violence Among Persons in Need of International Protection in Central Europe and the Baltic States* (Budapest, 2001), p.4.

gain or for other reasons. In most cases asylum seekers are unwilling to report cases of abuse and mistreatment involving the staff of the asylum centres because they fear that this will negatively affect the outcome of their asylum claims. This, however, creates a climate of lawlessness and contributes to feelings of insecurity, oppression and helplessness.

### 3.1.2 Sexual and gender-based violence (SGVB)

#### CASE STUDY

A single mother of two from Armenia came to the social worker and asked for assistance in finding accommodation outside the reception centre. The social worker explained that moving out of the reception centre would mean loss of financial support provided by the asylum authorities. The woman started crying and confided that she was afraid to continue living in the centre. She said that one of the guards in the facility paid her compliments every time he saw her and that two days ago he had come to her room late in the evening and told her that he could help her earn some extra money. She said she was very scared. She wanted to leave the centre because she was afraid that the man would come to her again. She also refused to file an official complaint, fearing retaliation and that her asylum claim would be rejected. The social worker informed the management of the reception facility about the case and the guard was removed from the facility. Later, training on issues related to sexual and gender-based violence was provided for the security personnel.

Because of their gender, refugee women and girls are exposed to additional threats to their personal security, including SGBV. In both reception centre settings and the local community, those most at risk of SGBV are women and children who lack the protection of their families: single women, women heads of households and unaccompanied children. The perpetrators of this type of violence may be family members or relatives, other refugees accommodated in the same reception facility, members of staff or security personnel, or members of local communities.

SGBV refers to a wide range of acts that inflict or seek to inflict physical, emotional or sexual harm on individuals on the basis of their sex... Women and girls are usually the primary victims of such violence, although boys may be targeted as well...

Examples of this specific type of violation of personal freedom and integrity of refugees include rape, abuse (sexual, physical and verbal abuse), sexual exploitation, forced prostitution, physical assault, harmful traditional practices (such as female genital mutilation, and early and forced marriages), denial of essential economic, cultural and social rights...

Gender-based violence occurs in the private realm (the family) as well as in the public (community, institutions).<sup>5</sup>

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5. UNHCR, *Sexual and Gender-Based Violence Against Refugees, Returnees and Internally Displaced Persons: guidelines for prevention and response* (Geneva, 2003), pp.15–20.

A recent study<sup>6</sup> of SGBV in reception facilities in a number of Central and Eastern European countries and the Baltic States suggests that domestic violence (physical violence, verbal abuse and emotional violence), restriction of freedom of movement by partners or relatives, and harmful traditional practices are the most prevalent forms of violence. In most cases, violence happened within the family and the perpetrator was usually a person in a position of power (a father or grandfather) in respect to the other members of the family unit. Although the study identified only three categories of SGBV in reception facilities, it did not exclude the existence of other forms because most cases of SGBV remain hidden. The main reasons why the victims or their relatives are unwilling to report violence of this kind is that they feel shame or guilt about what happened; they may fear stigmatisation and loss of social status; or they may fear retaliation from the perpetrator.

In some reception facilities the living quarters of single women, families and unaccompanied children are not separated from those of single males, which increases the likelihood that women will suffer sexual harassment and abuse. Men and teenage boys sometimes intrude into the rooms of women – single or married – leaving them in a state of constant insecurity and fear of attack. Such intrusions may instigate conflict within families or contribute to tension among the refugees in the facility. Sometimes, teenage girls may become targets of sexual harassment.<sup>7</sup>

### 3.1.3 The main factors contributing to SGBV against refugees

- (a) The cultural background of the refugees. Most refugees come from traditional patriarchal societies in which beliefs, social norms and institutions entrust men with power and authority over the female members of their families. In these societies, the social standing and even material affluence of men depends on their ability to control the behaviour of their wives and daughters, and force is recognised and accepted as a legitimate means to establish and maintain such control.<sup>8</sup> Moreover, because the role of women is associated predominantly with rearing children, they are dependent for their survival on their husbands, brothers or fathers. This makes them especially vulnerable to physical and psychological abuse within the family – or outside it if the primary breadwinners are absent.
- (b) The breakdown of traditional mechanisms for mediating family disputes and marital conflicts. In patriarchal societies, extended families play an important role in resolving disputes between spouses, and between parents and their children. In refugee situations, extended families disintegrate: it is usually the nuclear family unit that moves to the country of asylum. In doing so, it loses the traditional mechanisms that can mediate and help solve domestic problems in a non-violent way.

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6. Menedék and OPU, pp.15–16.

7. UNHCR Regional Representation in Budapest, *Listening to the Refugees: report on the gender, age and diversity roll-out in Hungary, Poland, the Slovak Republic and Slovenia* (Budapest, 2006), p.11.

8. S Araji, 'Crimes of Honor and Shame: Violence Against Women in Non-Western and Western Societies', in UNHCR Bureau for Europe, *Information and Training Resources on Combating Honor Crimes* (Geneva, 2004), pp.2–3; UNHCR, *Sexual and Gender-Based Violence*, pp.21–22.

- (c) Conditions in reception centres. Life in reception centres is associated with idleness and a lack of meaningful activity. This leads to families spending more time together, usually with parents and children (even grown-up children) sharing a very small space. Living in such conditions for a prolonged period of time may increase the psychological tension between spouses, and between parents and children, and may contribute to an increased incidence of violence within the family.

### CASE STUDY

A woman from Afghanistan came to visit the social worker of the reception facility accompanied by a friend from Armenia. At first she was reluctant to speak but, after some encouragement from her friend, she confessed that she has problems with her husband. She explained that, since they arrived in the centre three months ago, her husband had become very anxious and violent – he beat her, and sometimes their teenage boys, almost every day. She told the social worker that the whole family shared one room and that she and her husband rarely had a chance to be alone. The couple had not had any sexual contact for a long time and her husband blamed her for that.

- (d) Insecurity of legal status, social isolation and stress related to settlement in the country of asylum. During the status determination procedure, refugees cope with the constant threat that their asylum applications might be rejected. Insecurity, coupled with the lack of social contact and the stress caused by the challenges of everyday life in new social environment, may contribute to increased tension within the family.
- (e) The physical layout of the reception facility and its location. The design of the reception facility sometimes increases the likelihood of SGBV, for example, because of insufficient lighting during the night, shared bathroom and toilet facilities, and the location of some amenities (for example, laundries or garbage bins located in the basement). If reception centres are located in remote areas, refugees, particularly women and girls who leave the grounds to go to the nearby towns or villages, may easily become targets for SGBV.<sup>9</sup>
- (f) Insufficient material assistance. Insufficient assistance during the reception phase may force some refugees who lack family support, such as single women, women heads of households or unaccompanied minors, to offer sexual services in exchange for money or food.

### CASE STUDY

A refugee from Iraq came to inform a charity that two young refugee boys were involved in prostitution. According to him, another refugee (with official refugee status) connected the boys with their clients. The staff of the reception facility where the boys were accommodated were unaware of this, because the boys worked in the city, close to a big market. The refugee had talked to the boys and they told him that they had no choice because the financial support they received was not sufficient. They only received around €20 per month for food.

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9. Menedék and OPU, pp.16–17.

### 3.1.4 Social work interventions to meet the security and safety needs of refugees

Social workers can play an important role in protecting the physical security of refugees. They can help both to reduce threats to the personal security of refugees and to provide care to those refugees who have suffered violence and abuse in the reception facility.

Social work interventions may be divided into two major groups: (a) prevention and (b) response (palliative intervention).

#### I. Preventive social work interventions

##### (i) Establishing a safe living environment

When social workers assist refugees in reception centres, they need continually to identify risks to their security and advocate to the centre's management to reduce them. They can identify risk factors through an analysis of past incidents and consultation with the refugees (for example through individual and group meetings). Reducing the identified risks may require, for example:

- improving the physical conditions in the facility by installing better lighting, locks on the doors, and separation of women's and men's bathrooms;
- ensuring that single women, unaccompanied children and families are accommodated in separate living areas. If conditions permit, social workers need to advocate to reduce overcrowding (for example, by allocating large families or families with teenage children more than one room);
- increasing the number of security personnel at the facility;
- introducing, if possible, an overnight social worker who can mediate in conflict situations and strengthen the feeling of safety and security among refugees;
- ensuring that a proper system for admission and control of visitors is in place;
- where there have been attacks on refugees by members of the local community, increasing police patrols near the reception facility;
- encouraging residents to organise themselves to improve their own security.

If refugees are offered accommodation in the local community, social workers need to assist the authorities or the refugees themselves to assess accommodation for location, layout and security. Those chosen should pose the least threats to the personal security of the refugees. Finding appropriate housing can be difficult

because of the limited funds allocated by the authorities to refugees for this purpose. This often limits their choice to sub-standard living conditions located in economically deprived areas where the security risks are greater. Because of insufficient means, social workers are to a greater extent constrained in their ability to intervene and find more secure housing. Nevertheless, they should caution their clients to secure their premises to the best of their ability and seek additional assistance through church groups and NGOs.

(ii) Raising awareness among reception centre security staff

Social workers need to raise security staff's awareness of threats to refugees' security, including SGBV.

This is particularly important if the security personnel of the reception facility are contracted by a private company that does not have any experience with refugees. The social worker can advocate for, or deliver, on-going training for security personnel on issues related to human rights, refugee rights, refugee experience, cultural differences, refugee needs and possible risks to refugees. Such training will allow the security staff to take appropriate measures to prevent violence without unnecessary use of force, to intervene in conflict situations, and to ensure effective protection of the refugees.

(iii) Ensuring that all assistance programmes are gender- and age-sensitive

Social workers should participate in planning and implementing programmes in order to ensure that women have equal access to all services provided and that conditions for abuse and exploitation are not created.<sup>10</sup> They should advocate for special consideration to be given to single women, women heads of household and unaccompanied children. Where possible, these groups should enjoy special measures that ensure that their basic human needs are adequately met and that they are not forced to exchange sexual services for basic necessities.

(iv) Working with refugees to eliminate violence, especially SGBV

An important part of preventive work is focused on refugees. Because some of the factors contributing to violence, particularly SGBV, are rooted in the socio-cultural background of refugees social workers need to work toward changing beliefs, attitudes, and harmful practices.

Possible interventions include:

- educating refugees about human rights, gender, SGBV, channels for reporting incidents of violence and services available to victims of violence through group meetings, training sessions, informal discussions, preparing printed materials in languages spoken by the refugees and video presentations;

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10. UNHCR, *Sexual and Gender-Based Violence*, pp.37–38.

- educating refugees about their rights and obligations in the asylum country, as well as national laws related to SGBV;
- educating refugees about how to avoid possible threats to their personal security, how to contact the police and how to report suspected threats to their security or incidents of violence, as well as how to reduce the risks to their security (for instance, locking doors, not walking at night and avoiding isolated areas);
- empowering women to take a greater role both within their families and in life in the reception facility or local community.

Possible interventions to empower women include:

- involving them in planning and implementing activities in the centre;
- giving women the opportunity to voice their needs, concerns and problems, for example, by initiating and organising regular meetings as well as providing a space for these meetings;
- supporting and promoting women's self-help initiatives, or initiatives that increase the independence of women; and
- eliminating all forms of discrimination against women, for example, by ensuring that girls have equal access to schooling and language training, as well to other activities organised in the centre.

Empowering of women sometimes can lead to increased incidence of SGBV because their active role and participation outside the family is considered a threat to male dominance. Social workers can take the following steps to prevent this happening.

- Involve men, particularly leaders of refugee communities and religious leaders, in planning, implementing and monitoring measures to reduce the risks of SGBV and other forms of violence against refugees accommodated in the centre.
- Strengthen refugee families. Provide family counselling on issues related to marital conflict, inter-generational conflict, and cultural differences. Identify the families with problems (such as substance abuse, child neglect, parents suffering depression) and, if possible, refer them to the appropriate services.
- Initiate and facilitate recreational activities for refugees accommodated in the centres. The engagement of refugees in recreational activities will help reduce stress, offer non-violent means for channelling frustration and anger, and fill refugees' time with meaningful activity.

- (v) Establishing mechanisms for reporting, documenting, and responding to violence

Social workers may initiate, and participate in, the development of mechanisms for reporting, documenting and responding to violent incidents. They may, for example, set up an anonymous system of reporting incidents, such as a 24-hour hotline staffed by volunteers or specialists who speak the main languages spoken by refugees. Furthermore, social workers need to set up a system for responding to cases of violence. This requires them to develop referral mechanisms and establish contacts with organisations and services that can meet the health and security needs of the victims.

### II. Palliative social work interventions

- (i) Responding to acts of violence against refugees and ensuring care for the victims

Every incidence of violence or other violation of the personal security of refugees accommodated in a refugee facility may have serious implications for the whole refugee community. Victims may suffer physical injuries and emotional trauma that, coupled with past trauma, can seriously affect their mental and physical health. For the refugee community, violence can contribute to a general feeling of insecurity, fear and social tension, especially if the violence occurred in a reception facility. There is also a possibility of the violence escalating – for example, if conflicts between groups of refugees or individuals are not resolved. Social work interventions in the case of violence against refugees therefore need to focus on two main goals: ensuring adequate care to the victim and restoring a sense of security and trust within the community.

#### Main principles when assisting victims of SGBV:

- guarantee the confidentiality of the victim
- respect her or his wishes and rights
- do not judge
- preserve the dignity of the victim.<sup>11</sup>

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11. Adapted from UNHCR, *Sexual and Gender-Based Violence*, p.28.

## (ii) Palliative interventions in cases of violence

- Work together with, and advocate for, the asylum or local law enforcement authorities to provide a safe haven for the victims. This may require relocation of the victim and her or his family to a protected place within the reception centre or, in some cases, to another reception facility or other safe place. Protection should also be provided to the perpetrator(s), if known, to prevent possible retaliation from other refugees (for example, the relatives of the victim).
- In the case of suspected child abuse, inform the centre's management and child protection services. If the child is to be removed from the family, assist the child protection services with finding and training foster parents. If the foster parents come from the host population, they will need to be sensitised to the specific cultural and religious needs of the child and how these may be addressed.
- Provide crisis counselling (emotional support and reassurance) to the victim and refer her or him to a specialist for long-term psychosocial support.
- Refer the victim for treatment to a healthcare specialist and escort her or him, if necessary.
- If the victim is willing to pursue legal redress, refer her or him to a legal counsellor for information on possible legal actions.
- Escort the victim to the centre's management or local police to report the case.
- Provide the victim with a trusted interpreter to help her or him communicate with the police, doctors and legal counsellors.
- Mobilise community support for the victim.
- Follow up the case and intervene to ensure that the long-term health and security needs of the victim are being addressed.
- Advocate before the centre's management and/or asylum authorities for policy changes, changes of the internal order of the centre and changes in the services provided to reduce the opportunities for violence.

### (iii) Conflict resolution and mediation

In the case of a violent clash between individual refugees or groups, or of attacks on refugees from the local population, social workers should consider these interventions.

- Provide counselling to the refugees involved, including crisis counselling and counselling on conflict resolution;
- Work with the refugees involved to establish the reasons for the conflict and try to mediate to find a solution. Facilitate communication between the parties, for example arrange meetings between them to discuss the factors/issues that contributed to clashes and violence and how they may be resolved. Involve community leaders, religious leaders or other respected refugees in resolving the conflicts.
- If necessary, speak to the centre's management and advocate for relocation of those involved in the incident to another room or facility.

Measures that try to restore the general sense of security among the refugees may include:

- taking appropriate legal or administrative measures to punish the perpetrators of violence;
- disseminating information among the refugees to prevent rumours and disinformation related to the concrete act of violence;
- taking measures that try to prevent violence from occurring in the future (see above, under prevention).

### 3.1.5 The safety of social workers

Social workers may also become targets of verbal and physical violence from their clients, other members of the refugee communities or the local population. Refugees may resort to verbal intimidation or may threaten to use physical force as a way to assert pressure on social workers. Although these are often only threats without the intent to inflict physical harm, they may seriously undermine the relationship between the social worker and her or his client. For social workers such situations are a source of continuous emotional distress that affects their ability to engage with, and effectively provide for the needs of, their clients.

Organisations assisting refugees and reception facilities must have clear procedures for dealing with aggressive clients. These procedures must guarantee the security of staff working with refugees, as well as ensuring the rights of the clients. From the

very beginning, clients must be made aware that violence will not be tolerated, and that aggressive behaviour may result in termination of the working relationship with the social worker or, in case of physical harm, in legal proceedings. It is important to point out, however, that measures that try to punish and discourage acts of actual or alleged violence should be accompanied by appropriate interventions that address the underlying causes for this behaviour. In the context of forced displacement, these acts are often rooted in insecurity, frustration and feelings of loss of control over their own lives, or are signs of untreated mental health problems.

### 3.2 Basic physiological needs

Refugees, like all other human beings, need housing, food and clothing to survive. These are also fundamental human rights protected by a number of international human rights instruments. During the reception phase, when the status determination procedure is not complete, the state is usually responsible for providing for these needs.

#### 3.2.1 Accommodation

##### CASE STUDY

M and his family are accommodated in a room located on the second floor of the reception facility. He approached the staff of the reception facility with a request to be provided with a bigger room. His 9-year-old daughter was disabled and needed a wheelchair for mobility. However, their room was so small that the girl could not use the wheelchair inside it. Furthermore, the reception facility was not equipped to provide physical access to wheelchairs, which, in practice, confined the girl to her room and constrained her from participating in the activities (including language training) of the centre.

Refugee accommodation (living quarters in reception facilities, private flats or houses) have to provide an adequate standard of living and protect refugees' physical security. Housing has to meet health and hygiene standards and provide sufficient living space. It should also offer protection and privacy to the refugees so that they may overcome their traumatic experience and stress associated with their settlement in a new country. The housing must have access to toilet and bathroom facilities with running hot water, proper lighting and heating during the cold seasons (for some refugees coming from countries with a hot climate, cold winter weather can be very painful). It should be supplied with basic furniture. If the reception facility does not offer central catering, refugees need to have access to cooking facilities where they can prepare their own food.<sup>12</sup>

12. International Federation of the Red Cross and Red Crescent Societies, *Guidelines on the Reception of Asylum Seekers* (Geneva, 2001), pp.24–25.

Families should be accommodated together. Families with children should be provided with more space so that the children can play or do their schoolwork. Overcrowding, particularly if the children are grown-up, can have a negative impact on the psychological atmosphere in the family. It may exacerbate or create problems in the mental state of the parents and contribute to marital or inter-generational conflicts. If the children in the family are grown-up, they should be given a separate room. In some cultures, it is not acceptable for mothers to share a room with their adolescent sons or fathers with their daughters. Such arrangements should be discussed with the family, and social workers and centre staff need to bear in mind that cultural needs should always be balanced with the security needs of women and girls.

Single men and women should be accommodated separately. People of the same ethnic origin or nationality should be accommodated together so that they can communicate in their own language. This gives refugees access to emotional and psychological support when they need it and will reduce the stress related to social isolation, language and cultural barriers. Age should also be considered because refugees of a similar age are more likely to have the same interests, preferences and living habits, which will facilitate their co-habitation and reduce the risks of conflict.

Some of the most common problems with accommodation include overcrowding, poor living conditions, lack of privacy (particularly in the reception centres), and the accommodation together of refugees of different ethnic and religious backgrounds. The reasons usually include lack of state financial resources; lack of sufficient housing units or appropriate housing opportunities; and legal, political or property constraints. Reception centres are often established in former military barracks or hostels, where important amenities are not available or the premises are not designed for the accommodation of families.

### 3.2.2 Food

During the reception phase, refugees are entitled to receive food. They may receive cooked meals in a canteen, food parcels or a food allowance. Refugees living in reception facilities usually have access to central catering, with food provided three times a day, or they receive a food allowance. Refugees who live in private premises in the local community are responsible for buying and preparing their own food.

Food provided in the reception facilities must meet all the requirements for a healthy diet. It should provide refugees with the necessary daily ration of carbohydrates, proteins and vitamins. The daily menu should also consider the special dietary needs of infant children, older refugees and refugees with specific health conditions. In addition, it should be culturally and religiously appropriate, at least for the majority of the refugees. Most Muslims, for example, maintain halal food practice, which requires meat to be butchered in a specific way, and they do not consume pork or pork products. In some cases, Muslim refugees may refuse food simply because they cannot determine whether the food contains pork or pork products. Moreover, for

approximately one month of the year, during the holy month of Ramadan, Muslims fast, abstaining from food, drinks and smoking from dawn to sunset. Only small children, ill or older persons and women during their menstrual cycle are not required to fast. For many Muslims, Ramadan is an opportunity to reinforce their connection with God.<sup>13</sup>

Food provided to refugees accommodated in reception facilities largely reflects the cuisine and traditions of the host country and can be very different from that of their countries of origin. This can be a serious problem for some refugees (causing, for example, gastrointestinal and other health problems) at least until they get used to it. In this respect, access to cooking facilities allows refugees to have greater independence in choosing and preparing food in accordance with their religious and cultural needs and habits, which is important in reducing stress associated with cultural adaptation.

When refugees are not provided with central catering but instead are offered a food allowance, the food allowance may not always be sufficient to guarantee them adequate nutrition. Lack of sufficient means for food often results in a diet that is deficient in important nutrients. Inadequate nutrition may cause the health of refugees with chronic ailments, for example diabetes or anaemia, to deteriorate. Infants and small children may suffer malnutrition, with long term implications that include setbacks in the children's physical and mental development and increased vulnerability to infections.<sup>14</sup> Furthermore, even if the food allowance is sufficient for a healthy diet, the lone older or disabled refugees may still not be able to buy and cook food because of poor health or reduced physical mobility.

### 3.2.3 Social work interventions to meet refugees' housing and food needs

The following are social work interventions to ensure that the physiological needs of refugees are adequately met.

#### Individual- and family-level interventions

- For refugees who do not have access to collective accommodation, help them find and rent appropriate private premises. The counselling should cover issues such as local housing opportunities, rental terms, how to search for housing, and the use and maintenance of rented properties. Provide direct help with contacting estate agencies, negotiating the terms of the lease and helping refugees maintain contacts with the owner.
- Assess the living conditions of individual refugees and families and, if necessary, advocate for their improvement (for example the renovation of the premises, allocation of more space for families to reduce overcrowding) with the reception centre's management or the owners. Where the accommodation is extremely poor and cannot be improved, advocate for relocating the refugees to better conditions.

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13. *Muslim Refugees in the United States* at <http://www.culturalorientation.net/muslims>

14. UNHCR, *Refugee Children: guidelines on prevention and care* (Geneva, 1994), p.58.

However, social workers cannot always radically improve the living conditions because of financial constraints or lack of sufficient places for accommodation. They should therefore advocate for those changes that are most likely to be achieved.

- Involve refugees living in the reception facility in activities to improve their living conditions.
- Liaise with healthcare specialists to identify refugees with special dietary and health requirements and make the necessary arrangements to meet them.
- Where refugees are accommodated in the local community or have access only to self-catering facilities, provide counselling related to food shopping, including information on prices, places where cheaper food is available and places where national food and products are offered.
- Assist specific groups of refugees such as single fathers or young men to prepare their own food if they do not have access to ready meals. Refugee women may be involved in providing help and counselling to these groups on how to prepare their own food.
- In case of older or disabled refugees living alone who cannot provide for their own needs, arrange their accommodation in residential homes or find alternative community-based forms of care and support, such as home care. If such care is not available, arrange for refugees from the same ethnic origin to visit and help the older or disabled refugees regularly.

### Advocacy

- Advocate for policies and arrangements that better meet the housing needs of refugees. These may include increasing the housing allowances offered to refugees, the creation of new housing arrangements, or the renovation of available housing.
- Advocate with the centre's management and/or state authorities responsible for refugee accommodation for improving the existing conditions of accommodation for refugees during the status determination procedure. This may include reducing overcrowding, renovating the living quarters and bathroom and toilet facilities, supplying refugees with basic furniture and giving them access to cooking facilities.
- Educate the centre's management about special dietary requirements and advocate for the provision of food that is culturally and religiously appropriate, at least for the majority of the refugees. In addition, if possible, special arrangements should be made to allow refugees to maintain some of their religious practices,

such as fasting. During Ramadan, for example, Muslim refugees can be provided with food parcels instead of ready meals to allow them to fast during the day.

- Advocate for and introduce measures for supplementary feeding of infants and small children in order to avoid malnutrition.
- Advocate for arrangements and services that allow older refugees, and particularly unaccompanied older refugees, access to appropriate food and accommodation.

### 3.3 Healthcare needs

#### CASE STUDY

A refugee approached a refugee-assisting agency with a request for financial assistance. He explained that he lived in a flat, not in a reception centre, and over two months ago was referred by his family doctor for an operation to the hospital. However, at the hospital he was asked to pay a significant amount of money, which he did not have. He postponed the operation to try to find the money but could not. The social worker contacted the hospital and learned that the refugee was asked to pay because the hospital administration was not aware that the refugee had a right to free medical treatment.

Refugees vary widely in terms of their health status and healthcare needs. Some refugees' healthcare needs are very similar to the needs of the local population while others are very specific and are largely related to the refugees' experience, the challenges of acculturation and their socio-cultural background. For example, some refugees have been exposed to torture or physical violence, or have been wounded in armed conflicts, and therefore require special medical services. It is important that refugees have access to adequate healthcare not only because it is their human right<sup>15</sup> but also because it guarantees their physical and psychological wellbeing. If refugees' medical care needs remain unmet, it will affect their prospects for successful integration in the host society and can occasionally pose health risks for the population of the receiving states (for example, from communicable diseases such as tuberculosis).

