

Lesson Plan Overview

Course	Asylum Officer Basic Training Course
Lesson	<i>Introduction to the United Nations High Commissioner for Refugees (UNHCR) and Concepts of International Protection</i>
Lesson Description	<p>This lesson describes the development of international protection of refugees and other individuals over the course of the 20th century and explains the role of the UNHCR and other international actors in providing this protection. The lesson describes the elements of international protection, who is in need of international protection, and who provides international protection.</p> <p>This lesson is given to students as critical background information regarding the larger international system in which the United States operates. However, because this objective is not supported by any critical tasks identified by the Asylum Officer Validation of Basic Training Final Report (Phase One) of October 2001, training on this lesson in AOBTC will be minimal and the contents of the lesson will not be tested.</p>
Field Performance Objectives	As an actor in international refugee protection, the asylum officer will describe the global system of international protection and how his or her actions contribute to the process.
Interim (Training) Performance Objectives	<ol style="list-style-type: none"> 1. Explain the origin and core principles of refugee protection. 2. Identify the groups in need of international protection. 3. Identify the roles and responsibilities of all the actors in refugee protection. 4. Explain the goals of international protection. 5. Explain the challenges that particular refugee situations pose to the providers of international protection.
Instructional Methods	Presentation and Discussion; this lesson is not tested
Student Materials / References	Participant Workbooks; <i>Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees</i> (Geneva: January 1992), p. 57 (including the 1951 Convention and the 1967 Protocol); other UNHCR-provided materials.
Background Reading	1. <i>Declaration on Territorial Asylum</i> , Article 2(2). G.A. Res. 2312

Note that many of these documents are available on the UNHCR website: www.unhcr.org.ch.

- (XXII), U.N. G.A.O.R., December 14, 1967 (attached).
2. [Statute of the Office of the United Nations High Commissioner for Refugees](#). G.A. Res. 428(v), U.N. GAOR, Dec. 14, 1950 (attached).
 3. United Nations High Commissioner for Refugees (UNHCR). *Conclusions on the International Protection of Refugees adopted by the Executive Committee of the UNHCR Programme* (Geneva: 1993), 173p.
 4. United Nations High Commissioner for Refugees, [Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees](#). HCR/GIP/03/05, 4 September 2003, 9 pp. (attached)
 5. United Nations High Commissioner for Refugees, [Guidelines on International Protection: Cessation of Refugee Status under Article 1C\(5\) and \(6\) of the 1951 Convention relating to the Status of Refugees \(the "Ceased Circumstances" Clauses\)](#). HCR/GIP/03/03, 10 February 2003, 8 pp. (attached)
 6. United Nations High Commissioner for Refugees, [Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees](#). HCR/GIP/02/01, 7 May 2002, 10 pp. (attached)
 7. United Nations High Commissioner for Refugees, [Guidelines on International Protection: "Internal Flight or Relocation Alternative" within the Context of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees](#). HCR/GIP/03/04, 23 July 2003, 8 pp. (attached)
 8. United Nations High Commissioner for Refugees, [Guidelines on International Protection: "Membership of a particular social group" within the context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees](#). HCR/GIP/02/02, 7 May 2002, 5 pp. (attached)
 9. United Nations High Commissioner for Refugees, [Guidelines on International Protection: Religion-Based Refugee Claims under Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees](#). HCR/GIP/04/06, 28 April 2004, 12 pp. (attached)
 10. UNHCR. [Guidelines on the Protection of Refugee Women](#) (Geneva: July 1991), 67p.

11. UNHCR. [Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees](#) (Geneva: January 1992), 93 p. (including the 1951 Convention and the 1967 Protocol).
12. UNHCR. *Protecting Refugees: Questions & Answers* (Geneva: February 1996), 19p.([2006 edition](#))
13. UNHCR. [Refugee Children: Guidelines on Protection and Care](#) (Geneva: 1994), 182p.

This lesson is based on previous training sessions conducted by UNHCR staff at the Asylum Officer Basic Training Course. Buti Kale, Protection and Legal Officer, Bemma Baabo Donkoh, (former) Deputy Regional Representative for the U.S. and the Caribbean, and Eduardo Arboleda, Deputy Regional Representative for the U.S. and the Caribbean, all of the UNHCR, contributed significantly to the development of this lesson.

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Presentation**I. INTRODUCTION**

The purpose of this lesson is to introduce the student to the role of the United Nations High Commissioner for Refugees (UNHCR) in the protection of refugees around the world. This lesson provides an overview of the history, mandate, endeavors, and objectives of the UNHCR. The issues of international human rights law and the definition of the term “refugee” that are touched upon here are covered in greater detail in the lessons *International Human Rights Law* and *Sources of Authority*, among others.