There are two main approaches to meeting the health needs of refugees. The first one seeks to include refugees in the general system for healthcare provision and gives them access to the same services, on the same terms, as those for the local population. The second approach aims to address the healthcare needs of refugees through special legal and institutional arrangements. In most countries, refugees have access to free medical care or at least free basic healthcare.

15. The Universal Declaration of Human Rights (Article 25) and the International Covenant on Economic, Social and Cultural Rights (Article 12 [1]) protect the right to medical care of every human being in the territories of the contracting states.

Refugees usually undergo medical examination when they arrive in the country of asylum. They are screened for some communicable diseases (HIV, tuberculosis and hepatitis B), as well as some specific diseases that are prevalent in their home countries. This medical examination takes place either in special transit facilities for refugees or in reception centres where refugees are first put in quarantine until the examination is completed. In most refugee facilities, basic medical care is available on-site.

### 3.3.1 Barriers to healthcare

There are a number of factors that influence refugees' access to healthcare services during the reception phase. They include structural barriers, financial constraints, cultural factors and lack of knowledge about the healthcare system.<sup>16</sup>

Structural barriers are rooted in the way the healthcare system operates. For example, reception facilities are often located in isolated areas away from important healthcare infrastructure (such as hospitals and special medical services). Although basic medical care is available at the reception facility, refugees in need of special medical services may have to travel to the major cities to get adequate treatment. In addition, a complicated healthcare system can be a great impediment for refugees, especially for those not accommodated in reception centres. An additional structural factor that limits refugees' access to appropriate medical care during the status determination procedure is the limited scope of their healthcare entitlements. In some countries, during the reception phase, refugees only have access to basic medical care and services and are excluded from the range of services available to the local population.

Language is also a barrier to healthcare. During the first months after their arrival, some refugees barely speak the language of the asylum country and therefore find it difficult to seek help for their health problems. In most cases, they do not have access to trained interpreters and are compelled to use other refugees or family members (often children, who learn the language faster than their parents) in order to communicate their health concerns. Because the untrained interpreters are not aware of basic healthcare terms and concepts, they may contribute to misunderstanding, misdiagnosis and inappropriate treatment.<sup>17</sup>

Lack of financial means can also influence the health of refugees. The assistance provided to refugees during the status determination procedure is often insufficient to meet the cost of medical prescriptions and services. This is often the reason why refugees do not follow the prescribed treatment programme.

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16. M Potocky-Tripodi, pp.183–255.

17. *ibid*, pp.115, 189; and H Buwalda, Basic Competencies for Mental Health Interpreters at <http://www.asylumsupport.info/publications/mlshs/mentalhealth.htm>.

The final factor that can impede refugees' access to healthcare services is related to their cultural background. Refugees come from different cultures and their understanding of diseases and treatments may be quite different from those prevalent in the host country. Some refugees may be more willing to use traditional healing practices, rather than to seek help from medical professionals.<sup>18</sup>

### 3.3.2 Children and women

Some groups of refugee such as children, women, older persons and the disabled have special health needs. The refugee experience involves a number of health risks for refugee children. Some children, for example, suffer malnutrition and setbacks in their physical development because of the physical hardship and food deprivation they have experienced before coming to the country of asylum.<sup>19</sup> In addition, not all refugee children have had basic vaccinations against diseases such as poliomyelitis, hepatitis B or diphtheria, which pose serious risks for their health as well as for the health of those around them.

Women also have special healthcare needs mainly related to their sexual and reproductive health. These include pre- and postnatal care, treatment for nutritional deficiencies, obstetrics, contraception, and the consequences of female genital mutilation (FGM).<sup>20</sup> Women's health is considered by many traditional communities to be a private issue that is discussed only with female family members or with traditional birth attendants or healers. As a result, many refugee women are unwilling to seek help from specialists. Women's access to healthcare may be additionally constrained by the fact that many healthcare specialists are men. For a Muslim woman, it may be culturally inappropriate to talk to or to be touched by a man who is not her husband or close male relative.<sup>21</sup>

#### CASE STUDY

A is a refugee woman from Iran who often visits the social worker of the facility to talk about her problems. At one of the meetings she confessed that she has some gynaecological problems. A said that she feels worse and worse and the doctor of the facility did not help her at all. When the social worker contacted the doctor she learnt that A had been referred to a specialist in the nearby town more than two months ago. When the social worker asked A about it, A explained that she indeed got a referral, but when she went to see the specialist she did not go to be examined because the doctor was male.

18. K Ell and I Castaneda, 'Health care seeking behaviour' in S. Loue (ed.), *Handbook for immigrant health* (New York: Plenum Press, 1998), pp.125-144.

19. UNHCR, *Refugee Children*, pp.166-167.

20. L DeSantis, 'Reproductive health' in S. Loue (ed.), *Handbook for immigrant health* (New York: Plenum Press, 1998), pp.449-476.

21. M Diaz, 'Discussion Guide 2: Gender and Forced Migration' in M Loughry and A Ager (eds.), *The Refugee Experience - Psychological Training Module* (Oxford Refugee Studies Centre, 2001), p.62.

### 3.3.3 Older refugees

The term 'older refugees' usually refers to people over 60 years of age.<sup>22</sup> However, definitions of age largely depend on society and therefore may vary from country to country.<sup>23</sup> The refugees' understanding of 'old' may not always correspond to the European standard.

Some refugees come from societies where people far below the age of 60 are considered old because they have attained a certain family status (becoming grandparents, for example).<sup>24</sup> In addition, the definition is influenced by the average life expectancy and is therefore subject to significant regional variations.<sup>25</sup>

Older refugees make up a relatively small part of the overall intake of refugees in most Central and southeast European countries.<sup>26</sup> Bosnia and Herzegovina, Croatia, and Serbia and Montenegro have the highest proportion of older refugees, while Hungary, Romania<sup>27</sup> and Bulgaria have insignificant percentages. For all people, aging is associated with an increased risk of developing health problems and increased dependence on others for basic needs.<sup>28</sup> Older refugees are more likely to suffer from chronic ailments or disability not only because of their age, but because of the physical deprivation, lack of proper healthcare and nutrition, and psychological stress they have experienced during their forced displacement. Older refugees often need specialised long-term treatment and care that is not available in the reception facilities. Some older refugees may not be able to live independently due to mental health problems (such as dementia) or physical impairment.

### 3.3.4 Disabled refugees

Disabled refugees also need special medical attention and care. Lack of medical care, malnutrition and the emotional stress faced by refugees during their flight exacerbates existing health conditions and contributes to the development of long-term mental and health impairments.

Depending on their disability, refugees may need special long-term treatment and rehabilitation services. They may also need special aids and equipment in order to communicate, move around and socialise. However, their special healthcare needs often remain unmet because of a lack of specialised services in the reception facility; a lack of necessary entitlements to access available mainstream services; insufficient financial resources to bear the cost of treatment; reduced physical mobility; and the distance of the reception facilities from services.

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22. UNHCR, *Women, Children and Older Refugees* (Geneva, July 2001), paragraph 9.

23. ECRE, *Older Refugees in Europe: survey results and key approaches* (December, 2002), p.7.

24. *ibid.*

25. UNHCR, *The Situation of Older Refugees* (EC/48/SC/CRP.39), August 14, 1998, paragraph 2. as cited in ECRE 2002, p.7.

26. Menedék, *Mainstreaming Gender and Age Awareness in Refugee Settings: a manual for trainers* (Budapest, 2005), p.80.

27. *ibid.*

28. UNHCR, *Refugee Resettlement: an international handbook to guide reception and integration* (Geneva, date), p.280.

### 3.3.5 Social work interventions on health issues

#### Individual- and family-level interventions

- Case management: identify the healthcare needs of refugees and provide information on healthcare providers in the area. Help them to make an appointment and, if necessary, to find a trained interpreter. Accompany refugees to the healthcare specialist.
- Follow up: help the refugee to obtain the necessary medicines and follow the prescribed treatment. Coordinate subsequent appointments.
- Counsel the individual and family: provide information on how the healthcare system functions. Help refugees to fill out the forms they need to gain access to healthcare services. Encourage them to discuss their health problems with their doctors.
- Provide psychosocial support to refugees and their families in case of planned or already received intervention.
- Provide counselling to families countries where FGM is practiced about the likely health complications. Explain also the legal consequences of performing FGM in the country of asylum.
- Provide counselling to refugee women on issues related to sexually transmitted diseases, pre- and postnatal care, and contraception.
- Provide counselling to young refugee mothers on issues related to child health and rearing. In many of the societies refugees come from, this knowledge is transmitted through older female family members of the extended family. However, during their flight, the refugee families often separate and the women arrive without this support.
- If a single parent needs a medical intervention that would result in temporary disability, ensure that she or he and the children receive adequate care, assistance and protection.
- Ensure that children are regularly monitored by a paediatrician. If children lack vaccinations or have no document proving that they have been inoculated, make the necessary arrangements for their vaccinations.
- For disabled refugees and those with chronic illnesses, make referrals to specialist agencies. Help refugees access appropriate medical and rehabilitation services by advocating for their rights, arranging appointments, and providing transportation and assistance. Ensure that refugees are supplied with aids (hearing, mobility aids and equipment) or receive necessary training (for example deaf refugees often need training in sign language). Arrange for support services such as help with domestic work, mobility and language training to minimise social isolation.
- Identify older refugees and help them access appropriate medical services. If there are lone older refugees who cannot take care of their own needs, arrange special care – for example, accommodation in nursing homes.

### Community-level interventions

- Identify the health needs of the refugee population in the reception facility and the main constraints to accessing adequate healthcare.
- Educate the refugee community about health issues such as women's health, childcare and rearing, and sexually transmitted diseases, including HIV/AIDS, through group meetings, leaflets and video presentations. Invite healthcare specialists or refugees with a background in health education background.
- Initiate refugee support for refugees (and their families) with terminal diseases, chronic conditions and disabilities.
- Develop services that meet the special health needs of older and disabled refugees and improve the quality of life of these groups.

### Advocacy

- Educate healthcare specialists on the specific health needs of refugees (for example, FGM) and their entitlement to healthcare.
- Advocate on behalf of individual clients to ensure they receive adequate medical care.
- Identify gaps in healthcare arrangements for refugees and advocate for policy changes to address them.
- Participate in the development of healthcare programs that will address the needs of refugees.
- Advocate for better services that address the special needs of disabled and older refugees.
- Advocate for access of refugee children to all healthcare and preventive services available to local children.

### 3.4 Mental health needs

Having been exposed to violence, the loss of family and a familiar environment, torture and physical deprivation in their countries of origin, refugees then go through life-threatening situations in their flight to the country of asylum. On reaching the “safe” country, refugees are often confronted with culturally alien environments where their traditional ways of understanding and managing the surrounding world may not be valid. Many of them realise that, in the new environment, their education, life experience and skills are not needed and not valued. For most refugees, the first years in the country of asylum are associated with insecurity, social isolation, feelings of inferiority and lack of emotional and social support.

Refugees are therefore at great risk of developing mental health disorders. The most common mental health problems among refugees include grief, alienation, guilt, anxiety, depression, post-traumatic stress disorder (PTSD) and the effects of substance abuse.<sup>29</sup> Exposure to trauma and torture has led to high rates of PTSD and depression among refugee populations (varying between groups), with PTSD rates ranging from 39% to 100% (the rate among the general population is just 1%), and depression rates ranging from 47% to 72% (no comparative general data).<sup>30</sup>

Mental health problems need to be adequately addressed during the reception phase because, if they remain untreated, they may seriously affect refugees’ physical and mental wellbeing. Psychological problems contribute to antisocial behaviour that may undermine the prospects for integration in the host society. They may also affect the results of the status determination procedure. Research shows that mental health problems interfere with the credibility of refugee claims in very subtle ways: traumatised refugees may not be able to give a coherent account of their experience because of sudden memory blocks, subconscious or conscious avoidance of traumatic events, or distorted perceptions of time sequence.<sup>31</sup>

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29. Potocky-Tripodi, pp.260–272.

30. UNHCR, *Refugee Resettlement – An International Handbook to Guide Reception and Integration* (Geneva, 2002), p.233.

31. C Rousseau, F Crepeau, P Foxen and F Houle, ‘The Complexity of Determining Refugeehood: a multidisciplinary analysis of the decision-making process of the Canadian immigration and refugee board’, in *Journal of Refugee Studies*, vol. 15, no 1 (March 2002), pp.55–64.

### 3.4.1 PTSD

PTSD is a mental disorder developed as a result of exposure to traumatic events such as imprisonment, torture, or witnessing or being a subject of violence (including SGBV). There is no data on how many of the refugees seeking asylum in the countries of Central and Eastern Europe suffer from PTSD. Data for other parts of the world indicate prevalence among refugees of 4-86%.<sup>32</sup>

PTSD is often manifested in depression and anxiety. Some of the psychological complaints related to depression include sufferers blaming themselves for events they could not control, crying easily, persistent feelings of hopelessness and helplessness, and a decreased interest in normal social activities. Anxiety often manifests itself in panic attacks (intense, recurrent fear of certain objects or situations), phobias, fearfulness and unexplained and persistent worry.<sup>33</sup> The physical symptoms include fatigue, digestive disorders, chronic pain and headaches.

#### Categories of symptoms associated with PTSD

- Re-living the traumatic event through recurrent nightmares, intrusive and frightening thoughts, memories, and flashbacks.
- Persistent avoidance of everything that reminds of the traumatic event – places, people (including relatives and friends), inability to recall an important aspect of trauma, detachment or estrangement from others, sense of foreshortened future, diminished interest in significant activities.
- Hyper-arousal – feeling irritable or sudden anger, having difficulty sleeping or lack of concentration.
- Physical symptoms such as headaches, gastrointestinal distress, dizziness, chest pain and immune system problems. These symptoms usually appear weeks after the trauma but in some cases they may appear months and even years later.

US National Institute for Mental Health [www.nimh.nih.gov](http://www.nimh.nih.gov)

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32. National Center for Post-Traumatic Disorder, (PTSD) in E Bolton, *Refugees* at <http://www.ncptsd.va.gov>

33. US National Institute for Mental Health website at <http://www.nimh.nih.gov>.

### 3.4.2 Children

Refugee children are particularly at risk of developing psychological problems in refugee situations. During the migration process, all refugee children have experienced the trauma of losing familiar landmarks, status and expectations,<sup>34</sup> as well as a major change in their social and cultural environment. In addition, they may have been exposed to violence or loss of relatives or other traumatic events that are often associated with forced displacement.

The impact of traumatic events on children is influenced by the child's emotional, cognitive and physical maturity and on the availability of support from their parents or other bonding figures.<sup>35</sup> Parental care and family environment are critical factors for children to cope with emotional trauma.<sup>36</sup> However, in refugee situations the capacities of parents to adequately respond to the needs of their children, including their emotional needs, are often diminished because of their own experience of trauma, isolation, material constraints and cultural difficulties. In order to assess the mental health needs of children and plan appropriate interventions, social workers need to understand whether the family plays a supportive role or is an additional stress factor in their children's lives.

The child's emotional reaction to trauma is age-specific and individual but may include guilt, irritability, PTSD, depression and anxiety. Often in response to trauma, children develop specific coping strategies that at first glance may seem to encourage their development but can also lead to concealing the signs of a psychological disorder.<sup>37</sup> If untreated, these may significantly influence their behaviour and perceptions of the surrounding world. The long-term consequences of trauma may include concentration or learning problems, social withdrawal, difficulties in maintaining social relationships and maladaptive behaviour.

#### Symptoms of trauma in children

- re-experiencing the trauma during play and dreams
- avoidance of reminders of the trauma
- hyper-arousal – difficulty falling asleep, nightmares, sudden displays of anger, inability to concentrate
- agitation
- trauma-specific scenic repetition of actions and feelings
- inability to form relationships with other children
- withdrawal.<sup>38</sup>

34. Social Services Inspectorate, cited in UK Department of Health, *Assessing Children in Need and their Families: practice guidance* (2000), p.53, retrieved from <http://www.open.gov.uk/doh/quality.htm>

35. H Adam, T Lucas, B Moller and P Riedesser, 'Recommendations for the Treatment of Child Refugees and Migrants – Theoretical and Practical Aspects', in ECRE (2002), *Child Refugees in Europe: guidelines on the psychological context, assessment of and interventions for traumatised children and adolescents* p.26.

36. UK Department of Health, *Assessing Children in Need and their Families: practice guidance* (2000), p.9, retrieved from <http://www.open.gov.uk/doh/quality.htm>

37. Adam et al, op cit, p.26.

38. *ibid*, p.2.

### 3.4.3 Social work interventions on mental health issues

#### Individual- and family-level interventions

- Identify refugees who display symptoms of a mental health disorder through signals from family members, friends, members of the staff of the refugee facility, schoolteachers and neighbours. Refer the refugee for treatment to a psychologist, psychiatric social worker or psychiatrist. Help the refugee understand the importance of psychiatric treatment and provide information on what changes can be expected as a result of it. Ensure that there is a trained interpreter to facilitate communication between the therapist and the refugee. Escort the refugee to the therapist. Follow up the case with the therapist.
- Ensure that some of the stressors contributing to the mental state of the refugee are reduced – through provision of adequate housing and material assistance and healthcare, involving the refugee in community and recreational activities and language training. Psychiatric treatment should always be accompanied by measures addressing the wider environment of the refugees.
- Provide information on the host country, its culture and society. This is particularly important for refugees accommodated in private facilities in the local community. Written materials, individual and group discussions, and video presentations will help communicate information.
- Provide individual counselling: discuss with refugees their feelings and how these affect their social relations and daily functioning within the family and outside it. Suggest some ways for overcoming negative feelings, such as joining clubs or volunteer organisations.
- Family counselling: explain the importance of family support to the success of treatment. Suggest ways in which the family may provide this support.
- Keep close contact with school authorities and teachers of refugee children in order to identify possible mental health problems. Support families in order to strengthen the parental capacity of parents and reduce the risks of mental ill-health in their children. Initiate and organise activities that allow refugee children to communicate and cope with their problems, such as recreational activities, drawing, play therapy, writing poetry and stories and sports.

### Community-level interventions

- Educate the refugee community in the reception centre about trauma and its effects.
- Mobilise community support in the reception centre for traumatised refugees and their families. Initiate and help create self-help groups.
- Identify community mental health services for refugees in private premises and refer them for treatment and support. Educate the providers of these services about the refugees and their cultures, experiences and psychological problems.

### Advocacy

- Liase with asylum authorities and asylum offices on individual cases. Sensitise them about the psychological problems experienced and their possible effects on the coherence of individuals' asylum claims.
- Advocate for the development of services and policies that address the mental health needs of refugees.
- Advocate for improvement of the services and programmes that meet the basic needs of refugees as a means of reducing the negative impact of reception conditions on the mental health of the refugees.
- Participate in public awareness campaigns using print and broadcast media.
- Educate reception centre staff, schoolteachers, language instructors and other social welfare workers about the possible effects of trauma on refugees and how these can be recognised.

## 3.5 The education of children

### 3.5.1 Education and international human rights law

For the refugee child whose world has been turned upside down in the process of forced displacement, school means going back to normal life. It structures the child's daily life and fills it with positive experiences while at the same time supplying the skills and knowledge necessary for life in the receiving society.

Because of its critical role for human growth and development, education has been recognised as a universal human right.

Each child has a right to education.

Convention on the Rights of the Child (1989), Article 28

Member states shall grant to minor children of asylum seekers and to asylum seekers who are minors access to the education system under similar conditions as nationals of the host member state.

EU Reception Directive 2003/9/EC, Article 10/2

### 3.5.2 Balancing mainstreaming and special needs

In most of Central and Eastern Europe, refugee children have access to some form of schooling during the reception phase. They may be allowed to attend local schools on the same terms as the local population or they may attend specially designed language classes in reception facilities. In most countries refugee children are required to complete a course of language training before they enter the mainstream school system.

Early access to the mainstream school system helps refugee children overcome trauma associated with loss and separation and gives them educational opportunities that, in the longer term, will facilitate their successful integration into the host country. At least initially, refugee children often lack important language skills and background knowledge about the country of asylum. This makes the children's first days at school stressful and can discourage further attendance. The teaching instructions should therefore be designed in a way that considers the specific circumstances of the refugee children and supplies them with sufficient language skills and knowledge to participate successfully in the mainstream school system.

In a number of countries, refugee integration programmes provide for additional lessons and other measures for refugee children. In addition, refugee-assisting NGOs may offer informal educational initiatives, including excursions and social events, within specific projects.

All these special arrangements should be offered in addition to regular classes and programmes. Forming separate classes of refugee children or children of a particular ethnic origin, as practised in some Central European countries, is a violation of the principal of equal treatment and will hamper the children's integration into school life. In the longer run, separate classes may even contribute to the social isolation of children and impede the process of social integration in the receiving country. Social workers should actively advocate against segregation whenever possible.

### 3.5.3 Other barriers to educational integration

#### CASE STUDY

The social worker noticed that a refugee child was visiting the children's room in the reception facility at the time when she was supposed to be at school. When she contacted the school authorities she was informed that the child had not attended school for a few days. The social worker learned from the child and her parents that she did not want to go to school. She explained that the other children called her bad names and some of them even beat her. They also laughed at her because she could not speak the language properly and because her parents looked strange.

Language skills determine access to schooling and subsequent performance. In some countries refugee children are denied access to school until they obtain sufficient language skills. This may significantly delay children's school attendance, particularly when opportunities for language training are inadequate.<sup>39</sup> Because of the special educational needs of refugee children, some school authorities may be reluctant to accept refugee children in their schools, thereby forcing them to go to schools far from their accommodation.<sup>40</sup>

Age can also impede integration into the school system. Children at the age of 14 years and above are more likely to drop out of school or not to start school at all. Because of the lack of sufficient language skills and the differences in the school curriculum of the country of origin and the country of asylum, these children often find it difficult to meet the established educational requirements. They often quit school in order to participate in activities that contribute to their families' income or start vocational training that will prepare them to start work as soon as possible. Moreover, older children are often entrusted with greater responsibilities within their families, such as taking care of the younger children, interpreting for their parents and managing the household, that may negatively interfere with their education.

Gender may also constrain school attendance. The beliefs and customs of some refugee groups originating from Africa, the Middle East and Asia attribute more value to male children, who are expected to become the primary breadwinners in their families. Because of this, the education of boys is considered more important than that of girls, whose social role is mainly understood in terms of being wives and mothers. Refugee girls are therefore often underrepresented in school. Moreover, many Muslim refugees fear that in schools their children, especially the girls, may be exposed to norms and ways of behaviour that undermine their traditional values and beliefs. For example, such Islamic cultures emphasise the importance of modesty in the behaviour and dress of women and discourage contact with the opposite sex before marriage. In school, however, refugee girls adopt cultural values that allow for more freedom in their behaviour than is acceptable in their original cultures. In order to decrease the 'bad' influence of the environment, some parents prevent their daughters going to school.

39. UNHCR Regional Representation in Budapest, (Listening to the Refugees), p.9.

40. *ibid*, p.7.

Religious, cultural and racial differences between refugee children and local pupils require adequate preparation of school personnel and the availability of the necessary institutional arrangements, including adaptation of meals available at school to religious dietary requirements.

The last structural barrier to the integration of refugee children into the mainstream school system is lack of access to social infrastructure. Reception centres are often located in isolated areas where schools are not available close by. Some parents may not send their children to school because of financial constraints. In Bulgaria, for example, although education in public schools is free of charge, it requires significant financial means to purchase books, school materials and clothes, and to participate in various extra-curricular activities. The cost of education rises when two or more children from a family attend school, and this may prompt parents with several children to send only one or two of them to school.

### 3.5.4 Social work interventions to ensure the education of refugee children

#### Individual- and family-level interventions

- Individual/family counselling on issues related to the education of children such as: the structure of the educational system; access to the mainstream school system or separate classes where there is no alternative; the right to education; available schools in the area; and school regulations. Discuss with the parents the importance for their children of attending school, with special emphasis on female children.
- Assist parents in enrolling their children at school and establishing contact with the school authorities. Mediate between parents and school staff. Encourage parents to take an active role in parents' committees or other channels for parental involvement in school affairs.
- Provide counselling to children regarding their school experience. Discuss with them their feelings about, and problems at, school. Address any problems identified.
- Liaise with school authorities to ensure refugee children receive special care and that their special educational needs are considered. Maintain constant contact with the school authorities to identify refugee children with problems at school and intervene to address the problems identified. This may require careful assessment of all factors that influence the child's performance in school, including trauma, past experience of school and the family environment.

#### Community-level interventions

- If refugee children do not have access to the mainstream school system, make the necessary arrangements to create separate classes until the access problems can be resolved. This may require finding appropriate premises, teachers, teaching materials and transportation, and, organising parents to manage the schools.

- Involve teachers from the refugee community in the separate schools or classes and in the provision of support to children enrolled in mainstream schools.
- Educate refugee communities about the rights of the child and gender equality.
- Raise the awareness of staff from schools where refugee children study about asylum, the rights of refugees, their experiences, the problems they face in the new country, and their special needs.
- Provide training involving specialists, to educate teachers and other school staff on paediatric trauma and the symptoms of trauma-related mental health disorders.
- Encourage, initiate and facilitate support groups of parents who have children at school where they can discuss problems and needs related to the education of their children.
- Initiate and support the setting up of childcare services in the reception centre to encourage girls' school attendance. Such services may actively involve parents. Help refugees accommodated in the local community to gain access to community or child care services.

### Advocacy

- Advocate with the school authorities for initiatives to welcome refugee children and reduce any initial hostility against them. This may involve arranging meetings with school children of different ages to discuss what it means to be a refugee, why refugees leave their homes, their lives in the receiving country, and their cultures. Involve refugees in these initiatives.
- Advocate with school authorities for language support and other educational support for refugee children.
- Advocate for policy changes that meet the identified needs of refugee children. Ensure that refugee children have access to educational opportunities at all levels.
- Advocate for policy changes and legal changes that give refugee children early access to the mainstream primary and secondary school system on the same terms as the local population, including measures to address physical access problems. Advocate for programmes that encourage refugee families to send their children to school. Create a system of incentives, including books, free school meals or additional financial assistance for families.
- Advocate for programmes that meet the specific educational needs of refugee children, including language training and support in subjects.

### 3.6 Language training

#### 3.6.1 The value of language training

One of the structural barriers that refugees often face when they arrive in the country of asylum is language. Access to basic language training is important for a number of reasons. Inability to speak the local language constrains refugees' access to important services and rights and is one of the main determinants of the quality of care and assistance refugees receive. The importance of language is particularly pronounced where refugees are accommodated in private premises in the local community because they must enter into everyday interactions with the local population. Even if refugees are accommodated in reception facilities, they still need at least a minimum language level in order to communicate their needs and problems, and to receive adequate care. Lack of language skills impedes contacts with the local population and increases refugees' social isolation.

Access to language training during the reception phase is also important because it will speed up the process of social and economic integration of refugees when they eventually receive refugee status or another form of protection. Language training plays a social role as well. It offers refugees accommodated in the reception centres an opportunity to fill their time, reduces idleness and facilitates social interaction between the refugees. In some cases, it may have a therapeutic effect in overcoming trauma and stress associated with forced displacement. For refugee children, language training is crucial because it determines access to schooling.

#### 3.6.2 Barriers to learning the language

Access to language training is constrained mainly by the reception policies of the receiving state. Often these policies do not provide for language training for refugees during the reception phase because language training is considered costly and irrelevant until the final decisions on the asylum claims are made. Even where arrangements exist for language training, refugees often fail to benefit from them because of trauma, legal insecurity, lack of education, financial constraints, personal factors (such as age and disability) and cultural factors. Older refugees for example, may not attend language classes because of age-related learning difficulties or because they feel embarrassed to study with younger people.<sup>41</sup>

Refugees who are accommodated in the local community, may lack financial means for transportation to attend language classes. Refugee women may not be able to attend the available training opportunities because they have to care for their children and households. In some cases, Muslim women cannot attend because no male family member can accompany them to the training site. Muslim women may be additionally discouraged by the fact that men also attend the classes.

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41. UNHCR, *Refugee Resettlement*, p.280.

Refugees may lack the motivation to learn the language of the receiving country if they do not intend to stay in it. For example, many refugees still perceive countries in Eastern and (to some extent) Central Europe, and the Balkans as transit countries.

### 3.6.3 Social work interventions to ensure that refugees have access to language training

#### Individual- and family-level interventions

- Provide counselling to refugees about opportunities for language training. Encourage them to attend and help them enrol.
- Educate parents about the importance of language training for the further integration of their children at school.
- Assist refugee women to get access to available childcare services.

#### Community-level interventions

- Where there are no arrangements for language training during the reception phase, organise training, for example, by using volunteers from the local population. Approach the centre's management or the local authorities for appropriate premises and help the volunteers develop training materials. Advertise the opportunity among the refugees, especially among older refugees, as a special class.
- Raise awareness within the refugee community about the importance of language training.
- Help the refugees accommodated in a reception facility to establish day-care services so that refugee women may attend language classes.

#### Advocacy

- Advocate for policy change that gives refugees access to language training during the reception phase.
- Advocate for language classes for refugee children.
- Advocate for single-sex classes in order to encourage refugee women to participate.
- Advocate for classes for older people who may prefer tutoring with their own age group.
- Advocate for refugee access to language training, such as the payment of transportation or the provision of stationary.

### 3.7 Refugees' religious/spiritual needs

Religion and spirituality play an important role in the lives of many refugees, providing them with emotional solace, inspiration, community, structure, security and guidance.<sup>42</sup> Participation in prayers, religious rituals and worship helps people cope with the stresses associated with forced displacement, and to come to terms with traumatic events. Some studies point out that religious beliefs and practices have a positive effect on the individual's mental and physical health and need to be incorporated in the treatment of mental disorders such as PTSD.<sup>43</sup> These needs should therefore be incorporated in social work practice.<sup>44</sup>

Refugees need to have access to services and opportunities that allow them to maintain their religious practices and beliefs. For example, in the reception facility, a special room may be designated for prayer and worship. Refugees living independently in the local community have a greater opportunity to follow their religious rituals particularly if they share the same religion with the local population or a part of it.

#### 3.7.1 Social work interventions to meet refugees' religious/spiritual needs

##### Individual-level interventions

- Provide information related to the available places of worship and assist refugees to gain access to them.
- Help refugees establish contacts with their local religious ministers, if these exist.

##### Community-level interventions

- Work with the refugee community to identify religious leaders who can lead religious services. Help different religious groups organise and practice their religious rituals.
- Facilitate dialogues between different religious groups living in a reception facility in order to increase their awareness about the religious and spiritual needs of the others.
- Help build mutual tolerance between different groups through, for example, regular meetings between them, and the sharing of religious experiences.
- Encourage the religious leaders to assist in mediating issues in the community, in order to maintain good relations and reduce conflict.

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42. R. Gotterer, 'The Spiritual Dimension in Clinical Social Work Practice: a client perspective in families in society', *Journal of Contemporary Human Services*, vol.82, no.2 (2001), p.188.

43. E. Gozdziaik, 'Spiritual Emergency Room: the role of spirituality and religion in the resettlement of Kosovar Albanians', in *Journal of Refugee Studies*, vol.15, no.2 (2002), p.147.

44. Gotterer, op cit, p.188.

### Advocacy

- Advocate for changes in the internal regulations of the reception centres in order to accommodate the religious needs of the refugees.
- Encourage religious leaders from the host community to visit the reception centre and get to know some of the residents. Encourage members of their local communities to do likewise.

## 4.Social work in detention centres

### 4.1 The context

Refugees often resort to illegal means, such as false visas and smugglers, to gain access to the countries of asylum. In many cases, they cannot get valid identity documents, such as passports, from their national authorities because of fear of persecution. This means that, in order to leave their countries, they have to use either false documents or to cross the border illegally. In their efforts to control immigration, many states are increasingly tightening their visa regimes, forcing asylum seekers to seek irregular channels to enter their territories.

Asylum seekers attempting unauthorised entry should not be detained, or should be detained for a minimal period and for reasons prescribed by law.<sup>45</sup> However, asylum seekers have often been detained on the grounds that they entered or lived in the country illegally, in violation of Article 31 of the Refugee Convention (see chapter 5, section 2.1). These asylum seekers are detained in designated facilities close to borders, at airport transit zones, in detention centres or in prisons. The period of detention varies but can last from days up to several months until the asylum authorities verify the identity of the asylum seeker and allow him or her access to the status determination procedure. There are also cases of asylum seekers whose asylum applications are rejected and who may be further detained until their removal from the country is arranged. (Social work with rejected asylum seekers is discussed in chapter 8.)

The conditions of detention vary widely. Detention facilities are usually closed facilities where asylum seekers have little or no access to friends, relatives or legal counsellors. Often detention centres lack essential facilities and services, such as bathrooms.

### 4.2 Needs of refugees in detention centres

Social workers rarely have access to places of detention. Even if they do, their roles and capacity for intervention are limited. Nevertheless, the needs of refugees in

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45. UNHCR, *Applicable Criteria and Standards Relating to the Detention of Asylum Seekers*, revised guidelines (Geneva, 1999).

detention are considered below, together with suggested social work interventions to address them. In such facilities, the most useful approach is a multi-functional team approach in which other professionals work together with social workers to deal with emerging issues.

### 4.2.1 Security needs

The physical security of refugees in detention may be threatened by staff members of the facility or by other inmates. Refugees are often required to share living quarters with irregular migrants and with people involved in criminal activities, such as trafficking in drugs and human beings. People of different nationalities and religions are locked up together for prolonged periods of time, which may contribute to interpersonal conflicts and violence. Children and women are sometimes mixed up with male detainees, thereby increasing their exposure to abuse and physical attacks. Detention centre staff may be involved in mistreatment, verbal or physical abuse of the detainees. Asylum seekers are often treated like criminals, with no consideration of their specific circumstances and rights.

### 4.2.2 Psychological needs

Detention of asylum seekers involves great human costs. Detention leads to increased levels of psychological distress, which is manifested in high rates of anxiety, depression and PTSD.<sup>46</sup> With prolonged confinement in prison-like situations, refugees react with feelings of powerlessness, isolation, recurrent memories of traumatic experiences, suicidal thoughts and even suicide attempts. The effects of detention on mental and physical health are particularly damaging in the case of asylum seekers who have already experienced torture or imprisonment before arriving in the country of asylum.

Detention does not permit [refugees] to heal and become whole, but rather increases their fear and hinders the healing process.<sup>47</sup>

Mental health services are rarely provided to detained asylum seekers.

### 4.2.3. Health

The healthcare needs of asylum seekers in detention are similar to those already discussed. Detention conditions, which are often sub-standard and lacking basic facilities (such as bathrooms, hot water, and materials for maintaining personal hygiene), may contribute to the development of various skin diseases. The insufficient and unfamiliar food may contribute to stomach and gastrointestinal problems. Further, in most detention facilities, medical services are not available on-site, or if they are available, are very basic. Detainees with special healthcare needs often cannot access

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46. Physicians for Human Rights, *From Persecution to prison: the health consequences of detention for asylum seekers* (2003), at [http://www.phrusa.org/campaigns/asylum\\_network/detention\\_execSummary/dr2-sum.html](http://www.phrusa.org/campaigns/asylum_network/detention_execSummary/dr2-sum.html)

47. Joan Maruskin of the People of the Golden Vision, cited in Women's Commission for Refugee Women and Children, *Liberty Denied: women seeking asylum imprisoned in the United States* (New York, 1997), pp.13-14.

appropriate treatment and medical services either because detention facilities are located away from specialised healthcare service providers or because they are not entitled. Medication may also not be available in the places of detention. All these factors may undermine the health of asylum seekers and exacerbate any existing health conditions, particularly if people remain imprisoned for longer periods.

#### 4.2.4 Groups with specific needs

The special needs of women, children, older persons and the disabled should be respected and adequately protected in detention. Children, including unaccompanied children, should not be detained at all or, if they are, for the shortest possible time<sup>48</sup> and separated from non-family adults. Children should not be kept in prison-like conditions and should receive humane and fair treatment that guarantees them protection from abuse, access to education and play, and access to parents or other primary caregivers.<sup>49</sup>

Like children, women in detention should be separated from the male detainees and provided with living conditions that are conducive to their health and physical security. Families should be kept together. When detention facilities do not offer adequate conditions, all efforts should be made to arrange alternative accommodation for women and children, for example in private premises in towns or villages located close to the detention facility. Women should be supplied with sanitary towels and other materials necessary for their personal hygiene. Older and disabled refugees should also be detained for the shortest possible time, if at all, when detention facilities are not equipped to meet their special dietary, healthcare or security needs.

### 4.3 Social work interventions in detention facilities

When social workers are allowed access to detention centres, their ability to intervene and improve the wellbeing of refugees is limited unless they are working as part of an established team of professionals. Nevertheless, below are some possible social work interventions that may contribute to the multi-functional approach or be utilised when the team approach is not possible or available.

#### Individual-level interventions

- Provide counselling to detained refugees. Often simply the presence of the social worker and the opportunity to talk to someone may have a positive impact on their mental health.
- Provide emotional support by reassuring the client that you are making efforts on his or her behalf.
- Provide information on issues related to the asylum procedure and rights during the procedure. This will help to reduce the insecurity and fear associated with a lack of adequate information.

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48. Convention on the Rights of the Child, Article 37(b).

49. UNHCR, *Refugee Children*, p.87.

- Help detainees establish contacts with friends and relatives.
- Help refugees access legal counselling.
- Provide humanitarian assistance when needed (for example, medicines, sanitary towels, and soap).
- Ensure interpreters so that detainees can clearly communicate their healthcare needs and security concerns.

### Advocacy

- Advocate for the authorities not to detain women and children.
- Advocate for the authorities not to detain refugees who have committed no crime. (Irregular or illegal entry into the territory, by an individual who subsequently makes an asylum claim, is not a crime.)
- Raise the awareness of respective authorities about the human costs of detention.
- Advocate for improvement in the conditions of detention. This may include separate quarters for women and children, access to recreational activities, and the provision of food that takes into consideration the religious and health needs of the detainees.
- Advocate for the provision of adequate and specialised medical care, including access to mental healthcare.
- Raise the awareness of detention facility staff regarding the specific circumstances and needs of refugees. Educate them on the specific needs of women and children and the risk of SGBV, as well as the needs of older and disabled refugees.

#### Additional questions:

1. Examine carefully the case studies presented in the chapter and propose some social work interventions to achieve a positive change in the situation of the refugees.
2. Culture plays an important role in social work practice. Try to examine your own cultural heritage and think of some factors (such as prejudice or stereotyping) that may affect your attitude towards clients of different cultural and religious backgrounds.
3. Research how the reception of refugees is organised in your country and what arrangements are made to meet their needs for healthcare, including mental healthcare, food, accommodation and education. Identify the main gaps in the existing services and propose social work interventions to address them.
4. If you were forming a multi-functional team for work in detention facilities, which other professionals would you include and why?

# CHAPTER 8.

## Rejection And Return



*At some point in their careers, social workers may come across rejected asylum seekers who are either in the process of return or are in irregular situations... Even in irregular situations, rejected asylum seekers have unalienable human rights that social workers must promote and protect.*



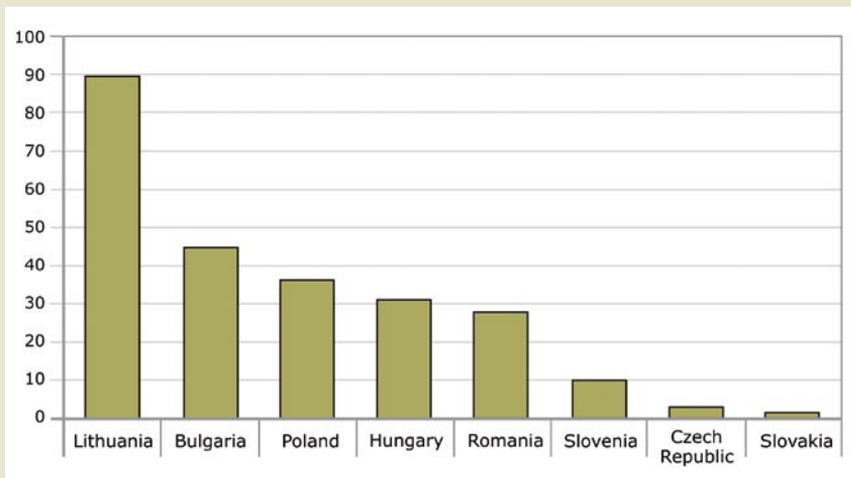
## 1. Rejection: the context

### 1.1 Issues behind low recognition rates

A relatively small number of those who apply for asylum are granted refugee status or another form of protection. The low rate is often attributed to the increased use of asylum channels for migration for economic or other purposes. Although people leave their home countries for reasons not all of which fall within the scope of the 1951 Refugee Convention or other international legal instruments pertaining to asylum,<sup>1</sup> the extent to which economic migrants abuse asylum channels is moot. The circumstances that push people out of their countries are complex and have economic, as well as social and political, dimensions. It is therefore often difficult to distinguish between forced and voluntary migration.<sup>2</sup> Furthermore, sometimes those with legitimate claims for asylum may fail to give a credible account of their experience due to communication difficulties arising from emotional trauma or cultural differences. While status determination officers should be trained to recognise such cases and seek the necessary professional assistance for the claimant, there remains the possibility of such cases being rejected as a result of these problems.<sup>3</sup>

**Figure 3.**

Recognition rates in some central european countries  
(positive decisions divided by total of recognised, other positive decisions and rejected x100)



Source: UNHCR 2004 Global Refugee Trends

1. UNHCR, *Communication from the EU Commission on a Common Policy on Irregular Migration COM (2001) 672: UNHCR's observations* (Geneva, 2002), p.2.
2. J Crisp, 'Policy Challenges of the New Diasporas: migrant networks and their impact on asylum flows and regimes', in *New Issues in Refugee Research*, UNHCR Working Paper N7, (Geneva, 1999), p.4.
3. M Gibney, 'Outside the Protection of the Law: The situation of irregular migrants in Europe', Synthesis report commissioned by JRS-EUROPE (Oxford University, 2000).

The high number of rejected asylum applications is also partly related to the restrictive and highly complicated asylum policies developed by most European states to curtail increasing migration pressures on their countries. Limited rights to appeal, concepts such as 'safe country of origin' and the rigid interpretations of the provisions of the 1951 Refugee Convention all allow states to dismiss a significant number of asylum applications as unfounded.

There is little information available on the situation and problems faced by rejected asylum seekers in Central and Eastern Europe, and the Baltic states. In fact, while rejected asylum seekers, their return or irregular stay, appear high on the EU political agenda,<sup>4</sup> in Central and Eastern Europe it has to date drawn little attention. This may be explained by the relatively low number of rejected asylum seekers who remain in the region: Central and Eastern Europe has been, and still is, a region of transit for many asylum seekers who leave their country of first asylum before, or shortly after, the status determination procedure is completed. In addition, the efforts of states in the region during the past 10 years have been mainly focused on the development of efficient and fair asylum procedures. Little attention has therefore been given to the plight of those whose claims for asylum have been turned down.

### 1.2 Issues for social workers

Why do rejected asylum seekers need special attention? At first glance rejected asylum seekers are legally bound to leave after their asylum applications have been finally rejected. However, return does not always take place spontaneously or immediately after rejection. In fact, for different reasons that will be discussed later in this chapter, rejected asylum seekers may remain as irregular residents. At some point in their careers, social workers may therefore come across rejected asylum seekers who are either in the process of return or are in irregular situations, and they need to be aware how to respond to the special circumstances.

This chapter draws attention to important humanitarian and human rights aspects of rejected asylum claims that are often overlooked in public discourse. Unable to claim rights under the 1951 Refugee Convention, rejected asylum seekers are often left without protection of the law and formal institutions, or they experience inhumane treatment as a result of the country's efforts to control undesired immigration.

Even in irregular situations, rejected asylum seekers have unalienable human rights that social workers must promote and protect. While social work with rejected asylum seekers may pursue different goals depending on whether it is carried out in the context of return or irregular residence, it always must be based on a firm commitment and respect for human rights.

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4. The political significance of the return of irregular residents, including unsuccessful asylum applicants, is expressed in a number of documents developed at EU level such as the *Green Paper on a Community Return Policy COM (2002) 175*, and the recently issued proposal for a Directive of the European Parliament and of the Council on common standards and procedures in member states for returning illegally resident third-country nationals, *COM (2005) 391 final, Brussels*.

The following sections provide a framework for understanding the situation and needs of rejected asylum seekers in the context of Central and Eastern Europe, and to propose some appropriate social work interventions. Because of insufficient data, the discussion that follows draws extensively on empirical regional experience and on studies available for other countries.

Here, the term 'rejected asylum seekers' refers to two categories of persons:

- those who, after due consideration of their claims by the respective asylum and judicial authorities, are finally found ineligible for refugee status or subsidiary protection; and
- those whose temporary status has expired and who no longer have the right to remain in the country of asylum.

The chapter does not deal with the situation of rejected asylum seekers who are still in the process of judicial appeal of the negative decision, because in most countries they retain their rights as asylum seekers and retain access to basic services. Rather, it discusses social work with those who have exhausted all possible legal and administrative ways to have their asylum claims reconsidered.

## 2. Social work with rejected asylum seekers in the context of return

### 2.1. Types of return and return practices

Return of rejected asylum seekers is an important element of every asylum system. In fact, the credibility of states' asylum policies, and public support for them, depends to a great extent on the ability of states to ensure the return of people considered not in need of international protection.<sup>5</sup>

Rejected asylum seekers are required by law to leave the country that has rejected their asylum application. Return may take place spontaneously when rejected asylum seekers are willing to go back to their countries of origin and have the necessary financial means and travel documents to do so. However, not all rejected asylum seekers are willing or able to return to their countries of origin, and states therefore employ a number of policy instruments to facilitate, encourage or enforce return. These instruments may target countries of origin or other third countries (for example via readmission agreements) or individuals deemed eligible for return.<sup>6</sup> In respect to the measures implemented at the individual level, there are two forms of return: mandatory and forced.

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5. S Martin and A Schoenholtz, 'Asylum in Practice: successes, failures, and the challenges ahead', *Georgetown Immigration Law Journal*, vol. 14, no.1 (Spring 2000), pp.589–616.

6. G Noll, *Rejected Asylum Seekers: the problem of return*, UNHCR Working paper N4, New Issues in Refugee Research (Geneva, 1999), pp.7–21.

Mandatory return is defined as:

[a] situation whereby a person consents to return to her/his country of origin...It also applies to individuals who although not having freely consented to leave, have been induced to do so by means of incentives or threats of sanctions.<sup>7</sup>

Forced return is defined as:

[the] return of persons who are required by law to leave but have not consented to do so, and therefore might be subject to sanctions or force in the form of restraints in order to effect their removal from a country.<sup>8</sup>

After their applications are finally rejected, asylum seekers are issued a return order stipulating the timeframe within which they have voluntarily to leave the country. Sometimes states try to promote voluntary compliance with the return order by offering a package of incentives to rejected asylum seekers or by reducing their entitlements in the country in which they have sought asylum. Detention may also be used to coerce rejected asylum seekers to return. Positive incentives may include pre-departure assistance, usually in the form of a grant offered to the returnees, payment of travel costs, vocational training or post-departure assistance for setting up small businesses in the country of origin.<sup>9</sup> In general, incentives aim to make return a more attractive option for the rejected asylum seekers and to eliminate some of the factors that constrain return, such as lack of financial means for travel or lack of travel documents. If rejected asylum seekers do not consent to return, they are often subject to forcible measures such as detention, followed by expulsion.

States in Central and Eastern Europe rely to a great extent on forced or non-assisted return of rejected asylum seekers. Assisted return programmes and positive incentives exist only in a few countries in the region. They are implemented by the International Organisation for Migration (IOM), sometimes in cooperation with the state's Ministry of the Interior.<sup>10</sup> These programmes usually offer rejected asylum seekers, as well as other groups of irregular migrants, information on return programmes and procedures, assistance in obtaining travel documents, tickets, and some pre-departure or post-arrival assistance. In limited cases, assistance may include services such as job counselling, vocational training and even support for the development of small businesses. Sometimes assisted return programmes target rejected asylum seekers from a particular group.

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7. ECRE position on return (2003) at [www.ecre.org](http://www.ecre.org).

8. *ibid.*

9. K Koser, *The Return and Reintegration of Rejected Asylum Seekers and Irregular Migrants: an analysis of government-assisted programs in selected European countries*, IOM Migration Research Series 4, 2001.

10. IOM, *Migration Trends in Selected EU Applicant Countries*, vols. II–VI.

## 2.2. Rejected asylum seekers who cannot be returned

In some cases the return of rejected asylum seekers would endanger their physical integrity and security. Some rejected asylum seekers, while not granted Convention status, may nevertheless be in need of international protection<sup>11</sup> or may be threatened by harsh sanctions (including imprisonment) by the authorities of their countries of origin for claiming asylum. Article 3 of the European Convention on Human Rights and Fundamental Freedoms (ECHR), Article 7 of the International Covenant on Civil and Political Rights (ICCPR) and Article 3 of the Convention Against Torture impose on states an obligation not to return migrants to countries where they may face torture, or cruel, inhuman or degrading treatment or punishment.<sup>12</sup> Moreover, in accordance with the principle of non-refoulement a refugee cannot be returned to a country where he or she may face persecution on one of the five grounds identified in the 1951 Refugee Convention.

In such cases, states usually provide the rejected asylum seeker with temporary leave to remain, accompanied by basic welfare support such as continued accommodation in the refugee reception centre, food and basic medical care and, in some countries, the right to work. Governments regularly review such cases, relying on country of origin information (COI) to determine if and when it has become safe to deport the individual. In the meantime, changing circumstances in the country of origin may also provide grounds for the asylum seeker to lodge a new claim for refugee status.

The positive aspect of this procedure is that the asylum seeker's fundamental right to life and safety is secured – at least temporarily. The negative aspect arises when such a situation is prolonged and the rejected asylum seeker finds him or herself caught in limbo, possibly for years, unable to return yet unable to begin rebuilding a life in the receiving country.

### Questions:

1. Find out the laws, policies and practices that operate in your country with respect to rejected asylum seekers who cannot be returned.
2. How many people are in such a situation? Where do they live and under what circumstances? What social welfare regulations and services apply to them? How often are their cases reviewed?
3. Who are the agencies and actors involved in determining such a situation?
4. Who are the agencies and actors involved in providing support and protection to the asylum seeker in this situation?

11. Noll G., *Rejected Asylum Seekers: The Problem of Return*, New Issues in Refugee Research, UNHCR Working paper N4, 1999, pp.14-15.