II. ORIGINS OF INTERNATIONAL PROTECTION FOR REFUGEES**A. Early 20th Century Responses to Refugee Problems**

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

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

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

References**Instructor Note 1****OH 1 & 2: Field and Interim Performance Objectives**

UNHCR. *The State of the World’s Refugees: The Challenge of International Protection* (New York: 1993) pp. 11-12.

UNHCR. “The Evolution of Refugee Protection,” *The State of the World’s Refugees: The Challenge to Protection* (New York: 1993) p. 11.

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

In 1949 the General Assembly of the United Nations voted to replace the IRO with a High Commissioner's Office of Refugees. On December 14, 1950, the General Assembly adopted the Statute of the Office of the United Nations High Commissioner for Refugees ("The Statute"). The Statute serves as UNHCR's constitution and defines its dual mandate to provide protection to refugees and to seek solutions to refugee problems. UNHCR began its activities on January 1, 1951.

OH 3: United Nations High Commissioner for Refugees
See, [Statute of the Office of the United Nations High Commissioner for Refugees](#).
G.A. Res. 428(v), U.N. GAOR, Dec. 14, 1950

UNHCR. [Training Module: An Introduction to the International Protection of Refugees](#) (June 1992), p. 11.

C. 1951 Convention Relating to the Status of Refugees

The 1951 Convention Relating to the Status of Refugees ("1951 Convention") was constructed alongside the Statute. The Convention is a legally binding treaty that outlines the basic standards of refugee protection that all contracting parties agree to provide.

[UNHCR. 1951 Convention Relating to the Status of Refugees](#). United Nations *Treaty Series* (vol. 189), p. 139; also found in [UNHCR. Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees](#) (Geneva: January 1992), p. 57.

Some of the key elements of the Convention are:

1. Universal definition no longer linked to specific national groups

The Convention enshrines a general definition of a refugee: a refugee is one who is outside his or her former home country owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group, or political opinion, and who is unable or unwilling to avail himself or herself of the protection of that country, or return there for reasons of fear of persecution.

2. Principle of *non-refoulement* established

Non-refoulement refers to the principle according to which no person may be returned to a country where he or she may face persecution. Article 33 of the Convention requires that no contracting party shall expel or return a refugee to a country in which his or her life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion.

3. Definition of a refugee limited by time and geography

The definition as conceived in the Convention limits the scope of those individuals who are entitled to international protection as refugees. The Convention states that an individual meets the definition of a refugee if he or she has fled his or her country as a result of events that took place before January 1, 1951. In addition, signatories were allowed the option of further limiting the definition of a refugee to those whose flight resulted from events occurring in Europe.

4. Supervision of refugee protection granted to UNHCR

Article 35 of the Convention assigns to UNHCR the duty of supervising the application of the standards in the Convention by the contracting parties to refugee situations on their territory.

D. 1967 Protocol Relating to the Status of Refugees

With the passage of time, it became evident that refugee movements were not a result unique to World War II. Newly emerging refugee populations confronted the international community with the reality that mechanisms designed to address refugee issues must be flexible and universal.

The 1967 Protocol Relating to the Status of Refugees (“1967 Protocol”) removed the 1951 dateline and the focus on Europe so that the definition of a refugee can be applied regardless of the timing or location of the events precipitating the individual’s flight.

[UNHCR. 1967 Protocol Relating to the Status of Refugees.](#) UNHCR Treaty Series (vol. 606), p. 267; also found in [UNHCR. Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees](#) (Geneva: January 1992), p. 81.

E. Regional Expansions of the Refugee Definition

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

The United States is not a signatory to either of the instruments discussed below and neither instrument has any legal status in the United States.

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

The 1969 OAU Convention expanded the realm of international protection provided by its signatories by including in the definition of a refugee those individuals

Organization for African Unity. [Convention Governing the Specific Aspects of Refugee Problems in Africa](#), in UNHCR. *Collection of International Instruments and other Legal Texts Concerning Refugees and Displaced Persons* (Geneva: 1995), p. 3.

compelled to move as a result of “external aggression, occupation, foreign domination, or events seriously disturbing public order in either part or the whole of his country of origin or nationality.”

Note that the heads of state of the countries of the OAU dissolved the organization on July 8, 2002. The African Union was established as its successor.

2. Cartagena Declaration on Refugees

In 1984 the Central American countries, plus Mexico, met to address their concerns regarding the large flow of refugees fleeing civil wars across the region. The countries adopted a declaration (though not formally binding on the signatories) that built on the expanded definition of the OAU Convention to include “massive violation[s] of human rights” as an additional circumstance in which an individual fleeing his or her country of nationality could be considered a refugee by countries adopting this policy.

[Cartegna Declaration on Refugees](#), in UNHCR. *Collection of International Instruments and other Legal Texts Concerning Refugees and Displaced Persons* (Geneva: 1995), p. 206.

UNHCR. “The Evolution of Refugee Protection,” *The State of the World’s Refugees: The Challenge to Protection* (New York: 1993) p. 12.

F. Expansion of UNHCR’s Protection Responsibilities

In the years following the break-up of the Soviet Union and the ensuing civil strife in such countries as Armenia, Azerbaijan, Georgia, Russia, Tajikistan, Turkmenistan, and Uzbekistan, UNHCR increasingly has been called on to provide protection to individuals not covered by the Convention, the Protocol, or the expanded regional definitions. These groups of “persons of concern” are typically *internally displaced persons* (IDPs). Though they have not fled their country of nationality and therefore do not meet the definition of a refugee, they require the assistance of the international community because their home country does not have the means, or the inclination, to protect them.

See [Section III.B.6., Internally Displaced Persons](#), below

In recent years IDPs have come to outnumber refugees, creating a crisis in international protection. Though UNHCR is not legally responsible for the protection of those who do not fit within their mandate, the agency has stepped in on many occasions to meet the needs of IDPs. UNHCR determines on a case-by-case basis whether they will be able to undertake a mission to protect IDPs. In the absence of set criteria for making such decisions, UNHCR considers a number of factors such as the ability of the host country to help fund the mission, the commitment of the international community to support the effort, and the assessment of the risk of harm to the IDPs and protection personnel.

The International Committee of the Red Cross (ICRC) has the lead responsibility for responding to IDP situations. More information about ICRC can be found on the internet site at www.icrc.org. Also see the website for information on the International Red Cross and Red Crescent Movement, which is composed of the National Red Cross and Red Crescent Societies, the International Committee of the Red Cross, and the International Federation of Red Cross and Red Crescent Societies.

III. ELEMENTS OF INTERNATIONAL PROTECTION

A. What is International Protection?

OH 4: International Protection

States offer its citizens a number of rights and privileges that only it can provide – access to its courts, the right to vote in national elections, and access to its social service structures. However, there are circumstances when a state cannot or will not protect the human rights and security of some of its citizens. Where a nation has failed to protect its citizens' rights and privileges, another nation, either as a matter of charity or international obligation, may assume the responsibility for the protection of those citizens.

An individual can only benefit from international protection when:

1. national protection is not provided because national authorities are not capable or willing to provide care, and
2. an individual has crossed an international border.

See [Section III.B.6., Internally Displaced Persons](#), below

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

B. Who Needs International Protection?

There exist several categories of individuals who may benefit from the blanket of international protection. These categories include:

Instructor Note 2 OH 5: Refugee Protection (UNHCR Helps...)

1. Mandate refugees

Instructor Note 3

Mandate refugees are those individuals who are considered by UNHCR to be refugees according to the Statute. These refugees can receive the protection of UNHCR regardless of whether the country of first asylum is a party to the 1951 Convention or the 1967 Protocol or has recognized them as refugees. Though UNHCR protects their rights, these refugees do not receive the benefits accorded to refugees who are recognized as such by states who are party to the Convention or Protocol.

See, [Statute of the Office of the United Nations High Commissioner for Refugees](#). G.A. Res. 428(v), U.N. GAOR, Dec. 14, 1950.

Example: Eritrea is not a party to either the Convention or the Protocol. If individuals fearing persecution in Djibouti flee to Eritrea, UNHCR will recognize them as refugees and provide protection. However, because there is no system of asylum in place in Eritrea, those individuals will not have

any status there. UNHCR has the *mandate* to protect these individuals despite the fact that the country of origin does not hold any responsibility to protect them.

2. Convention refugees

Convention refugees are persons recognized as refugees by a state party to the Convention or Protocol. These individuals are entitled to claim the benefits (such as work permission, permanent residency, voting rights, property rights, or citizenship) that the state has agreed to confer to refugees.

Example: On November 10, 2000, Trinidad and Tobago became the most recent country to become party to the Convention and the Protocol. If individuals fearing persecution in Venezuela flee to Trinidad and Tobago, they can take advantage of the legal structures in place and apply for asylum in Trinidad and Tobago. UNHCR will recognize these individuals as refugees and ensure that they are protected from *refoulement*.

3. Refugees under regional instruments

This category includes individuals fleeing their countries of origin not for reasons enumerated in the Convention definition of a refugee, but for the reasons contained in the OAU Convention and Cartagena Declaration described above. Though many countries do not recognize as refugees those individuals fleeing their countries for the reasons added by these regional agreements, the UNHCR does find these populations in need of protection.