12. J Fitzpatrick, 'The Human Rights of Migrants', in A Aleinikoff and V Chetail, *Migration and International Legal Norms* (The Hague, 2003), p.178.

### 2.2.1 Social work interventions with rejected asylum seekers granted temporary leave to remain

Social work practice in this situation should follow the guidelines set out in chapter 7, with the added confirmation by an up-to-date, accurate COI that any subsequent decision to withdraw the leave to remain is clearly justified. It is important that the decision to return a rejected asylum seeker is not based on obviously temporary or unstable improvements in the country of origin, otherwise the returned asylum seeker may be forced to flee once again.

### 2.3. Needs of rejected asylum seekers prior to and during return

#### 2.3.1 Security needs

The physical security of rejected asylum seekers may be threatened before and during their return. Often return is not possible immediately after the final rejection is issued because of lack of financial resources, difficulties in establishing the nationality of the rejected asylum seekers, non-cooperation of the country of origin or logistical obstacles.<sup>13</sup> For example, for political or economic reasons, countries of origin may refuse to readmit their nationals, or may obstruct or delay the identification and issue of travel documents to them.<sup>14</sup>

Some may fear persecution if they return. Those who have left their countries in search of better economic opportunities may not be willing to go back because of the financial resources invested in their travel and the expected positive returns from their migration. For example, many people from the developing world embark on migration as a survival strategy and their remittances are sometimes the main source of income for their families and even communities.<sup>15</sup> For them, return would mean loss of livelihood, while illegal residence may still allow them to continue helping their families. Return is also not an option for those who have spent many years in the country of asylum awaiting a decision on their asylum claims and who have already established social and family connections there.

In some cases rejected asylum seekers may therefore remain without proper documents or legal status for significant periods of time before departure. This may expose them to specific risks to their personal security. (See also section 3 on rejected asylum seekers in irregular situations.)

Some of the measures applied by states to effect return may put at risk the physical security – and even the lives – of rejected asylum seekers. For example, immigration and police officers may resort to excessive physical force, handcuffing and even sedation in order to overcome the resistance of rejected asylum seekers.<sup>16</sup> In some cases such treatment may cause suffering and humiliation that amount to torture, or to cruel, inhuman or degrading treatment or punishment.<sup>17</sup>

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13. G Noll, *Rejected Asylum Seekers: the problem of return*, UNHCR Working paper N4, New Issues in Refugee Research (Geneva, 1999.).

14. *ibid.* pp.15–17.

15. SF Martin, *Global Migration Trends and Asylum*, UNHCR Working paper N41 (Geneva, 2001).

16. Noll, pp.14–15.

17. *ibid.*

### 2.3.2 Need for information

It is essential that asylum seekers have access to information, including legal advice, about negative decisions on their application at all stages of the status determination procedure. Information must include the legal and administrative potential for appeal; return measures; existing assisted return programmes; and available support. Furthermore, information on difficulties associated with life in irregular situations may also help asylum seekers to opt for return following rejection.<sup>18</sup> If rejected asylum seekers have spent a considerable time in the country that has examined their claims, they will also need information about the social, economic and political situation in their countries of origin, including the possibilities for employment, education of children and availability of medical services.

### 2.3.3 Housing and income

States often withdraw all support from rejected asylum seekers – in some cases even before the final negative decision is issued. In the absence of other sources of income, rejected asylum seekers may easily become destitute, particularly if return is delayed. Without access to basic welfare, some rejected asylum seekers may disregard the situation in their countries of origin and possible threats to their personal security and return rather than appeal the decision. A lack of income and proper housing during the pre-departure period may also have serious implications for the mental and physical health of rejected asylum seekers, and therefore for the prospects for their successful reintegration in the country of origin.

### 2.3.4 Health

Rejected asylum seekers willing to return or awaiting forced removal, particularly those with special healthcare needs, must have access to health services before and during their departure. If rejected asylum seekers follow a special treatment programme, it should continue during the journey. Furthermore, arrangements should be made to ensure that rejected asylum seekers have access to appropriate healthcare and medication after their return.

Rejected asylum seekers whose health may be seriously affected during the travel, or who face a life-threatening situation as a result of inadequate medical care in their countries of origin, should be allowed to remain. In such cases return may be considered to violate the human rights provisions related to the right to life or freedom from torture, or cruel or inhuman treatment.<sup>19</sup>

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18. Noll, pp.10–11.

19. *ibid*, p.30.

### 2.3.5 Education

Children of rejected asylum seekers must be given access to schooling until they are able to return to their countries of origin.

### 2.3.6 Family unity

The right to family unity and life should be respected during the return process (ICCPR, Article 23 and ECHR, Article 8). Families should not be separated as a result of mandatory or forced return measures.

### 2.3.7 Social work interventions in the context of mandatory or forced return

Social workers should ensure that return takes place in a humane manner and with respect for the dignity and human rights of the returnees. Social work interventions should help rejected asylum seekers make informed decisions about return or irregular stay, and prepare them for the return and to some extent for the challenges of reintegration.

#### Individual- and family-level interventions

- Prepare a profile of the individual's or family's situation and needs, with a plan of support.
- Provide counselling and information about existing return initiatives and the assistance they provide to rejected asylum seekers and asylum seekers still in a procedure for status determination. Refer those willing to return voluntarily to the relevant organisations and authorities responsible for enforcing return or provision of return support.
- Provide information on the situation in the country of origin. This may mean establishing contacts with organisations and institutions in the countries of origin. These contacts will also be useful in terms of identifying and arranging possible support to rejected asylum seekers after their return.
- Provide emotional support and help returnees to prepare psychologically for return and the difficulties associated with reintegration. If possible, help the rejected asylum seekers establish contacts with relatives in the country of origin.
- Refer rejected asylum seekers for legal counselling if there are legal or other obstacles to return, or if the return proceedings violate the fundamental human rights of the returnees.

- Help returnees to obtain medical records, school records, and documentation regarding completed vocational training that would facilitate the process of reintegration in the country of origin. If possible, help rejected asylum seekers to obtain travel documents.
- Help rejected asylum seekers willing to return gain access to basic services such as housing, income, healthcare, and education before their departure.
- Ensure that individuals with specific needs have access to adequate care prior to, during and after return. For example, arrange for appropriate healthcare treatment to be provided to asylum seekers with health and mental health problems, including necessary medication. Sensitise the authorities responsible for the return about the needs of the returnees.

### Community-level interventions

- Promote return through dissemination of information about the available return programmes.
- Arrange a series of community meetings to discuss community concerns about return.

### Advocacy

- Advocate for humane treatment of the returnees and respect for their human rights. If the human rights of the rejected asylum seekers are violated, bring this to the attention of the relevant government and civil authorities.
- Advocate for the development of return programmes that promote voluntary return and provide a comprehensive assistance package to the returnees.
- Advocate for continuation of government support until return takes place.
- Advocate for, and participate in, the development of measures that follow up the situation of the rejected asylum seekers after their return.

### 2.4 Detention prior to return

In order to ensure that rejected asylum seekers will be present at the point of departure, states often resort to detention followed by escorted return.<sup>20</sup> Conditions of detention and their impact on individuals have already been discussed in chapter 5. The human cost of detention in the case of rejected asylum seekers is even greater because people may be confined for months or even years before they can be removed from the country. Because of lack of funds or other constraints, the authorities are often forced to release detained migrants back in the community, in order to detain them again after some time. In some cases, rejected asylum seekers are detained and released several times, which keeps them in a situation of constant insecurity and stress.

Social work with rejected asylum seekers in detention is limited. However, many of the social interventions described in chapter 5 are also applicable to detained rejected asylum seekers. Some additional interventions focus on preparing detainees awaiting deportation for return and reintegration through provision of emotional support and information about the situation in the country of return. When deportation cannot be effected within a reasonable period, social workers need to advocate for alternatives to detention such as supervised release in the community.

## 3. Social work with rejected asylum seekers in irregular situations

### 3.1. Reasons and consequences

Rejected asylum seekers who opt or are forced by circumstances to remain in the country that has turned down their asylum claims can do so only as irregular residents unless they can get residence on other grounds. In Europe, where most political, social and economic entitlements are linked to the right of residence, being in an irregular situation means denial of fundamental human rights and “most if not all of the usual protections of the state,” including legal protection.<sup>21</sup> Because of their unlawful status, irregular residents cannot access basic services such as healthcare, housing, employment, social welfare and education and are therefore at greater risk of falling into destitution and becoming victims of exploitation and mistreatment. Thus, irregular residents are pushed to the periphery of the host society, excluded from opportunities for social and economic advancement and deprived of the protection of the law. They become an invisible underclass, falling off the radar of both state and civil agencies that normally provide the support network for those requiring assistance.

In irregular situations, women, children, older and disabled people are most vulnerable to abuses and human rights violations. Without the protection of the law, women and children are more likely to suffer SGBV and become trapped in forced labour or forced prostitution. Children’s physical, cognitive and mental development

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20 G Noll, *Rejected asylum seekers: the problem of return*, UNHCR Working paper N4, New Issues in Refugee Research, (Geneva May 1999), p.30 at [www.unhcr.org](http://www.unhcr.org).

21. Gibney, p.6.

may be undermined due by insecurity and lack of access to important services such as healthcare and education. Older people may also suffer from inadequate care because of the diminished capacity of their families to provide for their needs and the absence of entitlement to alternative care arrangements.

Besides the needs of rejected asylum seekers, there is a set of legal provisions that may serve as a basis for entitlement to various health, education or social services. Appropriate conditions for a dignified existence are a part of universal human rights; the problem is that states may not be made responsible for failing to secure them for certain groups of people, including irregular residents. Nevertheless, there are usually some provisions in domestic law that make possible access for irregular or undocumented migrants to certain services, most often to emergency healthcare and compulsory education for children. Social workers should always carefully examine the possibilities of including rejected asylum seekers in irregular situations in the services of other welfare agencies.

### 3.2. Needs of rejected asylum seekers in irregular situations

#### CASE STUDY

S is a Somali who often visits the office of a refugee assisting organisation. The court finally rejected his application for asylum a year ago. S had to leave the country but could not do so because he lacked valid travel documents and the financial resources to cover the cost of travel. Besides, he feared that his life might be in danger if he returned home. S remained in the country where his application was examined. All government support was withdrawn from him. Without the right to work or access to welfare, he was barely able to provide for his needs. Friends and charity organisations provided him with some help but could not offer continuous support. Several times he succeeded in getting temporary jobs but, because employing irregular residents was subject to harsh sanctions, employers were reluctant to keep him on. S often had to spend weeks and even a month sleeping rough and relying on charities for his subsistence needs. On one occasion S was evicted from the flat he rented, despite the fact that he had paid the rent for three months ahead. S did not go to file a complaint to the police because he feared detention.

#### 3.2.1 Security needs

In most countries, being in an irregular situation is a criminal offence and every resident without official status is subject to legal proceedings that usually result in detention and deportation. That is why irregular residents cannot avail themselves of the protection of the law of the country in which they live. Moreover, they try to avoid any contact with the country's official institutions, fearing apprehension and removal. This makes them extremely vulnerable to violation of their personal security on the part of state officials, family members, members of their ethnic communities or members of the local population. They may be subject to arbitrary detention for the

purposes of immigration control or suffer harassment and abuse at the hands of law enforcement or immigration authorities. Furthermore, irregular residents are more likely to become victims of crime, including xenophobic and racist attacks, because they are afraid to seek protection from the police. In some cases, irregular migrants may be drawn into illegal activities such as prostitution, which increases the risks to their personal security. Insecurity and difficulties associated with life in irregular situations may also affect family relationships and contribute to domestic violence and child abuse.

### 3.2.2 Housing

Once their applications for asylum have been finally rejected, asylum seekers are usually required to leave the reception centres or other accommodation provided to them during the status determination procedure. Those who choose to stay on in the country as irregular residents have no choice but to try to find housing on their own. Their housing options are limited because they have no official residence status. Rejected asylum seekers cannot get access to the low-rent housing units offered by states or municipalities to their citizens or regular migrants. In many countries, they encounter difficulties renting housing in the private sector as well, because they lack proper documents and are obliged to register with the local police or authorities. Although some private landlords are willing to lease properties to irregular residents, they agree to do so only for a much higher rent, which adds to the financial strain.

For rejected asylum seekers, social networks are an important source of housing opportunities and information.<sup>22</sup> Friends or members of the same ethnic community can offer temporary accommodation or help find affordable housing – although this is often sub-standard, with many people sharing a small space. Moreover, rejected asylum seekers are frequently forced to move from one place to another either because they are not able to pay their rent regularly or because their hosts are no longer willing to house them. Some move because of the fear of detection by the authorities.

In any case, not all rejected asylum seekers can rely on ethnic support because there are not always established ethnic communities where they live. Mosques and churches are also a source of emergency relief to destitute people, but are often unable to provide continuous help.

Rejected asylum seekers are at greater risk of becoming homeless. In Central and Eastern Europe, where homelessness is a relatively new phenomenon (or at least it has not been highly visible), temporary shelters are uncommon and are not always accessible to irregular residents. Rejected asylum seekers live on the streets, which entails a deprivation of basic human needs and increases the risks for their personal security.

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22. *ibid.*

### 3.2.3 Income

The main source of income for rejected asylum seekers is work. However, work is not always available in some countries of Central and Eastern Europe where labour supply outstrips demand. Rejected asylum seekers in irregular situations are additionally disadvantaged in the labour market because they are not authorised to hold legal employment. They can earn their livelihood only in the shadow economy or informal labour market where enforcement of labour standards and regulations is weak. This sector of the economy is usually characterised by low-paid temporary jobs, much longer working hours and lack of protection in cases of illness, work-related disability or job loss. Information on how rejected asylum seekers and other irregular residents, are treated in the informal economies of Central and Eastern Europe is scarce, but some data suggest that, because of their precarious legal status, irregular residents suffer greater insecurity of employment and exploitation than regular migrants or citizens.

### 3.2.4 Health and mental healthcare

Rejected asylum seekers in irregular situations are deprived of adequate healthcare. Their unofficial status does not allow them to access mainstream healthcare systems and they usually do not have sufficient means to access private services. This may have serious long-term implications for the health of rejected asylum seekers, especially those with special healthcare needs. For example, rejected asylum seekers who suffer from chronic diseases or a disability that requires continuous treatment may develop life-threatening conditions and complications as a result of insufficient medical care. Women may be excluded from important treatment and preventative health services such as gynaecological treatment and pre- and post natal care. Children may be denied access to paediatric care and immunisations. Furthermore, rejected asylum seekers in irregular situations are at greater risk of developing mental health problems because of constant insecurity and the fear of detection and removal.

### 3.2.5 Education

In most Central and Eastern European countries, access to education is dependent on legal status and the right of residence. Because of the importance of primary education for a child's development, the right to primary education irrespective of children's legal status is protected by a number of international human rights instruments, the most important of which are the Convention of the Rights of the Child (Article 28) and the European Covenant on Economic and the Social and Cultural Rights (Article 13).<sup>23</sup> There is little information on children of irregular residents accessing education, but in some cases those who attended the mainstream school system during the status determination procedure may continue to do so, especially if the school authorities have not registered the change in their legal status.

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23. Fitzpatrick, pp.169–184, 181.

### 3.2.6 Social work interventions to meet the needs of rejected asylum seekers in irregular situations

NGOs, community-based, religious and charity organisations are usually the ones that assist rejected asylum seekers. Social work with rejected asylum seekers in irregular situations entails a number of problems for social workers, their organisations and their clients. Social workers are required to intervene in situations in which their clients lack basic social and economic entitlements and do not enjoy the protection of the law. This rules out many services and sources of help on which social work practice typically draws. It significantly limits the range of possible social work interventions and the prospects for achieving long-term and durable solutions.<sup>24</sup>

Nevertheless, both universal human rights and professional codes of ethics demand that social workers intervene on behalf of rejected asylum seekers. Sometimes there is tension between donors' requirements and expectations and the mandate of service providers since certain social work services are funded only to provide services only to particular groups of people such as recognised refugees and/or asylum seekers. It is the service provider's responsibility to find the most appropriate way to fulfil its general humanitarian mandate beyond donors' specific expectations.

Durable solutions in the case of rejected asylum seekers may include securing some form of legal status (for example status that at least gives them the right to employment so that they can provide for themselves), or return to their country of origin or another third country. If none of these solutions is feasible, social workers must focus on helping the rejected asylum seekers meet their basic needs in a dignified and humane manner.<sup>25</sup> In no circumstances, (except where the best interests of a child is concerned) should social workers decide which is the best solution for their clients. Rather they should help them consider all possible alternatives and make their own decision. For example, from an ethical point of view, it is not acceptable for a social worker to decide that return is the only way to reduce the suffering of the client and to initiate or facilitate a process of deportation (by supplying the respective authorities with information of the client's whereabouts for example) without the client's explicit consent.

#### Individual- and family-level interventions

- Provide information on the sources of help and services available to irregular residents.
- Educate irregular residents about their situation, immigration laws, possible threats to their security, and possible durable solutions.

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24. PICUM – Platform for international cooperation on undocumented migrants, Some Guidelines for Assisting Undocumented Migrants at [www.picum.org](http://www.picum.org)

25. *ibid.*

- Assist rejected asylum seekers in making informed decisions about possible durable solutions through counselling and provision of correct and comprehensive information.
- Refer rejected asylum seekers to appropriate services and organisations for help, for example with respect to legal advice, temporary accommodation, soup kitchens healthcare or mental health services.
- Provide humanitarian assistance to meet the immediate needs of the rejected asylum seekers and, if possible, arrange and coordinate long-term assistance.
- Provide or refer the client for psychological support, if necessary.
- Facilitate the access of rejected asylum seekers to ethnic support.
- If rejected asylum seekers are willing to return to their countries, help them arrange travel, for example, by liaising with the immigration authorities, and with obtaining a passport or other travel document.
- Promote and assist voluntary return, particularly when the reasons for migration are economic.

### Community-level interventions

- Raise awareness among the local community about the precarious humanitarian situation of irregular residents.
- Educate members of the local community about the human rights of irregular residents.
- Try to mobilise community support, including ethnic support, to provide basic services to rejected asylum seekers in irregular situations.
- Advocate for the development of services and programmes that provide basic services to irregular residents.

### Advocacy

- Advocate for legislative and policy changes that promote durable solutions for the situation of rejected asylum seekers.
- Advocate for policies that allow irregular residents access to basic services such as healthcare, primary education and employment.
- Advocate for regularisation of the status of rejected asylum seekers who have spent many years in an irregular situation. Particular attention should be given to families with children, older and disabled people.

Additional questions:

1. Research your national legislation on rejected asylum seekers and outline the main areas of concern from a social work perspective.
2. What return programmes for rejected asylum seekers exist in your country and what support do they provide?
3. What are the main problems related to return of rejected asylum seekers in your country?
4. As a social worker assisting rejected asylum seekers, which professionals would you choose to form a multi-functional team to assist in resolving the issues discussed in this chapter, and why?

# CHAPTER 9.

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## Integration



*Creating a socio-economic environment in which people from different racial, ethnic, cultural and religious backgrounds can coexist not just peacefully but successfully, in equality and with human dignity, makes societies stronger.*

**Table 4.**

Refugee population by country of asylum, 1995-2004

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Albania	4 720	4 925	30	22 332	3 930	523	292	17	26	51
Belarus	28 988	30 525	50	75	260	458	584	618	638	725
Bosnia and Herzegovina			40 000	40 000	65 645	38 152	32 745	28 022	22 517	22 215
Bulgaria	1 320	1 430	390	240	547	1 474	3 004	3 658	4 068	4 684
Croatia	198 647	165 395	68 863	29 027	28 374	22 437	21 875	8 392	4 387	3 663
Czech Republic	2 655	2 266	1 731	1 805	1 232	1 156	1 216	1 297	1 516	1 144
Hungary	11 394	7 537	5 890	3 504	4 990	5 064	4 710	6 088	7 023	7 708
Lithuania			6	34	44	55	287	368	403	470
Poland	600	600	835	898	942	1 020	1 311	1 591	1 836	2 507
Romania	194	269	640	989	1 242	1 685	1 805	1 857	2 011	1 627
Russian Federation		246 691	237 720	128 574	80 060	26 265	17 970	14 969	9 899	1 852
Serbia and Montenegro	650 700	563 215	550 061	502 037	501 262	484 391	400 304	354 402	291 403	276 683
Slovakia	2 339	1 387	746	424	443	457	472	444	414	409
Slovenia	22 314	10 014	5 135	3 465	4 382	2 816	2 415	390	2 069	304
Ukraine	5 193	3 591	4 564	6 101	2 697	2 951	2 983	2 966	2 877	2 459

Source: UNHCR, <http://www.unhcr.org>

## 1. Theoretical background

Hungary is a poor country but there are good, decent, nice people living here. ... For me, it is better here. Some don't like it here. Some look for money, some look for a job, some look for a peaceful place. This place is good for me. This is our sixth year in Hungary, and there have not been any problems yet.

... But if I am Palestinian, I am Palestinian. Even after a hundred years. What difference does it make to be a Palestinian or a Hungarian? Look at the flags – the Palestinian and Hungarian flags. Even they are similar....The fact, that we are here, does not mean that I forget that I am Palestinian, or I forget the Arabic language... Now it is as if I had two countries. Palestine is really far away... but I won't forget it. I have relatives there. I have my parents there."

A Palestinian refugee

### 1.1 Concepts and definitions of integration

In Central Europe, as in other industrialised countries, local integration is the durable solution national asylum systems most often offer to recognised refugees. In most cases, refugees travel great distances to arrive in these countries, and the majority of them arrive from countries where there is little hope that the situation will improve in the near future. The economies and welfare systems of the industrialised countries are usually much stronger and better developed than those of the countries of origin of refugees arriving there. This makes it possible to offer them a new home, and not just a temporary shelter.

Some countries actively support refugees recognised elsewhere (usually in less developed countries) to find permanent homes through resettlement programmes.<sup>1</sup> Refugee resettlement usually takes place when there is little or no hope of return or local integration for a specific group of refugees. It may be due to the desperate situation in the place of origin or the limited reception and integration capacity of the host country. Often it is the special needs or circumstances of the refugees that make them eligible for resettlement in another country that can handle the problem. The integration process for these people is similar to the local integration of refugees who arrive as asylum seekers.

This chapter does not aim to provide a comprehensive overview and analysis of all the various concepts of local integration. Instead, it introduces two concepts of integration, one from UNHCR and another from the European Council for Refugees and Exiles (ECRE), a European network of more than 80 European NGOs working with refugees. These definitions can form the theoretical basis for the practical elements of social work related to refugee integration.

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1. See chapter 3, table 3, main countries of refugee resettlement.

## The UNHCR definition of local integration

Local integration in the refugee context is the end product of a multifaceted and ongoing process, of which self-reliance is but one part. Integration requires a preparedness on the part of the refugees to adapt to the host society without having to forego their own cultural identity. From the host society, it requires communities that are welcoming and responsive to refugees and public institutions that are able to meet the needs of a diverse population. As a process leading to a durable solution for refugees in the country of asylum, local integration has three inter-related and quite specific dimensions.

First, it is a legal process, whereby refugees are granted a progressively wider range of rights and entitlements by the host state that are broadly commensurate with those enjoyed by its citizens. These include freedom of movement; access to education and the labour market; access to public relief and assistance, including health facilities; the possibility of acquiring and disposing of property; and the capacity to travel with valid travel and identity documents. Realization of family unity is another important aspect of local integration. Over time the process should lead to permanent residence rights and, in some cases, the acquisition, in due course, of citizenship in the country of asylum.

Second, local integration is clearly an economic process. Refugees become progressively less reliant on state aid or humanitarian assistance, attaining a growing degree of self-reliance and becoming able to pursue sustainable livelihoods, thus contributing to the economic life of the host country.

Third, local integration is a social and cultural process of acculturation or assimilation by the refugees and accommodation by the local communities that enables refugees to live among or alongside the host population without discrimination or exploitation and contribute actively to the social life of their country of asylum. It is, in this sense, an interactive process involving both refugees and nationals of the host state, as well as its institutions. The result should be a society that is both diverse and open, where people can form a community, regardless of differences.

UNHCR: Global Consultations on International Protection:  
Local Integration.  
EC/GC/02/6, 25 April 2002, p.2

## ECRE's definition of refugee integration

The integration of refugees is a dynamic two-way process. This process begins from day one, when a refugee arrives within the new host society. Integration is not a course that can be completed or a test that can be passed, but is much more a continuous process enabling refugees and their communities to live in harmony within the host population of which they form a part.

ECRE has therefore defined integration as a process of change that is:

a) Two-way: placing demands both on receiving societies and on the individuals and communities concerned. From a refugee perspective, integration requires a preparedness to adapt to the host society without having to give up one's own cultural identity. This means following the laws of the country of asylum and respecting human rights and its democratic values. With regard to the host society, it requires a willingness to adapt public institutions to changes in the population profile, accept and welcome refugees as part of the national community, and take action to facilitate access to resources and decision-making processes to promote good race relations between all ethnic groups.

b) Dynamic and long term: from an individual psychological perspective, integration often starts at the time of arrival in the country of final destination and continues even when a refugee becomes an active member of that society from a legal, social, economic, educational and cultural perspective. It is often the case that the integration process extends beyond the first generation of refugees. For refugees, this means that integration is not just about introductory programmes for newcomers or even for the first generation, but that the inter-generational aspect of integration should be equally emphasised through provision for children of refugees.

c) Multi-dimensional: integration relates both to the conditions for, and actual participation in, all aspects of the economic, social, cultural, civil and political life of the host society as well as to refugees' own perceptions of acceptance by, and membership in, that society.