See [Section II.E., *Regional Expansions of the Refugee Definition*](#), above.

4. Special classifications under national law

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

An example of such national protection is the safe haven offered by many European nations to those fleeing civil strife. Often the European country will permit the fleeing individual to remain in the country for a specific period and provide social welfare benefits, food, and lodging.

In some circumstances, Temporary Protected Status provided by the United States to certain aliens is another example of such a classification.

5. Returnees

Though the country of nationality resumes responsibility for the protection of the human rights of returning refugees, the unique circumstances of the return and reintegration into community life demands closer attention than that which a somewhat unstable national government may be able to provide. The international community assists the reintegration into and the development of the country of origin so that the return of the refugees does not become a destabilizing force.

6. Internally displaced persons

Mentioned above as a new category of individuals requiring international protection in recent years, internally displaced people, or IDPs, are not entitled to the protection of UNHCR under the Refugee Convention, because they have not fled their country of nationality or last habitual residence. While these individuals remain in their country of nationality, it is that country's obligation to protect its citizens.

However, Article 9 of the Statute allows UNHCR to work with non-refugees "as the General Assembly may determine, within the limits of the resources placed at his [or her] disposal." Over the last several decades, the General Assembly sanctioned UNHCR to employ its unique expertise to protect the rights of IDPs.

Providing protection to these groups is complicated by the necessity for cooperation from the very state that has demonstrated that it is unable or unwilling to protect these individuals itself; nonetheless, UNHCR has found success in assisting these populations and their countries of nationality.

Statute of the Office of the United Nations High Commissioner for Refugees.
G.A. Res. 428(v), U.N. GAOR, Dec. 14, 1950, Article 9.

Note that the ICRC has taken the lead role in providing protection for IDPs.

Instructor Note 4

C. Who are Actors in International Protection?

Many organizations and entities work together to protect the rights and physical safety of refugees. Entities involved in this protection include:

Instructor Note 5 OH 6: Actors in International Protection

1. States

As countries of first asylum or countries of resettlement, states are bound by international obligations to provide for the protection of the rights of refugees.

2. United Nations/UN High Commissioner for Refugees

Even within the UN system the work of caring for refugees does not fall solely on the shoulders of UNHCR. Other UN agencies, such as the World Food Programme (WFP), the World Health Organization (WHO), and the International Labor Organization (ILO) participate in refugee assistance efforts.

3. International organizations

International organizations such as the International Committee of the Red Cross respond to refugee crises along with the UNHCR. Present all over the globe, international organizations are equipped to respond immediately to emergencies. Their global perspective and their lack of affiliation with one nation over another makes it more likely that the needs of all refugees will be met regardless of the political situation surrounding the crisis or the visibility of the problem in foreign media.

The International Organization for Migration (IOM) is one of the key intergovernmental organizations providing services to refugees. IOM is best known for its efforts to provide transportation for large groups of refugees needing to be brought to safety.

Detailed information about IOM can be found on the internet site at www.iom.int.

4. Intergovernmental organizations

Intergovernmental organizations promote a unified, and often regional, approach to refugee protection across nations who have an interest in maintaining a stable environment for refugees and their own citizens.

For example, beginning in the 1950s and continuing to the present, the countries of Europe have reached through the mechanisms of the Council of Europe and the European Union several agreements that intend to unify Europe's approach to refugee protection. Resolving issues such as travel documents, visa requirements, the transfer of responsibility for protection from one state to another, and procedures for examining and conferring eligibility for asylum status promotes an environment in which each country participates equally in protecting the refugees who cross their borders.

5. Non-governmental organizations and voluntary agencies

Non-governmental organizations (NGOs) play a role in international protection at the prevention, emergency response, and resolution stages of a refugee crisis. The international community relies heavily on NGOs already on the ground in areas of potential unrest to provide information on the situation and respond immediately as events unfold. In addition, the commitment of NGOs to providing assistance to groups at all stages make them ideal candidates to follow the process into the resolution and reintegration phases to monitor the success of implementation plans.

A unique type of non-government organization, known as voluntary agencies, or “volags,” contribute significantly to the protection of refugees. In the United States Refugee Program, volags, funded by a combination of government contracts and private funding, provide services tailored to the needs of refugees such as casefile preparation, family history documentation, travel coordination, cultural orientation, and integration into the country of resettlement. Examples of voluntary agencies that work with UNHCR and the United States government include the International Catholic Migration Commission, World Relief, and the Hebrew Immigrant Aid Society.

Instructor Note 6

UNHCR. “The Role of NGOs in the Field,” *The State of the World’s Refugees: The Challenge of International Protection* (New York: 1993) pp. 11-12.

6. Local population

The support of the local population is essential to providing refugees with the stability required to move forward with their lives despite their unfortunate circumstances. A welcoming attitude from the local population goes a long way to heal the emotional wounds of having to flee a country fearing for one’s life. Furthermore, the local population may be in a position to provide refugees with jobs, shelter, and community support should repatriation no longer be a viable solution.

7. Media

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

8. Refugees

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

D. What are the Goals of International Protection?

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

1. Admission of refugees to safety

In order for the international community to have access to those individuals who are fleeing their countries of nationality for lack of national protection, refugees must cross an international border. This requires that UNHCR or other members of the international community be present at locations where a refugee could be refused entry into the country of asylum.

2. Ensure respect for the principle of *non-refoulement*

Once refugees have been allowed safe passage into the country of asylum the international community must ensure that they are not in danger of being returned to a country where they fear for their lives.

3. Protect refugees from physical attack and/or prosecute human rights abusers or criminals

Despite the best efforts of the international community to meet the needs of refugees, refugee camps by nature are unstable environments. In certain situations refugees can be especially vulnerable to physical harm even in the refugee camp. Camps may be composed of individuals of different ethnic or religious groups, some of whom might have been on opposite sides of a conflict in the country of origin. In addition, members of the local population working in and around the camp may harbor anger or frustration with the refugees' presence in the country of asylum. It is the responsibility of the country of asylum and the international community to do everything possible to prevent physical

OH 7: Refugee Protection (*Non-Refoulement* and Basic Human Rights)

Note: These statements do not apply to IDPs, for whom international protection can be arranged if the host country is willing to surrender that responsibility to the international community. Regardless, the first concern of the international community when dealing with those displaced from their homes who do not cross an international border is that they be allowed to settle in an area where they are not in immediate physical danger.

attacks on refugees and to prosecute those who violate the law.

4. Treat refugees in accordance with basic standards

Basic human rights enumerated in instruments such as the Universal Declaration of Human Rights and the International Covenants on Human Rights apply to all individuals regardless of their legal status in any country. Because individuals become refugees as a result of persecution by individuals in their home country or the government of the country of origin, it is crucial that their rights are protected in the country of first asylum. Once the physical safety of the refugees had been provided for, the next immediate human right to safeguard is the right to seek asylum in another country (Universal Declaration of Human Rights, Article 14).

IV. INTERNATIONAL PROTECTION STANDARDS

A. Sources of International Protection Standards

The earliest developments in international human rights law focused on establishing standards for the protection of refugees. These standards are enshrined in international instruments to which all signatories are bound. The most important provisions of two of the international instruments that address the standards for the protection of refugees, the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, are covered in Section II, Parts C and D of this lesson.

In addition to these two instruments that focus entirely on the subject of refugees, other texts dealing with issues beyond the refugee problem provide guidance in certain situations.

These additional instruments include:

1. The [*Convention Relating to the Status of Stateless Persons*](#) (1954) mandates that those individuals who are stateless be accorded the same standards of treatment as refugees. The United States is not a party to this convention as of March 1, 2005.
2. The [*Convention on the Reduction of Statelessness*](#) (1961) develops measures designed to reduced the number of individuals who live entire lifetimes without citizenship in any country. Provisions address granting citizenship to those who are born to stateless parents and preventing the deprivation of nationality on the basis of one of the protected grounds. The United States is not a party to this convention as of March 1, 2005.

3. The Fourth [*Geneva Convention Relative to the Protection of Civilian Person in Time of War*](#) (1949) protects refugees and displaced persons forced to flee their homes and/or countries as a result of war (Article 44). The United States is a party to the Fourth *Geneva Convention*.
4. The [*United Nations Declaration on Territorial Asylum*](#) (1967) reaffirms the principle of *non-refoulement* and emphasizes the obligation of states not to turn away those refugees who present themselves at their borders seeking protection. It also clarifies that the grant of asylum by a particular state is a humanitarian act and is not to be interpreted as hostile by the any other state, especially the country of origin of the refugee.

In addition to treaties, non-binding texts also speak to refugee issues and provide guidance to member states. One of the UN bodies that issues critical documents relating to the protection of refugees is the Executive Committee of the High Commissioner's Programme. The Executive Committee evaluates and approves the assistance programs that UNHCR proposes to undertake each year.

Individual states build on the standards of refugee protection as they create domestic legislation for the treatment of migrants in refugee-like situations. Though domestic legislation varies around the world, all signatories to the 1951 Convention and/or the 1967 Protocol, as well as other instruments, are bound to uphold all of its principles of protection, especially *non-refoulement*.

B. Standards Derived from Human Rights Instruments

The general standards with which the international community treats refugees find their source in international human rights instruments. Though human rights standards apply to all individuals regardless of immigration status, they are worth reviewing here.