ECRE: The Way Forward – Europe's Role in the Global Refugee Protection System: towards the integration of refugees in Europe. July 2005, p. 14.

The two definitions in many ways complement each other. UNHCR puts emphasis on the three main dimensions of the process – legal, economic and socio-cultural; ECRE emphasises the dynamics of it – it involves not only the refugees but the host society as well. The two definitions illustrate that integration is a complex issue and that it is not easy to design and implement social services that effectively facilitate it. One issue highlighted by both definitions, and increasingly recognised by those involved in refugee-related activities, is that the process requires the active involvement not only of the refugees but also of the receiving community. Another issue is that integration is a set of interlinked processes that cannot be dealt with separately by any support programme or intervention.

Questions:

The integration of refugees starts when they arrive in a country as asylum seekers.

1. How do you think the asylum and welfare policy (and practice) could respond to this situation?
2. Discuss at least two ways in which policy and practice might respond positively.
3. Research the asylum and welfare policies and practices on integration that exist in your country. Try to find out from social work practitioners, asylum-seekers and refugees what impact they have.

Social workers need to identify those areas where refugee integration takes place and where social work interventions may facilitate the process. The various definitions of integration, as well as the concepts built on them, identify many specific areas where integration takes place and where it may effectively be measured. Table 5 gives an overview of these areas, based on the concepts of UNHCR,<sup>2</sup> the European Commission,<sup>3</sup> the Council of Europe<sup>4</sup> and ECRE.<sup>5</sup> Although the European Commission and the Council of Europe documents explore the issue of integration in a wider context (immigrants or third-country nationals in general), in both cases refugees are explicitly included in these groups.

**Table 5.** Main components of refugee (immigrant) integration

UNHCR	European Commission	Council of Europe	ECRE
<ul style="list-style-type: none"> <li>• Freedom of movement</li> <li>• Access to education</li> <li>• Access to the labour market</li> <li>• Access to social assistance</li> <li>• Health</li> <li>• Property rights</li> <li>• Family unity</li> <li>• Political participation</li> <li>• Naturalisation</li> <li>• Community membership</li> </ul>	<ul style="list-style-type: none"> <li>• Access to the labour market, employment</li> <li>• Introduction, knowledge of host society</li> <li>• Education and language skills</li> <li>• Housing and urban issues</li> <li>• Health</li> <li>• Social services</li> <li>• Social and cultural interactions</li> <li>• Cultural and religious diversity</li> <li>• Nationality and civic citizenship, political participation</li> </ul>	<ul style="list-style-type: none"> <li>• Access to the labour market</li> <li>• Housing</li> <li>• Access to social services</li> <li>• Education</li> <li>• Participation in political processes and decision-making</li> <li>• Mortality, fertility and demographic changes</li> <li>• Judicial system</li> </ul>	<ul style="list-style-type: none"> <li>• Legal and social rights</li> <li>• Citizenship and freedom of movement</li> <li>• Social interactions</li> <li>• Employment</li> <li>• Education</li> <li>• Vocational training</li> <li>• Housing</li> <li>• Health</li> <li>• Family reunion</li> </ul>

2. UNHCR, *Global Consultations on International Protection: Local Integration* (EC/GC/02/6, 25 April 2002).

3. Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on Immigration, Integration and Employment. COM (2003) 336 final, Brussels, 3 June 2003; Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions. A Common Agenda for Integration Framework for the Integration of Third-Country Nationals in the European Union. COM (2005) 389 final, Brussels, 1 Sept 2005.

4. Council of Europe, *Measurement and Indicators of Integration* (1997); idem, *Proposed Indicators for Measuring Integration of Immigrants and Minorities with a View to Equal Rights and Opportunities for all*. MG-IN (2003) 7.

5. ECRE, 'Position on the Integration of Refugees in Europe', December 2002, at <http://www.ecre.org/positions/integ02.pdf>.

Becoming familiar with the various areas of integration listed above may help the social worker to design and co-ordinate individual or community services targeting refugees. The differences between refugees and members of the majority society can help social workers to assess the level of integration of the users of their services, thus enabling them to provide more adequate assistance. Although there is no ranking of the various factors, health and mortality are more closely linked to primary individual needs, while employment, social services and housing cover issues of economic wellbeing. Areas such as education and housing relate to social status. Many areas are related to the level of social interaction and social membership: family unity, cultural diversity, political participation and freedom of movement.

Social workers should always aim to approach the issue of refugee integration holistically. There are many interfaces between the indicators: the unity of the family is predominantly related to social interaction but the lack of it may easily lead to mental and physical health problems, which may then influence employment.

Problems expressed are often not the only or primary difficulties. There may be problems in other areas that contribute to the difficulties the social worker is initially asked to help with. In the second section of this chapter we further explore the most important areas of integration a social worker may work in.

#### Questions:

Refugee integration is meant to be a two-way process. Not only refugees but the receiving society are expected to adapt.

1. Is this the case? Consider and discuss the process and your thoughts on it.
2. What potential short- and long-term outcomes can you imagine (or have you experienced) for the refugee and for the receiving community if only one side is willing to adapt?

## 1.2. The acculturation process

Integration is first and foremost a process of change both for refugees and the receiving community. Adapting places an enormous demand on the behavioural patterns and coping mechanisms of individuals and communities. This process is often described as acculturation. Acculturation is the modification of the culture of a group or individual as a result of contact with a different culture. Defining culture is not easy. We have defined culture as a system of shared beliefs, values, customs, behaviours, and artefacts that the members of society use to cope with their world and with one another, and that are transmitted from generation to generation through learning.<sup>6</sup>

Acculturation for refugees (and other immigrants) takes place during integration. There are different adaptation and coping strategies, according to the individual's or community's disposition toward their own culture, as well as toward the culture of the

6. DG Bates and F Plog, *Cultural Anthropology* (New York, 1990), p.7.

receiving society. In both dimensions, refugee individuals or communities may accept and maintain or refuse and reject the values, customs and behavioural patterns of a particular culture. According to this model,<sup>7</sup> there are four possible outcomes, namely: integration, assimilation, segregation and marginalisation. Obviously none of these scenarios occurs in pure form; however, they describe particular tendencies.

- (i) Integration happens when refugees maintain their own culture while successfully adapting to the culture of the receiving society. Although it seems to be the best outcome according to policy statements and strategic plans, in reality it very seldom takes place harmoniously. Harmonising the often confrontational and contradicting religious and cultural values, and finding the time and energy to maintain the customs and language of both cultures over a longer period of time, even over generations, is not easy.

My kids like school, they learned Hungarian, they even talk with each other in Hungarian... With me, they don't... it is important for them not to forget their mother-tongue. There are families where the parents ask the kids to talk in Hungarian because they themselves can't and want to learn this way. [My friend] told me not to scold the kids if they talk Hungarian, that I can learn. I said no, I can learn from books and from other people... If I don't know something, I can always ask. It is much more important that the kids should not forget their mother-tongue.

An Afghan refugee

- (ii) Assimilation happens when the culture of the host community replaces the culture of the country of origin. In this case refugees cease to maintain or may even openly reject their original culture and try to take on the customs and behavioural patterns of the receiving society. It is often strategic: refugees hope to secure better social and economic opportunities for themselves and their family, particularly their children, if they can identify with the mainstream values of the receiving community. Assimilation more often occurs over several generations, when the second or third generations no longer maintain the culture of their parents and grandparents, who arrived in their adopted countries as refugees or immigrants.

We had a car mechanic shop at home in Kosovo. The business went very well, but then came the war, the hatred. Now I don't even know who lives in our house, who works in the shop. Nobody stayed at home from my family. I suppose there are Albanians everywhere. I am not in touch with anyone from there, I don't want to hear about that place any more. There is no way back, I've decided.

A Serb refugee from Kosovo

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7. The model was described by JW Berry. See: G Doná and JW Berry, 'Refugee Acculturation and Re-acculturation', in A Ager (ed.), *Refugees – Perspectives on the experience of forced migration* (London and New York, 1999), pp.169–195.

- (iii) Separation happens when refugees maintain their own culture but reject that of the receiving society. This strategy is usually chosen by refugee groups with a strong ethnic or religious identity and a conflict-laden relationship with the host community. Separation is often a result of economic and social disadvantages and discrimination suffered by the refugees at the hands of the majority society. In many cases, it is the second or third generation of immigrants who chose to develop a separate identity, perceiving the disadvantageous economic and social status of their parents as a failure of their assimilation attempts. Once the process is started, it may well contribute to the unwelcoming attitude of the host society.

Algerians who live here stick together, but almost all have serious material problems. Thus we can't really help each other find jobs and such. I know many people, many of them I'm in touch with, but it is rather superficial... I have a few friends. I think they are the most important. They are all foreigners. Being a Muslim, I regularly go to the mosque, where I know many people. I've known a few Hungarians as well, especially since I started to speak the language a bit better. But I can't really count on them.

An Algerian refugee

- (iv) The fourth possible outcome of acculturation, marginalisation, happens when the refugee maintains neither the 'old' nor the 'new' culture. It is usually caused by prolonged institutionalisation, and lack of social contacts and support from the local host community. Marginalisation usually implies social exclusion and ethnicises poverty and social disadvantage. As with separation, the relationship with the majority society is usually one of conflict.

Sitting at home, hanging out on the streets, and there is nothing... day after day. You hardly eat, always chewing upon things you could possibly do. And you always face the fact that if you are black, nobody wants you. Or if they want you, they don't want to bother with your work-permit. The end of the month comes fast and the landlord wants the money...

A Senegalese refugee

Figure 4 shows the different acculturation strategies.

**Figure 4.**  
Acculturation strategies<sup>8</sup>

		<b>QUESTION</b> Is it important to preserve our cultural identity and distinctiveness?	
		<b>YES</b>	<b>NO</b>
<b>QUESTION</b> Is it important to maintain our relationship with the majority society?	<b>YES</b>	<b>INTEGRATION</b>	<b>ASSIMILATION</b>
	<b>NO</b>	<b>SEPARATION</b>	<b>MARGINALISATION</b>

8. Doná and Berry, pp.169–195.

The four different acculturation strategies may require rather different social work interventions. The primary role of the social worker in an intercultural context is to facilitate or influence the acculturation process. In order to achieve this, the social worker must be culturally competent.<sup>9</sup> Cultural competence is an awareness of different cultures between clients and the majority society, as well as respect and appreciation of the value of these differences.

### Culturally competent social work practice

#### Culturally competent social workers:

- are aware that practice cannot be neutral, value-free or objective
- are aware of, and sensitive to, their own cultural heritage
- are aware of how their own cultural backgrounds and experiences, attitudes, values and biases influence psychological processes
- are aware that their decisions may be ethnocentric
- are aware of their negative emotional reactions towards other racial and ethnic groups that may prove detrimental to their clients
- are aware of stereotypes and preconceived notions that they may hold about other racial and ethnic groups
- are willing to make purposeful changes in their feelings, thoughts and behaviours toward other ethnic groups
- value and respect differences that exist between themselves and clients in terms of race, ethnicity, culture, and beliefs
- respect clients' religious and/or spiritual beliefs and values regarding a person's physical and mental being
- respect indigenous helping practices and respect ethnic community intrinsic help-giving networks
- value bilingualism and do not view another language as an impediment to practice
- value the social work profession's commitment to social justice
- value the importance of empirically based practice
- are able to recognise the limits of their competences and expertise.<sup>10</sup>

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9. The term is borrowed from M Potocky-Tripodi, *Best Practices for Social Work with Refugees and Immigrants* (New York, 2002), p.132.

10. *ibid*, p.132.

Social workers here are mostly mediating between two (or more) sets of values. Various social work interventions facilitate and influence the acculturation process, depending on the situation of the individual or community. Examples include mediation between clients and institutions or the host society; co-ordination of managed programmes; crisis intervention; and community work. There is no universal pattern but different acculturation strategies usually require different emphases in practice. Assimilationists may find it easier to use general, mainstream social services, whereas those who maintain a higher degree of identification with their native culture, following an integrationist or separatist agenda, may require more specialised, culturally sensitive social work services.

This presupposes that the social worker is an agent of the majority culture interacting with the refugee or immigrant representing another culture. In most cases this is the case; however, immigrant or refugee communities may set up and operate social work services where the social workers themselves are of refugee or immigrant origin. These services vary according to the acculturation strategies of the communities behind them, but they are usually involved in advocacy and awareness-raising activities.

#### Questions:

1. Which acculturation strategy is the most desirable from the point of view of social cohesion? Explain why.
2. What are the advantages and disadvantages of each strategy?

### 1.3. The policy framework of integration services

Integration-oriented social work takes place in one of two areas: community-based urban settings or managed programmes. (These two do not exclude or contradict each other; they are different stages of a continuum.) Refugee integration is a process that extends into all aspects of social life; it is not only the institutional services and programmes, but all community interactions, that facilitate integration. It is usually the initial (introductory) phase of the integration process that has a structured, institutional framework: orientation courses, language and vocational training, and supported accommodation aim to facilitate refugees' social integration. These managed programmes may be run by state authorities or by NGOs. However, managed programmes offered to refugees often miss the target. They need to be based on a thorough preliminary needs assessment and continuous evaluation, if possible with client participation. It is also important to coordinate the existing services to avoid service gaps and overlaps.

### SITUATION STUDY: impact of an uncoordinated programme

A typical example of the negative impact of a poorly devised and co-ordinated programme is the language training offered for refugees in one Central European country. A free 360-hour language course is available for each recognised refugee during the first year after recognition. The training is not compulsory; however, anyone who does not participate will lose her or his entitlement to regular social benefits from the second year of stay in the country. As the number of refugees is very low in this country (as it is in all Central European countries), language courses are not organised everywhere refugees reside. It can therefore easily happen that, however willing a refugee is, s/he is not able to complete the course before the end of the first year and loses the right to receive social benefits.

Thus a programme specifically intended to facilitate refugees' integration often fails to reach the targeted beneficiaries. It has the unfortunate side effect not only of seriously impeding some refugees' future integration, but also of actually endangering their longer-term daily survival.

Since the integration of refugees is a complex and lengthy process, services supporting it should take a holistic approach. Refugee protection systems in Central Europe grant refugees social rights and entitlements equal to nationals of the respective countries. It is often debated whether a separate and specially designed support system or general welfare services can better respond to refugees' needs. It is easy to say that both are needed, but in practice it is very difficult to coordinate the various services.

Both general and specialised services have their strengths and weaknesses, and social workers may work in both settings. Usually there is a peculiar dynamic of institutional development between general and specialised services, shifting the focus from one to the other according to the relative weight they play in the overall refugee protection and social welfare systems.

Figure 5. gives an overview of this dynamic. > >> >>> >>>>

Social workers dealing with integration may work in mainstream welfare organisations, such as family counselling or support centres, child protection services, education units or labour offices. Healthcare institutions often involve social workers in their services. These service-providing agencies should be accessible to recognised refugees who live in the community. Social workers should therefore have the competencies needed to respond to refugees' general and special needs. However, because the number of refugees in the Central and Eastern European is relatively low, most welfare agencies rarely encounter them. For this reason, these services are not sufficiently prepared to provide assistance to this particular group of clients and often send them away. The reasons are manifold: lack of awareness of the legal obligation to provide services and lack of language or cultural competencies play a part; but fear and insecurity, as well as racism, may also contribute to this outcome.

Special targeted services provided both by government agencies (operated by the ministerial bodies responsible for asylum affairs) and NGOs are designed with the specific aim of providing services for refugees and other people in need of international protection, covering all aspects of social welfare and protection. Although these service providers are usually more sensitive to the special problems of their refugee clients, their relationship (and co-operation) with the mainstream institutions is not always ideal. As they are usually smaller, decentralised structures (especially the NGO community), their services often overlap, which makes them inefficient. A possible response to these structural problems is service mainstreaming, whereby the larger service providers take up refugee cases and develop their special competencies and the specialised structures assume monitoring, training and advocacy roles.

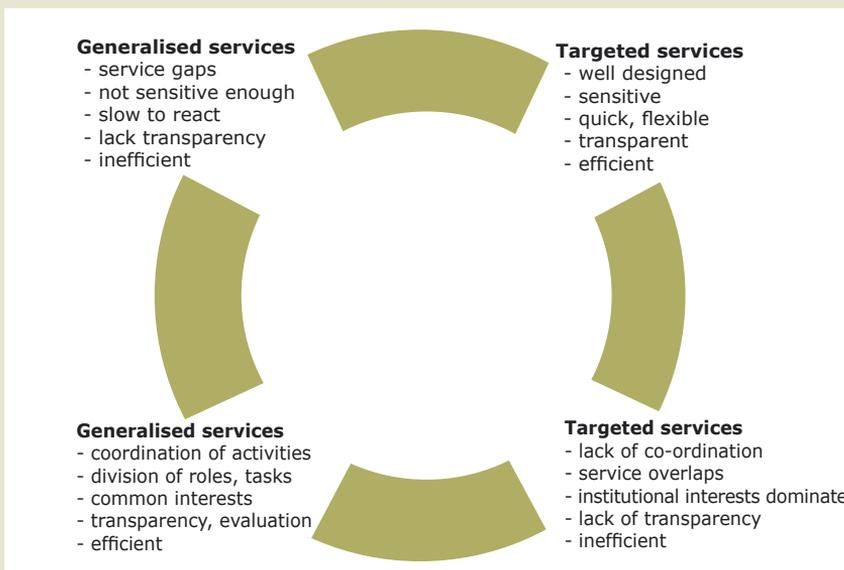
Social workers are one of the most important agents of this institutional transformation. Their cultural competence, refugee-specific skills and knowledge create an important catalyst in institutional development.

Questions:

1. Why is it necessary for separate agencies to provide services to refugees and asylum seekers? Why can't they be referred to mainstream service providers available for citizens of the country of reception?
2. What problems may arise from maintaining separate social services?

**Figure 5.**

The dynamics of service development as perpetual movement between generalised and targeted services



## 2. Areas of social work supporting refugee integration

Integration involves all areas of individual and community life. Although we discuss the different areas separately for the sake of better understanding, it is always the refugee person or community, perceived as a complex system, that should be the focus of our social work activities. We should never restrict our strategy to dealing with only one or other area of integration.

### 2.1. Health

Good health is a key factor of successful integration. Refugees are often burdened with physical and mental health problems brought with them from the countries of origin or developed during the hardships of their flight or the initial days of their stay in the countries of asylum. These problems affect refugees' employment prospects. It can be said that integration is successful when the health records of refugees do not differ significantly from that of the majority society. This is rarely the case.

Country of origin information (COI) is an essential tool to learn about treatment differences and similarities between refugees' country of origin and the host country. Therapy or rehabilitation will be more effective if medical professionals know a refugee's previous medical history. Although providing appropriate healthcare is the responsibility of health professionals, it is very often the social worker who mediates between the individual and the health service, drawing attention to cultural differences in treating certain health problems. Building trust between doctors and other medical personnel and the refugee is a very important first step in prevention or a successful therapy.

Information is of crucial importance. Refugees should always be properly informed about the availability of medical services. At the same time, healthcare providers should be notified about the rights and entitlements of refugees; people are often denied access to healthcare on the basis of being foreigners or not speaking the language. In Central Europe, recognised refugees enjoy the same rights regarding access to healthcare as nationals in their countries of asylum.

Sexual and reproductive health (SRH) needs special attention. The approach of the refugee individual or community may diverge widely from that of the receiving society, often being determined by differing cultural or religious norms and beliefs. Pregnancy, birth, family planning and the treatment or prevention of gynaecological problems may be dealt with differently. A holistic and culturally sensitive approach in their prevention and treatment is essential in order to achieve significant results. Here it is especially important to have a gender-sensitive approach in the social work services provided: issues related to SRH are usually sensitive and not easily brought up between different sexes in a social work relationship.

Mental health problems, especially PTSD, may play a crucial role in refugee integration. These problems do not exist only in the early stage of a refugee's life in his or her new country. On the contrary, traumatic events may haunt the person throughout his or her entire life, resulting in various psychological and mental health problems, sometimes developing from each other, often concealing the initial traumatising factor. This is especially true in cases of torture, trafficking and sexual violence such as rape and molestation. Adequate treatment and therapy is essential in order to help people to restore their coping capacities, which is the initial step towards their integration. Besides the post-traumatic symptoms, refugees develop adaptive syndromes as a response to the distress of acculturation and social insecurity. Substance abuse, depression and behavioural problems may develop, severely limiting the potential of the individual to lead an autonomous life.

Unless they have special therapeutic training, social workers are not competent to deal with mental health problems. People should be referred to specialists as a standard practice. Referrals should take place in a formal and organised manner, based on an agreed institutional co-operation between the agencies providing social work and mental healthcare services. A case referral does not mean that the social worker should terminate all relationship with the client. A person treated by a mental health professional may still receive individual assistance from a social worker about seeking a job or accommodation. There should be feedback from the therapists involved about the status and progress of the client and, until the case is closed, it is the responsibility of the social worker to make sure that the client is treated properly. Client follow-up is an essential social work task. Any exchange of information between professionals working with the same client should take place with the maximum possible confidentiality and in line with professional codes of ethics.

### 2.1.1 Social work interventions to improve the health of refugees

#### Individual- and family-level interventions

- Act as mediator between refugees, service providers and healthcare institutions.
- Ensure that refugees are received and treated in a non-discriminatory way. Gender, age and cultural diversity are especially important here. If possible, female health-care providers should be available for women and girls. Denial of access to services as a result of racism should also be handled by social workers.
- A social worker plays a crucial role in exploring physical or mental health problems. If you detect symptoms, refer the clients to the competent health or mental health service provider.
- Persuade refugees to use medical services. Regular check-ups are especially important to prevent the development of chronic and irreversible health problems. Refer cases to healthcare providers.

### Community-level interventions

- The social worker plays an important role as transmitter of care and prevention techniques at individual and community level (SRH is especially important here).
- Raise awareness of health issues among refugees. Organise thematic club sessions and compile and distribute information leaflets.
- Ensure that local service providers (GPs, hospitals and pharmacies) have sufficient information about the specific characteristics of the local refugee community. Establish and maintain channels of communication: provide information about the services available (office hours, addresses) in languages other than the official language of the country; and inform the service providers about the entitlements and special needs of refugees.

### Advocacy

- Ensure there is a therapeutic element in managed integration programmes. People enrolling in language or vocational training often drop out due to chronic health or mental health problems. Health services should be mainstreamed into the programmes, with the social worker playing a mediating role between clients, trainers and health professionals.
- Ensure that health services are accessible for refugees on an equal and non-discriminatory basis.

## 2.2. Nutrition

Although it may seem insignificant in the case of refugees living in an urban setting, especially in the industrialised part of the world, nutritional and dietary problems may also arise among them. The main factor is poverty; refugees often cannot afford to buy or prepare good quality food for themselves, which may result in various health problems. Nutritional problems become more difficult to identify once refugees move out into the community, as social workers may only see one member of a family or may lose touch with former clients altogether. It is important for social workers to remain alert to this issue when talking to clients and to have practical recommendations in mind should nutritional problems become apparent, to try and prevent more serious health problems developing. Those who continue to live in institutional settings after being granted refugee status also often lack the diverse and balanced food they need to maintain their physical health and strength – especially vitamins in the form of fresh fruit and vegetables.

The problem of babies and children is even greater in this respect as usually they are the ones who suffer the most from improper or insufficient food. Another at-risk group is that of single males who are not accustomed to preparing their own meals and who may suffer from nutritional problems even if they enjoy relative material security. This problem can be overcome by offering cooking classes run by community volunteers – refugees or nationals; if there are none, the social worker could set one up.

Another concern is the different dietary customs in the countries of origin, which are difficult to follow in Europe, more particularly in Central and Eastern Europe. Such issues include: a pork-free diet, fish as a dominant dish, and rice as the main source of carbohydrate. Refugees should find ways to overcome these difficulties and this help usually comes from the community. It is very important to pay attention to those who do not have any ethnic or other community links and ensure that they receive the necessary information as well. Participating in community events is usually good for this, but social workers may find other, more direct ways to inform their clients about the opportunities for alternative diets such as providing a list of stores selling particular goods or a list of pork-free products available in supermarkets.

Another aspect is that of religious customs. While Muslim children are not required to fast during the month of Ramadan until they reach the age of maturity (puberty), in many families younger children enjoy participating and are encouraged to practice their fasting for just part of a day, or for one day on the weekend, especially in the shorter winter days. This way they enjoy the “grown-up” feeling that they are participating in the special events of the family and community. Problems with child fasting may however occasionally arise and children have been known to faint from hunger and fatigue while at school. Social workers can help raise awareness among teachers regarding fasting practices to help them handle such incidents sensitively. In any case, children’s participation should take place in a way that does not endanger the physical health of the child.

### 2.2.1 Social work interventions related to the nutrition problems of refugees

#### Individual- and family-level interventions

- Help individuals to become familiar with the dietary customs of the host country; enable them to gain access to the most appropriate food items and raw ingredients.
- Monitor and promote the wellbeing of refugee family/community members, by counselling and advocating.

### Community-level interventions

- Organise classes for refugee men and women in preparing nutritious diets for the family, using local foods.
- Develop and maintain culturally sensitive skills to recognise, assess and deal with nutrition/dietary problems of refugees.
- Contact and sensitise the local service providers (schools, welfare offices, hospitals) in order to establish a referral system in order to prevent problems arising due to inappropriate diet.

### Advocacy

- Through lobby and advocacy influence the welfare system to secure access to appropriate nutrition for those in need, as a fundamental human right.

#### Questions:

It is often said that refugees accommodated in collective centres should be enabled to prepare their meals individually.

1. What are the pros and cons of this approach?
2. What practical steps could be taken to alleviate the problems?

## 2.3. Housing

Refugee integration is achieved fully when an average refugee lives under the same circumstances in terms of quality and location, as an average member of the host community. In reality, however refugees often have much worse housing conditions.

When they leave the reception centre, refugees tend to move to cities where there are better job opportunities but accommodation is more expensive. Because there are usually far from reception centres, this often means breaking ties with the local community, including employers, friends and schools. They have to begin again in a new and usually strange place.

In most cases refugees will not have access to social housing. The huge privatisation campaigns of the early and mid-1990s have almost eradicated social housing. Long waiting lists exist for that which remains, and refugees can seldom meet the requirement of several years' local residence.

Rented flats or houses in the price range most refugees can afford are usually only available with very unfavourable contracts. In most cases there is no adequate protection against the landlord terminating the contract at any time, which is a constant threat and stress-factor for the refugees. There is also strong discrimination against foreign or indigenous ethnic minority tenants in both the private and social housing markets.

Single males and large families with many dependants have most difficulty finding accommodation. Single male refugees often share a rented flat. Although from a cost-efficiency point of view it may seem reasonable, four-five people sharing a small flat causes additional problems. There is less (if any) privacy in such circumstances; people often disturb each other and, because of high mobility and financial insecurity, these ventures frequently collapse as people drop out and those left cannot find new flatmates quickly enough to share the increased burden of paying rent and bills.

I'd love to find a place where sometimes I just can be alone, or with those I want to be with. A place, where I don't disturb anyone and nobody disturbs me. A place where I don't always have to speculate about the next place we have to move to.

A Senegalese refugee

Managed programmes – usually supported, protected housing schemes for a transitional period for newly recognised refugees – may improve housing conditions. In these settings, social workers give complex targeted support to refugees to enable them to reach self-sustenance after a transitional period, with subsidies reduced over time.

Refugee protection schemes in Central and Eastern Europe vary greatly in this respect. In some countries (for example, Hungary) refugees may stay in reception centres for a relatively long time after recognition; in others (for example, Bulgaria) they have to leave the accommodation centre almost immediately after they are granted refugee status. In most countries there is no financial support available to contribute to the cost of rent and utilities or the purchase of a flat. An interesting additional support mechanism has been developed by one of the refugee reception centres in Hungary, where recognised refugees are offered flat-like accommodation in so-called integration houses next door to the centre, which is located at the edge of a country town. Although the dwellings are appropriate models of the flats refugees may later end up in, the location is not ideal. Independent accommodation is usually much more about living in a local community, within a network of other community members and local service providers, than it is about the type of dwelling.

### 2.3.1 Social work interventions to improve the housing conditions of refugees

#### Individual- and family-level interventions

- Advise refugees on housing opportunities and help them seek and find accommodation after leaving institutional settings.
- Mediate between landlords and tenants in disputes.
- Help refugees file requests for benefits, or negotiate rental contracts.

#### Community-level interventions

- Involve refugees in social and cultural programmes organised in their neighbourhoods. Community work is especially important in neighbourhoods where refugees live in larger numbers to combat effectively the everyday racism that often prevents them from settling permanently.

#### Advocacy

- Lobby for better access for refugees to local housing markets. Refugees are often excluded from eligibility for social housing and housing loans available for nationals.

#### Questions:

In many European countries, refugees are encouraged (often obliged) to disperse across the country instead of settling in one or two big cities.

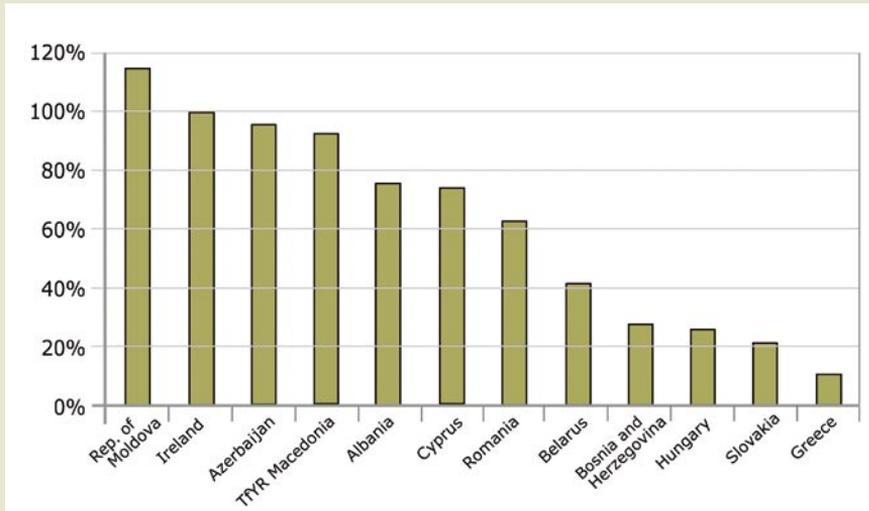
1. What are the pros and cons of this approach?
2. Provide a rationale for your response.

### 2.4. Employment

Access to the labour market is one of the crucial factors of integration. Refugees are usually disadvantaged both in terms of gaining employment and the type of employment they can get. Both unemployment and underemployment tends to be much higher among refugees than among the host population. Figure 6 illustrates the income gap between refugees and asylum country nationals in urban settings in the Central and East European region.

**Figure 6.**

Average of refugee income as a percentage (%)  
of the national average in urban areas (2004)



Source: UNHCR 2004 Standards and Indicators data

The biggest disadvantage refugees face in the labour market is language.

Unfortunately I don't speak Hungarian well enough, and without that it is impossible to find a proper and well paid job. Since I came to Hungary, I've never worked permanently. Even black-market jobs I found only a few times. Usually the problem was the language barrier. I don't speak Hungarian well and I wouldn't understand what they'd want from me.

A Nigerian refugee

It is often the case that refugees' qualifications are not compatible with the labour market of the host country, or they are no longer valid or relevant. They would need to invest in developing their skills and knowledge in order to fill a better position in the labour market, but many cannot afford this investment.

I've been out of the IT world for a long time, and four-five years in this field is really a lot. My knowledge is no longer up to date. I should go to courses, read books and journals to follow the changes. But I'd rather spend this money on my family.

A Sudanese refugee

Other obstacles include education and skills. It is not always the case that refugees are unskilled, have no work experience or do not speak more than one language. Many refugees are bi- or multilingual, have high educational attainment and have spent several years employed or self-employed. However, these qualifications are rarely directly transferable. Diplomas are not recognised or not relevant, the work experience is based on different technologies and the languages spoken by the refugees are not understood in the host country.

### Skills audit: finding refugees' transferable skills

A skills audit systematically explores the skills of refugees beyond their formal qualifications. Besides creating a portfolio that may help them find employment, it is an excellent learning and development tool to help people regain their self-esteem and clarify their capacities and future orientations. The sooner a refugee participates in a skills audit following their arrival in the host country the better. A skills audit involves the following:<sup>11</sup>

Selection – exchanging information, raising awareness and assessing motivation

Initial interview – used to assess motivation and establish trust

Identification of skills – soft and hard skills, qualifications, competencies, work experience and language comprehension via questionnaires, recording, interviews, digital portfolio and integrated skills audits

Validation – demonstrates that the qualifications and experience recorded are accurate

Presentation – includes a written portfolio that can be presented to employers and education and training organisations; more detailed than a CV because it seeks to explain the background to any skills gained in the refugee's country of origin and sets these within the context of the host country

Matching options and opportunities – including individual action plans setting out the steps that must be taken to achieve a match between these skills and opportunities.

Follow-up – monitoring of direct and indirect benefits, in addition to any costs and drawbacks. Case studies can be used to demonstrate the diversity of potential follow-up processes and findings should be used to improve these processes.

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11. EQUAL European Thematic Group on Asylum Seekers' Skills Audits, (The Basics: working with asylum seekers), an unpublished working document for a conference entitled 'Asylum Seekers in the EU: The Challenges of Integration' (Dublin, 31 March – 2 April, 2004). While the document is about asylum seekers, the methodology is equally applicable to recognised refugees and people enjoying other forms of international protection.

Many refugees are not able to cope with the tension caused by the inconsistency between their formal qualifications and the job offers they get. Some would rather stay at home unemployed than take up a job they consider beneath them. Others consider this situation as a temporary challenge.

Cleaning was good as I could do it even if I could not speak the language. So I started to work and slowly I started to spend a few hours in a Hungarian restaurant as a dishwasher and sometimes I even cooked.

An Afghan refugee, currently an elementary school teacher

A further obstacle is unwelcoming workplaces. Employers and colleagues are often prejudiced against refugees and foreigners in general. Discrimination due to racism will limit job opportunities and give the social worker difficult but necessary advocacy tasks, even after a refugee has overcome the initial hardships and finds employment.

Living in a large family may be a further disadvantage. Women often remain at home, isolated, as the main caregivers in the family, while men, as sole breadwinners, are often not able to earn sufficient income from the jobs available to them. Such situations further marginalise both male and female refugees and the social worker should use the referral system to obtain the appropriate support from specialised labour programmes and family services.

#### 2.4.1 Social work interventions to improve the labour market situation of refugees

##### Individual- and family-level interventions

- Provide labour counselling, organise individual and group activities on skills audits, and introduce job-finding techniques.
- Support individuals to use the mainstream labour services and enrol in vocational training.
- Counsel individuals to assess their possibilities for entering the labour market and their plan to overcome the disappointment and frustration caused by unmet expectations.
- Counsel families about reconsidering the existing gender roles to become more adaptive toward the labour market situation of the host countries.

### Community-level interventions

- Mediate between refugees and the workplace (employers and fellow employees) to create a more receptive environment by combating xenophobia and suspicion.
- With managed programmes, ensure refugees have access to language training, skills and vocational training, and labour market orientation, including local business opportunities and programmes.

### Advocacy

- Lobby for the introduction of anti-discrimination measures in companies' recruitment and employment practices.
- Lobby for unrestricted access to the labour market both for recognised refugees and people enjoying subsidiary forms of protection.

#### Questions:

1. What would you recommend that a refugee do if she was offered a job below the level of her qualifications? Should she accept it, or not?
2. What are the factors that might help her to decide?

## 2.5. Language

Acquisition of language skills may take place in two ways: through managed programmes (classes, training) and through everyday interaction with the host community. Social work intervention is effective if it helps the individual or community to achieve both. Organising language courses is just as important as providing opportunities for interaction with the host society through community events, housing arrangements, work, and vocational training placements.

All refugee integration schemes in Central and Eastern Europe provide some kind of formal language training for refugees. It is not only the curriculum and course material that determine a language course's success or failure, but factors such as the timing of the lessons; the distance from the participants' accommodation; and the availability of childcare.

This is my big problem: I work in the day and the course is in the morning. I made a petition to the refugee office asking them to make it possible for me to go to the course in the evenings or over the weekends. I know that this course would be very important from the point of view of my integration. If I don't go I'll lose some financial support. But this is not what counts. It is simply not good if you don't understand what others say. Let's put aside the material (financial) issues. The most important thing is that you must understand the language. The rest, the materials, you can make for yourself.

#### A Ugandan refugee

Different family roles may lead to very different language socialisation. For example, if women are isolated, they find the language of the host community much more difficult to learn, whereas children usually begin to speak the new language first, often dropping their mother-tongue and ending up in a situation called parentification (see chapter 6, section 3.3). This means that they become the main communicators for their parents, who depend on them in interactions with institutions and service-providers. In situations where the mother remains isolated at home and the child goes with the father alone, there is also the risk of alienation from the mother, which creates tensions in the family dynamics. In any case, it is a severe psychological burden on children to have their parents depend on them. It is a role reversal that often causes them anxiety, which may lead to psychosomatic symptoms and other adaptive problems.

Social workers should try to avoid situations where they act as interpreters. As a principle, the working language between clients and social workers should be the official language of the host country, even if it is often necessary to use an interpreter or to switch to a common language. Organisations and programmes providing individual and community social work services are the main agents of refugees' linguistic socialisation and adaptation.

In managed programmes, social workers may act as intermediaries between the professionals responsible for the courses and the refugees. Social workers can provide valuable feedback on the quality and structure of the course, as well as lobbying for the interests of their clients on issues such as timing and content. This is especially important where refugees who have other commitments in their workplaces or families. Courses should be organised in such a way that they are accessible for those who work late or who look after children or elderly or sick family members.

## 2.5.1 Social work interventions to improve the language skills of refugees

### Individual- and family-level interventions

- Encourage refugees to use the language of the host country/community in everyday interaction, including their relationship with the social worker.
- Counsel refugees on the importance of learning the language of the host country, and support their efforts in enrolling on language courses.
- Mediate between language schools and refugees in order to develop a flexible and sensitive routine of language training that takes into consideration individual needs and workplace requirements.

### Community-level interventions

- Help refugee communities to share the burden of household and childcare roles in order to enable women refugees to participate in language courses.
- Language training projects should provide childcare opportunities for mothers willing to join courses.

### Advocacy

- Lobby for appropriate and sufficient level of language training within statutory integration programmes.
- Involve refugee communities in the evaluation of existing language training services in order to improve their quality.

#### Questions:

1. Why is it especially difficult for female refugees to learn the language of the host country?
2. How could the social worker effectively help them overcome these barriers?

## 2.6. Education

Education determines the outcome of the acculturation process. In most refugee communities, those with postgraduate degrees and those with no education at all are over-represented compared to the composition of the population of host countries. Table 6 provides data from a research project that examined the level of integration of recognised refugees in Hungary between 1998-2002.<sup>12</sup>

**Table 6.**

Distribution of refugees and the host society by level of education (no. and %)

Highest level of education	Refugees		Host society*	
	People	%	People	%
<b>No schooling at all</b>	411	33.1	164 163	1.8
<b>Unfinished primary school</b>	174	14.0	1 733 308	18.7
<b>Primary school</b>	94	7.6	2 494 796	26.9
<b>Secondary school</b>	313	25.2	3 732 900	40.3
<b>Higher education</b>	250	20.1	1 147 474	12.4
<b>Total:</b>	<b>1 242</b>	<b>100.0</b>	<b>9 272 641</b>	<b>100.0</b>

\*Population aged 7 or older, based on the 2001 Census data

Most refugees have some sort of education, which can be a very important resource. A positive approach toward this set of skills is a tool for empowering refugees. A good example of this is literacy: refugees coming from cultures using the non-Latin alphabet are often treated as illiterate and uneducated, although they can read and write perfectly well in their own language. Many skills and much knowledge brought from the countries of origin can be utilised later even if, in the initial phase of integration, they seem useless and irrelevant. Realistically, however, the older the person is, the less likely it is that he or she can use past educational experience to re-start or continue education. Efforts should be made to engage older refugees in practical and other educational pursuits.

In most Central and Eastern European countries, refugee children must participate in public education. Because the number of refugees in these countries is relatively small and there are no well-established immigrant communities, the experience of receiving refugee children is a new one for most schools. There are many challenges refugee children may pose to schools, such as their appearance in the middle of the school year, greater fluctuation due to changes in accommodation, the level of language competence, and lack of familiarity with the national curriculum. Further problems may arise from the earlier flight experience and institutionalisation during the asylum-seeking period; many children suffer from PTSD and adaptive problems.

12. A Kováts, 'Refugees in Hungary, based on data from the Office of Immigration and Nationality' [in Hungarian] ms (Hungarian Academy of Sciences, Budapest, 2002), p.7.

Schools are not prepared for refugee children. They usually lack appropriate teaching methodology and the ability to tackle adaptation problems. Xenophobia among teachers and classmates and their parents is also prevalent. Refugee children need special language classes in the initial phase, but they should still attend regular classes appropriate to their age (and not to their language performance). Another serious problem is that parents are not able to help their children – indeed, public education contributes to the broadening cultural gap between first generation refugees and their children.

Vocational training schemes can be provided either as refugee-specific services or as part of the general labour market integration programme provided by national labour institutions. There are advantages and disadvantages to both. Separate programmes may be better tailored to the specific needs and competences of refugees but may isolate them from the community and hinder their integration, especially in terms of language acquisition. Mainstreamed schemes serve integration better; however, they are less sensitive to the specific needs of the refugees. The ideal situation would be to enrol refugees in mainstreamed vocational training with strong individual social work support.

### SITUATION STUDY: A successful language programme

A small-scale employment programme in Hungary is a combination of employment in the regular labour market, enrolment in vocational and language training and individual support from social workers and psychotherapists. The refugees are employed as painter/decorators and draw a regular salary as part of the support, but also receive the vocational and language training during their working hours. The course lasts for 14 months, at the end of which the participants gain a formal qualification. Their chances of finding employment are much higher with this support. The programme is run in close co-operation between a refugee-assisting NGO, two training institutions and a private enterprise, providing a classic example of both a multi-sectoral and multifunctional team approach.

## 2.6.1 Social work interventions to improve the level of education of refugees

### Individual- and family-level interventions

- Help refugees find the most appropriate form of education/training according to their age, abilities, skills and prior education.
- Mediate between schools and training institutions and refugees in disputes.
- Co-operate with the school social worker (if there is one) in order to develop a personal development plan for refugee children at school.
- Counsel families about the further education opportunities of their children when they finish primary or secondary school.

### Community-level interventions

- Raise awareness among teachers and others working with refugees about refugee rights, needs and issues; mediate between refugee communities and training/education institutions.
- Encourage refugee communities to participate in the social life around schools, for example, celebrating national holidays, doing voluntary work, or participating in school excursions.

### Advocacy

- Encourage universities and training institutions to include refugee-specific knowledge in the teacher training curricula.
- Lobby for school curricula to be sensitive to the special adaptation needs of refugees, and for methodological and technical support for schools to enable them to provide individually tailored programmes for refugee children.
- Facilitate setting up vocational training schemes based on current and projected labour market needs.
- Facilitate the inclusion of refugees in mainstream vocational training schemes for nationals as early as possible.

## 2.7 Community contact and social networks

I am convinced that, if you live in a foreign country, you can't expect people there to be nice to you in the first place – you have to be nice to them. I live here, I am the only African in this block. In the morning when I meet the old lady next door waiting for the elevator, it is just plain that I say hello to her. I have to found the good relationship. I have to be open and then they open as well. It's not that difficult. You only have to smile... Hungarians are generally closed, even towards each other. But if you smile at them, they smile back.

A Nigerian refugee

Interaction with the host community is an important factor of refugee integration. Refugees need to establish and maintain links beyond their own ethnic or religious group. There is often a conflict between parents and children regarding the latter's more open social contacts with the host community. A delicate issue is the marital customs of various ethnic groups, which often discourage exogamy (marriage outside the group/community). With arranged marriages, wives often arrive from the country of origin under family unification schemes to an isolated and disadvantageous situation in their new homes as dependents of refugees often themselves not in a stable economic and social situation.

Maintaining contacts with the community in the countries of origin is important, however, especially if families are broken up due to the flight and there are family members who are awaiting reunification. This can be a source of tension and secondary trauma.

You know, in our country, Sudan, a big family – many-many relatives with their families – live in one area close to each other. We meet and do things together every day. We do the daily chores, share the work, help each other. Our kids play together. The smaller families are not isolated; they have time for each other. Supporting the family doesn't take that much time, and we help each other. We make friends easier. Here, it is different. Families – including ours – live on their own. Women have an awful lot of work with the household, the kids. There are many children. Families seldom meet, and the chances for establishing a good friendship are much slimmer. I have no friends here at all. There are women whom I talk with when we sometimes meet, but this is not a friendship, only a chat. I very much miss having real friends.

A Sudanese refugee

### 2.7.1 Social work interventions to strengthen social networks around refugees

#### Individual- and family-level interventions

- Organise and facilitate self-help or support groups with the involvement of members of the refugee community.
- Cooperate with the competent authorities in family unification cases, representing the best interest of the refugee involved as your client.
- Provide family counselling and facilitate therapy if needed during assistance in family reunification situations.

#### Community-level interventions

- Facilitate refugees' involvement with community organisations or local NGOs. Paid or volunteer positions are a good tool for strengthening ties with the local community.
- Empower refugees actively to participate in community events such as World Refugee Day, and other events promoting tolerance and equal opportunities, in order to have their voice heard.

#### Advocacy

- Promote family unification as one of the most important tools to achieve durable solutions for refugees.

### 3. Cultural and inter-ethnic relations

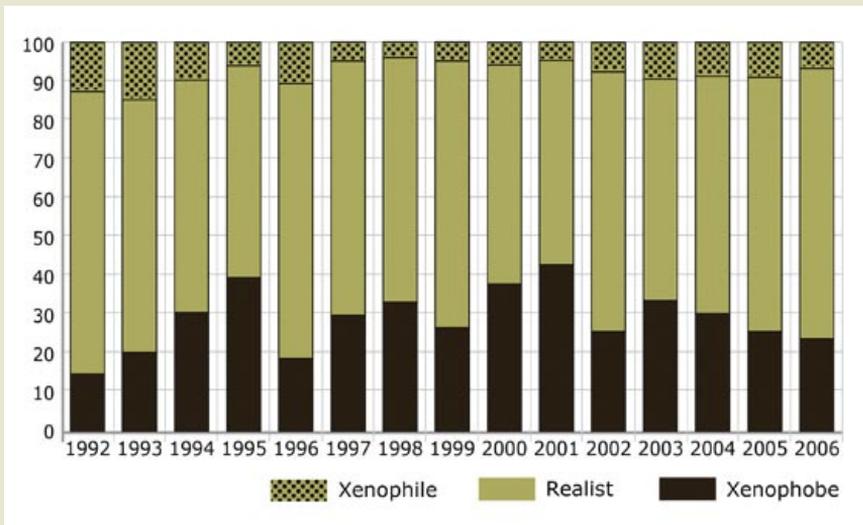
#### 3.1. Cultural orientation

Racism and xenophobia prevalent in the host communities contribute to the acculturation routes refugees can choose. Refugees are often faced with blatant hostility and rejection from the members of the host communities, which makes their identification with the new culture difficult. Following a separatist acculturation pattern as a reaction to the xenophobia of the society fuels negative attitudes, 'justifying' the prejudices about refugees and immigrants. Community work advocating the values of ethnic and cultural diversity may break this vicious circle, but besides flagging blanket messages in the form of seminars or information campaigns, there need to be events where people meet each other.

As a result of a longitudinal survey conducted in Hungary (figure 7), there has been data since 1992 on that society's perception of refugees. Every year the poll asks a representative sample: 'Should Hungary let in those who arrive at its border as refugees?' The possible answers are 'Yes, everybody should be let in', 'No, nobody should come', or 'It depends on whom'. Respondents in each category are termed xenophile, xenophobe or realist.

**Figure 7.**

The proportion of xenophiles, realists and xenophobes in Hungary between 1992–2006 (%)



Source: TÁRKI 1992–2006

The number of those who would not let in any refugees is higher among those who live in rural regions and who are elderly, under-educated or poor.

Social work may be an important catalyst of cultural orientation both within the community and between the host and refugee communities. The role of social workers with a refugee or ethnic background may add a special value to this process. Culturally competent social workers are aware of biases and prejudices resulting from their own culture and traditions, which may interfere with their ability to remain objective. They should try to overcome these issues in order to provide an effective, professional and unbiased service.

In managed programmes, these may involve cultural orientation sessions, community events involving members of the host community and refugees, and school activities that familiarise pupils with the customs and culture of refugees living in the local community. Cultural differences and diversity should be treated as a resource, emphasising the values and positive elements different cultures bring to the community

### 3.1.1 Social work interventions to develop the cultural and inter-ethnic relations of refugees

#### Individual- and family-level interventions

- Counsel refugees on the cultural differences and similarities they may encounter in the local community.
- Facilitate communication between refugees and members of the host community in order to overcome cultural barriers.

#### Community-level interventions

- Organise cultural orientation programmes and other community events where members of the refugee community meet and interact with locals.
- Promote refugee community organisations and support efforts to set up and run community programmes.

#### Advocacy

- Lobby for including refugee and immigrant communities as targets of national programmes that support the cultural identities of minority groups.

### 3.2. Religion

Refugees' religions and their practice may be a source of conflict with the receiving society. Yet reinforcing religious identity is often a tool for maintaining the integrity of the individual or the community. Refugee integration is successful if the religious identity and practices of refugees do not prevent them from everyday interactions with the host community.

Another form of religious identification of refugees is conversion into the religion of the host society, usually the more fundamentalist versions of it. Many Christian groups target refugees as aid recipients as well as subjects of evangelisation. A rapid cultural and religious assimilation is not necessarily a negative phenomenon, but these religious groups themselves are usually rather marginalised within the host society and are therefore not the best gateway to integration.

#### 3.2.1 Social work interventions to meet the religious/spiritual needs of refugees

##### Individual- and family-level interventions

- Religion belongs to the private sphere in Central and Eastern Europe; it therefore cannot be a direct subject of social work.
- Social workers nevertheless should assist refugees in establishing links with the religious community they are affiliated with.

##### Community-level interventions

- Community work may help refugee communities and individuals to find the most suitable avenues for cultural and religious identification.

##### Advocacy

- Social workers may advocate on behalf of religious communities denied their rights to exercise their religion freely. Social workers may also involve religious leaders in this advocacy role.