1. Article 4 of the International Covenant on Civil and Political Rights designates as non-derogable particular internationally-accepted human rights. They include:
 - a. the right to life;
 - b. freedom from torture, or cruel, inhuman or degrading treatment or punishment;
 - c. freedom from slavery or servitude;
- [*International Covenant on Civil and Political Rights \(ICCPR\)*](#). G.A. Res. 2200A (XXI), U.N. G.A.O.R, Dec. 16, 1966. The United States signed the *ICCPR* on October 5, 1977 and ratified it on June 8, 1992.
- For more on basic human rights and their sources in international law, *see*, lesson,

[International Human Rights Law.](#)

- d. recognition as a person before the law;
- e. freedom of thought, conscience, and religion; and
- f. freedom from arbitrary arrest and detention.

2. Refugee-specific standards

In certain circumstances the protection of human rights becomes a matter of life and death. The unique situation in which refugees find themselves demand that countries of first asylum and international organizations working in refugee protection pay particular attention to the following rights enshrined in the Universal Declaration of Human Rights:

[Universal Declaration of Human Rights.](#) G.A. Res. 217 A (III), U.N. G.A.O.R., December 10, 1948.

- a. the right to seek asylum from persecution (Article 14);
- b. the right to have access to the courts and legal system in the country of asylum (Article 10);
- c. freedom from discrimination on account of gender or sex, race, religion, or ethnicity (Article 7); and
- d. the right to cultural expression (Article 27).

In addition, refugees must be free of the threat of *refoulement* or expulsion from the country of asylum and enjoy the prospect of a durable solution to their situation.

Note that [Article 1\(f\)](#) of the 1951 Convention delineates categories of individuals to whom the Convention shall not apply, and [Article 1\(C\)](#) acknowledges situations when the Convention will cease to apply to certain individuals. See [section III.D., Goals of International Protection](#), above.

V. ROLES OF PROVIDERS OF INTERNATIONAL PROTECTION

A. States v. the International Community

States, not the international community, have the primary responsibility to provide protection to refugees present on their soil. International treaties and covenants require states party to those instruments to abide by their provisions, and states will be held accountable by the international community if the rights of refugees are violated.

The right to seek asylum from persecution is recognized as a basic human right by the Universal Declaration of Human Rights

(Article 14). Further, countries of first asylum have an obligation to protect the right of an individual not to be returned to a country where his or her life would be threatened on account of one of the protected grounds (Convention Relating to the Status of Refugees, Article 33; reinforced by the Convention Against Torture, Article 3), and in general, all other basic human rights.

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

The obligation of a country not to return refugees to countries where their lives would be threatened (*non-refoulement*), coupled with the lack of an obligation of third countries to accept resettled refugees, places a burden on the shoulders of some countries of first asylum that is too heavy to bear. The 1967 UN Declaration on Territorial Asylum and other regional instruments provide for **burden-sharing**. This doctrine asserts that any state that is host to a population of refugees that it cannot support can call upon other states for assistance.

Example: In 1999 a massive influx of refugees from Kosovo threatened the stability of Macedonia. In order to lighten its burden and ensure that the rights of the Kosovars continued to be protected, the Macedonian government, with the support of the United States, initiated a “humanitarian evacuation program.” Close to one hundred thousand Kosovar refugees were evacuated to third countries (including the United States, Germany, Turkey, and others) after appropriate screening.

[Declaration on Territorial Asylum](#), Article 2(2). G.A. Res. 2312 (XXII), U.N. G.A.O.R., December 14, 1967 (attached).

For more information, see, UNHCR. *The State of the World's Refugees: Fifty Years of Humanitarian Action* (Oxford: 2000), p. 234-235, 238-239.

B. UNHCR

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

1. Provide protection to refugees

The first step in dealing with a refugee crisis is to be certain that the physical safety of refugees is safeguarded. UNHCR monitors the situation and works with the interior ministry officials of the host country to ensure that refugees are allowed into the country and that their basic needs are provided for.

Ensuring the protection of refugees also requires UNHCR to intervene when the country of asylum is contemplating *refoulement* as an option for either individual refugees or

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large groups.

2. Provide assistance

A refugee camp often develops into a microcosm of society with healthcare facilities, schools, agricultural projects, recreation, and more. Most of these services are not provided directly by UNHCR, but are provided by non-governmental organizations or voluntary agencies funded by UNHCR contracts.

3. Seek durable solutions to refugee problems

The United Nations has clearly mandated that UNHCR work beyond protecting refugees to finding solutions to their situation. There are three possible solutions: (1) voluntary return to the country of origin; (2) local integration; and (3) third country resettlement. Each is discussed in greater detail below.

C. Other Actors in International Protection of Refugees

Many organizations and entities play a role in providing for the protection of refugees. Those groups include: international organizations, intergovernmental organizations, non-governmental organizations (NGOs), voluntary agencies (volags), media, local populations, and other refugees.

See [Section III.C., Who are Actors in International Protection?](#), above.

These organizations and/or entities meet specific needs of refugees that UNHCR and the host country are not equipped or authorized to provide. These entities:

1. gather information on emerging refugee crises (media, non-governmental organizations, international organizations);
2. provide for the safety and welfare of refugees (international organizations, intergovernmental organizations, voluntary organizations, non-governmental organizations, refugees, local population);
3. raise awareness of the public in support of the refugee cause (media, non-governmental organizations, international organizations);
4. provide legal advice or social counseling to individual refugees (voluntary agencies, non-governmental organizations);
5. process applications for resettlement (voluntary agencies).

VI. PROTECTION NEEDS OF REFUGEES

A. General Protection Issues

Beyond the most basic and immediate issues of both protecting the individual's right to seek asylum and also monitoring the party State's adherence to its concomitant obligations of *non-refoulement*, working in a refugee situation presents additional challenges to UNHCR and its partners in protection.

Some of the challenges that can threaten the safety and well-being of the refugees include:

1. rape and sexual violence;
2. abusive arrest and detention;
3. forced recruitment of minors into combat;
4. recruitment of individuals into the armed services or militias;
5. military attacks on refugees;
6. presence of militants, bandits, or intimidators in refugee camps;
7. diversion of humanitarian assistance by the host government, paramilitary groups, or criminals.
8. discrimination;
9. denial of the right to work; and
10. conflicting municipal laws.

B. Specific Protection Issues

In addition, there are circumstances in which unique protection issues arise.

1. Refugee women

The protection of refugee women requires careful and sensitive planning and action. Cases of physical and sexual abuse against refugee women occur all too frequently. When planning refugee protection missions UNHCR and voluntary agencies consider the structure and management

See, UNHCR. [*Guidelines on the Protection of Refugee Women*](#) (Geneva: July 1991) 67 pp.

of the camp with an eye to the special needs of refugee women. Features that maximize the protection of women include better lighting and more private areas. When an abuse has occurred, UNHCR must respond by identifying and prosecuting those individuals responsible, protecting the victims from reprisals, and providing counseling and medical care.

UNHCR. [Training Module: An Introduction to the International Protection of Refugees](#) (June 1992), p. 56.

2. Refugee children

Children in refugee camps, particularly those who are unaccompanied, require special care. Typically 2 to 5 percent of a refugee population is comprised of unaccompanied minors. UNHCR works with other agencies such as UNICEF, ICRC, and Save the Children, for example, to identify these children and try to trace their families. UNHCR has established a database to track the location of families who may have been separated from their children.

See, UNHCR. [Refugee Children: Guidelines on Protection and Care](#) (Geneva: 1994) 182 pp.

All children, regardless of whether they are accompanied by relatives, require special care when in a refugee situation. UNHCR, together with the volags and NGOs that provide services to refugees, design healthcare, educational, and recreational services geared to the development needs of children.

3. Mixed refugee camp populations

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

VII. REFUGEE SOLUTIONS

OH 8: Refugee Protection (Durable Solutions)

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

A. Voluntary Repatriation

The ideal solution to a refugee crisis is a return of the refugees to their countries of origin. This may require a political solution that addresses the issues that brought about the conflict. Furthermore attention must be paid to the economic and social development of the community of origin to prevent a resurgence of violence and/or ethnic tensions.

The primary goals of UNHCR-sponsored voluntary repatriation are:

1. Re-establishing communities;
2. Creating conditions for reconciliation; and
3. Protecting the basic human rights of returnees.

Before individuals return to the country of origin, UNHCR must ensure that refugees have all the relevant information to make a fully-informed decision. Once the decision is made, UNHCR ensures that the decision is made freely (and a declaration is signed to that effect), that refugees have been issued the required travel documents, and that they have been given financial assistance, if necessary.

Large-scale repatriation requires an elaborate process involving political dialogue, providing information to refugees, ensuring that the return is voluntary, monitoring the movement, facilitating the return (with transportation, documentation, reception, and financial support), monitoring the situation after the move has occurred, and assisting reintegration with development programs.

B. Local Integration

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

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

C. Third-Country Resettlement

Resettlement is generally considered the last of the three options for refugees and is not contemplated until both return to the country of origin and local integration have been rejected, and the refugee cannot remain in the refugee camp.

OH 9: Resettlement Criteria

Individuals who are recommended for resettlement in a third country fall into one of four categories:

1. Those in need of legal and/or physical protection

This category includes those individuals who have been threatened with *refoulement* by the country of first asylum or capture by the country of origin.