### 3.3. Cultural difference and the law

Law enforcement and judicial practice often reflects the majority society's negative disposition towards refugees and immigrants. There are reported biases in court decisions and a feeling among refugees that the police deal with cases related to refugees differently from those involving members of the host society.

Once there was a very bad thing that happened to me. A Saturday night I was going home from a meeting. As I was crossing the road a taxi almost hit me. I waved after it as warning to be more careful. Then another taxi turned up, both drivers got out of their cars and beat me up badly. It hurt very much. I just had enough strength to call the police, and they came very quickly. The drivers started to beat me again. The police watched. Then they talked to the drivers; they didn't even listen to me, but [took] me along to the police station. I was beaten up, was seen by a doctor, but the police released me only after a day. I talked to my social worker who suggested I consult a lawyer at an NGO. We agreed that I'd lodge information against the drivers. I went to the police with the lawyer, where it turned out that the taxi drivers had already lodged information against me. From that time on there had been court hearings for years. The taxi drivers lied... in the end, they didn't even come to the trial. The worst thing is, that I am sure that the judge saw and knew everything from the beginning. But the truth never came out, all the way [a]long I was the defendant accused with rowdiness, when it was them who beat me and not the other way round. At the end the judge warned me not to brawl again. It was a very big disappointment in this country.

A Guinean refugee (living in a new EU member state)

Customs and cultural norms within refugee communities may be illegal in the host society. The most common issues of this type in Central and Eastern Europe are early or arranged marriage, child labour, child beating and other forms of domestic violence. During the acculturation process, refugee communities and individuals need to adjust these customs to the norms of the host society in an appropriate and acceptable manner. However, often host communities themselves lack appropriate responses to these problems. SGBV and domestic violence are often considered minor and forgivable; victims are often blamed for the violence. Human rights advocacy in such an environment is especially difficult but very much needed.

### 3.3.1 Social work interventions to address the judicial and criminality problems of refugees

#### Individual- and family-level interventions

- Provide individual and family counselling on domestic violence, women's and children's rights.
- Inform refugees about their civil rights and their right to fair and equal treatment.
- Refer refugees to appropriate organisations or lawyers if they require legal representation.

#### Community-level interventions

- Advocate to the host community on refugee rights.
- Encourage refugees and the host community to engage in joint activities, such as volunteer clubs, or local church group involvement with a refugee family or individual.
- Organise cultural and legal orientation programmes for refugees.
- Devise projects and activities for empowering and sensitising women's groups, youth groups, older and disabled persons' groups on their rights and responsibilities, as well as artist groups and sporting groups involving refugees and immigrants.

#### Advocacy

- Advocate for training of police, local authorities, judiciary and religious leaders in human rights, refugee rights and conflict resolution.
- Advocate for cultural sensitisation training for law enforcement personnel and the judiciary.
- Initiate monitoring and regular assessment of law enforcement and judicial services in terms of equal opportunities and anti-discrimination.
- Promote the recruitment of refugees into police forces, as well as state social welfare (especially child protection) agencies.

### Questions:

Someone reports that the prevalence of criminality among refugees and foreigners in general is higher than among the nationals of your country.

1. Do you think this statement is true or false? Why?
2. What evidence can you present to substantiate or refute the statement?

### Conclusion

Effective, culturally competent social work interventions are vital to the physical, emotional and psychological wellbeing of refugees at each stage of their experience in the country of asylum. Specific legislative and institutional frameworks will vary from country to country; the fundamentals of human rights and human needs do not.

Integration of refugee individuals and communities may seem, at first glance, to be simply one durable solution among a number, and a process that comes only at the end of a successful asylum process outcome. In reality, it is a basic necessity in a world where migration in all its forms is a constant factor. Creating a socio-economic environment in which people from different racial, ethnic, cultural and religious backgrounds can coexist not just peacefully but successfully, in equality and with human dignity, makes societies stronger. Exclusion, marginalisation and discrimination have been shown time and again to be the roots of damaging social divisions, conflict and economic stagnation.

Social workers have the opportunity not just to assist in the integration process but to shape it. Through their interaction with refugee clients and the institutional frameworks within which they must operate, social workers can promote and implement interventions that facilitate better understanding and communication with the host society – the precondition of eventual acceptance on both sides. Active cooperation with service providers from other disciplines and sectors also increases the likelihood of successful interventions, while building the wider base of professional knowledge and experience that can be decisive in influencing policy and legislation through advocacy efforts.

Starting at the point of reception and often continuing throughout a refugee's life in the country of asylum, culturally competent, creative and knowledgeable social work interventions make effective, durable solutions possible for refugees facing the daily challenges of rebuilding their lives.

# APPENDICES

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### Why is it important?

An individual's gender and age fundamentally affects both his/her protection needs and the effectiveness of assistance being provided. Yet these aspects are often overlooked in refugee settings. Discrimination based on gender and/or age can and does routinely occur throughout the entire refugee process; including being a factor in why a person becomes a refugee.

### Refugees in Europe:

- 49% are women
- 23% are under the age of 18
- 3% are under the age of 5
- 18% are aged 60 or over

### Relevant terminology

**Biological sex:** the biological classification of bodies as male or female, based on factors including external sex organs, internal sexual and reproductive organs, hormones, and chromosomes.

**Child:** every human being below the age of eighteen years unless under the law applicable to the child.

**Elderly/older persons:** persons 60 years and over.

**Gender:** the social and cultural codes used to distinguish between what a society considers "masculine" or "feminine" conduct.

**Gender identity:** a person's internal, deeply felt sense of being male or female, or something other than or in between male and female.

**Gender mainstreaming:** making women's concerns and experiences as well as men's an integral part of the design, monitoring and implementation of all plans, policies and programmes.

**Sexual orientation:** the way in which a person's sexual and emotional desires are directed.

**Heterosexual privilege:** advantages that come with heterosexuality in a society and culture.

### Discrimination against women is:

"any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." (CEDAW)

### Principal international documents

- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), UN 1979
- Declaration from the Fourth World Conference on Women, Beijing 1995
- International Conference on Population and Development, Programme of Action, Cairo 1994
- Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, Maputo 2003
- Geneva Declaration of the Rights of the Child, League of Nations 1924
- Declaration of the Rights of the Child, UN 1959
- Convention on the Rights of the Child (CRC), UN 1989

Sources: UNHCR, *Global Refugee Trends* (Geneva, June 2005), p.5 (<http://www.unhcr.org>).

Regional Competence Development Network Process, *Mainstreaming Gender & Age Awareness in Refugee Settings: A Manual for Trainers* (Budapest, December 2005, [http://cdnp.net/Regional\\_Gender\\_Training\\_Manual.pdf](http://cdnp.net/Regional_Gender_Training_Manual.pdf)).

Human Rights Watch, *More than a name: State-sponsored homophobia and its consequences in South Africa*.

Ohio University LGBT Programs Center (<http://www.ohio.edu>).

Convention on the Rights of the Child (UN 1989). CEDAW (UN 1979).

UNFPA, *Fast Facts* (<http://www.unfpa.org/sustainable/facts.htm>).

What is SGBV?

SGBV refers to a wide range of acts that inflict or seek to inflict physical, emotional or sexual harm on individuals on the basis of their sex.

Women and girls are usually the primary victims of such violence, although boys may also be targeted.

It has come about as a result of the traditional inequalities of power between men and women in different cultures and discrimination against (usually) women in society. Violence (in various forms) is used as a means of maintaining control and suppressing the targeted group.

SGBV can and does occur as a result of an intimate relationship, among family members, within a community, or as part of the societal norms; during peace time and during wartime. It can also occur to people at any stage of their lives. SGBV may arise during any stage of the asylum process, even among the seemingly safest family members.

SGBV is a human rights violation, and can be deemed as a ground for refugee status.

Five categories of SGBV and some examples of each

Sexual violence	Rape (including attempted, marital or anal); sexual abuse; sexual abuse of children; sexual exploitation/forced prostitution; sexual harassment
Physical violence	Physical assault; trafficking; slavery
Emotional and psychological violence	Abuse/humiliation; confinement
Harmful traditional practices	Female genital mutilation; early marriage; forced marriage; honour killing/maiming; infanticide/neglect; denial of female education
Socio-economic violence	Discrimination in opportunities and services; social exclusion/ ostracism; legislative denial of rights

Negative effects of SGBV include both physical and psycho-social consequences:

- Fatal consequences
  - homicide, suicide, maternal death, infant death, AIDS-related death
- Non-fatal consequences
  - injury, shock, disease, infection
  - disability, chronic infections/pain, disorders (eating or sleep), alcohol/drug abuse
  - miscarriage, unwanted pregnancy, unsafe abortion, sexually transmitted infections (including HIV/AIDS), menstrual, gynaecological, or sexual disorders
- Emotional and psychological consequences
  - post-traumatic stress, depression, anxiety/fear, anger, shame/self-hate, mental illness, suicidal thoughts/behaviour
- Social consequences
  - blaming the victim/survivor, loss of role in society, social stigma, social rejection, increased poverty, increased gender inequalities

Sources: UNHCR, *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for prevention and response* (Geneva, May 2003).  
 Regional Competence Development Network Process, *Mainstreaming Gender & Age Awareness in Refugee Settings: A manual for trainers* (Budapest December 2005, [http://cdnp.net/Regional\\_Gender\\_Training\\_Manual.pdf](http://cdnp.net/Regional_Gender_Training_Manual.pdf)).

**What is FGM?**

Female genital mutilation (sometimes called female genital cutting or female circumcision) refers to the removal of part or all of the female genitalia for non-medical reasons. FGM is categorised as a harmful traditional practice.

The most severe form is infibulation, which consists of clitoridectomy (where all or part of the clitoris is removed), excision (removal of all or part of the labia minora), and cutting of the labia majora, which are then stitched or held together to cover the vagina when they heal. A small hole is left to allow urine and menstrual blood to escape. The vast majority of genital mutilations consist of clitoridectomy or excision. The least radical procedure consists of the removal of the clitoral hood.

The age at which FGM is carried out can vary from soon after birth to during the first pregnancy, although it occurs most often between the ages of four and eight.

FGM is a severe human rights violation. FGM violates many internationally protected rights including health, and freedom from violence, injury, abuse, torture, and harmful traditional practices.

**Harm caused by FGM**

- Death
- Infection (including urinary tract and reproductive tract infections)
- Psychological trauma
- Inability to heal
- Increased susceptibility to diseases (including AIDS and hepatitis)
- Infertility or obstructed labour

**Why is FGM practiced?**

- Sexual reasons – the control or reduction of female sexuality
- Sociological reasons – rites of passage into womanhood, social integration
- Hygiene and aesthetic reasons – the belief that the female genitalia are dirty
- Health reasons – beliefs about the fertility benefits and survival
- Religious reasons – some see this as a religious requirement.

**Percentage of all females subjected to FGM in 10 countries with the highest prevalence rate**



Source:WHO (2001)

**The numbers**

FGM affects women all over the world; this graph is just a sample of data.

Unicef estimates that between 100-130m African females have been victims of FGM and that 2m girls every year are at risk of FGM.

Sources: Amnesty International (<http://www.amnesty.org>)

Unicef (<http://www.unicef.org>)

Child & Woman Abuse Studies Unit ([www.cwasu.org](http://www.cwasu.org))

Regional Competence Development Network Process, Mainstreaming Gender & Age Awareness in Refugee Settings: A manual for trainers (Budapest, December 2005, [http://cdnp.net/Regional\\_Gender\\_Training\\_Manual.pdf](http://cdnp.net/Regional_Gender_Training_Manual.pdf)).

### Definition

Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability of the giving or receiving payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the UN Convention against Transnational Organized Crime (GA Res. 55/25, Nov 2000)

Unfortunately, definitions of trafficking often vary in countries' national laws and are not always consistent with internationally accepted ones. At the regional level, the Council of Europe Convention on Action against Trafficking in Human Beings builds upon existing international standards of protection for trafficked persons ([www.coe.int/T/E/human\\_rights/trafficking/PDF\\_TrafConv\\_E\\_August2004.pdf](http://www.coe.int/T/E/human_rights/trafficking/PDF_TrafConv_E_August2004.pdf)).

### Trafficking and smuggling

Trafficking and smuggling should not be used interchangeably. People consent to being smuggled in order to migrate transnationally, and the process ends when they arrive. Trafficking, on the other hand, uses coercion and deception to move people either within a country or across international borders. The process does not end at the arrival at a destination, but rather exploitation continues indefinitely. Trafficking is a human rights violation, a crime against humanity and a war crime in the context of armed conflict.

Victims of trafficking who may be defined as refugees

Some trafficking victims, in particular but not exclusively women and children, can be defined as refugees under the 1951 Convention relating to the Status of Refugees if they establish a well founded fear of persecution based on one of the Convention grounds. Victims of trafficking may qualify for international refugee protection if their country of origin is unable or unwilling to provide protection against further re-trafficking or as a result of traffickers' potential retaliation when circumstances can be linked to Convention grounds.

A claim for international protection from a victim of trafficking can thus arise in two distinct circumstances:

- where the victim has been trafficked from abroad and seeks the protection of the host state;
- where the victim, having been trafficked within national territory, manages to extricate her/himself and flees abroad in search of international protection.

### The numbers

Accurate statistics on trafficking are impossible to acquire, hindering efforts to raise awareness and effectively deal with the protection and assistance needs of the victims. Existing estimates, based on available data from government sources, international organisations and NGOs include:

- 250,000 to well over a million people trafficked globally each year
- 100,000–500,000 people trafficked annually into Western Europe alone (MPI, 2002)
- 270,000 trafficked for forced labour (including sexual exploitation) in the industrialised countries of Europe and the U.S. (ILO 2005)
- 70% of trafficking victims are women and 50% are children (US State Dept, 2004)
- 1,2 million children are trafficked annually in the world for sexual exploitation, domestic slavery or to work in agriculture, mining or street-based activities such as petty crime and begging (OSCE, 2005)

Sources: (1) UNHCR, *Combatting Human Trafficking: Overview of UNHCR Anti-Trafficking Activities in Europe* (Geneva, 2005).  
 (2) F Laczko, *Human Trafficking: The Need for Better Data* (Nov. 2002), in the Migration Policy Institute's Migration Information Source ([www.migrationinformation.org](http://www.migrationinformation.org)).  
 (3) International Labour Office, *A global alliance against forced labour, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work* (Geneva, 2005).  
 (4) United States Department of State, *Trafficking in Persons Report, 2004*.  
 (5) OSCE, *Combating Trafficking in Children*, (March, 2005, [www.osce.org](http://www.osce.org)).

What is it?

Post-traumatic stress disorder (PTSD) is a psychiatric disorder that can occur following the experience or witnessing of life-threatening events such as military combat, natural disasters, terrorist incidents, serious accidents, abuse (sexual, physical, emotional, ritual), and violent personal assaults such as rape.

PTSD is marked by clear biological changes, as well as psychological symptoms. PTSD is complicated by the fact that it frequently occurs in conjunction with related disorders such as depression, substance abuse, problems of memory and cognition, and other problems of physical and mental health. The disorder is also associated with impairment of the person's ability to function in social or family life, including occupational instability, marital problems and divorces, family discord, and difficulties in parenting.

U.S. Department of Veterans Affairs' National Centre for PTSD

PTSD can have severe and long lasting effects on people's lives:

- Physiological consequences:
  - neurobiological changes (alterations in brainwave activity, in size of brain structures, and in functioning of processes such as memory and fear response)
  - psychophysiological changes (hyper-arousal of the sympathetic nervous system, increased startle, sleep disturbances, increased neurohormonal changes that result in heightened stress and increased depression)
  - physical complaints that are often treated symptomatically, rather than as indications of PTSD (headaches, stomach or digestive problems, immune system problems, asthma or breathing problems, dizziness, chest pain, chronic pain or fatigue).
- Psychological consequences:
  - depression (major depressive episodes, or pervasive depression)
  - anxiety disorders (such as phobias, panic, and social anxiety)
  - conduct disorders
  - dissociation («splitting off» from the present, and into parts of the self)
  - eating disorders.
- Social consequences:
  - interpersonal problems, low self-esteem, employment problems, homelessness, trouble with the law, self-destructive behaviour (alcohol and substance abuse, risky sexual behaviour, self-injury, suicidal attempts).

Who is most likely to develop PTSD?

- Those who experience greater stressor magnitude and intensity, unpredictability, uncontrollability, sexual (as opposed to non-sexual) victimisation, real or perceived responsibility, and betrayal.
  - Those with prior vulnerability factors such early age of onset and longer-lasting childhood trauma, lack of functional social support, and concurrent stressful life events
  - Those who report greater perceived threat or danger, suffering, upset, terror, and horror or fear
  - Those with a social environment that produces shame, guilt, stigmatisation, or self-hatred.
- It is important to remember that PTSD not only affects adults, but children and people who experienced trauma during their childhood.

The numbers

According to clinical studies, exposure to trauma and torture has led to high rates of PTSD and depression among refugee populations (varying between groups):

- PTSD rates range from 39–100% (the rate among the general population is just 1%)
- Depression rates range from 47–72%

UNHCR, Refugee Resettlement

Sources: U.S. Department of Veterans Affairs; National Centre for PTSD (<http://www.ncptsd.va.gov/faq.html>). UNHCR Refugee Resettlement: An international handbook to guide reception and integration (Geneva, 2002), p.233.

## Appendix 6.

## INTERNALLY DISPLACED PERSONS (IDPs)

### Definition

"[IDPs] have been forced to flee their homes to escape armed conflict, generalized violence, human rights abuses or natural or man-made disasters".

UNHCR, Internally Displaced Persons: Questions & Answers

IDPs differ from refugees in that they have never been forced to cross international borders, but rather have fled to safer areas within their national borders. IDPs are often a result of internal conflicts/civil wars. Because there are no international agreements that specifically focus on IDPs, they regularly meet great difficulty, often more so than refugees.

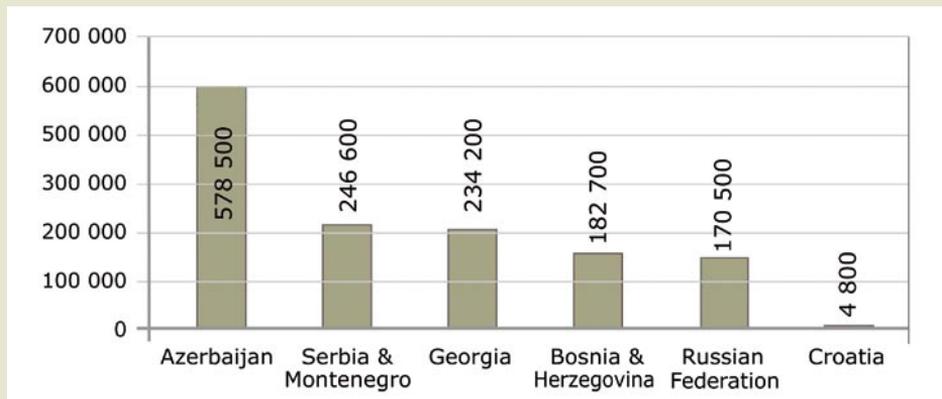
### Internally displaced persons in Europe and Eurasia

UNHCR estimates that there are 25m IDPs living in at least 50 countries worldwide. Some important examples of IDP situations in Europe and Eurasia include:

- The situation of 575,000 Azeris, displaced in the early 1990s from the disputed region of Nagorno-Karabakh and surrounding districts occupied by Armenian forces, remains unresolved to this day.
- The collapse of the Socialist Federal Republic of Yugoslavia led to conflict in 1992 and subsequently to a major displacement of people in Bosnia and Herzegovina. Despite the return of a million IDPs and refugees since 1995, there were still almost 200,000 in Bosnia and Herzegovina in April 2006, according to UNHCR.
- The conflict in Kosovo in 1999, along with more recent outbreaks, has displaced around 250,000 mostly Serbs and Roma; as of May 2006, some 220,000 persons remain displaced in Serbia and Montenegro and an additional 21,000 within Kosovo.
- Conflicts in the Russian Federation created some 340,000 IDPs, 60% of whom were in Chechnya; 2005 estimates place this figure at around 265,000.

Source: Internal Displacement Monitoring Centre [www.internal-displacement.org](http://www.internal-displacement.org)

### IDPs protected or assisted by UNHCR in Europe: population at end-2005



Source: UNHCR 2005 Global Refugee Trends

Sources: UNHCR, *Global Refugee Trends* (Geneva, June 2005), p.5 (<http://www.unhcr.org>).

Regional Competence Development Network Process, *Mainstreaming Gender & Age Awareness in Refugee Settings: A Manual for Trainers* (Budapest, December 2005, [http://cdnp.net/Regional\\_Gender\\_Training\\_Manual.pdf](http://cdnp.net/Regional_Gender_Training_Manual.pdf)).

Human Rights Watch, *More than a name: State-sponsored homophobia and its consequences in South Africa*.

Ohio University LGBT Programs Center (<http://www.ohio.edu>).

Convention on the Rights of the Child (UN 1989). CEDAW (UN 1979).

UNFPA, *Fast Facts* (<http://www.unfpa.org/sustainable/facts.htm>).

“The term ‘stateless person’ means a person who is not considered as a national by any state under the operation of its law.”

Article 1, 1954 Convention relating to the Status of Stateless Persons

How do people become stateless?

The following are common examples:

- the transfer of territory or sovereignty that alters the nationality status of some citizens of the former state(s), leaving them without citizenship
- arbitrary deprivation of nationality of either individuals or groups by a government
- administrative oversights, misunderstandings or conflicts of law (for instance, when a child is born in a country that grants nationality by descent only, but the laws of the state of which the parents are nationals grant citizenship by birth only on their territory)
- administrative or procedural problems such as excessive fees, unrealistic deadlines, lack of appeal or review procedures and failure to notify individuals of registration or other obligations
- individual renunciation of one nationality without first acquiring another citizenship
- automatic altering of nationality in the case of marriage or dissolution of a marriage between couples from different countries
- failure to register children at birth so there is no proof of where or to whom they were born
- birth to a stateless person.

### The Conventions

Despite the difficulties in documenting the numbers, current estimates claim that there may be as many as 9m stateless people.

There are two key conventions relating to statelessness, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. It is important to remember that although some stateless persons may be refugees and asylum seekers, not all stateless persons fall into these groups.

Because refugee and statelessness problems sometimes overlap and may be interdependent, UNHCR has been designated by the UN General Assembly effectively to become the overseer and guardian of the world’s stateless people and ongoing efforts to help them.

“A contracting state may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds.”

Article 9, the 1961 convention

“The contracting states shall issue identity papers to any stateless person in their territory who does not possess a valid travel document.”

Article 27, the 1954 Convention

Source: UNHCR, The World’s Stateless People: questions & answers (Geneva, April 2004, <http://www.unhcr.org>).

Definitions

Separated children: those separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may include children accompanied by other adult family members.

Unaccompanied children/minors: those who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

Orphans: children, both of whose parents are known to be dead. In some countries, however, a child who has lost one parents is called an orphan.

Important rights for separated children

- A name, legal identity, birth registration
- Physical and legal protection
- Not to be separated from parents
- Provisions for their basic subsistence
- Care and assistance appropriate to their age and developmental needs
- Participation in decisions about their future.

“State parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance”

Article 22.1  
Convention on the Rights of the Child

Asylum applications in 2003: total and unaccompanied and separated children

Country	Total applications	of which UAC/SC	%
Bulgaria	16 940	589	3.5%
Croatia	63	6	9.5%
Cyprus	4 411	2	0.0%
Czech Rep.	11 396	129	1.1%
FYR Macedonia	2 283	10	0.4%
Hungary	2 401	190	7.9%
Latvia	5	0	0.0%
Poland	6 921	217	3.1%
Romania	1 077	21	1.9%
Slovakia	10 323	704	6.8%
Slovenia	1 100	34	3.1%

Source: UNHCR Trends in Unaccompanied and Separated Children Seeking Asylum in Industrialized Countries, 2001-2003 (Geneva 2004).

Who are they?

These children may be unaccompanied or separated for a variety of reasons, from the death of their parents to separation due to war. Many have witnessed and experienced first-hand the tragedies of war. Many have been forced to be soldiers at very young ages; many have experienced sexual and gender-based violence; and many have had very little if any formal education. Some seek refugee status, but many may not know that this is an option for them. Special attention must be paid so that the best interests of the child become the priority.

Additional Source: International Committee of the Red Cross, Inter-agency Guiding Principles on Unaccompanied and Separated Children (Geneva, January 2004).

# FURTHER SOURCES

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## Refugee Related Conventions and Important Documents

The 1951 Convention Relating to the Status of Refugees and the 1967 Protocol

<http://www.unhcr.org/cgi-bin/texis/vtx/protect/opendoc.pdf?tbl=PROTECTION&id=3b66c2aa10>

Universal Declaration of Human Rights

<http://www.unhchr.ch/udhr/navigate/alpha.htm> (all translations)

1950 European Convention on Human Rights

<http://www.asylumrights.net/echr.htm> (all translations)

Convention on the Rights of the Child

<http://www.ohchr.org/english/law/pdf/crc.pdf>

Convention on the Elimination of All Forms of Discrimination Against Women

<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

1984 Cartagena Declaration on Refugees

<http://www.unhcr.org/cgi-bin/texis/vtx/research/opendoc.htm?tbl=RSDLEGAL&id=3ae6b36ec>

1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa

[http://www.africa-union.org/Official\\_documents/Treaties\\_%20Conventions\\_%20Protocols/Refugee\\_Convention.pdf](http://www.africa-union.org/Official_documents/Treaties_%20Conventions_%20Protocols/Refugee_Convention.pdf)

1954 Convention relating to the Status of Stateless Persons

<http://www.unhcr.org/cgi-bin/texis/vtx/protect/opendoc.pdf?tbl=PROTECTION&id=3bbb25729>

1961 Convention on the Reduction of Statelessness

<http://www.unhcr.org/cgi-bin/texis/vtx/protect/opendoc.pdf?tbl=PROTECTION&id=3bbb286d8>

1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

[http://www.unhchr.ch/html/menu3/b/h\\_cat39.htm](http://www.unhchr.ch/html/menu3/b/h_cat39.htm)

A more complete list of documents and available web links can be found at <http://menedek.hu/cdnp>

## National Language Resources

Suggested resource materials in national languages include:

- Relevant national legislative documents, laws, policy papers
- Articles, analyses concerning the above
- UNHCR country and regional statistics, mid-year and annual reports
- Statutes of Refugee assisting NGOs and self-help groups

Where to find these resources:

- Contact the government and appropriate national and local ministries
- Visit [www.unhcr.org](http://www.unhcr.org) to find country specific data
- Contact local agencies, NGOs, and UNHCR
- Visit <http://menedek.ispman.hu/cdnp/?q=node/5> for a detailed list of national contact information

20 different language versions of the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol can be accessed at: <http://menedek.ispman.hu/cdnp/?q=node/19>

## Social Work Codes and Important Documents

- International Federation of Social Workers: Ethics in Social Work, Statement of Principles  
<http://www.ifsw.org/en/p38000324.html>
- British Association of Social Workers Code of Ethics for Social Work  
<http://basw.co.uk/articles.php?articleId=2>
- National Association of Social Workers (United States) Code of Ethics  
<http://www.socialworkers.org/pubs/code/code.asp>
- List of various National Codes of Ethics  
<http://www.ifsw.org/en/p38000194.html>
- International Federation of Social Workers: International Policy Papers  
<http://www.ifsw.org/en/p38000079.html>
- UNHCR Code of Conduct & Explanatory Notes  
<http://www.unhcr.org/cgi-bin/texis/vtx/admin/opendoc.pdf?tbl=ADMIN&id=422dbc89a>
- ECRE Policy Position Papers  
[http://www.ecre.org/policy/position\\_papers.shtml](http://www.ecre.org/policy/position_papers.shtml)

## Some Relevant Websites

- Amnesty International: <http://www.amnesty.org>
- Eurasylum: <http://www.eurasylum.org>
- EU: <http://www.europa.eu.int>
- ECRE: <http://www.ecre.org>
- EU Networks on Integration of Refugees: <http://www.refugeenet.org>
- Forced Migration Review: <http://www.fmreview.org>
- Human Trafficking: <http://www.humantrafficking.org>
- Human Rights Watch: <http://www.hrw.org>
- Internal Displacement Monitoring Centre (IMDC): <http://www.internal-displacement.org>
- International Centre for Migration Policy Development: <http://www.icmpd.org>
- International Detention Coalition: <http://http://idcoalition.org/portal/index.php>
- International Federation of Social Workers: <http://www.ifsw.org/home>
- International Helsinki Federation for Human Rights: <http://www.ihf-hr.org/index.php>
- International Labour Organization (ILO): <http://www.ilo.org>
- International Rescue Committee: <http://www.theirc.org>
- Migration Policy Institute (MPI): <http://www.migrationpolicy.org>  
includes: Migration Information Source: <http://www.migrationinformation.org>
- Refugees International: <http://www.refugeesinternational.org>
- Reliefweb: <http://www.reliefweb.int>
- Save the Children (SCF): <http://www.savethechildren.org>
- Separated Children in Europe Program (SCEP):  
<http://www.separated-children-europe-programme.org>
- The Refugee Law Reader: <http://www.refugeelawreader.org>
- UNHCR: <http://www.unhcr.org>
- UNICEF: <http://www.unicef.org>
- US Committee for Refugees and Immigrants (USCRI): <http://www.refugees.org>
- Women's Commission: <http://www.womenscommission.org>
- World Refugee: <http://www.worldrefugee.com>

TERM	DEFINITION
Accession	The act whereby a state accepts the opportunity to become a party to a treaty already negotiated and signed by other states.
Advocacy	Acting on behalf of a client to obtain needed resources and services.
Alien	A person who is not a national of a given state.
Amnesty	A legal guarantee that exempts a person or group of persons from liability for criminal or political offences. If respected and properly applied, an amnesty can help promote the voluntary repatriation of refugees.
Asylum	The grant, by a state, of protection on its territory to persons from another state who are fleeing persecution or serious danger.
Asylum seekers	Persons seeking to be admitted into a country as refugees and awaiting a decision on their application for refugee status under relevant international and national instruments.
Basic needs	Includes food nutritive enough to avoid malnutrition, shelter, clothing, public services for education, clean water and health care.
Border control	A state's regulation of the entry of persons to its territory, in the exercise of its sovereignty.
Children (minors)	Persons who are below the legal age of majority and are therefore not legally independent. This term includes adolescents. Under the Convention on the Rights of the Child (CRC), a "child" is a person who is below the age of eighteen, unless the applicable law sets a lower age. The CRC equates "child" with "minor".
Civil and political rights	The rights of citizens to liberty and equality; sometimes referred to as first generation rights. Civil rights include freedom to worship, to think and express oneself, to vote, to take part in political life, and to have access to information.
Community development	A process to improve the economic, social and cultural conditions of communities. Community development aims to integrate refugees into their host countries or to reintegrate them upon return to their country of origin, while improving the living standards of the whole community.
Complementary protection	Formal permission under national law or practice, to reside in a country, which is extended by that country to persons in need of international protection even though they do not qualify for 1951 Convention refugee status.
Convention(s)	Formal international agreements among nations (to which states become party), which create binding legal obligations. Such agreements may have different names: treaty, convention, covenant, or pact. Conventions are one of two main types of UN human rights instruments, the other being UN standards.
Convention refugees	Persons recognized as refugees by states under the criteria in Article 1 A of the 1951 Convention, and entitled to the enjoyment of a variety of rights under that Convention.
De facto refugees	Refugees who are unable or unwilling to obtain recognition of Convention status, or who are unable or unwilling for valid reasons to return to their country of origin.

## D-F GLOSSARY

TERM	DEFINITION
Dependant	A person who relies on another for support. In the migration context, a spouse and minor children are generally considered 'dependants', even if the spouse is not financially dependent.
Deportation	The act of a state in the exercise of its sovereignty in removing an alien from its territory to a certain place after refusal of admission or termination of permission to remain.
Derogation	International human rights law allows states to derogate from their obligations and restrict the enjoyment of human rights, but only under exceptional circumstances and strict conditions.
Detention	Restriction on freedom of movement, usually through enforced confinement.
Displaced persons	Concept used since the early 1970's to describe all persons in need of international protection of concern to UNHCR. Includes both people who have crossed an international border and people displaced within their own country.
Dublin II Regulation	Council Regulation (EC) No.343/2003 provides that asylum seekers have to lodge their application for asylum in the first EU country in which they arrive. If they do not, they may be returned to another EU member state if it can be shown that they have either passed through the border of another state (by air, sea or land) or made an application for asylum in another member state.
Durable solutions	Any means by which the situation of refugees can be satisfactorily and permanently resolved to enable them to live normal lives. UNHCR traditionally pursues the durable solutions of voluntary repatriation, local integration and resettlement.
Economic migrant	A person leaving his/her habitual place of residence to settle outside his/her country of origin in order to improve his/her quality of life.
Economic social and cultural rights	Commonly used to describe the various rights declared and protected in the 1966 Covenant on Economic, Social and Cultural Rights, including the right to work, to just and favourable conditions of employment, to form and join trade unions, to social security, food and freedom from hunger, education, and participation in cultural life.
Environmental refugees	Those displaced as a result of sudden, drastic environmental changes.
Exclusion clauses	Legal provisions that deny the benefits of international protection to persons who would otherwise satisfy the criteria for refugee status. (1951 Convention, Articles 1D, 1E and 1F).
Expulsion	Removal of a lawful resident from the territory of a state by government authorities. Under Article 32 of the 1951 Convention, national security and public order are the only permissible grounds for the expulsion of a refugee.
Family reunification	Process whereby family members already separated through forced or voluntary migration regroup in a country other than the one of their origin.

TERM	DEFINITION
Family unity principle	A principle that gives effect to the protection of the family as the natural and fundamental group unit of society, as described in Article 16 of the Universal Declaration of Human Rights. Under this principle, refugee status may be granted to the spouse and dependents of a person who meets the refugee criteria. When spouses and dependents acquire refugee status by application of the family unity principle, they are said to enjoy “derivative status”.
Flight	Used to cover departure (from country of origin) and movement of refugees, either as individuals or in groups up to the time of their arrival in the receiving country.
Forced migration	A migratory movement in which an element of coercion exists, including threats to life and livelihood, whether arising from natural or man-made causes
Forced return	The compulsory return of an individual to the country of origin, transit or third country, on the basis of an administrative or judicial act.
Gender	The social and cultural codes used to distinguish between what a society considers “masculine” or “feminine” conduct.
Gender-related persecution	Persecution that targets or disproportionately affects a particular gender. Under certain factual circumstances, gender-related persecution may come within the refugee definition.
Group determination of refugee status	A practice by which all persons forming part of a large-scale influx are regarded as refugees on a prima facie basis. Group determination ensures that protection and assistance needs are met without prior individual status determination.
Human rights	Agreed international standards that recognize and protect the dignity and integrity of every individual, without any distinction. Human rights form part of customary international law and are stipulated in a variety of national, regional and international legal documents generally referred to as human rights instruments. The most prominent of these are the United Nations Charter, and the UN Bill of Rights, made up of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic and Social Rights.
Humanitarian assistance/relief	Aid that addresses the immediate needs of individuals affected by crises and is provided mainly by non-governmental and international organizations.
Humanitarian status/protection	When a person is formally permitted, under national law, to reside in a country on humanitarian grounds. These may include persons who do not qualify for refugee status.
Illegal entry	Act of crossing borders without complying with the necessary requirements for legal entry into the receiving state.
Inclusion clauses	Clauses in the 1951 Convention that define the criteria that a person must satisfy in order to be recognized as a refugee.
Internal displacement	Involuntary movement of people inside their own country. This movement may be due to a variety of causes, including natural or human-made disasters, armed conflict, or situations of generalised violence.
Internal migration	A movement of people from one area of a country to another (without crossing an international border) for the purpose or with the effect of establishing a new residence.

## I-N GLOSSARY

TERM	DEFINITION
Internally displaced persons (IDPs)	Those persons forced or obliged to flee from their homes (see Internal Displacement), but who have not crossed an internationally recognized state border.
International Humanitarian Law (or Law of Armed Conflict)	The body of law, regulations and principles that governs situations of international or non-international armed conflict. The core instruments of international humanitarian law are the four Geneva Conventions of 12 August 1949 and their two Additional Protocols of 8 June 1977. Virtually every state is a party to the Geneva Conventions of 1949.
International migration	Movement of persons who leave their country of origin, or the country of habitual residence, to establish themselves either permanently or temporarily in another country.
International Refugee Law	The body of customary international law and international instruments that establishes standards for refugee protection. The cornerstone of refugee law is the 1951 Convention and its 1967 Protocol relating to the Status of Refugees.
Irregular migration	Movement that takes place outside the regulatory norms of the sending, transit and receiving countries.
Irregular movement of refugees	The phenomenon of refugees or asylum-seekers moving illegally from a first country of asylum, in order to seek asylum or permanent settlement in another country.
Jus sanguinis (Latin)	The rule that determines a child's nationality by its parents' nationality, irrespective of the place of its birth.
Jus soli (Latin)	The rule that determines a child's nationality by its place of birth (although it can also be conveyed by the parents).
Lawfully residing	Being granted a residence permit (or its equivalent), which enables a person to establish him/herself on a permanent basis in the territory of a state.
Lawfully staying	Being lawfully present (usually on a temporary basis) in the territory of a state, i.e. in accordance to frontier formalities and entry regulations, or with the permission of the authorities.
Local integration	A durable solution to the problem of refugees that involves their permanent settlement in a country of first asylum, and eventually being granted nationality of that country.
Mandate refugees	Persons who are recognized as refugees by UNHCR acting under the authority of its Statute and relevant UN General Assembly resolutions. Mandate status is especially significant in States that are not parties to the 1951 Convention or its 1967 Protocol.
Migration	A process of moving, either across an international border, or within a state. It includes migration of refugees, displaced persons, uprooted people, and economic migrants.
Nationality	The status of being a citizen of a particular nation or country.
Naturalisation	Granting by a state of its nationality to an alien through a formal act on the application of the individual concerned.

TERM	DEFINITION
Non-derogable rights	While most human rights are not absolute and can be limited in their application, some rights are not derogable i.e. know no limitations or exceptions under any conditions, including the following: the right to life; the right not to be subjected to torture, or to cruel, inhuman or degrading treatment or punishment; freedom from slavery and servitude; freedom of thought, conscience and religion.
Non-refoulement	A core principle of international refugee law that prohibits states from returning refugees in any manner whatsoever to countries or territories in which their lives or freedom may be threatened. The principle of non-refoulement is a part of customary international law and is therefore binding on all states, whether or not they are parties to the 1951 Convention.
Participatory approach	An approach to development and/or government in which key stakeholders (and especially the proposed beneficiaries) of a policy or intervention are closely involved in the process of identifying problems and priorities and have considerable control over analysis and the planning, implementation and monitoring of solutions.
Permanent residence	The right, granted by a host state to a non-national, to live and work therein on a permanent (unlimited) basis.
Persecution	The core concept of persecution was deliberately not defined in the 1951 Convention, suggesting that the drafters intended it to be interpreted in a sufficiently flexible manner so as to encompass ever-changing forms of persecution. It is understood to comprise human rights abuses or other serious harm, often, but not always, with a systematic or repetitive element.
Persons of concern to UNHCR	A generic term used to describe all persons whose protection and assistance needs are of interest to UNHCR. These include refugees under the 1951 Convention, persons who have been forced to leave their countries as a result of conflict or events seriously disturbing public order, asylum seekers, returnees, stateless persons, and, in some situations, internally displaced persons. UNHCR's authority to act on behalf of persons of concern other than refugees is based on General Assembly and ECOSOC resolutions.
Post-traumatic stress disorder (PTSD)	Post-traumatic Stress Disorder, or PTSD, is a psychiatric disorder that can occur following the experience or witnessing of life-threatening events such as military combat, natural disasters, terrorist incidents, serious accidents, or violent personal assaults like rape.
Prima facie determination of refugee status	see Group determination of refugee status
Prima facie refugees	Persons recognised as refugees, by a state or UNHCR, on the basis of objective criteria related to the circumstances in their country of origin, which justify a presumption that they meet the criteria of the applicable refugee definition.
Protocol	An addition to the original text of a convention. It may include further agreements or involve amendments to the original text due to new circumstances. It can be procedural or substantive in nature.

## Ra-Re GLOSSARY

TERM	DEFINITION
Ratification	Defines the international act whereby a state indicates its consent to be bound to a treaty if the parties intended to show their consent by such an act. In the case of bilateral treaties, ratification is usually accomplished by exchanging the requisite instruments, while in the case of multilateral treaties the usual procedure is for the depositary to collect the ratifications of all states, keeping all parties informed of the situation. The institution of ratification grants states the necessary time-frame to seek the required approval for the treaty on the domestic level and to enact the necessary legislation to give domestic effect to that treaty.
Readmission agreement	Agreement which addresses procedures for one state to return aliens in an irregular situation to their home state or a state through which they passed en route to the state which seeks to return them.
Reception	Ways, means and policy of receiving refugees in the territory on a permanent or temporary basis.
Reception centre	A location with facilities for receiving, processing and attending to the immediate needs of refugees or asylum-seekers as they arrive in a country of asylum.
Refugee	A person, who 'owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, 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' (Convention relating to the Status of Refugees, Art. 1A(2), 1951 as modified by the 1967 Protocol).
Refugee processing centres	Centres where refugees, once selected for resettlement, are gathered in order to receive the orientation and language training, which will help them to face their new life.
Refugee status determination procedures	Legal and administrative procedures undertaken by UNHCR and/or states to determine whether an individual should be recognized as a refugee in accordance with national and international law.
Regional refugee instruments	International legal documents relating to refugees that are adopted by states or intergovernmental organizations within a geographical region or sub-region.
Registration	The process of identifying and documenting individuals and families of concern to UNHCR by which systematic information is obtained to facilitate protection, programme planning and verification.
Regular migration	Migration that occurs through recognized, legal channels.
Regularisation	Any process by which a country allows aliens in an irregular situation to obtain legal status in the country.
Reintegration	A process which enables returnees to regain their physical, social, legal and material security needed to maintain life, livelihood and dignity and which eventually leads to the disappearance of any observable distinctions vis-à-vis their compatriots.
Rejection at the border	In the refugee context, the refusal to allow an asylum-seeker entry into a prospective country of asylum. Rejection at the border may result in a violation of the principle of non-refoulement.
Repatriation	The personal right of a refugee or a prisoner of war to return to his/her country of nationality under specific conditions laid down in various international instruments

<b>TERM</b>	<b>DEFINITION</b>
Repatriating asylum-seekers (noun)	Citizens returning after having attempted to seek asylum abroad. In principle, this category includes persons who return after their asylum cases have been decided negatively as well as persons who may not have been able to apply for asylum but who stayed abroad under temporary protection for some time.
Repatriating refugees (noun)	Citizens returning after having enjoyed asylum abroad. Both refugees returning under internationally assisted repatriation programmes and those returning spontaneously are included in this category.
Residence	The act or fact of living in a given place for some time; the place where one actually lives as distinguished from a domicile.
Residence permit	The legal documentation showing a foreigner's right to stay in a country - for a determined period of time.
Returnees	Refugees who have returned to their country or community of origin
Right of asylum	The right of the state, in virtue of its territorial sovereignty and in the exercise of its discretion, to allow a non-national to enter and reside, and to resist the exercise of jurisdiction by any state over that individual. (N.B. There is no individual 'right of asylum'; the 1951 Refugee Convention grants individuals the right to 'seek asylum'.)
Rights based approach	A conceptual framework for the process of human development that is normatively based on international human rights standards, and operationally directed to promoting and protecting human rights. It integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development.
Safe country of origin	A country of origin of asylum seekers is considered safe if it does not, or not generally, produce refugees. Receiving countries may use the concept of safe country of origin as a basis for rejecting summarily (without examination of the merits) particular groups or categories of asylum seekers.
Safe third country	A country in which an asylum-seeker could have had access to an effective asylum regime, and in which he/she has been physically present prior to arriving in the country in which she/he is applying for asylum.
Sanctuary	De facto protection, which is based on accepted or perceived inviolability of a place where the fugitive has sought refuge. (An historic example would be a church.)
Self-reliance	The ability of an individual, household or community to depend (rely) on their own resources (physical, social and natural capital or assets), judgement and capabilities with minimal external assistance in meeting basic needs, and without resorting to activities that irreversibly deplete the household or community resource base.
Sending country	A country from which people leave to settle abroad permanently or temporarily.
Separated children	Children being looked after by adults in the absence of their parents or usual adult care-taker.
Sexual and gender-based violence (SGBV)	Acts that inflict physical, mental or sexual harm or suffering, threat of such acts, coercion and other deprivations of liberty, that target individuals or groups of individuals on the basis of their gender.
Signatory to a convention	A country supporting the purposes of the convention, but not legally committed to comply with the provisions until the country's legislature officially ratifies it.

## S-T GLOSSARY

TERM	DEFINITION
Smuggling (of people)	The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national or a permanent resident (Art. 3(a), UN Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000).
Social security	The 'earned' social security benefits of workers and their families. On many occasions, the term social security is used in a general meaning, covering both social insurance and social assistance.
Social inclusion	Ensuring the marginalised and those living in poverty have greater participation in decision making which affects their lives, allowing them to improve their living standards and their overall wellbeing.
Social welfare	Need-based assistance provided for individuals or groups from public funds, raised through tax revenues, in order to provide certain minimum standards and opportunities. Social welfare comprises a range of institutions involving both the provision of programmes of income security and social services.
Spontaneous return	Voluntary repatriation to the country of origin of the refugees on their own without assistance by UNHCR or the international community.
State	A political entity with legal jurisdiction and effective control over a defined territory, and the authority to make collective decisions for a permanent population, a monopoly on the legitimate use of force, and an internationally recognized government that interacts, or has the capacity to interact, in formal relations with other entities.
Stateless person	A person who, under national laws, does not have the legal bond of nationality with any state. Article 1 of the 1954 Convention relating to the Status of Stateless Persons indicates that a person not considered a national (or citizen) automatically under the laws of any state, is stateless.
Statelessness	The condition of not being considered as a national by any state under the operation of its law.
States parties	The term used to refer to countries, which have ratified or acceded to a convention. Conventions are binding only upon states parties
Statutory refugees	Persons considered to be refugees under the provisions of the international instruments that were in force before the 1951 Refugee Convention.
Subsidiary protection	The 1951 Refugee Convention does not cover all aspects and situations faced by asylum seekers and for this reason some states provide subsidiary protection to asylum seekers who do not fulfil the Convention definition of refugee, but are nevertheless deemed to require international protection on humanitarian grounds.
Temporary protection	An arrangement developed by states to offer protection of a temporary nature to persons arriving en masse from situations of conflict or generalized violence, without prior individual status determination.
Third-country resettlement	Third-country resettlement is usually the last option of the three durable solutions. When repatriation would be unsafe and the first-asylum country refuses local integration, a third country must be found to accept the refugees.

TERM	DEFINITION
Torture	Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public or other person acting in an official capacity. (UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).
Total migration/net migration	Total migration is the sum of the entries or arrivals of immigrants, and of exits, or departures of emigrants; net migration is the balance resulting from the difference between arrivals and departures.
Trafficking (of people)	The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation (Art. 3(a), UN Protocol to Prevent, Suppress and Punish trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Organized Crime, 2000).
Trauma	A medical term for any sudden injury or damage to an organism. Psychological trauma is an event that is outside the range of usual human experience and which is so seriously distressing as to overwhelm the mind's defenses and cause lasting emotional harm. Psychological traumata include natural disasters, accidents, or human actions, such as child abuse, rape, torture, etc., which cause the victim to be terrified, helpless, and under extreme physical stress.
Travel documents	All documents, which are acceptable proof of identity for the purpose of entering another country. Passports and visas are the most widely used forms of travel documents.
Treaty	see also Convention. A formal agreement, principally between states, that creates binding legal obligations between its parties. Treaties are one source of international law.
Unaccompanied minors	Persons below the legal age of majority who are not in the company of an adult who, by law or custom, is responsible to do so, such as parents, guardians or primary care-givers.
Unaccompanied refugee child (URC)	A URC is a person under 18 years of age (this age is used by UNHCR and in the UNCRC, although the age varies from country to country), who is separated from both parents and is not being cared for by an adult who by law or custom has responsibility to do so and is an asylum-seeker, a de facto refugee, a recognised refugee or other externally displaced person.
United Nations High Commissioner for Refugees (UNHCR)	Established in 1951, UNHCR is the branch of the United Nations charged with the international protection of refugees. UNHCR has increasingly been asked not only to protect refugees, but to provide assistance to them.

## U-Z GLOSSARY

TERM	DEFINITION
Universal Declaration of Human Rights (UDHR)	Adopted by the general assembly on December 10, 1948. Primary UN document establishing human rights standards and norms. All member states have agreed to uphold the UDHR. Although the declaration was intended to be Nonbinding, through time its various provisions have become so respected by states that it can now be said to be Customary International Law.
UNHCR mandate	The role and functions of UNHCR as set forth in the UNHCR Statute and as elaborated in resolutions of the United Nations General Assembly. UNHCR's mandate as declared in its Statute is to provide international protection and seek permanent solutions for refugees. UNHCR has an additional mandate concerning issues of statelessness, as it is given a designated role under Article 11 of the 1961 Convention on the Reduction of Statelessness. The Office has also been requested by the General Assembly to promote the 1954 and 1961 statelessness Conventions, and to help prevent statelessness by providing to states technical and advisory services on nationality legislation and practice.
Visa	An endorsement by a consular officer in a passport or a certificate of identity that indicates that the officer, at the time of issuance, believes the holder to fall within a category of non-nationals who can be admitted under the state's laws.
Voluntary repatriation/return	Return to the country of origin based on the refugees' free and informed decision. Voluntary repatriation may be organised, (i.e. when it takes place under the auspices of the concerned governments and UNHCR), or spontaneous (i.e. the refugees return by their own means with UNHCR and governments having little or no direct involvement in the process of return).
Vulnerable groups	Any group or sector of society at higher risk of being subjected to discriminatory practices, violence, natural or environmental disasters, or economic hardship, than other groups within the state; any group or sector of society (such as women, children older people or the disabled) that is at higher risk in periods of conflict and crisis.
Well-founded fear of persecution	see also Persecution. A key element of the 1951 Convention's definition of a refugee. Well-foundedness of fear contains both a subjective element (fear of persecution) and an objective element (the fear must have an objectively justifiable basis). According to the 1951 Convention, persecution must be linked to any one of the five specified grounds: race, religion, nationality, membership of a particular social group and political opinion.
Xenophobia	While no universally accepted definition of xenophobia exists, it can be described as attitudes, prejudices and behaviour that reject, exclude and often vilify persons based on the perception that they are outsiders or foreigners to the community, society or national identity.

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