2. Those in need of humanitarian protection

This category includes those individuals whom UNHCR determines to be at the greatest risk of harm and those least equipped to tolerate the sometimes harsh conditions of a refugee camp. Some examples are women at risk, survivors of torture, the mentally or physically disabled, individuals requiring medical treatment, and individuals who have been living in refugee camps for long periods of time for whom no tenable situation has been found.

3. Family reunion

This category is comprised of those individuals whose family members reside in countries that are willing to resettle refugees. The family members in the third country may or may not have been refugees themselves.

4. Responsibility-sharing

Resettlement to a third country relieves the strain on the economic and social stability of the country of first asylum (most of which are developing nations) and demonstrates international solidarity in the effort to protect refugees.

VIII. OTHER UNHCR FUNCTIONS

A. Research

The UN's Center for Documentation and Research (CDR) provides information support to UNHCR staff, outside users (governments, intergovernmental organizations, NGOs, individuals, etc.), and a network of information and documentation centers and databases. The REFWORLD CD-ROM and website is an example of the comprehensive information compiled by CDR tailored to the needs of individuals working in refugee protection and resettlement.

See, lesson, [Country Conditions Research and the Resource Information Center \(RIC\)](#) for more information on REFWORLD.

B. Cooperation

The cooperation that UNHCR facilitates among itself, other UN agencies, regional organizations, NGOs, and scientific and research institutions ensures a quick, coordinated response to refugee problems and provides comprehensive protection (both physical and legal) to refugees.

C. Training

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

IX. SUMMARY

A. Origins of International Protection for Refugees

Since World War I, the international community has worked together to set standards for the protection of refugees. With the passage of the Statute in 1950, UNHCR assumed the mandate to protect refugees and find durable solutions to their problems.

The 1951 Convention, as modified by the 1967 Protocol, sets out a universal definition of a refugee, establishes that all signatories are bound by the principle of *non-refoulement*, and grants to UNHCR the responsibility for supervising the protection of refugees.

B. Elements of International Protection

The international community steps forward to care for the citizens of another country when the government of that country cannot or will not meet the needs of all its citizens. Traditionally, the international community does not provide protection unless the country of nationality is unable or unwilling to protect some of its citizens, and those citizens have crossed an international border.

In recent years, however, returnees, victims of war, and internally displaced persons, have joined Convention refugees as beneficiaries of international protection. Individual countries, the agencies of the UN, international and intergovernmental organizations, voluntary agencies, non-governmental organizations, the local population, media, and refugees themselves all contribute greatly to the protection of Convention

refugees and other vulnerable populations.

In refugee protection, the ability of refugees to enter safely into a country of asylum without a threat of return (*refoulement*) to the country of feared persecution is of primary importance. Once this occurs, attention turns to maintaining the safety of the refugees and treating them in accordance with human rights standards.

C. International Protection Standards

The standards of international protection are enshrined in international agreements, to which all signatory states are obligated to adhere. All individuals are entitled to respect for their basic human rights, regardless of immigration status, and some universally accepted rights are considered to be non-derogable. However, while living in a refugee situation individuals run a greater risk of having certain of their rights compromised, for example, the right to seek asylum, the right to movement, the right to a nationality, and the right to work. UNHCR and the international community monitor the actions of the country of asylum to ensure that the human rights of refugees are protected.

D. Roles of Providers of International Protection

States, as signatories to international conventions, have the primary responsibility to protect refugees on their soil. The international community joins in the protection effort when a particular country does not have the resources or the will to ensure the safety of its refugees. UNHCR and the international community fulfill three basic needs of refugees: protection, assistance, and durable solutions.

UNHCR does not provide for the needs of refugees alone. International, intergovernmental, and non-governmental organizations, along with voluntary agencies, the local community, and the media gather together information on refugee crises, provide for the safety of refugees, offer legal advice and social counseling, and assist in resettlement of refugees.

E. Protection Needs of Refugees

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

F. Refugee Solutions

The three possible solutions to a refugee situation are voluntary repatriation, local integration, and third country resettlement. The ideal situation is a voluntary return of refugees to their countries of origin, when conditions permit. This solution requires close monitoring of the repatriation process. Local integration requires the willingness of the country of asylum to take over from the international community in protecting the rights of refugees. Local integration succeeds when refugees are offered a secure status in the country and allowed to participate fully in the new society.

Resettlement offers a final option for refugees when the first two solutions are not feasible. In determining whether a refugee is an appropriate candidate for resettlement, UNHCR must evaluate the degree of harm the individual faces, the humanitarian needs of the individual, and family reunification considerations, among other factors.

G. Other UNHCR Functions

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